

Planning Committee 19 October 2021
Report of the Planning Manager

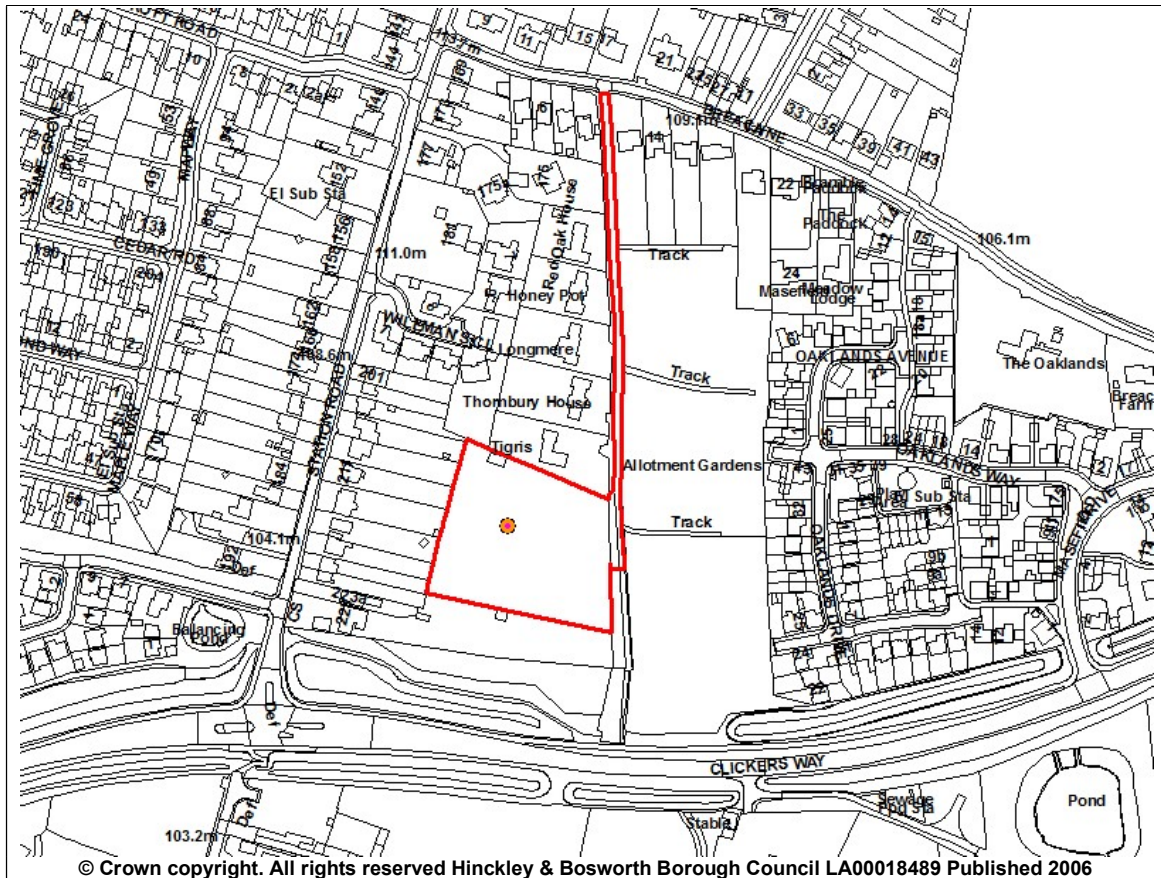
Planning Ref: 21/00607/FUL
Applicant: Mr Hudson
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Land West Of Breach Lane Earl Shilton

Proposal: Erection of 9 detached dwellings



1. Recommendations

1.1. Grant planning permission subject to:

- The completion of a legal agreement to secure off site play and open space contributions
- 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 and legal agreement

2. Planning application description

- 2.1.** This application seeks full planning permission for the erection of 9 detached dwellings, comprising 5 four-beds and 4 five-beds. Full planning permission was granted in 2020 under 19/00607/FUL for 3 detached two storey dwellings on the same application site, extending south of an existing line of residential

development. The dwellings approved followed the linear pattern of existing dwellings off the adopted highway. Permission was granted subject to the completion of a legal agreement to secure off site play and open space contributions and 14 other planning conditions including but not limited to those which relate to materials, landscaping plans, drainage details and archaeological reports.

- 2.2. The proposed dwellings would be accessed via an unadopted, private highway off the adopted Breach Lane. Each dwelling would have in-curtilage turning and parking facilities. Development would be arranged at depth with dwellings orientated around a shared private driveway that would extend into the site.
- 2.3. Amendments were received during the course of the application to the elevations of Plots 1, 2, 8 and 9. The application is also supported by drawings for House Types A-E. It was originally proposed that Plot 9 would comprise House Type E and Plot 1 would comprise House Type A. During the course of the application officer concerns were expressed for Plot 1's design and lack of active frontage. An amended site plan has been received showing Plot 1 as a handed version of House Type E as updated, whereby full height glazing characterises the side elevation fronting the highway. Plot 1 and 2 have also been orientated to become square on to the shared private driveway and a native hedgerow added to the southern boundary of the site. An obscurely glazed partition wall has also been added to the first floor balconies on Plots 2 to mitigate adverse overlooking impacts upon Plots 1 and 9. The drawing for House Type A has been updated accordingly.

3. Description of the site and surrounding area

- 3.1. The application site comprises a disused paddock in Earl Shilton, 1.8 acres (0.7 hectares) in area and located off the adopted highway known as Breach Lane via an un-adopted, private road.
- 3.2. The application site is situated outside the settlement boundary (with the exception of the Breach Lane junction) but surrounded by existing dwellings to the north, dwellings along Station Road to the west and allotments to the east. The Clickers Way bypass south of the application site runs east to west and encloses the south of Earl Shilton, severing the application site from the wider countryside.
- 3.3. The existing private highway that the application site is accessed from is characterised by ribbon development. The existing dwellings fronting the highway occupy large plots set back from the roadway and comprise detached two storey dwellings of varied designs and finishes. The un-adopted, private highway also provides pedestrian access to the Clickers Way bypass and the countryside beyond.
- 3.4. Land levels adjoining the un-adopted, private highway gradually decline towards the south.

4. Relevant planning history

17/00532/OUT

- Erection of five dwellings (Outline - access only)
Withdrawn
10.08.2017

18/00530/OUT

- Erection of three dwellings (Outline - access only)
Outline planning permission granted
15.11.2018

19/00607/FUL

- Erection of 3 detached dwellings
Planning permission granted
19.03.2020

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. 22 letters of objections have been received, from 19 separate addresses raising concerns relating to the following:
- 1) More intensive development than previously approved
 - 2) The excessive and unjustified height and bulk of the houses, the first floor balconies and the proximity to the boundaries will harm the enjoyment of existing private amenity
 - 3) If development goes ahead it should be conditioned to ensure no overlooking
 - 4) Assurance should be given that the proposed re-routing of the sewer will not result in a blockage and the backing-up of water in manholes in the highway or in private curtilage
 - 5) The application site is in the countryside which is not land to be developed for housing
 - 6) The development would lead to the eventual loss of the allotments to the east
 - 7) Lorries will have difficulty reaching the site due to the narrow lane and cars parked along it (i.e. allotment users)
 - 8) Harm to the tarmacadam single track which residents along Breach Lane pay to maintain. Who will pay for any damage to it during construction? A condition should be added should permission be granted ensuring that the developer is liable for fixing any damage
 - 9) Visibility is poor at the top of Breach Lane
 - 10) Overdevelopment of the land
 - 11) The development would remove the lane as an accessible walking route and would impact the health and wellbeing of users
 - 12) The development would harm the open character and appearance of the countryside and is contrary to Policy DM4 of the SADMP
 - 13) The proposed dwellings are poorly designed and proportioned, boxy in appearance with a square floorplan and significant depth resulting in dark interiors and very bulky and dominant roof forms and height
 - 14) The 9 metre height of the proposed dwelling will inevitably become three storey, however the previous approval said that only two storey would be acceptable here
 - 15) The scheme has unnecessarily excessive driveways for most of the plots
 - 16) The development will cause a safety hazard along Breach Lane
 - 17) Breach Lane is not wide enough to serve existing dwellings, the allotment, walkers, vehicle users trying to cut out the traffic calming measures along adopted roads and the new dwellings
 - 18) The development would exacerbate already problematic traffic levels along a substandard lane
 - 19) The extra traffic will cause a lot more cars, vans & lorries to either reverse into or out of the lane from or onto the main road
 - 20) The proposal for new passing places will be used as parking spaces for allotment users
 - 21) The proposed development will result in the continued and increased use of access drives being used as passing places
 - 22) Existing sewers won't cope with the additional houses

- 23) Breach Lane has already seen a lot of change, the proposal would ruin what is left
- 24) The development is unnecessary. With the Earl Shilton SUE Action Plan for approximately 1600 homes do we need to cram in houses wherever there is the smallest of space
- 25) The site has ecological value and the proposal would dispose of any wildlife
- 26) More vehicles onto the main Breach Lane and Station Road which is a rat run already being investigated by LCC for heavy traffic and speeding
- 27) Plans propose piled foundations which will entail heavy machinery, excessive vibration and noise
- 28) This parcel of land was known to have a Japanese knot weed problem on its edge. Hopefully, this has been eradicated for the sake of any potential future residents
- 29) Each dwelling would likely have at least 3 cars, meaning a minimum of 27 extra cars using the private lane
- 30) Unsociable delivery hours during construction phase
- 31) Will the site be secure out of hours during construction so as not to attract undesirables
- 32) There is no public lighting down the lane

6. Consultation

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

- HBBC ES Pollution
- LCC Archaeology
- LCC Ecology
- HBBC Monitoring Officer
- HBBC Waste
- HBBC Drainage
- LCC Highways

6.2. No comments have been received from Cadent/National Grid or Earl Shilton Town Council.

7. Policy

7.1. Core Strategy (2009)

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

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy 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 DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) 2021
- Planning Practice Guidance (PPG)

7.4. Other relevant guidance

- Housing and Economic Development Needs Assessment (HEDNA)
- Earl Shilton and Barwell Area Action Plan (AAP)
- Open Space and Recreation Study (2016)
- Good Design Guide (2020)
- National Design Guide (2019)

8. Appraisal

8.1. Key Issues

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

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the NPPF (2021) identifies that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF (2021) also identifies that the NPPF is a material planning consideration in planning decisions. Paragraph 12 of the NPPF (2021) states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The development plan in this instance consists of the Core Strategy (2009), Earl Shilton and Barwell Area Action Plan (2014) and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.5. Third parties have expressed an objection to the development on the grounds that residential development is not acceptable or necessary in the countryside. Third parties are of the opinion that when an sustainable urban extension in Earl Shilton is planned, there is no need to cram houses into smaller spaces.
- 8.6. However, the housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG. Therefore, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The status of the plan is weighed in the balance of the merits of any application and considered alongside policies in the SADMP and the Core Strategy which are still attributed significant weight by virtue of their consistency with the spirit and objectives of the NPPF (2021).

- 8.7. The site is immediately adjacent to the defined settlement boundary of Earl Shilton in an area of countryside, and therefore Policy DM4 of the SADMP is applicable. 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.
- 8.8. The site does not fall under any of the categories identified in DM4 as sustainable development and as such the principle of residential development on the application site is not supported. This conflict shall be carefully weighed in the planning balance along with detailed assessment of all other relevant planning considerations. Planning permission 19/00607/FUL is extant and therefore carries weight in the planning balance.
- Design and impact upon the character of the area
- 8.9. Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.
- 8.10. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Any harm to the intrinsic value, beauty, open character and landscape character of the countryside would be unjustified by virtue of the proposal's in-principle conflict with Policy DM4 of the SADMP.
- 8.11. The application site is located to the south of existing residential dwellings off the adopted Breach Lane. Dwellings along Station Road abut the western boundary of the application site and allotments are located to the east. To the south is a planting buffer that lines the A47 (Clickers Way). The application site comprises an undeveloped paddock with the exception of a small stable block building. The existing boundary treatment comprises mature trees and hedgerows which shield it from view within the street scene. The track serving the land and existing properties narrows as it extends towards the application site entrance.
- 8.12. The application seeks to extend development along the un-adopted, private highway by constructing 9 detached dwellings. Whilst third party objections to the scale and size of the proposed dwellings have been submitted, the dwellings would be similarly sized to those within the vicinity and two storeys in height to reflect the wider character of the area and the properties existing to the north. Each dwelling would be served by a garage either integral or detached to the side.
- 8.13. The application seeks to infill an existing area of unused paddock separating the settlement boundary from Clickers Way. The dwellings would be arranged around a private driveway, built form extending back to the western side of the paddock.

Plots 1, 2, would be oriented to face north towards the private driveway, Plots 8 and 9 to the south, and Plots 3, 4, 5, 6 and 7 to the east set along the western boundary of the site. The gardens serving Plots 3, 4, 5, 6 and 7 would abut the gardens serving dwellings along Station Road, those serving Plots 1 and 2 would abut Tigris, the neighbouring property to the north and the gardens serving Plots 8 and 9 would face out on to the countryside to the south. The application seeks to increase the number of dwellings on site from the 3 approved previously under 19/00607/FUL to 9. The 3 dwellings previously approved reflected the linear plan form and plot size of dwellings north along the private highway. Whilst increasing the density of development proposed and no longer reflecting this linear pattern, the current application would still reflect the arrangement of dwellings within Wileman's Close north west of the application site. The transition from linear dwellings fronting Station Road set on long narrow plots to development at depth within Wileman's Close is mirrored in the contrast between the existing linear dwellings along the private Breach Lane highway and the arrangement of dwellings proposed. Plots 1 and 9 would still be set back from the private highway alike properties to the north, albeit orientated differently. In this regard, the existing building line to the north would still be respected. Concern has been raised by third parties that 9 dwellings on the site would result in its overdevelopment. However, it is considered that despite the increased density proposed, the application site could still provide for nine reasonably sized plots occupied by spacious 4/5 bed dwellings. In this regard it is not considered that the density or arrangement of the proposed development would be detrimental to the character of surrounding built form.

- 8.14. Third party concern has been raised for the design and proportions of the proposed dwellings, including their bulky, dominant roofs designs. Each dwelling would be designed with both two storey and single storey elements, featuring both dual and mono-pitch roofs. Each dwelling would be characterised by gable projections and staggered building lines, whilst providing spacious internal amenity. The dwellings would feature floor to ceiling glazing bars and would be finished in materials to complement one another. It is recommended that a condition be imposed requiring the submission of material samples prior to commencement should permission be granted. The application site is surrounded by two storey dwellings of varied design and finishes. In this regard, it is not considered that the proposed dwellings as shown on the submitted floor plan and elevation drawings would constitute poor design.
- 8.15. A single point of access to the 9 dwellings is proposed. The existing access would be replaced with native hedge species and the new access located just to the south of the existing.
- 8.16. The private highway provides pedestrian access south to Clickers Way bypass and the countryside beyond. To the south of Breach Lane, the Clickers Way bypass runs east to west and encloses the south of Earl Shilton, and severs the application site from the wider countryside. To the west of the application site, dwellings along Station Road extend up to the boundary of Clickers Way, as well as dwellings within the Masfield Drive development to the east beyond the allotments. Third party concern has been raised for changes that have already been made to Breach Lane and the need to preserve its remaining undeveloped land. Although the development would introduce development in the countryside, the development proposed on the application site would not result in significant adverse harm given the surrounding built form, and its close relationship with the immediately adjoining neighbouring settlement boundary. The positioning of Clickers Way bypass ensures that the perceived separation between the settlement and the wider countryside is observed and maintained.
- 8.17. Third party concern has been raised for the prospect of a third floor being created in the dwellings at a later date if planning permission is granted. However, the current

application only proposes two storey and the LPA must assess each planning application on its own merits using the information submitted. Speculation is not a material planning application.

- 8.18. In summary, the proposed development of 9 dwellings would not result in a significant adverse impact upon the character and landscape character of this area of countryside, having regard to the wider pattern of development. It is considered that this would not be significantly harmful in this instance for the reasons set out above. Therefore, the proposal would not significantly conflict with Policy DM4 and DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.19. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties. It is also necessary to ensure that sufficient amenity is provided for future occupiers of the development.
- 8.20. The nearest neighbouring dwelling to Plots 7, 8 and 9 is Tigris, Breach Lane, which is situated to the north of the application site. Tigris is a two storey detached dwelling with a south facing side gable. Plot 9 would be forward of the principal elevation of this neighbouring property, its rear elevation facing onto its private drive. The garden serving Plot 9 would be approximately 13 metres in depth, above the minimum depth advised in the Council's Good Design Guide. Bearing in mind this relationship, land levels, and the 13 metre separation distance between Plot 9 and the shared boundary, it is not considered that this Plot would have any adverse overbearing, overlooking or overshadowing impacts upon the habitable areas serving Tigris.
- 8.21. The width of Plot 8 would align with the side elevation of Tigris. There would be approximately 22 metres from principal windows along the rear elevation of Plot 8 (including balcony) and the side elevation of Tigris. According to the Council's Good Design Guide, this distance is acceptable to ensure no adverse overlooking, overshadowing or overbearing impact.
- 8.22. Facing towards to east, the depth of Plot 7 would run parallel with Tigris' rear garden. It would be set approximately 10 metres beyond the rear elevation of this neighbouring property and would be set approximately 3 metres away from the shared boundary. Located to the south of Tigris, views of Plot 7 from the rear of Tigris would be at an oblique angle and therefore there would unlikely be any direct overlooking. Bearing this in mind, along with the separation distances identified and the spacious rear garden serving Tigris, it is not considered that the impacts upon the enjoyment of private amenity for this neighbouring property would be significantly harmful to warrant the application's refusal. The northern boundary of the application site shared with Tigris would be lined with a hedgerow.
- 8.23. In the interests of adequate amenity, it is recommended that the submission of a landscaping plan prior to commencement is conditioned should planning permission be granted, to ensure that landscaping across the entire site is sufficient to further maintain privacy and sufficient amenity.
- 8.24. The proposed new dwellings would be largely aligned with one another with the exception of some shallow rear projections. The principal part of each dwelling would be separated by around 7 metres, and where less, windows along side elevations are secondary or arranged to serve inhabitable rooms. Notwithstanding, in the interests of ensuring acceptable levels of private amenity, all windows serving cloakrooms, family bathrooms, ensuites, master ensuites and shower rooms should be conditioned to be fitted with obscure glazing should planning permission be granted.

- 8.25. A first floor balcony is proposed on Plots 2 and 8 (House Type A). It is acknowledged that the balconies would overlook the private rear gardens serving Plots 1 and 2. To overcome this without significantly altering the external appearance of House Type A as originally designed, a 1.8 metre (approx.) obscurely glazed partition wall has been proposed, set in 3 metres (approx.) from boundaries shared with Plots 1 and 9 respectively. Combined with the shallow depth of the balconies, it is considered that this amendment would mitigate any adverse overlooking impacts upon the gardens serving Plots 1 and 9, subject to a condition requiring the partition to be retained in perpetuity.
- 8.26. Each dwelling would be served with private gardens of acceptable sizing as per the Council's Good Design Guide. Bearing the above in mind, along with securing the use of acceptable boundary treatments between dwellings via a conditioned landscaping plan, it is considered that the proposed development would ensure sufficient amenity for future occupiers of the site. No concerns have been raised by HBBC Environmental Health in relation to noise disturbance from Clickers Way.
- 8.27. To the west of the application site the rear gardens of dwellings No.207 to 219 Station Road, Earl Shilton, back onto the application site. The rear garden depths of these properties are in excess of 40 metres and therefore given this significant distance this proposal would not result in any loss of amenity to these properties.
- 8.28. Residential development has already been established in the vicinity of the application site. As such, any noise/disturbance currently experienced by properties neighbouring the application site is largely domestic in nature. By virtue of the quantity of development proposed, it is not considered that any long term noise/disturbance to the amenity neighbouring properties would be over and above that already experienced.
- 8.29. In light of the above, the proposal is considered to be in accordance with Policy DM10 of the SADMP in terms of residential amenity.
- Impact upon highway safety
- 8.30. Policy DM17 of the SADMP states that all new development should be in accordance with the highway design standards. Policy DM18 ensures that development provides appropriate parking provision.
- 8.31. Third party objections have been received on the grounds of adverse impacts on highway and pedestrian safety as a result of the constrained nature of the un-adopted highway and the increased traffic movements along the stretch of Breach Lane affected by the proposal. There is concern for the poor visibility at the Breach Lane junction, the insufficient width of the un-adopted, private highway to serve existing and proposed users, the use of the proposed passing places by allotment users and thus the continued use of existing access drives as passing places. Objections to the development also relate to exacerbating already problematic traffic levels.
- 8.32. The section of Breach Lane affected by the proposal is an un-adopted single width private track used by vehicles and pedestrians to access the allotments, the existing dwellings and the public right of way. The proposed development site would be situated approximately 250 metres to the south of the publically maintained highway.
- 8.33. Previously under 19/00607/FUL Leicestershire County Council (Highways) advised that their concerns with the development relate to how the development may interrelate to traffic on the adopted highway, Due to the limited number of dwellings proposed, the Highway Authority did not deem it necessary that passing places were required along the private road.

- 8.34. The adopted highway junction was advised previously to be widened to 4.8 metres for the first 12 metres due to a concern for an increase in the potential for conflict between vehicles and non-motorised users using the un-adopted section of Breach Lane, There are currently no formal passing places, or kerbed pedestrian footways along the un-adopted track.
- 8.35. The currently proposed development includes the widening of the carriageway at the Breach Lane junction to 4.8 metres for the first 12 metres and also a widening of the carriageway in the vicinity of the site access. Whilst the application proposes passing places, due to the un-adopted nature of the track, LCC Highways is not in a position to advise this be secured by condition. It is also noted that there is a dashed line shown running along Breach Lane on the submitted site plans, possibly to delineate a pedestrian route, however this is worn and overgrown. As such, any use of the proposed planning passing for parking would need to be resolved between vehicle owner/owners of the private, un-adopted highway.
- 8.36. LCC Highways have recommended that the widened access at the Breach Lane junction, including visibility splays and the cutting back of hedgerows along the eastern boundary of the site where required to accommodate the proposed new access are conditioned should planning permission be granted.
- 8.37. The private drive through the site would be approximately 5.8 metres wide which would be sufficient to allow two vehicles to pass.
- 8.38. A minimum of 3 parking spaces would be required for each plot according to LCC Highways design guidance. The proposed garages in respect of all plots do not meet minimum internal dimensions to be counted as a parking space. Nevertheless, the majority of plots would have sufficient driveway space to accommodate three vehicles and, in any case, overflow parking is likely to occur on the internal access road, rather than the un-adopted/adopted highway. Sufficient turning provision would also be provided within the site to allow for vehicles to enter and exit in a forward gear.
- 8.39. LCC Highways have provided no further comments in relation to the adopted highway and do not object to the scheme proposed subject to conditions related to a construction traffic management plan, access arrangements and parking and turning facilities in accordance with the submitted drawings.
- 8.40. It is considered that the residual cumulative impacts of development upon the adopted highway would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. The proposed development would not conflict with Policies DM17 and DM18 of the SADMP.

Drainage

- 8.41. Policy DM7 of the SADMP seeks to ensure that development does not exacerbate or create flooding.
- 8.42. Third party concern has been raised in relation to the existing sewers being able to cope with the proposed additional dwellings.
- 8.43. The Environment Agency flood maps identify the site as being located within Flood Zone 1 and do not highlight any concerns relating to surface water flooding. No evidence has been provided to demonstrate that the proposed dwellings would adversely impact on flood risk. A new sewage line across the site is proposed including easements. A third party has requested that there be assurances the new line would not result in blockages in private curtilage or the highway. HBBC Drainage has advised further drainage details be provided through a condition

should planning permission be granted to ensure surface water and foul sewage is discharged appropriately, incorporating sustainable urban drainage systems.

- 8.44. It is considered that the development would be in accordance with Policy DM7 of the SADMP subject to this condition.

Pollution

- 8.45. Policy DM7 of the adopted SADMP seeks to prevent adverse impacts from all forms of pollution. The application has been submitted with a Geoenvironmental assessment.
- 8.46. HBBC Environmental Health (Pollution) have not objected to the proposal subject to the development being carried out in accordance with the findings of the submitted report, further remediation work to be carried out as required and restrictions on operating hours for development to ensure that disturbance is controlled. A third party has brought to the LPA's attention that the application site has previously experienced problems with Japanese knot weed. The applicant should seek advice from the Environment Agency for any further instances.
- 8.47. Accordingly, the proposed development would comply with Policy DM7 of the SADMP.

Ecology

- 8.48. Policy DM6 of the SADMP seeks to ensure no adverse impacts upon biodiversity.
- 8.49. LCC Ecology have been consulted on the application and consider that due to the existing paddock having been overgrazed, it is unlikely to be species rich. The existing stable building on site has an open roof space constructed in the 90s and therefore falls outside the scope of requiring a bat survey. LCC Ecology therefore has no objection to the proposed development. Accordingly the proposed development would comply with Policy DM6 of the SADMP.

Developer Contributions

- 8.50. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. To support the provision of mixed, sustainable communities. Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.51. The proposed development seeks to erect 9 large detached dwellings on a site of 0.7 hectares. As a result it is necessary to require from the applicant a Unilateral Undertaking legal agreement to ensure that the local planning authority secure contributions towards off-site play and open space in accordance with Policy 2 and 19 of the Core Strategy and Policy DM3 of the SADMP.
- 8.52. Core Strategy 19 and the open space recreation study seeks that provision for children should be within a catchment area of 400 metres and Provision for young people within a catchment of 500 metres from the application site. The application site is located within 400 metres of Jubilee Drive, which provides amenity space and children play space. The quality score Jubilee Drive is 68% within the Open Space and Recreation Study 2016, which is below the 80% quality target score. It is considered that the future occupiers would use the facilities of this site. Within 500 metres of the application site is Maple Way, which provides space for young people, which has a quality score of 74%, which is below target score of 80%. As such the proposed development would attract the following contributions:-

	Provision per dwelling (2.4 people per dwelling)	Number of dwellings	Sqm to be provided	Off site provision per square metre	provision contribution	Maintenance contribution per square metre	Maintenance contribution
Equipped Children's Play Space	3.6	9	32.4	£181.93	£5,894.53	£87.80	£2,844.72
Casual/Informal Play Spaces	16.8	9	151.2	£4.44	£671.33	£5.40	£816.48
Outdoor Sports Provision	38.4		0	£9.05	£0.00	£4.30	£0.00
Accessibility Natural Green Space	40		0	£4.09	£0.00	£7.10	£0.00
				Provision total	£6,565.86	Maintenance total	£3,661.20

- 8.53. A contribution of £10,227.06 (provision and maintenance) is considered reasonable in mitigating the impact of the proposed development upon the existing facilities. Therefore the above contributions would be deemed necessary and reasonable.

Other matters

- 8.54. No detail has been provided regarding waste management. When bearing in mind the location of the application site off an un-adopted, private highway, should planning permission be granted it is recommended that a condition requiring a waste management plan to be submitted for approval by the local planning authority prior to commencement.
- 8.55. Third party concern has been raised regarding the potential for the development to damage the surfacing of the private highway. It is not within the LPA's powers to enforce liability upon the developer should any damage to the highway occur as a result of construction. Any issues will need to be resolved as a civil matter seeking legal advice where necessary.
- 8.56. Third party concern has been raised for the piled foundations proposed and the noise and vibration likely to result from this. It is recommended that construction hours be conditioned and therefore any disturbance should not be outside of sociable hours. Any noise during sociable hours is an inevitable temporary consequence of construction work. A condition restricting construction hours will also ensure no unsociable delivery hours. Should the developer work outside of the conditioned hours then this should be reported to the Planning Enforcement team for investigation.
- 8.57. Concern has been raised with regards to site security should planning permission be granted. It is not within the LPA's powers to enforce site security. Any concern for this should be raised directly with the site owner/developer.
- 8.58. A third party comment has brought the lack of street lighting along the un-adopted highway to the LPA's attention. However, it is not within the local planning authority's power to enforce street lighting for a proposed land use that already exists along the highway. The un-adopted highway is privately owned and therefore the need for street lighting should be negotiated with the land owner(s) and the relevant consents and permissions applied for.

- 8.59. Third party concern has been raised for the eventual loss of the existing allotments if the proposed development is approved. However, speculation is not a material planning consideration.

Planning Balance

- 8.60. The NPPF (2021) is a material consideration in determining applications. Paragraph 11 of the NPPF (2021) identifies that plans and decisions should apply a presumption in favour of sustainable development, and for decision taking this means approving development proposals that accord with an up to date development plan. Policies in the local plan relating to the supply of housing are now considered out of date and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG. Therefore the presumption in favour of sustainable development within paragraph 11(d) of the NPPF (2021) is triggered.
- 8.61. Paragraph 8 of the NPPF (2021) states that sustainable development has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. The assessment of the three dimensions relative to this proposal are as follows:-
- 8.62. Economic – The scheme would provide some, but not significant benefits to the local economy through the creation of jobs and demand for services and materials for the construction of the development itself. Benefits would also come from the future occupation of the development supporting businesses in the wider rural area.
- 8.63. Social – The scheme would provide a moderate contribution to the overall housing supply within the Borough through the provision of 9 new dwellings. The proposal would however provide dwellings in an area where there is no additional housing allocation outside the defined settlement boundary of Earl Shilton other than the proposed Sustainable Urban Extension to the south of the settlement boundary.
- 8.64. Environmental - Although the proposal is situated outside the settlement boundary, it is immediately adjacent to it, and not in an isolated position, with development positioned to the north, east and west of the site and Clickers Way severing the application site and the settlement boundary from the wider countryside. The development would be in close proximity to the local services of Earl Shilton. Given the positioning of the site in relation to the wider area, the proposal would not result in a significant adverse impact upon the countryside.
- 8.65. Although the benefits of the scheme would be moderate, it is not considered that the proposed development would result in any adverse impacts that would significantly and demonstrably outweigh these, and thus justify the application's refusal when assessed against the NPPF.

9. Equality implications

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

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.
- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The proposal seeks development on land west of Breach Lane, Earl Shilton for the erection of 9 dwellings. The site is currently a grassed paddock area, immediately adjacent to the defined settlement boundary of Earl Shilton. Notwithstanding, the site is still outside of the settlement boundary and the principle of residential development on the application site would accord with Policy DM4 of the SADMP.
- 10.2. Nevertheless, by virtue of existing surrounding development and Clickers Way to the south, the existing application site is not considered to reflect the open landscape character of the countryside or serve as a physical and perceived separation between settlements. It is neither considered that the proposal would significantly exacerbate ribbon development.
- 10.3. In addition, the proposal would not have any significant adverse impacts upon residential amenity, local infrastructure, vehicular or pedestrian safety, ecology, drainage or pollution, subject to conditions and the completion of a Unilateral Undertaking agreement.
- 10.4. Having regard to the NPPF (2021) and the status of the local plan's housing policies, paragraph 11 (d) of the NPPF is triggered and a presumption in favour of sustainable development is applied. Taking this into account, along with relevant local plan policies and material planning considerations, it is considered, on balance, that the proposed development constitutes sustainable development. In this instance, the provision of 9 dwellings on the application site would not result in a significantly and demonstrably adverse impact which would outweigh the benefits, albeit moderate, when assessed against the policies in the NPPF (2021) taken as a whole. It is considered that the proposed development is in accordance with Policies 2 and 19 of the Core Strategy, DM1, DM3, DM4, DM6, DM7, DM10, DM17 and DM18 of the SADMP and paragraph 11 of the NPPF (2021). This full application is therefore recommended for approval subject to conditions.

11. Recommendation

- 11.1 **Grant planning permission** subject to:
- Planning conditions outlined at the end of this report.
 - The completion of a Unilateral Undertaking to secure play and open space contributions
- 11.2 That the Planning Manager be given powers to determine the final detail of planning conditions and legal agreement.
- 11.3 **Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
House Type A Floor Plans drg no. 008 A
House Type A Elevations drg no. 009 A
Site Layout Drg No: 007 C
All received 29.09.2021
Location and Block Plan Drg No 006B
Proposed Plans House Type E Drg No 016A
Proposed Elevations House Type E Drg No 017A
All received 31.08.2021
House Type B Floor Plans drg no. 010
House Type B Elevations drg no. 011
House Type C Elevations drg no. 013
House Type C Floor Plans drg no. 012
House Type D Floor Plans drg no. 014
House Type D Elevations drg no. 015
House Type E Elevations drg no. 017
House Type E Floor Plans drg no. 016
All received 11.05.2021
Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).
3. All windows serving cloakrooms, family shower rooms, family bathrooms, ensembles and master ensuite across all dwellings hereby approved shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and non-openable below 1.7m from internal floor level. Once so provided the window(s) shall be permanently maintained as such at all times thereafter.
Reason: To safeguard the amenities of neighbouring properties in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).
4. No development shall commence until surface water drainage details, incorporating sustainable drainage principles (SuDS) and plans for the disposal of foul sewage have been submitted to and approved by the Local Planning Authority and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraph 108 and 110 of the National Planning Policy Framework (2021).
5. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been

deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

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

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

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

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

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

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

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

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

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).

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

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

10. The development hereby permitted shall not be occupied until such time as off street car parking provision (with turning facilities) has been provided, hard surfaced and demarcated in accordance with Site Layout Drg No: 007 C received 29.09.2021. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with Policy DM17 and DM18 of the adopted Site Allocations and Development Management Policies DPD (2016) Paragraphs 108 and 110 of the National Planning Policy Framework (2021).

11. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Proposed Site Plan Drg No 007B and Location and Block Plan Drg No 006B both received 31.08.2021 have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2021).

12. The remediation measures recommended in the Geoenvironmental Assessment Report No: 19097/1 dated April 2019 document and received 11.05.2021 shall be implemented in accordance with the approved report and verification provided to the local planning authority for approval prior to the first dwelling on site being occupied.

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

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

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

14. Construction work of the development, hereby permitted, shall not take place outside the hours of 07:30 hrs to 18:00 hrs on weekdays and 08:00 hrs to 13:00 hrs on Saturdays. No construction work shall take place at any time on Sundays and Bank Holidays unless other agreed in writing by the LPA.

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

15. The 1.8 metre balcony partition as shown on House Type A (Drg No:) shall be obscurely glazed to a minimum of level 3 of the Pilkington scale. Once so provided the partition as approved should be permanently maintained at all times thereafter.

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

11.4 Notes to applicant

1. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development. If the applicant proposes to divert the sewer, the applicant will be required to make a formal application to the Company under Section 185 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our Developer Services Team (Tel: 0800 707 6600).
2. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
3. The proposed road layout does not conform to an acceptable standard for adoption and therefore it will not be considered for adoption and future maintenance by the Local Highway Authority. The Local Highway Authority will, however, serve Advance Payment Codes in respect of all plots served by (all) the private road(s) within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the Advanced Payment Code may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details please email road.adoptions@leics.gov.uk. Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it.

4. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
5. In relation to conditions 12 and 13 advice from Environmental Health should be sought via esadmin@hinckley-bosworth.gov.uk to ensure that any investigation of land contamination is in accordance with their policy.