

Planning Committee 20th December 2022
Report of the Planning Manager (Development Management)

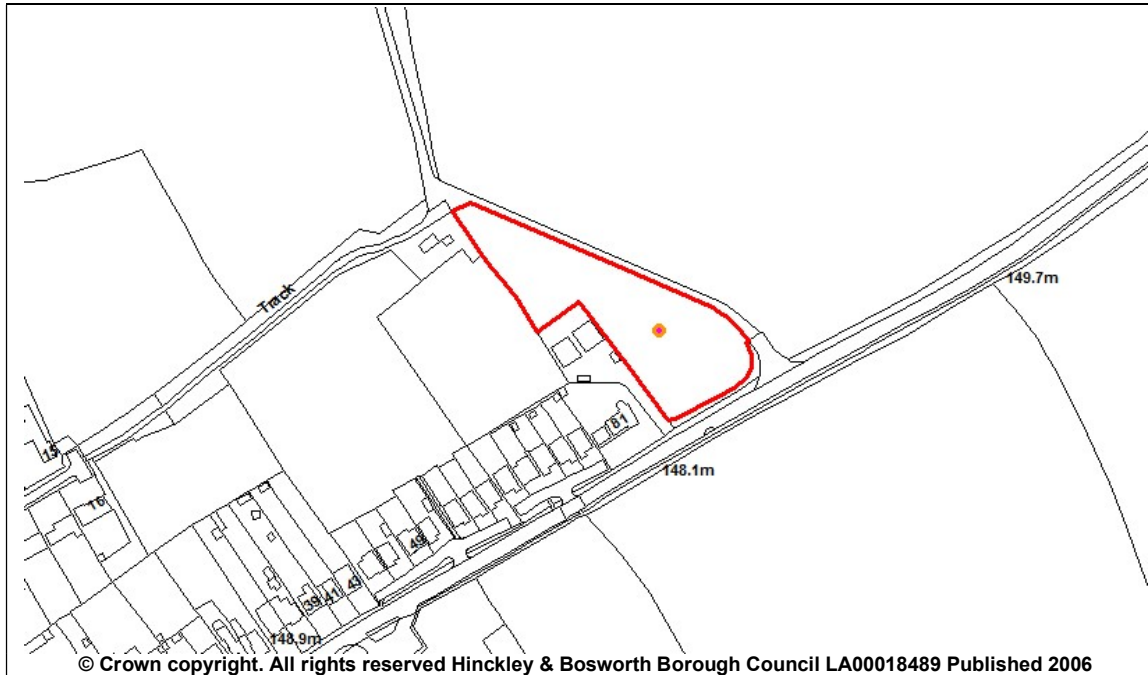


Hinckley & Bosworth
Borough Council

Planning Ref: 22/00302/OUT
Applicant: Mr J Dawson
Ward: Barlestone, Nailstone And Osbaston

Site: Land North East Of, 85 Bagworth Road, Nailstone, Coalville

Proposal: Proposed erection of 9no. dwellinghouses (Outline Application - All Matters Reserved)



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report
- S106 Agreement to secure off site open space contributions and associated maintenance costs

Off Site Provision total = £8,038.26

Maintenance total = £6,217.20

2. Planning application description

2.1. The application seeks outline planning permission for the development of up to 9 detached dwellings. All matters (access, appearance, landscape, layout and scale) are reserved at this stage.

2.2. A number of amendments and further information has been received since initial receipt of the application. A full re-consultation has been carried out in order for consultees to be provided with the opportunity to revise any comments they made previously. The original application sought outline permission for up to 9 dwellings over 0.5 hectares. The revised application has reduced the site area to 0.49

hectares. No affordable housing provision is now proposed as a result of the reduced area as it lies below the threshold requirement.

3. Description of the site and surrounding area

- 3.1. The application site is situated on land off Bagworth Road which lies to the eastern side of the village adjacent to but outside of the settlement boundary, within open countryside. The land to which the revised application relates is currently a small paddock which is fenced off and amounts to around 0.49ha in area approximately. The site fronts the highway with an existing access off Bagworth Road.
- 3.2. Housing adjoins the site to the west, Bagworth Road forms the southern boundary and agricultural land /open countryside lies to the north and east.
- 3.3. The indicative plans show that 4 dwellings would potentially front onto Bagworth Road and an access point is indicated to be provided for the remaining dwellings which are to be situated to the side/rear of the site.
- 3.4. The site is not located within the Nailstone Conservation Area. The site is entirely within zone 1 of the Environment Agency's flood mapping (land at lowest risk of flooding).

4. Relevant planning history

12/00964/FUL

- Erection of Farmhouse, agricultural buildings and new access
- Planning Permission
- 06.03.2013

5. Publicity

- 5.1. The application has been publicised by a site notice in close proximity to the site and sending out letters to local residents.
- 5.2. One letter of support has been received which states the following:
 - 1) Good use of land central to the village.
 - 2) The school is well below capacity so more housing is well suited in this area to bring more children into the village.
- 5.3. Nine separate letters of objection have been received which state the following:
 - 1) It is a greenfield site and agricultural land.
 - 2) Too many large greenfield areas of the Borough have been lost to housing, warehousing, solar farms and forestry.
 - 3) Climate change, world unrest and soaring petrochemical prices suggest that home farmed food produced by sustainable methods are increasingly important to the economy.
 - 4) It is outside the village envelope.
 - 5) It is adjacent to existing housing but would set a precedent for indefinitely extending the village and render village boundaries meaningless.
 - 6) Issues with the stated justification for the development of market housing:
 - a). Aldi site will provide 750 jobs. Only very few employees will have a salary to support the purchase of £350,000 + housing or want to move to the area.
 - b). School not full. It was extended recently to cater for not just Nailstone but also for children from housing developments in the surrounding villages.

c) Cycling is not safe for the general cyclist. Nailstone is a hilltop settlement and the approach roads are narrow, busy with cars and lorries and have significant inclines

d) Car travel is the norm for Nailstone residents and their visitors. The bus stop is one mile from the development and therefore unlikely to be of use. The Leicester bus is being scrapped in April 2022 and the hourly Hinckley - Coalville bus only functions up to the early evening.

- 7) Nailstone is traditionally an agricultural village and this development would further erode this identity and destroy open pasture land.
- 8) The village does not have any facilities to support more dwellings. There is no shop, no pub and no community building other than the church.
- 9) Access from main road was granted for farm use. To use it now for housing implies deceit as it was never used for farm traffic.
- 10) Another development site was granted in 2018 (18/01288/FUL) for 6 dwellings. In the 4 years the permission has been granted the construction has not been started. From this I can assume there is no commercial gain to be made from the site as there is little demand for these dwellings in the village. To grant permission for an additional 9 when 6 have not been built seems wrong.
- 11) Nailstone has been reclassified as a hamlet and this application exceeds the allotted requirement for new housing within the village.
- 12) The scheme is in direct contravention with the current and new Local Plan for the village and is badly planned given the absence of amenities or public transport in the area.
- 13) Nailstone falls within a Conservation Area. As such the proposed development will be detrimental to the area and local wildlife and it fails to meet the necessary material considerations required for the development to succeed.
- 14) The loss of the paddock would have an adverse effect on the beauty and landscape of Nailstone. It will result in the loss of countryside and have a detrimental effect on native vegetation.
- 15) In the proposed 2021 Local Plan the village has 12 allocated houses to be built during 2020-2039. It is also recommended that Nailstone should be downgraded from a Rural Village to a Rural Hamlet due to its lack of amenities; therefore, there is no expectation for new housing within, or outside, the village boundary.
- 16) The proposed development of houses earmarked for Bagworth Road represents an opportunistic application aimed to take advantage of the village's commitment. The lack of appropriate design planning is evident given this land is wholly insufficient for nine houses.
- 17) The applicant argues the proposed development falls within walking distance of the Nailstone colliery development, however due to the absence of pavements walking is not a safe or feasible option. The argument is flawed and fails to justify strong links to employment opportunities.
- 18) The development would dominate nearby buildings. Visually damaging in the landscape setting. It would be inconvenient and hazardous for pedestrians to cross a speeding road.
- 19) There is very much a consensus in the village that Bagworth Road has a significant amount of speeding traffic. Recent traffic surveys will show traffic movements and recorded speeds, personally I would be surprised if the highest recorded speed is less than 65 mph.

- 20) I believe that the development would not be connected to the mains sewer due to distance and cost and therefore believe that local houses would suffer significant disturbance from smells of effluent.
- 21) There would be an impact on personal visual amenity and loss of privacy. Noise, light, pollution and disturbance.
- 22) There are currently no facilities in the village of Nailstone i.e. shops, the recent bus service has stopped. Although the local pub has planning, there is no evidence of any current development alterations or being open at this time contrary to the applicant's application.
- 23) The applicant argues the planning application to improvement The Bulls Head (ref: 18/01288/FUL) is proof of a village amenity in support of the proposed development. This application has now been withdrawn and is therefore irrelevant. There are no amenities within the village to support new housing growth.
- 24) The applicant argues the proposed development falls within walking distance of the Nailstone colliery development, however due to the absence of well-lit and pavements accessible to those with difficulties or disabilities, walking is not a safe or feasible option, certainly not during the hours of darkness. The argument is flawed and fails to justify strong links to employment opportunities.

6. Consultation

6.1. No objection has been received from:

- HBBC ES Pollution
- HBBC Drainage (subject to a condition)
- HBBC Waste Management (Condition on bin storage and collection required)
- LCC Archaeology (subject to a condition)
- LCC Highways (subject to an offsite pedestrian crossing condition and a construction management plan condition)

6.2. LCC Ecology - An ecology survey (which should cover habitats and badgers) has not been provided. A biodiversity net-gain assessment using DEFRA 3.0 metric and a Biodiversity impact assessment and enhancement plan is needed, to demonstrate that the development is in overall net-gain, in accordance with the NPPF policy. The habitat survey is needed to provide baseline data for the metric. On-site enhancements should be prioritised, in line with the NPPF policy.

Further comments from LCC Ecology received 25 October 2022 - The ecologist has made the changes I recommended, and has also contacted me to discuss further, which prompted a useful discussion about some aspects of the metric. The development is perfectly acceptable in principle. Losses are minor, but so are the claimed on-site gains, and I do feel these have been exaggerated. An alternative, therefore, may be to condition the full BNG plan.

6.3. Affordable Housing Officer – This is an outline planning application for 9 homes at Bagworth Road Nailstone. Policy set out in the Core Strategy, policy 15, states that sites of 4 dwellings or more, or 0.13 hectares or more in rural settlements, require 40% of the housing to be offered for affordable housing. Whilst this site does not cross the threshold in terms of number of dwellings, the site is described as 0.5 hectares in size and therefore requires an affordable housing contribution to be made. To be policy compliant, a 20% contribution on 9 units would give 1.6 units, rounded up to 2 dwellings.

Since the Core Strategy was adopted there have been changes introduced nationally which affect the delivery of on-site affordable housing. The thresholds for rural affordable housing delivery in the Core Strategy have been superseded by the National Planning Policy Framework (NPPF) 2021, which states affordable housing should only be sought on major developments. The glossary to the 2021 NPPF defines major development for housing as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. The site at Bagworth Road is described as 0.5 hectares, and therefore crosses the site size threshold for delivery of affordable housing. To be policy compliant, a 40% contribution on 9 units would give 3.6 units, rounded up to 4 dwellings. The NPPF requires 10% of all homes on qualifying sites to be for affordable home ownership. Subsequent to this guidance, the NPPF also introduced a new affordable home ownership product called First Homes. On qualifying sites, 25% of all affordable housing should be for First Homes. Due to the small number of affordable homes required, it is difficult to divide the units into different tenure types. The overriding need for affordable housing in the Borough is for rented housing, usually delivered as affordable rent. This would therefore be the preference for affordable housing delivery on site, but to be compliant with national policy, one unit should be for First Homes which would fulfil the need for 25% of affordable housing to be for First Homes, and 10% of housing on site to be for affordable home ownership. On 6.10.22 there are the following number of live applications for rented housing in Nailstone on the Council's housing register: Bedroom size Number of applicants with a Borough Connection:

1 bed 103
2 bed 55
3 beds 43
4 or more beds 12
Total 213

The greatest need within the Borough for all affordable tenures is for smaller homes, and the preference would be for the affordable housing to be delivered as 2 bedroomed 4 person houses. Affordable rented homes should have a requirement that allocation would be to people with a connection to the parish of Nailstone, and failing any applicants with this connection, a connection to the borough of Hinckley and Bosworth, as defined in the council's Housing Allocations Policy.

No further response received from the Housing Officer subsequent to the submission of amended plans.

- 6.4. Nailstone Parish Council – Objection. The site is relative to a previous application for a farm 12/00964/FUL and the junction was “over engineered” in order to provide access to farm machinery. Visibility splays are inadequate for the speed and there have been a number of accidents less than 500m from the junction. The highway officers require more detailed scale drawings in order to make recommendations. The connection with the current traffic calming measures are undetermined and we suspect safety audits will reveal this effectiveness. Ecology surveys are required by the county ecologist and this is absent from the application and there is an absence of a 10% net gain biodiversity measure. Given the footprint and potential semi improving status of the site, I would expect further adjacent land would need to be included under a unilateral undertaking to balance the ecology net gain. The application claims enterprise support to the ALDI distribution hub, connection with the undersubscribed Dove Bank Primary school. The application is for outline consent only and all matters are reserved which means the principle of planning is

being sought not the delivery of the proposed scheme. The DAS states that Nailstone has been incorrectly categorised as a rural hamlet due to: “assessment of the village in the Settlement Hierarchy Review document where the major employment allocation at Nailstone colliery with 750 jobs was not taken into account. In addition, the village pub due to reopen after refurbishment this summer; the community use of the school and church; the existing playing field and the county park also on the former colliery site were not included in the assessment of Nailstone.”

In essence the applicant’s agent is suggesting Nailstone should remain a rural village where it would be suitable for 40 plus homes rather than 8. Until the local plan has been approved the validity of village status remains undetermined and exposed. Under the terms of proposed local plan 2020-2039 Reg 19, Nailstone has been categorised as a Rural Hamlet which “The Local Plan does not specifically allocate land for housing in Rural Hamlets as these are generally not considered as sustainable locations for further planned growth during the Plan period.” Whilst the categorisation of Nailstone as a Rural Hamlet is “strongly argued” by applicant’s agent, since the application was validated we have lost the support of a publican, the bus service has been cancelled and the application for one of the largest solar farms in the UK has disrupted the village vision. The scheme is strategically presented one under the thresholds for affordable homes therefore it avoids significant obligations under 106. The village is unsuitable for affordable homes due to lack of infrastructure, services and public transport, therefore the affordable homes would be an offsite contribution anyway. The scheme benefits from an existing approved entrance, all be it over engineered for its new purpose, safety audits will prove its viability. The site is outside the village boundary however is on the fringe therefore under sustainable development plans it may be considered, however as a Hamlet it has a different view.

The plan fails to align with the ribbon development master planning of the village and cuts into green space purposefully creating a natural infill for future homes. The tilted balance towards the village is absent, perhaps consideration could be met through offering public open space, allotments, etc. The central section could be offered under a unilateral undertaking for bio diversity net gain. There are a number of documents absent from the application that need to be provided prior to the application being determined, namely the ecology and traffic safety audits.

7. Policy

7.1. Core Strategy (2009)

- Policy 12: Rural Villages
- Policy 14: Rural Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 17: Rural Needs
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the countryside and settlement separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest

- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM13: Preserving the Borough's Archaeology
- 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)
- National Design Guide (2019)

7.4. Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guidance

8. Appraisal

8.1. Key Issues

- Principle of development
- Impact on archaeology
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flood risk and drainage
- Ecology
- Contamination
- Planning Obligations
- Planning Balance

Principle of development

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) 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. Where planning applications conflict with an up to date plan, permission should not usually be granted unless other material considerations indicate otherwise.

8.3. The current development plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). 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. Nailstone is identified within the Core Strategy as a Rural Village. Policy 12 of the CS states that in Nailstone the Council will allocate land for the development of a minimum of 20 new homes. The number, type and mix of housing proposed will meet the needs of Nailstone and in line with Policies 15 and 16 of the CS.

8.4. The Emerging Local Plan for 2020-39 has been out for consultation at Regulation 19 draft stage (February to March 2022). The LDS anticipates that the Plan will be submitted in due course, and an estimated date for examination of late Winter

2022/23. This will increase the weight to be afforded to the new Local Plan. In the Hinckley & Bosworth Settlement Hierarchy Paper December 2021, Nailstone falls short of the level of provision of services and currently it is concluded that Nailstone be revised from a Rural Village to a Rural Hamlet in the 2020-2039 Local Plan. This change is yet to be approved/adopted and so does not carry significant weight at this moment in time.

- 8.5. It is noted that the southern part of the proposed site has been submitted as a SHELAA site with reference LPR14 for the consideration of it being allocated in the Replacement Local Plan as a housing allocation. The SHELAA assessment concludes that the site is suitable, available and achievable at the time of assessment based on the criteria set out within HBBC's SHELAA Methodology Paper (September 2020). However, the site is not proposed to be allocated for development in the Replacement Local Plan. The Planning Policy team have received further site submissions on the proposed development site. However, the assessments are not publicly available yet. Therefore, there aren't any updated assessments that can be shared before the submission of the updated SHELAA.
- 8.6. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Due to this and the change in the housing figures required for the borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (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. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP 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.
- 8.7. The application lies adjacent to but outside the settlement boundary of Nailstone within open countryside. Policy DM4 is therefore applicable and states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
 - It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation
- and:
- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - It does not undermine the physical and perceived separation and open character between settlements; and
 - It does not create or exacerbate ribbon development

- 8.8. The site does not fall under any of the categories identified in Policy DM4 as sustainable development. The purpose of Policy DM4 is to protect the open character and landscape character of the countryside. As such, the proposal conflicts with Policy DM4 of the SADMP. However, it is to be applied flexibly due to the date of the Local Plan and the out-of date housing figures. Policy DM4 is consistent with paragraph 174b of the NPPF, which provides that planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. As such conflict with Policy DM4 does carry weight as it is consistent with the up to date Framework (NPPF).
- 8.9. As the Borough Council cannot currently demonstrate a five-year supply of housing, the presumption in favour of sustainable development needs to be considered. The three objectives to achieving sustainable development are identified as economic, social and environmental.
- 8.10. Nailstone has a limited number of services as highlighted in the Hinckley & Bosworth Settlement Hierarchy Paper December 2021, which are a primary school, a place of worship and a bus service categorised as reasonable at the time of assessment. Due to the lack of services it is considered that Nailstone is relying on Key Rural Centres or surrounding urban areas for schooling, employment and the provision of goods and services. However, in recent months, the local pub has come back into use which may affect Nailstone's place in the settlement hierarchy.
- 8.11. The site is entirely within zone 1 (low risk) of the Environment Agency's flood mapping and details have been provided in respect of biodiversity net gain for the site. The site is not located within a landscape sensitivity area.

Impact on Archaeology

- 8.12. Policy DM13 states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate assessment detailing the significance of any affected asset. Paragraph 194 of the NPPF reiterates this advice.
- 8.13. The site lies within an area of archaeological interest. Trial trench evaluation in 2012 identified two ditches of Iron Age date c.300m to the north of the application area. Roman finds have also been discovered c.130m south-east and c.250m and south-west of the site. As the site does not appear to have undergone any significant previous ground disturbance, any archaeological remains that are present here are likely to be relatively well preserved and close to the ground surface.
- 8.14. While the current results are sufficient to support the planning decision, further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme. NPPF paragraph 205, states that Local Planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.
- 8.15. Subject to an appropriately worded condition, the application is considered to be acceptable and in accordance with Policy DM13 of the SADMP and Section 16 of the NPPF in relation archaeology matters.

Design and impact upon the character of the area

- 8.16. Policy DM10(c), (d) and (e) of the SADMP 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 the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.17. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.18. The Council's Good Design Guide (2019) identifies design objectives for Nailstone . These objectives seek to protect the setting of the farm buildings on the periphery, protect the open landscape views where they exist and limit modern domestic forms, protect the setting of the church including open space of the churchyard, boundary treatments and large garden space on Church Road and ensure development in the historic core avoids overtly generic domestic forms. This site is not located within the historic core of Nailstone but is on the periphery of the village outside of the settlement boundary.
- 8.19. This application site falls within landscape character area 'J' Barton Village Farmlands. This character area is located centrally in the north of the Borough to the east of the more wooded landscape of Gopsall Parkland and slightly elevated above Bosworth Parkland to the south. The western boundary is formed by the Ashby Canal and the eastern boundary by the A447 and B582 which mark a transition to higher ground of the Charnwood Fringe Hills to the east. The northern part of this character area lies within the National Forest. The application site is not located in a landscape sensitivity area.
- 8.20. Nailstone is a former Gopsall estate village which retains a historic street pattern and strong sense of local identity related to the estate and village community which can still be seen in the historic buildings, green space and rich townscape features such as characteristic eyebrow dormer windows. Despite housing mine-workers for the nearby mine in the mid-19th century, it has retained a rural character and relationship to its agricultural origins with many surviving historic farmhouses and traditional farmhouse layouts.
- 8.21. The character and landscape strategy for this part of the Borough includes:
- Supporting the vision of the National Forest Strategy – by planting native and mixed-species woodland as well as for areas beyond the National Forest boundary
 - Connecting and enhancing habitats such as hedgerows, tree planting, farm woodlands and lowland meadows.
 - Respecting and enhancing the strong character of the villages, ensuring new development complements existing context with regards to scale, form, materials and boundary features.
 - Maintaining rural views including to church spires and towers and the rural setting.
 - Maintaining and enhancing the recreational assets including rights of way network and canal.

- Conserving the enclosed small-scale field pattern by protecting and enhancing the hedgerow network and hedgerow trees and conserve extant areas of ridge and furrow.
- 8.22. This is an outline application where all matters reserved for future consideration. As such details about scale and design are limited. The application details suggest 9 detached dwellings. Four units would front onto Bagworth Road and are indicated to be two storey in scale with 1.5 dormer style dwellings and a single storey dwelling/bungalow proposed to the rear of the site facing out onto open countryside. Landscaping and quality of design will be critical to ensure that the proposal complements its rural location and the prevailing character of Bagworth Road.
- 8.23. The application details state that each property would be provided with 2 parking spaces per dwelling. The housing mix has not been provided but the indicative plans indicate that the dwellings would be larger family homes. No affordable housing is proposed on site due to the reduction in size area and because the proposed scheme comprises less than 10 dwellings.
- 8.24. The Council's waste team have commented on the proposals and note that all recycling and refuse services take place from the adopted highway boundary. If all or part of the new road to the new properties is to be private (unadopted) then consideration will need to be given to adequate and safe collection point space at the adopted highway boundary for the placement of all the containers on collection day (up to 2 bins per property at one time). It will be the responsibility of the occupiers to ensure that all containers/wheeled bins will be brought to the collection point. This is a detailed matter which will need to be fully explored as part of the layout and appearance of the development at the reserved matters stage.
- 8.25. Overall, it will be key in this instance to ensure that any future reserved matters application makes reference to the landscape character area set out above and seeks to comply with the character/landscape strategy and design objectives for Nailstone as set out within the Council's Design Guide. This should heavily influence the appearance, scale and proposed landscaping details of the development for any future reserved matters application.
- Impact upon neighbouring residential amenity
- 8.26. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities with in the vicinity of the site.
- 8.27. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.28. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural

environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

- 8.29. As set out throughout the report because this is an outline application with all matters reserved there are limited details on the specifics of the development. However, it is clear from the site location and illustrative block plans provided that the provision of up to 9 dwellings in this location would be acceptable with respect to residential amenity considerations for future occupiers of the dwellings and also the nearest neighbouring properties with respect to privacy, outlook and access to light. The plans indicate suitable separation distances between properties and good rear garden sizes. Any boundary treatments proposed would need to protect privacy but due to the siting of the development outside of the settlement boundary it is recommended that landscaping is used as the key boundary treatment of choice in order to help soften the edges of the development and remain in keeping with the character and appearance of the countryside.
- 8.30. In order to help aid the issues associated with construction noise and protect residential amenity for nearby residents it is considered appropriate to impose a hours of construction condition to ensure appropriate working times.
- 8.31. Overall, it is considered that a suitable scheme could be delivered on this site that would be acceptable in residential amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.
- Impact upon highway safety
- 8.32. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.33. Policy DM10 (g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.34. Paragraph 111 of the NPPF (2019) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.35. The site is to be accessed off Bagworth Road, a C classified road subject to a 30mph speed limit. The local highway authority notes that the access design appears to be over engineered for the quantum of development proposed. Nevertheless, it is acknowledged that farm vehicles may also share the access. The existing access was granted planning permission as part of application 12/00964/FUL. It is noted that visibility splays of 2.4 x 120m to the southwest and 2.4 x 160m to the northeast were accepted by the LHA as part of that application, at a time when the speed limit was the national speed limit, the 30mph speed limit was situated closer to the village and the existing priority build out was not in place. The LHA requires the applicant to demonstrate that appropriate visibility is still achievable as part of any future application for the access.

- 8.36. The local highway authority in their initial consultation response stated that the application as submitted did not fully assess the highway impact of the proposed development and further information was required. Specifically they requested details of an offsite uncontrolled pedestrian crossing point from the site to the opposite side of the road to include details of dropped kerbs and a 2.0m wide footway from the site to the proposed crossing point. The applicant was asked to submit further information in respect of the highway comments received but they stated that access is not a detailed matter at this stage and would be dealt with through the submission of a reserved matters application.
- 8.37. The local highway authority have subsequently through re-consultation raised no objections subject to conditions requiring the provision of an offsite pedestrian crossing and the submission of a Construction Management Plan (as a condition).
- 8.38. The local highway authority are satisfied with the indicative parking provision shown for each dwelling (2 spaces per dwelling). This is considered to be acceptable and in accordance with development plan policy.
- 8.39. The Parish Council has raised concerns about the scheme in highway safety terms and local objection has also been received in relation to this matter. It is to be emphasised that this application is in outline form only with all matters including access to be determined at the reserved matters stage. The local highway authority have stated that given the limited scale of the proposals (9 dwellings) it is considered that the development would not exacerbate highway safety.
- 8.40. It is considered that an appropriate offsite pedestrian crossing can be delivered in this location and these highway works can be requested as a Grampian condition and details are recommended to come forward as part of the access details for any future reserved matters application. The agent has agreed to the conditions requested by the local highway authority.

Flood Risk and Drainage

- 8.41. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.42. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.43. The site is located within flood zone 1 (land at lowest probability of flooding). The HBBC Drainage Officer has raised no objections to the proposals subject to a condition relating to surface water drainage details and the incorporation of SuDS. With this condition imposed it is considered that the proposed development is acceptable with respect to flood risk and drainage and will satisfy Policy DM7 of the SADMP and the NPPF.

Ecology

- 8.44. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation and ecological value. The application submission was supported by an ecological assessment and concludes

that the proposal would not have an adverse impact upon the natural environment. The county ecologist has been consulted on the application and is satisfied with the content of the report. It is to be noted that landscaping is not a detailed matter for consideration at this stage and will form part of a future reserved matters application.

- 8.45. The Ecology Officer has been consulted on the application and initially requested further details relating to biodiversity net gain and metric calculations. Further information has been provided by the applicant. The re-consultation response from Ecology states that:

'Having considered these more and discussed with my colleague, I feel there are still some issues with this metric and with the interpretation of the 'rules' covering use of BNG. I do acknowledge that these rules are complicated, and are not always clear in the User Guide; it is sometimes a matter for interpretation. I do not know what the effect of any further changes will be – but I do need to flag up where I think metrics are being filled in incorrectly, or where there is a suggestion that the content is being tweaked to enable a positive metric score. I will have to defer to you on whether you want to take this further; the changes I feel are needed may not make a big difference to the 'score', and the development is perfectly acceptable in principle. Losses are minor, but so are the claimed on-site gains, and I do feel these have been exaggerated. Also – this is an outline application. My questions relate to the claimed on-site gains, post-development. DEFRA guidance, such as it is, is that the applicants only need to submit 'core biodiversity gains information' with their planning application, and not a full metric. Their description of this is... ". This is not as comprehensive as a complete biodiversity gain plan, which will not be required at this stage, in recognition of certain circumstances where details of landscaping are not fully developed or where the detail of biodiversity gain plans are contingent on other matters, such as site investigation works.

- *the pre-development biodiversity value,*
 - *steps taken to minimise adverse biodiversity impacts,*
 - *the proposed approach to enhancing biodiversity on-site, and*
 - *any proposed off-site biodiversity enhancements (including the use of credits) that have been planned or arranged for the development."*
- An alternative, therefore, may be to condition the full BNG plan'.*

- 8.46. It is considered that given this is an outline application and there is no in principle objection from Ecology that a suitably worded condition will provide the necessary information required to ensure that the site delivers on the provision of Biodiversity Net Gain. Therefore, subject to a condition to secure Biodiversity Net Gain measures, the proposal accords with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016.

Contamination

- 8.47. Policy DM7 of the SADMP states that development proposals must demonstrate appropriate remediation of contaminated land in line with minimum standards. The revised NPPF at paragraphs 183 and 184 sets out policies on development involving contaminated land. The planning practice guidance also offers detailed government advice on this topic
- 8.48. HBBC Environmental Services Team have been consulted on the proposals and do not raise objections nor do they request conditions in relation to contaminated land. It is considered that the application is acceptable and in accordance with development plan policy with respect to contamination issues.

Planning 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 identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016 updates these standards and also identifies the costs for off-site and on-site contributions. The study states that there is a deficiency in the provision of all types open space within Nailstone with the exception of Children's play space which only just meets the requirement.

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 and paragraph 57 of the NPPF state that planning obligations must only be sought where they meet all of the following tests:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

8.51. The Open Space and Recreation Study 2016 states that with the exception of children's play space all of the open space typologies fall below recommended quantity standard. Off site open space contributions have therefore been calculated and requested by the Council and accepted by the applicant for the following types of open space:

Equipped Children's Play Space

off site provision = £5,894.53 and
maintenance = £2,844.72

Casual/Informal Play Spaces

off site provision = £671.33 and
maintenance = £816.48

Accessibility Natural Green Space

off site provision = £1,472.40 and
maintenance = £2,556.00

Off site Open Space Provision total = £8,038.26

Maintenance total = £6,217.20

Planning Balance

8.52. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.53. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Therefore the Council does not have a 5 year housing land supply.

8.54. Under these circumstances, the NPPF sets out, in paragraph 11d) that, for decision makers:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

8.55. Footnote 8 in the NPPF states that the application of this approach *“includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”*.

8.56. Therefore, currently the ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.57. The proposal conflicts with Policy DM4 as the application lies adjacent to but outside the settlement boundary of Nailstone and is therefore within open countryside. The site does not fall under any of the categories identified in Policy DM4 as sustainable development. However, the purpose of Policy DM4 is to protect the open character and landscape character of the countryside and where the tilted balance is applicable planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits of the scheme. The application site is not located in a landscape sensitivity area and ecology have not objected subject to a Biodiversity Net Gain Condition. Access, appearance, landscape, layout and scale are all reserved matters in this case for future consideration.

8.58. Nailstone has a limited number of services as highlighted in the Hinckley & Bosworth Settlement Hierarchy Paper December 2021, which are a primary school, a place of worship and a bus service categorised as reasonable at the time of assessment. Due to the lack of services it is considered that Nailstone is relying on Key Rural Centres or surrounding urban areas for schooling, employment and the provision of goods and services. However, in recent months, the local pub has come back into use which may affect Nailstone’s place in the settlement hierarchy.

8.59. Overall, taking all of the above issues/material considerations into account it is not considered that there are significant adverse impacts as a result of this scheme which would outweigh the benefit of providing 9 dwellings in addition to the open space contributions to help address the shortfalls identified for Nailstone. Therefore, subject to suitably worded conditions, details to address the highway issues raised and a legal agreement to secure the off site open space contributions the application is recommended to Members for approval.

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

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.

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. Recommendation

10.1 **Grant planning permission** subject to the following planning conditions and the signing of Section 106 Agreement to secure off site open space contributions and associated maintenance costs.

Conditions and Reasons

1. Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

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

2. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the:-
 - a) Access including the accessibility to and within a site for vehicles, cycles and pedestrians. The positioning, treatment and circulation of routes and how these fit into the surrounding access network and details of the required pedestrian crossing.
 - b) Appearance of the development including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes.
 - c) Landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges to include native species mix hedgerows

- d) Layout of the site including the location of electric vehicle charging points, bin storage and collection points, the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development. This should include a design statement that sets out how consideration has been given to lower density to edges of site and higher density along main routes.
- e) Scale of each building proposed in relation to its surroundings

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 development hereby permitted shall be for the erection of no more than 9 dwellings on the land outlined red shown on the Location Plan of revised Outline Planning Proposals Drawing 22_4130_02B received 1 Nov 2022.

Reason: To define the permission.

- 4. Development shall not begin until off site highway works for the provision of a pedestrian crossing has been fully implemented in accordance with approved highway details which shall first have been submitted to and approved in writing by the local planning authority at the reserved matters stage. The highway details need to include details of dropped kerbs and a 2.0m wide footway from the site to the proposed crossing point.

Reason: To ensure the development provides for suitable highway safety measures in accordance with DM17 of the Site Allocations and Development Management Policies DPD.

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

Monday - Friday 07:30 - 18:00

Saturday 08:00 - 13:00

No working on Sundays and Bank Holidays

Reason: To protect residential amenity and limit noise disturbance in accordance Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

7. No development shall commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has first been submitted to and approved in writing by the local planning authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed mitigation WSI, which shall include the statement of significance and research objectives, and

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

Reason: To ensure satisfactory archaeological investigation, recording, dissemination and archiving in accordance with Policy DM13 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

8. Development shall not begin until surface water drainage details, incorporating sustainable drainage principles (SuDS) have been submitted 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

Reason: To reduce the possibility of surface water flooding in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the National Planning Policy Framework (2021).

9. The development hereby permitted shall not be occupied until a scheme which makes adequate provision for waste and recycling storage of containers and collection across the site has been submitted to and approved in writing by the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: 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).

10. Prior to development above slab level a scheme for the installation of electric vehicle charging points will be submitted to and approved in writing by the local planning authority. The scheme shall identify the number of units to benefit from electric charging points, together with full detail of the location and fitting of the units.

Reason: To ensure that the proposals meet the requirements of Policy DM10 (g) of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 112 (e) of the National Planning Policy Framework.

11. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A – E 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 and character of the area in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. No development shall take place (including ground works or vegetation clearance) until a Biodiversity Gains Plan has been submitted to and approved in writing by the LPA. This is to be based on the Biodiversity Net Gain Assessment (V2) undertaken by B J Collins Protected Species Surveyors [Aug 2022] and the accompanying baseline metric spreadsheet V2 [25/08/2022] and is to provide net gain on the reported loss. The plan shall include the following details:

- a) Description and location plan of land to be used for off-setting or off-site enhancement;
- b) description and evaluation of the features to be managed/created on site;
- c) aims and objectives of management;
- d) appropriate management options for achieving aims and objectives
- e) prescriptions for management actions
- f) work schedule
- g) seed mixes/species to be sown/planted
- h) ongoing monitoring and remedial measures
- i) details on the mechanism by which this plan is to be legally secured for a period of 30 years

The plan will be supported by a BNG metric calculation using the latest DEFRA version of the metric. The approved plan will be implemented in accordance with the approved details.

Reason: To conserve and enhance features of nature conservation and ecological value in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016.

13. No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, 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 in accordance with Policies DM10 and DM17 of the Site Allocations and Development Management Policies DPD 2016.