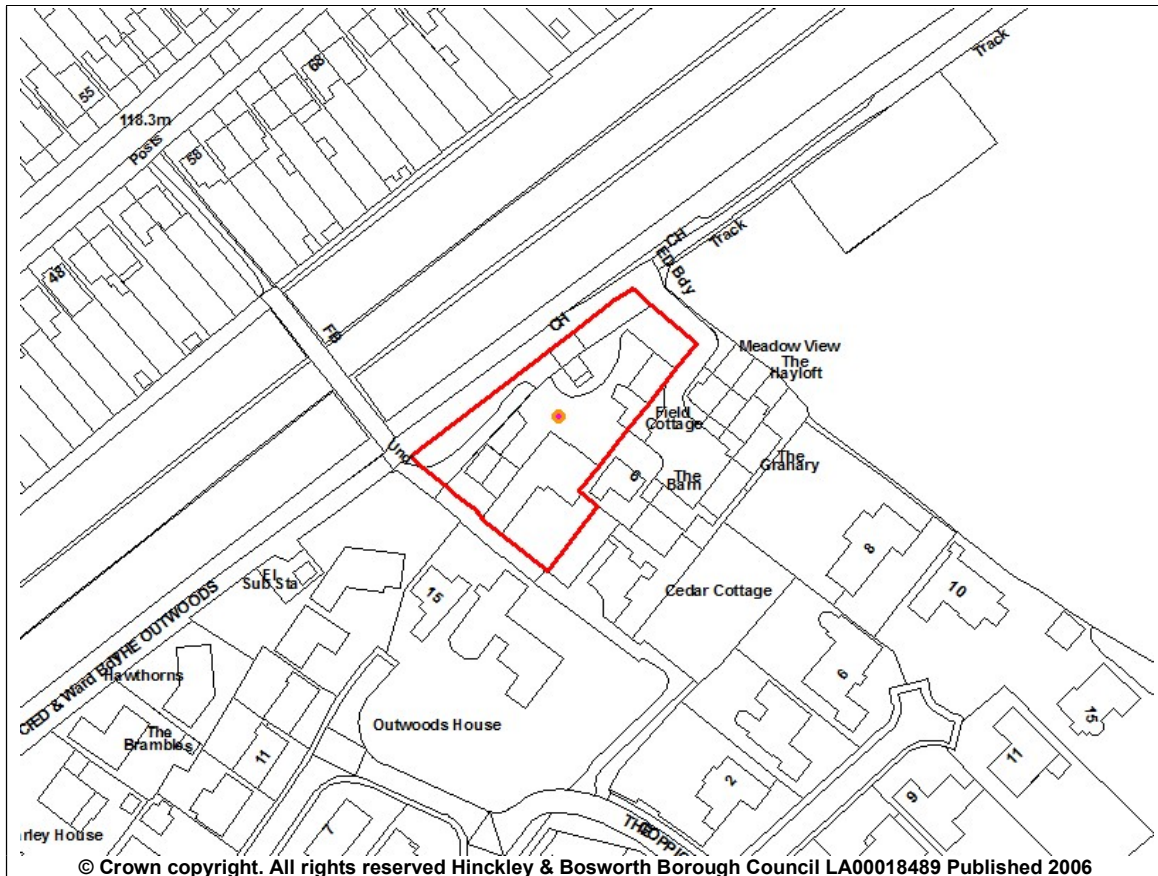


**Planning Ref: 21/01210/FUL**  
**Applicant: Paul McDonnell**  
**Ward: Burbage St Catherines & Lash Hill**

### Proposal: Demolition of buildings and dwelling, construction of five dwellings



- 2.1. This proposal is for the construction of 5 new dwellings on some 0.19 ha brownfield land following demolition of existing stables and dwelling. Access to the development would be gained off The Outwoods along the northern boundary of the site. The property is located within the settlement boundary of Burbage.
- 2.2. The scheme comprises five detached two-storey properties, including three 3-bedroom dwellings on plots 1 to 3 and two 4-bedroom dwellings on plots 4 and 5. The dwellings would have simplistic pitched roofs over, plots 1 to 3 measuring 8.365m and 8.665m for plots 4 and 5, respectively. Fenestration would be aligned along the

front and rear elevations with no windows proposed along the side flanks. The 4-bedroom properties include a converted roof space used for a bedroom and en-suite bathroom.

- 2.3. The proposed properties are sited in a courtyard arrangement facing a central, private driveway with parking to the front of the dwellings. A total of 10 parking bays are proposed which is in accordance with the Leicestershire Highway Design Guide for 3- and 4-bedroom dwellings. At the front, a simplistic landscaping design with hedgerow delineating side boundaries are indicated which maintains the open feel of the courtyard area. Rear amenity spaces are enclosed by a combination of existing brick-built boundary treatments and 1.8m close boarded fencing along the sides. Adequate provision for bicycle storage near the entrance and bin storage for each individual dwelling is indicated.
- 2.4. Amended plans have been received following officer concerns about design and the impact upon residential amenity. The scheme originally proposed six dwellings however this has been reduced with only five now being considered.

### **3. Description of the site and surrounding area**

- 3.1. The application site currently consists of horse stables, numerous outbuildings, and a residential dwelling. The character of the application site is generally one of a poor visual quality and in a state of disrepair with overgrown shrubbery, hardstanding areas and limited views of the surrounding residential properties. The northern boundary wall was recessed back from The Outwoods to create an informal parking area for the previous equestrian use. There is a railway line to the north of the site, to the east is the Outwoods Grassland local wildlife site with residential properties to the south and west, respectively.
- 3.2. The proposal is located within the wider setting of Outwoods House which is a grade II listed building of special historic and architectural interest located to the south of the application site. It is noted that any functional or historical relationship between the application site and the listed building is barely perceptible, and since the existing buildings within the application site are of no particular architectural or historic interest, the application site is considered to make a neutral contribution to the significance of the setting of the listed building.

### **4. Relevant planning history**

None.

### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents and a site notice was also posted within the vicinity of the site.
- 5.2. 4 letters of support have been received from occupiers of 4 addresses making the following statements:
  - 1) The current dwelling and area are an eyesore, untidy and is abundant with vermin which do come onto our property.
  - 2) There is also the occasional antisocial behaviour from youths hanging around on the land late at night.
  - 3) The proposed plans will match the current dwellings in the area.
  - 4) The proposed development will bring the land back into residential use in a way which is sympathetic to the land's historic use and neighbouring developments.
- 5.3. 6 letters of objection have been received from occupiers of 5 addresses raising the following concerns:
  - 1) Boundary treatment with No. 6 The Courtyard to be reinstated

- 2) Site boundaries should be maintained during construction phase
- 3) Heating pumps, if proposed, must meet acoustic regulations
- 4) Ecology survey required and mitigation measures for loss of habitat must be implemented
- 5) Native and complimenting landscaping preferred
- 6) Where possible, consideration should be given to install gas and sewer infrastructure in collaboration with The Courtyard
- 7) The Outwoods is a narrow lane and adequate space is required for a turning circle for lorries, emergency services and passing traffic
- 8) Always maintain access for Courtyard residents and essential services
- 9) Access and parking for Network Rail should always be maintained
- 10) The existing lane [The Outwoods] cannot accommodate additional traffic or vehicle trips
- 11) No footpath along The Outwoods is a concern for pedestrian safety
- 12) Proper road access is required at the junction of The Outwoods and Burbage Road (aka London Road)
- 13) A keep clear hatched area should be provided at the junction of The Outwoods and Burbage Road (aka London Road)
- 14) Upkeep and safety of The Outwoods during construction phase and post development
- 15) Development infringes the legal right of access from Cedar Cottage to Outwoods
- 16) Vehicular trips submitted is unrealistic
- 17) No visitors parking indicated
- 18) Inadequate on-site parking for 5 dwellings
- 19) Public drainage and lateral drains unsuitable
- 20) Increased height of two-storeys would potentially create overlooking and loss of privacy
- 21) Additional lighting should comply with LCC Ecology guidance
- 22) Lighting along The Outwoods should be extended for the length of the development
- 23) Velux windows to be obscured glazing
- 24) Development boundary should be reviewed
- 25) 4 dwellings are preferred as 5 or 6 dwellings are considered excessive
- 26) Permitted construction hours should consider residents
- 27) Existing stable blocks part of the original Outwoods House estate which is a listed building
- 28) Development would result in increased noise and pollution

## **6. Consultation**

6.1. No objections (some subject to conditions/notes) from:

- HBBC Drainage
- HBBC Waste
- LCC Highways
- LCC Ecology
- HBBC Pollution
- HBBC Conservation Officer
- Network Rail

6.2. Objection received from Cycling UK:

- Construction of the new set up is off a bridleway which is a path for riders but no motor vehicles.
- There is no metalled approach.

6.3. Burbage Parish Council welcomes the development of this brownfield site, however, it objects to this application on the grounds of public safety and increased traffic congestion, for the following reasons:

- 1) Lack of visitor parking provision
- 2) Lack of passing place for traffic accessing and exiting the development, posing a hazard for both vehicles and pedestrians
- 3) Increase in volume of traffic on an extremely narrow (single track) road which is already hazardous and suffers from congestion at peak times especially at the entrance to London Road
- 4) Lack of a pedestrian footpath, posing danger to pedestrian users, including high volumes of school-aged children and young people attending the nearby college
- 5) Difficulty of access for emergency, utility and service vehicles, including essential services such as refuse, gas supply and sewage management as well as home deliveries

## **7. Policy**

7.1. Burbage Neighbourhood Plan 2015 – 2026, 2012 (made 6 May 2021)

- Policy 1: Settlement Boundary
- Policy 2: Design and Layout
- Policy 4: Parking
- Policy 9: Wildlife and Green Corridors

7.2. Core Strategy, 2009

- Policy 4: Development in Burbage
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 24: Sustainable Design and Technology

7.3. Site Allocations and Development Management Policies DPD, 2016

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

7.4. National Planning Policies and Guidance

- National Planning Policy Framework, 2021
- Planning Practice Guidance

7.5. Other relevant guidance

- Good Design Guide, 2020
- National Design Guide, 2021
- Leicestershire Highways Design Guide
- Landscape Character Assessment, 2017
- Open Space and Recreation Study, 2016

## **8. Appraisal**

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area and the setting of a listed building
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Impact upon ecology
- Obligations
- Planning Balance

#### Assessment against strategic planning policies

- 8.2 Paragraph 2 of the National Planning Policy Framework, 2021 (NPPF), 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 NPPF and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy, 2009 (CS) and the Site Allocations and Development Management Policies DPD, 2016 (SADMP).
- 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 Strategy Policy 4 provides the policy framework for development in Burbage, which seeks the provision of a minimum of 295 new homes. It identifies Burbage as a key urban centre which supports growth. Development comprising a range of house types as supported by Policy 15 and Policy 16, would be focused primarily to the north of Burbage adjacent to the Hinckley settlement boundary to support the Hinckley sub-regional centre as well as the Burbage local centre. Development proposals would be required to meet the Code for Sustainable Homes in line with Policy 24 to ensure that Burbage's character and sense of place is enhanced.
- 8.6 The Emerging Local Plan for 2020-39 has reached regulation 19 stage and is currently out for consultation (February-March 2022) and thus can be given only limited weight at this stage as the outcome of the consultation remains to be determined. It is acknowledged though that Burbage's status within the hierarchy remains unchanged from that within the Core Strategy.
- 8.7 The Council acknowledges that it cannot currently demonstrate a 5-year housing land supply. The standard method for calculating local housing need as set out in paragraph 2a-004 of the PPG results in a local housing need for the Borough of 444 dwellings per annum as of 1<sup>st</sup> April 2021. With a 5% buffer added as per the requirements this gives HBBC a need of 466 dwellings per annum for the next 5 years. As set out within the Residential Land Availability Assessment dated 1 April 2021, the Council can demonstrate a 4.45-year supply of housing land.
- 8.8 In addition to the above, the housing policies are considered to be out-of-date and therefore paragraph 11(d) of the NPPF is triggered and permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits,

when assessed against the policies in the Framework taken as a whole. This is a material consideration to weigh in the context of the statutory requirement to determine applications and appeals in accordance with the Development Plan unless considerations indicate otherwise. The tilted balance of Paragraph 11(d) of the NPPF is engaged. . This is weighed in the balance of the merits of the application when 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. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.

8.9 The Borough Council is actively promoting the preparation of Neighbourhood Development Plans and is keen to see communities strongly involved in the planning and future growth of villages. The Burbage Neighbourhood Plan was 'made' on 6 May 2021 and is afforded full weight when considering planning applications.

8.10 Policy DM1 of the SADMP sets out a presumption in favour of sustainable development, and states that development proposals that accord with the development plan and neighbourhood plan should be approved unless other material considerations indicate otherwise. This accords with Policy 1 of the Burbage Neighbourhood Plan which states that residential development within the settlement boundary would be supported provided the proposal complies with other plan policies.

8.11 Given the location of the site within the settlement boundary of Burbage, a sustainable location, the proposal would be in accordance with adopted strategic planning policies and the principle of development is acceptable. This is subject to all other material considerations being satisfactorily addressed.

Design and impact upon the character of the area and the setting of a listed building

8.12 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act, 1990, places a duty on the local planning authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural and historic interest which it possesses. Section 72 of the Act states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

8.13 Chapter 16 of the NPPF provides the national policy on conserving and enhancing the historic environment. Paragraphs 199-202 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.

8.14 Paragraph 206 of the NPPF states that local planning authorities should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

8.15 Policy DM11 of the SADMP seek to protect and enhance the historic environment. Policy DM12 requires all development proposals to accord with Policy DM10: Development and Design. Policy DM12 also states that all proposals for development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting, and that development proposals should ensure the significance of a conservation area is preserved and enhanced.

- 8.16 Policy DM10 of the adopted SADMP further seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.17 This proposal is for the demolition of a collection of buildings and the erection of five dwellings. The proposal is considered to be within the wider setting of Outwoods House which is a grade II listed building of special historic and architectural interest located to the south of the application site.
- 8.18 When constructed the house was in an isolated location between Hinckley and Burbage but has subsequently been surrounded by development and built form including sub-division of its original grounds. To the north of the house there is an E-shaped footprint of buildings ancillary to the house, and which are evident on the 1887 Ordnance Survey map. These ranges of buildings remain in situ but have been adapted. The western range has been extensively adapted and despite being located within the application site due to such alterations, the presence of a dividing boundary treatment between the house and the range, and the subsequent modern extensions to the house positioned in between the house and the range. any functional or historical relationship between the range and the original house is now barely perceptible. Overall, the existing buildings within the application site are considered to be of no particular architectural or historic interest. As such the application site is considered to make a neutral contribution to the significance of the listed building Outwoods House. The proposed demolition of the buildings on the site, including a section of a former outbuilding range to Outwoods House is considered to have no more than a negligible and not adverse impact upon the listed building.
- 8.19 Policy 2 of the Burbage Neighbourhood Plan advocates residential development which respects its surroundings in terms of design and layout.
- 8.20 The Good Design Guide outlines that built development on infill sites should be of similar footprint, plot position and layout to the wider context, allowing sufficient space between buildings and not adversely impacting upon the prevailing grain of development.
- 8.21 The five proposed detached dwellings are arranged alongside a central, private driveway with parking along the front. The facing walls are to be constructed of brick inset with double glazed, flush casement windows, oak front doors with fixed side windows and windows above as well as timber composite, double glazed bi-fold doors, all set within oak framing with a brick soldier course above and blue single bullnose brick sills. The properties would be two-storeys with dual pitch, slate tiled roofs over featuring corbelled eave detailing and stepped brickwork. Properties on proposed plots 4 and 5 include a converted roof space with a pitched dormer in the centre of the front roof slope flanked by 2 no. Velux roof windows as well as 1 no. Velux roof window along the rear roof slope flanked by 2 no. pitched dormers. The dormers and Velux windows are positioned to align with the windows along the elevations and are considered subordinate and sympathetic additions.
- 8.22 The height of the proposed dwellings is consistent with the neighbouring properties and overall, they respect the prevailing two-storey scale and form of properties in the surrounding area. The elevations of the dwellings display the use of some traditional architectural detailing whilst the proposed construction and finishing materials, including brick facing walls and timber windows and doors, are in keeping with the area.
- 8.23 Core Strategy Policy 16 recommends a density of 40 dwellings per hectare within and adjoining Burbage. The proposed density of the development provides for a

scheme compatible with the surrounding properties and is, therefore, considered appropriate. In accordance with Policy 16, where individual site characteristics dictate and are justified a lower density may be acceptable, which is relevant in this instance.

- 8.24 For the reasons specified above and that the development would be a neutral presence within the setting of the listed building, it is considered the proposal will be compatible with the significance of the grade II listed building Outwoods House. As such, the proposal complies with the Good Design Guide, Policies DM10, DM11 and DM12 of the SADMP, Chapter 16 of the NPPF, 2021, and the statutory duties of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act, 1990.

Impact upon neighbouring residential amenity

- 8.25 Policy DM10 of the adopted SADMP requires that proposed development should not have a significant adverse effect on the amenities of nearby residents and occupiers of adjacent buildings, whilst DM7 of the SADMP requires developments to demonstrate that adequate measures are considered and implemented to prevent adverse impacts from pollution and flooding.
- 8.26 An objection has been received regarding overlooking and potential loss of privacy from a neighbour along the south-western boundary adjacent proposed plots 1 to 3, some 22.0m away. According to the submitted plans, living areas are proposed on the ground floor which would be screened from view by adequate boundary treatments.
- 8.27 Additionally, no windows are proposed along the side elevations facing towards the residential properties along the southern and western boundaries. Though the dormer windows along the front roof slopes of proposed plots 4 and 5 provide views of the surrounding properties, the window serves a stairwell where residents are not likely to linger. The dormer windows along the rear roof slope overlooks the wildlife area beyond whilst the Velux roof lights would provide oblique views upwards.
- 8.28 The application site is located in an urban area where a degree of overlooking is acceptable and together with adequate separation distances would not result in significant overlooking or loss of privacy.
- 8.29 Policy DM10 of the adopted SADMP also requires that the amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site. Cognisance is taken of the fact that the Developer is aware of the nearby railway line which may cause a noise disturbance to the prospective occupants if adequate soundproofing is not taken into account.
- 8.30 The site plan indicates that the buildings are adequately spaced at the rear with the minimum length of the proposed gardens indicated as 8.5m. The proposed plot sizes would provide more than the minimum 80m<sup>2</sup> amenity space for dwellings of this size which is considered acceptable as outlined in the Good Design Guide. It is noted that the side spacing between buildings are not ideal, however, it would not have an adverse impact on the local character in this instance.
- 8.31 It is considered that the proposed development sits comfortably within the street scene as the height and design of the proposed properties are consistent with the scale, mass, and form of the neighbouring residential area. The proposed properties would not detract from the character of the area and does not appear an overbearing feature.
- 8.32 The proposal is unlikely to have an adverse impact on the amenities of surrounding residents and provides acceptable residential amenity for future occupiers. As such, the proposed development is in accordance with Policies DM7 and DM10 of the SADMP and the Good Design Guide.



Impact upon highway safety

- 8.33 Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 of the adopted SADMP requires new development to provide an appropriate level of parking provision.
- 8.34 Paragraph 111 of the NPPF states that development should only be refused if there would be an unacceptable impact upon highway safety or the residual cumulative impacts on the road network would be severe.
- 8.35 Objections have been received regarding increased traffic, insufficient on-site parking, insufficient visitors' parking, The Outwoods being too narrow and unsafe access for pedestrians.
- 8.36 Policy 4 of the Burbage Neighbourhood Plan outlines that at least two off-street parking spaces shall be provided within the curtilage for each new dwelling developed. The proposal makes provision for 10 on-site parking spaces which is adequate for five dwellings. Within the site there is sufficient turning space to leave the site in a forward direction.
- 8.37 Access is a matter for consideration. The Local Highway Authority has been consulted on the application. The proposed access plan includes The Outwoods, an unadopted road with a 10mph speed limit, that joins with London Road which is an adopted class 'B' road with a 30mph speed limit. It was noted that sufficient visibility splays were demonstrated (drawing No. 2113.03) as well as observed to be in place at this junction. The width of the access to the site off The Outwoods as indicated on drawing No. 2113.101 Rev D complies with Part 3, Table DG20 of the LHDG, measuring 4.25m for the first five metres. The Local Highway Authority is satisfied with the access arrangements based on the proposed vehicle trips and considers that the impacts of the development on highway safety would not be unacceptable.
- 8.38 The site benefits from an existing use as an equine facility. As a fall-back position, this equine use could be intensified, increasing the number of vehicular trips along The Outwoods and with predominantly larger vehicles than associated with a residential use. The proposed residential use of the site for five dwellings, therefore, has the potential to generate less vehicular trips than a fall-back position of the existing permitted use of the site.
- 8.39 It was observed that The Outwoods is a narrow lane running alongside Network Rail railway infrastructure with no public footpath. Though the northern boundary of the application site was recessed to provide a private parking area for the previous equestrian use, it has since been used as a turning and passing area for vehicles and, reportedly, a set down area for Network Rail site works. As indicated on the plans, these activities are taking place on private land. It is further noted that concerns raised regarding pedestrian safety is a current issue and not as a result of the proposed development.
- 8.40 Based on available records to the LHA, there has been one reported Personal Injury Collision (PIC's) within 200 metres south-east of the junction of The Outwoods on London Road (becomes Burbage Road) and nine reported PIC's within 200 metres north-west of the junction within the previous five years. All reported PIC's have been classed as 'slight' in severity. The LHA are satisfied that there are no patterns in the data which could be exacerbated by the proposals.
- 8.41 The development is proposed on a sustainable location close to Hinckley town centre and also in close walking proximity to local shops, amenities, schools and bus stops serving regular services between Hinckley and Lutterworth.

- 8.42 Overall, the proposal would not have a significant impact on parking and highway safety in compliance with Policies DM17 and DM18 of the SADMP and Policy 4 of the Burbage Neighbourhood Plan.

#### Drainage

- 8.43 Policy DM7 of the adopted SADMP requires that development does not create or exacerbate flooding.
- 8.44 The site is located within flood zone 1 indicating there is a low risk of surface water flooding. The Borough Councils Drainage Officer has no objection to the proposal subject to a condition for surface water drainage details incorporating sustainable drainage principles (SUDS). It is considered this condition is reasonable to reduce flood risk on the site in compliance with policy DM7 of the SADMP.

#### Impact upon ecology

- 8.45 Policy DM6 of the adopted SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation.
- 8.46 Objections have been received stating that ecological surveys should be carried out.
- 8.47 LCC Ecology have reviewed the application and the ecological appraisal (Dr. Stefan Bodnar, September 2021) and bat activity surveys (Dr. Stefan Bodnar, September 2021) submitted in support of this application were considered satisfactory. This included a roost assessment of the buildings to be demolished that recorded low to moderate roost potential. In addition, an emergence survey and a dawn re-entry survey were carried out that recorded no bat roosts present. The ecological appraisal recorded no other protected species on the site and a note to the Applicant is applicable to this application.
- 8.48 Therefore, subject to a condition, it is considered that this application accords with Policy DM6 of the SADMP.

#### Obligations

- 8.49 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. Policy 19 of the Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements. However, the Planning Practice Guide clearly states that planning obligations should not be sought where less than 10 residential units are proposed, or the site area does not exceed 0.5ha, which is the case.
- 8.50 The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations, 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested, they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.
- 8.51 The public amenity space identified by the Council's Monitoring Officer is Burbage Common and Woods (BUR76) located some 1km from the site and has a 76% quality score in terms of the Open Space and Recreation Study (2016). Any requested infrastructure contribution for public play and open space facilities would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant.
- 8.52 However, in this case, the proposal is for five dwellings which would not have any significant impact on existing play and open space facilities. The development is considered acceptable in planning terms without any planning contribution, therefore,

the contribution would not be CIL compliant in this case. Notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the Core Strategy no contribution has been pursued in this case due to the scale of the development and its proximity to the park.

#### Planning Balance

- 8.53 The site is located within the settlement boundary of Burbage where new residential development is considered sustainable subject to all other material considerations. The proposed residential development would therefore comply with adopted strategic planning policy, Policy 10 of the Core Strategy.
- 8.54 Burbage is an identified Neighbourhood Plan Area that was made on 6 May 2021 and is afforded full weight in the planning balance. Policy 1 of the Burbage Neighbourhood Plan identifies that residential development on land within the settlement boundary, will be supported, subject to complying with other development plan policy.
- 8.55 As referred to earlier within this report the Council is unable to demonstrate a 5-year housing land supply and its housing policies are out of date, therefore, this application should be determined against paragraph 11(d) of the NPPF whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.56 Paragraph 8 of the NPPF identifies three overarching and interdependent objectives to sustainable development – the economic, social and environmental objectives. In this case, the proposal would provide a small contribution to the social role through the provision of five additional dwellings and a moderate contribution to the economic role through the construction of the development and future ongoing occupation of the dwellings supporting local services.
- 8.57 At present the site is brownfield land surrounded by residential development. The siting, scale and design of the proposed dwellings complement the character of the surrounding area and has a neutral effect on the setting of the nearby listed building. It would also have no adverse impact upon the residential amenity of any neighbouring dwellings, it would have no severe adverse impact upon highway safety and there would be no adverse impact upon ecology. Therefore, the proposal would comply with Policy DM1, DM3, DM6 DM7, DM10, DM11, DM12, DM17 and DM18 of the SADMP, Core Strategy Policy 4, Chapter 16 of the NPPF and the statutory duties of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act, 1990.
- 8.58 The application does not conflict with any of the policies set out within the Core Strategy (2006-2026), and there are no significant or demonstrable adverse impacts that would outweigh the identified social and economic benefits and the presumption in favour of sustainable development. Therefore, no material considerations indicate that a decision should be made other than in accordance with the Development Plan.

## **9. Equality implications**

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

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

## 10. Conclusion

- 10.1. The proposal is within the settlement boundary of Burbage. The siting, scale and design of the proposed dwellings complement the character of the surrounding area and has a neutral effect on the setting of the nearby listed building. It would also have no adverse impact upon the residential amenity of any neighbouring dwellings, it would have no severe adverse impact upon highway safety and there would be no adverse impact upon ecology. Therefore, the proposal would comply with Policy DM1, DM3, DM6 DM7, DM10, DM11, DM12, DM17 and DM18 of the SADMP, Core Strategy Policy 4, Chapter 16 of the NPPF and the statutory duties of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act, 1990. Therefore, this application is recommended for approval subject to the conditions below.

## 11. Recommendation

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

- Planning conditions outlined at the end of this report

## 11.2 Conditions and Reasons / 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:

- Existing Site Plan & Location Plan: 2113.01 Rev B (11.02.2022)
- Existing Ground Floor Plan: 2113.02 Rev A (11.02.2022)
- Proposed Site Plan & Location Plan: 2113.100 Rev C (22.02.2022)
- Proposed Ground Floor Plan: 2113.101 Rev D (11.02.2022)
- Proposed First Floor & Loft Plan: 2113.102 Rev D (21.02.2022)
- Proposed Roof Plan: 2113.103 Rev C (21.02.2022)
- Proposed Elevations: 2113.104 Rev D (21.02.2022)
- Visibility Splays: 2113.03 (11.02.2022)

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

3. The materials to be used on the external elevations shall accord with the approved plan 2113.104 Rev D.

**Reason:** To ensure that the development has a satisfactory external appearance in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No part of the development hereby permitted shall be occupied until such time as site drainage details, incorporating sustainable drainage principles (SuDS), have been provided in writing to and approved in writing by the Local Planning Authority and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.

The drainage details to be submitted shall ensure that surface water must flow away from the railway, there must be no ponding of water adjacent to the boundary and any attenuation scheme within 30m of the railway boundary must be approved by Network Rail in advance. There must be no connection to existing railway drainage assets without prior agreement with Network Rail.

**Reason:** To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with the National Planning Policy Framework (2021).

5. 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 Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. The development shall not be occupied until the north-eastern and south-eastern boundary walls have been reinstated in the same, or improved, condition prior to occupation using matching bricks, brick bond and coping to match the existing.

**Reason:** To protect the amenities and privacy of occupiers of the adjoining property and in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. Development shall not begin until a scheme for protecting the proposed dwellings from noise from Network Rail railway infrastructure has been submitted to and approved by the Local Planning Authority; and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.

**Reason:** To ensure that the proposed use does not become a source of annoyance to residents in accordance with Policy DM10 of the adopted Site

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

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

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

9. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted 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 site first being occupied.

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

10. Site preparation and construction shall be limited to the following hours:

- Monday – Friday 07:30 – 18:00,
- Saturday 08:00 – 13:00, and
- no working on Sundays and Bank Holidays.

**Reason:** To ensure that the proposed use does not become a source of annoyance to nearby residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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

13. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on RAG Architects drawing number 2113.101 Rev D 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 the National Planning Policy Framework (2021).

14. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with RAG Architects drawing number 2113.101 Rev D. 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 the National Planning Policy Framework (2021).

15. Development shall not commence until a construction methodology statement has been submitted to and approved in writing by the Local Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** The safety, operational needs, and integrity of the railway.

16. If the demolition of the existing buildings is delayed for longer than 12 months from the date the ecological survey a repeat bat survey should be carried out and the recommendations implemented in full prior to demolition. A total of 8 bat boxes shall be erected prior to first occupation of the first dwelling with details of the locations on site to be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure a biodiversity enhancement for the site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

17. Notwithstanding the provisions of Schedule 2, Part 1 Classes A - E inclusive of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings hereby permitted shall be carried out unless planning permission for such development has been granted by the local planning authority.

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

#### **Notes to applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. In relation to conditions 8 and 9 above, 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](https://www.hinckley-bosworth.gov.uk/info/200075/pollution/177/contaminated_land) which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.
3. The collection point for domestic recycling, garden waste and refuse are from the adopted highway boundary. Please refer to the following downloads on the website:
  - [http://www.hinckley-bosworth.gov.uk/downloads/file/2952/wheeled\\_bin\\_information\\_for\\_developers\\_and\\_planning\\_officers](http://www.hinckley-bosworth.gov.uk/downloads/file/2952/wheeled_bin_information_for_developers_and_planning_officers)
  - [https://www.hinckley-bosworth.gov.uk/downloads/file/4647/wheeled\\_bin\\_and\\_container\\_policy\\_updated\\_march\\_2018](https://www.hinckley-bosworth.gov.uk/downloads/file/4647/wheeled_bin_and_container_policy_updated_march_2018)
4. The ecological appraisal (Dr. Stefan Bodnar, September 2021) and bat activity surveys (Dr. Stefan Bodnar, September 2021) submitted in support of this

application are satisfactory. The Applicant's attention is drawn to the recommendations regarding nesting birds in the ecology report (Dr. Stefan Bodnar, September 2021).

5. Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation.

6. Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or railway land.

7. Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

8. Demolition

Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

9. Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.



10. Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

11. Bridge Strikes

Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with the Asset Protection Project Manager is necessary to understand if there is a problem. If required there may be a need to fit bridge protection barriers which may be at the developer's expense.

12. Abnormal Loads

From the information supplied, it is not clear if any abnormal loads will be using routes that include any Network Rail assets (e.g. bridges and level crossings). We would have serious reservations if during the construction or operation of the site, abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contact our Asset Protection Project Manager to confirm that any proposed route is viable and to agree a strategy to protect our asset(s) from any potential damage caused by abnormal loads. I would also like to advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

13. Two Metre Boundary

Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus reducing the probability of provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

14. Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail airspace and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or airspace is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

15. Access to the Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

16. Standard Drainage Requirements

All surface and foul water drainage from the development area be directed away from Network Rail's retained land and structures into suitable drainage systems, the details of which are to be approved by Network Rail before construction starts on site.

Water must not be caused to pond on or near railway land either during or after any construction-related activity.

The construction of soakaways for storm or surface water drainage should not take place within 20m of the Network Rail boundary. Any new drains are to be constructed and maintained so as not to have any adverse effect upon the stability of any Network Rail equipment, structure, cutting or embankment.

The construction of soakaways within any lease area is not permitted.

The construction of surface water retention ponds/tanks, SuDS or flow control systems should not take place within 20m of the Network Rail boundary where these systems are proposed to be below existing track level. Full overland flow conditions should be submitted to Network Rail for approval prior to any works on site commencing.

The construction of surface water retention ponds/tanks, SuDS or flow control systems should not take place within 30m of the Network Rail boundary where these systems are proposed to be above existing track level. Full overland flow conditions should be submitted to Network Rail for approval prior to any works on site commencing.

If a Network Rail-owned underline structure (such as a culvert, pipe or drain) is intended to act as a means of conveying surface water within or away from the development, then all parties must work together to ensure that the structure is fit for purpose and able to take the proposed flows without risk to the safety of the railway or the surrounding land.

17. Wayleaves and or easements for underline drainage assets

The position of any underline drainage asset shall not be within 5m of drainage assets, sensitive operational equipment such as switches and crossings, track joints, welds, overhead line stanchions and line side equipment, and not within 15m of bridges, culverts, retaining walls and other structures supporting railway live loading.

18. Protection of existing railway drainage assets within a clearance area

There are likely to be existing railway drainage assets in the vicinity of the proposed works. Please proceed with caution.

No connection of drainage shall be made to these assets without Network Rail's prior consent to detailed proposals. Any works within 5m of the assets will require prior consent.

There must be no interfering with existing drainage assets/systems without Network Rail's written permission.

The developer is asked to ascertain with Network Rail the existence of any existing railway drainage assets or systems in the vicinity of the development area before work starts on site. Please contact Asset Protection ([assetprotectioneastern@networkrail.co.uk](mailto:assetprotectioneastern@networkrail.co.uk)) for further information and assistance.

19. Useful Network Rail contacts;

Asset Protection Eastern – For enquiries, advice and agreements relating to construction methodology, works in proximity to the railway boundary, drainage works, or schemes in proximity to railway tunnels (including tunnel shafts) please email [assetprotectioneastern@networkrail.co.uk](mailto:assetprotectioneastern@networkrail.co.uk).

Land Information – For enquiries relating to land ownership enquiries, please email [landinformation@networkrail.co.uk](mailto:landinformation@networkrail.co.uk).

Property Services – For enquiries relating to agreements to use, purchase or rent Network Rail land, please email [propertyserviceslneem@networkrail.co.uk](mailto:propertyserviceslneem@networkrail.co.uk).

20. Prior to construction, measures should be taken to ensure that users of the Public Right(s) of Way are not exposed to any elements of danger associated with construction works.
21. The Public Right(s) of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.
22. The Public Right(s) of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
23. If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to [networkmanagement@leics.gov.uk](mailto:networkmanagement@leics.gov.uk) at least 12 weeks before the temporary diversion is required.
24. Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
25. No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.
26. Prior to construction, any changes to the existing boundary treatment currently separating the application site from the Public Right of Way, must be approved by the Local Planning Authority in accordance with the principles set out in the Leicestershire County Council's Guidance Notes for Developers.
27. No trees or shrubs should be planted within 1 metre of the edge of the Public Right of Way. Any trees or shrubs planted alongside a Public Right of Way should be of a non-invasive species.
28. Prior to construction, measures should be taken to ensure that users of the Public Right(s) of Way are not exposed to any elements of danger associated with construction works.