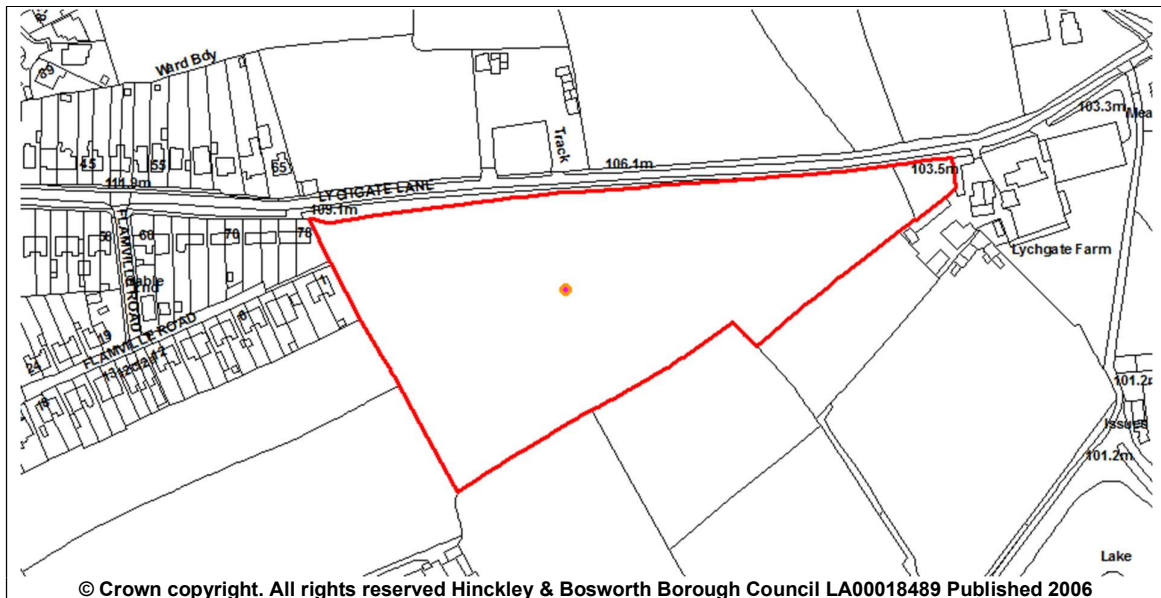




Planning Ref: 22/00192/OUT  
Applicant: Avant Homes  
Ward: Burbage Sketchley and Stretton

Site: Land opposite Spring Acre, Lychgate Lane, Burbage Leicestershire

Proposal: Proposed residential development of up to 85 dwellings alongside associated site infrastructure and open space (Outline Application – all matters reserved except for the means of access)



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- S106 Agreement (as per the Heads of Terms set out in this report), and;
- Planning conditions outlined at the end of this report

## 2. Planning application description

- 2.1. The application seeks outline permission for the erection of up to 85 dwellings, open space and associated infrastructure, with all matters reserved except for access.
- 2.2. The council has worked proactively with the applicant to overcome issues relating to highways and ecology during the planning process.

## 3. Description of the site and surrounding area

- 3.1. The application site is located to the east of Burbage town centre and to the south of Lychgate Lane. The site includes access from Lychgate Lane.
- 3.2. The site is approximately 2.80 hectares in size and roughly triangular in shape. The site is currently in agricultural use. The site is adjacent to Lychgate Lane to the whole of the northern boundary, with an authorised Gypsy and Traveller site to the north of Lychgate Lane and agricultural land beyond and either side. To the western

boundary is residential development of Flamville Road and an extant consent for development (19/01405/OUT - Davidsons). To the south of the site is open countryside and with Lychgate Riding School located beyond the eastern boundary of the site. The site is bordered by a hedgerow boundary throughout, with little in terms of landscape features located within the site boundary.

3.3. The application site is located within flood zone 1 and is not located within a Conservation Area.

**4. Relevant planning history**

- None relevant

**5. Publicity**

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.

5.2. 5 public comments have been received, raising the following concerns:

- Insufficient capacity in local schools
- Insufficient capacity in local GP surgeries
- Road safety impact
- Traffic noise impact
- Impact on parking in Burbage centre
- Impact on the landscape character
- Loss of agricultural land
- Ecological impact
- Noise and light pollution
- Outside of settlement boundary
- Impact on climate change

**6. Consultation**

6.1. No objections have been received from:

- Leicestershire Police
- HBBC Affordable Housing Officer (20% provision proposed)
- HBBC Tree Officer (subject to conditions)
- LCC Ecology (subject to conditions)
- HBBC Drainage (subject to conditions)
- HBBC Waste (subject to conditions)
- LCC Archaeology (subject to conditions)
- Severn Trent Water (subject to conditions)
- HBBC S106 Monitoring Officer
- LCC Developer Contributions (subject to contributions of £4,210.05 to waste, £54,212.24 to Post 16 education and £2,573.46 to Burbage Library)
- HBBC Environmental Health (subject to conditions)
- Leics ICB (NHS) (subject to contribution of £35,286.90 to Burbage Surgery)

6.2. The applicant has been in lengthy dialogue with the Highways Authority and has provided amended plans and additional traffic assessment information. The Highways response states that they have no objections subject to conditions and highway contributions amounting to the following:

- £6,000.00 for the monitoring of the residential travel plan

- Appointment of a residential travel plan co-ordinator from commencement of development until 5 years after occupation of the last unit
  - Travel packs for all new residents (one per dwelling) £52.85 per pack
  - 2x 6 month bus passes per dwelling to encourage new residents to use bus services and make behavioural changes
- 6.3 Objection received from Burbage Parish Council stating the following:
- Site not allocated in Burbage NP and HBBC Local Plan
  - Traffic impact, on Lychgate Lane and Lutterworth Road / Windsor Street, Sapcote Road and bends to Cemetery
  - Loss of ecological habitat
  - Contrary to Policy DM4

## **7. Policy**

### 7.1. Core Strategy (2009)

- Policy 4: Development in Burbage
- Policy 5: Transport Infrastructure in the sub regional centre
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- 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 DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy 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. Burbage Neighbourhood Plan 2021

- Policy 1: Settlement Boundary
- Policy 2: Design and Layout
- Policy 4: Parking
- Policy 9: Wildlife and Green Corridors
- Policy 11: Area of Landscape Sensitivity

### 7.5. Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guide
- Landscape Character Assessment (2017)
- Landscape Sensitivity Assessment (2017)
- Open Space and Recreation Study (2016)
- Housing Needs Study (2019)
- Affordable Housing SPD (2011)
- Leicestershire Minerals and Waste Local Plan

## 8. **Appraisal**

8.1. As this is an outline planning application with all matters reserved except for access, the number of detailed considerations relevant at this stage are limited. Nonetheless, the following represent the key issues

- Principle of development
- Housing land supply
- Housing mix and supply
- Impact upon highway safety
- Landscape and visual impact
- Design and layout
- Residential amenity
- Flood risk and drainage
- Ecology and biodiversity
- Archaeology
- S106 Heads of Terms
- 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.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 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 as amended December 2022 anticipates that the Plan will be submitted in summer 2024, and an estimated date for examination in 2025.
- 8.5. The Core Strategy (CS) sets out the settlement hierarchy for the Borough. The application site is located adjacent to the settlement of Burbage but is on land which is designated as countryside. It cannot, therefore be considered against Policy 4 of the Core Strategy, which relates solely to development within the defined settlement of Burbage.

- 8.6. Policy DM4 of the SADMP states “that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development.
- 8.7. Development in the countryside will be considered sustainable where:  
a) 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  
b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or  
c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or  
d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or  
e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation”.
- 8.8. The proposed development does not relate to any of the criteria above, but this does not mean that the development is not sustainable. The application sets out why development in this location is deemed to be sustainable; and provides a reasonable and accurate assessment of how the proposal would contribute to sustainable development as required by the NPPF.
- 8.9. The Burbage Neighbourhood Plan (2021) (Policy 1) sets out that residential development on land within or adjacent to the settlement boundary will be supported, subject to complying with other development plan policy. The settlement boundary includes the adjacent development at Flamville Road to the west, and whilst not shown in Figure 2 of the Neighbourhood Plan, has also been expanded to take account of an extant permission for up to 135 dwellings to the south west of the site. This site is therefore considered to be adjacent to the settlement boundary.
- 8.10. Despite the proposal not complying with Policy DM4, it does represent sustainable development in this location, and is considered therefore to be acceptable in principle, for the reasons set out below.

#### Housing land supply

- 8.11. 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.
- 8.12. The most recent housing land monitoring statement for the period 2021 -2022 indicates, a 5-year supply of 4.89 years. A more recent appeal decision (Appeal Ref: APP/K2420/W/22/3301735 Land at Sketchley Lane, Burbage, determined 4th January 2023) updates the most recent monitoring position through a statement of common ground, the 5 year supply currently stands at 4.76 years.
- 8.13. 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<sup>7</sup>; 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*
- 8.14. 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*”.
- 8.15. Paragraph 60 of the NPPF sets out that “*it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay*”.
- 8.16. Paragraph 77 of the NPPF sets out that “*To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority’s housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of under delivery and identify actions to increase delivery in future years.*”
- 8.17. The 2021/22 housing land monitoring statement requires an action plan to be produced to set out how the Council will deal with under delivery in light of achieving 86% on the Housing Delivery Test (HDT).
- 8.18. Development on this site would contribute to the housing land supply and consideration should be given to para 77 of the NPPF which states:
- “To help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability”*
- 8.19. 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.
- 8.20. The provision of up to 85 dwellings, a proportion of which (20%) is to be Affordable Housing, is considered to be a significant benefit of the proposal and weighs heavily in favour of the scheme.

#### Housing mix and supply

- 8.21. Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data. All developments of 10 or more dwellings are also required to

meet a 'very good' rating against Building for Life, unless unviable. A minimum density of 30 dwellings per hectare is required in rural areas, a lower density may be required where individual site circumstances dictate and are justified.

- 8.22. The Good Design Guide SPD advocates the use of the Building for Life assessment.
- 8.23. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The above policy allows for the most recent evidence to be taken into account in decisions and thus policy 16 is considered up to date in this regard.
- 8.24. Final number and mix of dwellings will be determined at Reserved Matters stage, but the illustrative layout shows a mix of types and sizes can be accommodated. The development is for up to 85 dwellings and the appropriate layout and density will be determined at Reserved Matters stage. The applicant has not undertaken a Building for Healthy life Assessment (the replacement for Building for Life). A detailed assessment should be provided at Reserved Matters stage and is requested as a condition.
- 8.25. Policy 15 of the CS sets out that a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026. At least 480 dwellings will be in the rural areas, at a rate of 40%. The rest will be delivered in urban areas at a rate of 20%. The Borough has an unmet affordable housing need and this is given significant weight in the planning balance. The Housing Needs Study (2019) identifies a Borough need for 271 affordable dwellings per annum (179 in the urban area and 92 in the rural area) for the period 2018-36. The Study states this is not a target, but that affordable housing delivery should be maximised where opportunities arise.
- 8.26. The housing officer has requested 20% of units on the site to be affordable, with a mix of 75% of those to be social or affordable rented and 25% intermediate tenure/shared ownership. To comply with Government guidance, which supersedes the tenure mix set out in the Core Strategy, 4 properties should be provided as First Homes, 9 for affordable rent and 4 for shared ownership.
- 8.27. The applicant has indicated that the site will provide the policy-compliant requirement of 17 affordable homes. The preferred mix of property types for rent would be of a small number of 1 bedroomed, 2 person quarter houses for rent, with the remainder of the dwellings to form a mix of 2 bedroom, 4 person and 3 bedroom 5 person houses. The affordable housing should be spread in small clusters across the site.
- 8.28. As this site is in the urban area, the section 106 agreement requires a connection to the Borough as set out in the Council's Housing Allocations Policy.
- 8.29. Subject to these requirements being met through completion of a Section 106 legal agreement, this proposal is deemed to be acceptable with respect to housing mix and affordable housing.

#### Impact upon highway safety

- 8.30. 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)).

- 8.31. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.32. 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.
- 8.33. The applicant has been in long discussions with the Highways Authority to overcome a number of initial concerns that were raised. They have submitted additional technical information, road safety audits, and proposals for offsite junction improvements. The Highways Authority do not object to the proposed works subject to the imposition of conditions and Section 106 obligations.
- 8.34. A series of off site improvements and junction capacity assessments have been provided. This includes the following:
- Widening of Lychgate Lane to the west of Flamville Road
  - Sapcote Road / Hinckley Road / Burbage Road junction – replacing existing priority junction with a signalised junction (subject to further detail design at S278 stage)
- 8.35. Overall, the Local Highway Authority advise that, following a review of the proposals, junction capacity analysis and response to a road safety audit, the LHA accept that the proposed highway improvement scheme will mitigate the impact of the development and provide a benefit to road users. A relevant condition is advised proposing implementation of the proposed off site works prior to occupation of the first dwelling.
- 8.36. The concerns raised by neighbours to the scheme are noted and have fed into the consideration of the information submitted by the applicant, and the discussions held with the Highways Authority. It is considered that the concerns raised have been addressed fully by the amended plans, additional information submitted, and the proposed conditions and S.106 obligations.
- 8.37. The proposals will have a negligible impact on the highway network. As such, subject to the conditions recommended by the Local Highways Authority, and an additional condition with respect to EV charging points, the proposal will satisfy policy DM17 and DM10(g) and the NPPF.

#### Landscape and visual impact

- 8.38. Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where 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. The site is located within open countryside, outside of the settlement boundary and is therefore considered against this policy.



- 8.39. A Landscape and Visual Appraisal (LVA) has been submitted as part of the outline planning permission.
- 8.40. The site lies within a number of character areas at national, regional and local level. With respect to the national designation, it lies within the NCA 94 (Leicestershire Vales National Character Area), which is defined as large, relatively open, uniform landscape composed of low-lying clay vales interrupted by a range of varied river valleys. Its sense of place comes less from its overall landform, and more from its visually dominant settlements and views towards surrounding higher ground.
- 8.41. With respect to its regional designation, it is situated within the character area 5a (Village Farmlands) of the East Midlands Regional Landscape Character Assessment; which is defined as gently undulating lowlands dissected by stream valleys, localised steep slopes, moderately fertile loamy and clayey soils, mixed agricultural regime, small and moderately sized woodlands, hedgerows, and localised influence of large estates.
- 8.42. Finally, the site lies within the local landscape character area of LCA F (Burbage Common Rolling Farmland); defining characteristics of which include large scale, gently rolling arable and pasture farmland, some pockets of ancient woodland, medium to large scale rectilinear field patterns, urban fringe influences as a result of exposed settlement edges, major transport corridors dissecting the landscape and introducing noise, and green wedge providing green infrastructure to Burbage, Hinckley, Barwell and Earl Shilton.
- 8.43. The Landscape Sensitivity Assessment (2017) (HBBC) assesses the key sensitivities and values of the character area (8 – Burbage South and East) as being:
- Low hedgerows to field boundaries reflecting the post-medieval field pattern and form part of the overall ecological network
  - The semi-rural character of the area and its role as the setting to Burbage historic core
  - Woodland spinneys, streams and small water bodies in the area around Lutterworth Road provide ecological interest
- 8.44. It suggests that new development should:
- seek to avoid development on the higher ridge top area adjacent to the cemetery which forms the immediate rural setting to the historic core of Burbage – and maintain this area as a rural green wedge
  - Plan for successful integration of development in the landscape through sensitive design and siting, including use of appropriate materials & landscape mitigation to enhance sense of place.
  - Seek to retain historic field patterns where distinctive s-shaped or dog-leg boundaries remain.
  - Retain the pattern of hedgerows and hedgerow trees and incorporate further buffer planting to major transport corridors and new development.
  - Promote opportunities to maintain and enhance the network of rights of way and consider opportunities to create and promote integrated green infrastructure network around the Burbage, Hinckley, Barwell and Earl Shilton edge.
  - Protect localised areas that retain a natural character, notably the small areas of semi-natural woodland, plus the streams and small waterbodies.

- 8.45. Overall, the landscape in this character area is considered to have a low-medium sensitivity to residential development due to the strong influences of the existing settlement edge and the M69 on the rural agricultural character. Part of the area makes a positive contribution to the setting of Burbage. Hedgerows and hedgerow trees demarcate a historic piecemeal enclosure pattern and provide visual containment. The M69 restricts intervisibility with the wider landscape to the south.
- 8.46. It is of materiality to note that the area is not a 'valued landscape' for NPPF purposes. Indeed there are no landscape or environmental designations or sensitivities or note for the site and its immediate surroundings with the exception of the site being located within a zone of landscape sensitivity as identified in the Burbage Neighbourhood Plan. Here, Policy 11 of the Burbage Neighbourhood Plan outlines the following criteria for development within the sensitivity area east of Burbage of which this site lies roughly centrally within:
- Any new development should:
- a) Seek to avoid development on the higher ridge top area adjacent to the cemetery which forms the immediate rural setting to the historic core of Burbage – and maintain this area as a rural green wedge.
  - b) Plan for successful integration of development in the landscape through sensitive design and siting, including use of appropriate materials and landscape mitigation to enhance sense of place.
  - c) Seek to retain historic field patterns where distinctive s-shaped or dog-leg boundaries remain.
  - d) Retain pattern of hedgerows and hedgerow trees and incorporate further buffer planting to major transport corridors and new development.
  - e) Promote opportunities to maintain and enhance the network of rights of way and consider opportunities to create and promote an integrated green infrastructure network around Burbage, Hinckley, Barwell and Earl Shilton urban edge.
  - f) Protect localised areas that retain a natural character, notably the small areas of seminatural woodland, plus streams and small waterbodies.
- 8.47. The proposal is on land adjacent to the settlement boundary at Flamville Road and on land considered to be level (an approx. 10m fall from west to east) with the edge of settlement, not in a raised location in accordance with criteria a). Points covered in criteria b) with regards to landscaping and materials are for reserved matter stage, however the proposal purposely seeks to indicatively site the development to the west of the site, adjacent to existing and committed development, seeking to leave the eastern corner as open space. The site is wholly enclosed within a single field, with retention of boundaries to be conditioned in accordance with criteria c) and d), and with criteria e) and f) not considered as relevant to this site with no identified public rights of way nor any impact on woodland or waterbodies identified.
- 8.48. The LVA submitted as part of the application assesses the proposals' impact on landscape and summarises the visual baseline of the site to be:
- Located adjacent to the edge of the residential edge of Burbage and influenced by adjacent residential properties, Lychgate Lane and overhead cables, poles and pylons
  - The land form of the site and surrounding context is relatively flat and views are limited by existing established vegetation and adjacent built form
  - Visual receptors are mostly limited to those in close proximity to the site with some located to the south east associated with Aston Flamville as a result of the raised location of the settlement (approx. 1.2km to the east)

- 8.49. These impacts are considered to represent a robust account of the likely effects of the application proposals.
- 8.50. It assesses the proposals' impact from a visual perspective as such:
- Moderate adverse impact upon completion, reducing to minor adverse by year 15 in terms of context of the LCA, visual effects and with some visual receptors considered to be negligible at year 15
- 8.51. The LVA reaches these conclusions based on the implementation of a series of green infrastructure proposals. These include:
- Provision of 0.7ha of landscaping, POS, play and habitat – representing 25% of the site
  - Retention of existing boundary hedgerows and enhancement where necessary
  - Provision of formal and informal POS
  - Provision of a surface water attenuation feature
  - Provision of a circular walking route through the development
  - Additional tree planting within the development

- 8.52. In addition to the LVA provided by the applicant, of note is the appeal decision for a scheme of up to 135 dwellings in close proximity to the site, with the red line bordering this site to the south west (APP/K2420/W/20/3265143 – Land east of Lutterworth Road, Burbage). In considering this proposal, the Inspector set out the following:

*'I am not persuaded that the development would lead to a total loss of key features and elements that contribute towards the rural setting of Burbage. I recognise that the proposal is not a field sized development, and clearly hedgerows would need to be removed and the historic field pattern altered or lost. However, a large amount of the existing hedging would be retained and complemented through additional planting.'* (para 13)

*'one must accept that the appeal site is not remote, there is no public access to the vast majority of the site and it is also heavily influenced by the presence of suburban features such as the M69, electricity pylons, existing housing on its fringes and its position adjacent to Lutterworth Road and indeed the built-up area of Burbage. Consequently, I agree with the LSA that the landscape within Area 08 is considered to have an overall low-medium sensitivity to residential development'* (para 14)

- 8.53. The Inspector for this appeal concluded on character and appearance:
- 'the change to the character of the land would nonetheless result in some moderate harm to the character and appearance of the area. It would be in conflict with Policy DM4 of the SADMP and Policy 11 of the BNP which seek, amongst other things, to protect the intrinsic value, beauty, open character and landscape character of the countryside from unsustainable development and retain historic field patterns'*

With this harm identified to the immediate area weighed in the planning balance. Whilst each site is assessed on its own merits, this proposal is in very close proximity to the appeal site to its south west corner, with both sites located in the same landscape character areas. A key difference between the two sites is that this proposal does not result in the loss of any boundary hedgerows, with the appeal

site resulting in the loss of approx. 16% of hedgerows and two trees identified at outline stage.

- 8.54. The application has demonstrated that it will not have an unacceptable impact on the surrounding area from a landscape character or visual impact perspective. This is considered in the balance set out below when taking into account the council's lack of 5-year housing land supply and because this scheme will provide up to 85 dwellings comprising 20% affordable housing.

#### Design and layout

- 8.55. Policy DM10 of the adopted 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 that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.56. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment.
- 8.57. This is an outline application and therefore detailed layout and appearance considerations are not being assessed at this stage - however, they will form details at the Reserved Matters stage if the outline application is approved.
- 8.58. Notwithstanding this, the indicative plans illustrate that the development will comprise up to 85 dwellings with access into the site from Lychgate Lane to the north, with an existing agricultural access to the site also from Lychgate Lane. The indicative layout provided proposes development to the west of the site, adjacent to the western, northern and southern boundaries, with provision of POS to the eastern corner of the site. It provides a reasonable approach to the scheme that will flow through into the detailed plans submitted at Reserved Matters stage and indicate that a suitable form of development can be brought forward in accordance with Policy DM10 of the SADMP, Policy 2 of the Burbage Neighbourhood Plan and the Good Design Guide SPD.

#### Impact upon neighbouring residential amenity

- 8.59. 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 within the vicinity of the site.
- 8.60. 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.
- 8.61. 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.

- 8.62. 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.
- 8.63. The scheme, subject to the detailed matters to come forward at Reserved Matters stage, will have a suitable relationship with nearby residential units.
- 8.64. The Environmental Health Officer has requested additional information with respect to a Noise Impact Assessment, Construction Environmental Management Plan, Land Contamination. These are all reasonable requests for information that can be appropriately sought through condition.
- 8.65. The concerns raised by the neighbours to the scheme are noted, but it is considered that the proposed conditions to be placed on the scheme (particularly those relating to noise, air quality and construction management), together with the Council's continued role in approving detailed plans at Reserved Matters stage, will ensure that sufficient scrutiny and control will be retained to ensure all concerns are addressed in full.
- 8.66. Subject to conditions and receipt of amended plans this application is considered to be acceptable in 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.

#### Flood Risk and Drainage

- 8.67. 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.
- 8.68. 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.
- 8.69. The HBBC Drainage Officer advises that the proposals are acceptable subject to conditions to secure a surface water drainage scheme, management and maintenance of surface water and infiltration testing, this commentary has also been provided by the Local Lead Flood Authority (LCC). Subject to the suggested conditions, the development will satisfy policy DM7 and the NPPF.

#### Ecology and biodiversity

- 8.70. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.

- 8.71. The application includes a set of proposals designed to enhance the biodiversity of the site through a number of measures, as well as a calculation of the impact that these will have. The applicant has submitted a proposed habitat plan, biodiversity enhancement plan (including provision of a hedgehog route, bat boxes, bird boxes, bug hotel and swift bricks), an ecological appraisal and a biodiversity net gain assessment metric (3.1). No evidence of protected species was present during the surveys undertaken.
- 8.72. LCC Ecology have advised that the biodiversity net gain metric submitted with the application is acceptable, with a habitat loss of 5.31% shown (although a 21% gain in hedgerow units is shown) and therefore with some off setting required. They have advised that a condition, requiring a biodiversity net gain plan is required and that a 1% net gain is to be provided together with the proposed enhancements (outlined above) to be carried forward at reserved matters stage. Subject to the condition requirements this application is considered acceptable with respect to ecology and biodiversity matters and complies with Policy DM6 of the SADMP and Policy 6 of the Burbage Neighbourhood Plan.

#### Archaeology and heritage

- 8.73. Policy DM13 of the SADMP states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate desk based assessment and where applicable a field evaluation. Paragraph 194 of the NPPF also reiterates this advice.
- 8.74. In line with the NPPF Section 16, the planning authority is required to consider the impact of the development upon any heritage assets, taking into account their particular archaeological and historic significance. Paragraph 199 states that where loss of the whole or a material part of the heritage asset's significance is justified., local planning authorities should require the developer to record and advance understanding of the significance of the affected resource prior to its loss. The archaeological obligations of the developer, including publication of the results and deposition of the archive, must be proportionate to the impact of the proposals upon the significance of the historic environment.
- 8.75. LCC Archaeology are satisfied that the Heritage Statement provided by the applicant provides an appropriate level of desk based assessment. LCC Archaeology have requested that pre-determination trial trenching is undertaken, and stated:

*'Whilst the Heritage Statement states that 'No anomalies clearly suggestive of significant archaeological potential were identified', the results do identify anomalies of potential archaeological origin, which should be tested by trial trenching. Prehistoric and Anglo-Saxon remains are often not identified in geophysical surveys. The results of the survey may also have been obscured by ridge and furrow in the west end of the site, where fewer features with a possible archaeological origin were identified. Given the limitations of geophysical survey as a means of archaeological evaluation, it is our recommendation that this should be supported by a programme of trial trenching in order to test the identified anomalies, in addition to any geophysically 'blank' areas'*

- 8.76. Whilst LCC Archaeology have requested pre-determination trial trenching, this is not considered to be justified in this case, instead with a planning condition requesting trial trenching is identified pre-commencement. The application is

acceptable with respect to archaeological considerations and accords with Policy DM13 of the SADMP.

- 8.77. With regards to above ground heritage impacts, a small area of ridge and furrow is noted to the south western corner of the site, although the site is not identified within the Burbage Neighbourhood Plan for protection of ridge and furrow. Given the small scale of ridge and furrow and with ridge and furrow extensive elsewhere in Burbage, including in close proximity to the site, the proposal is not considered to be overly harmful in respect to loss of this ridge and furrow. The site also lies approx. 400m from the edge of the Burbage Conservation Area, with residential development between the site and Conservation Area, and the proposal is not considered to impact upon the setting of any listed buildings, with none in close proximity to the site.

#### S106 Heads of Terms

- 8.78. 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.
- 8.79. 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.
- 8.80. The contributions sought are detailed below:
- Open Space (On-site Provision: up to £105,456.10 and Maintenance: up to £83,190.60) to be provided and maintained by a Management Company or Burbage Parish Council.
  - AH – 20% (75% social or affordable rented and 25% intermediate tenure/shared ownership).
  - Library Services (£2,573.46)
  - LCC Waste Management (£4,210.05)
  - Healthcare (£35,286.90)
  - Post 16 Education (£54,212.24)
  - £6,000.00 for the monitoring of the residential travel plan
  - Appointment of a residential travel plan co-ordinator from commencement of development until 5 years after occupation of the last unit
  - Travel packs for all new residents (one per dwelling) £52.85 per pack
  - 2x 6 month bus passes per dwelling to encourage new residents to use bus services and make behavioural changes

- 8.81. All of the above contributions are considered to meet the tests for planning obligations, and, will therefore form part of the S.106 legal agreement to be formulated should the application be approved.

#### Planning Balance

- 8.82. 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.
- 8.83. The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. Therefore, 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.
- 8.84. The provision of up to 85 dwellings (20% of which to be affordable units) is considered to be a significant benefit of the proposal and weighs heavily in favour of the scheme.
- 8.85. The scheme does not fully comply with Policy DM4 of the SADMP but the impact on landscape and visual amenity has been assessed and is considered to be moderate to minor for this development and the provision of much-needed housing is considered to outweigh the moderate to minor impact identified. The scheme is considered to be in conformity with relevant Core Strategy, Site Allocations and Development Management Policies DPD and the Burbage Neighbourhood Plan and is therefore deemed to be acceptable subject to conditions and also the requirements and financial contributions as part of a signed Section 106 Agreement.

#### **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 completion within 3 months of this resolution a S106 agreement to secure the following obligations:
  - Open Space (On-site Provision: up to £105,456.10 and Maintenance: up to £83,190.60) to be provided and maintained by a Management Company or Burbage Parish Council.
  - AH – 20% (75% social or affordable rented and 25% intermediate tenure).
  - Library Services (£2,573.46)
  - LCC Waste Management (£4,210.05)
  - Healthcare (£35,286.90)
  - Post 16 Education (£54,212.24)
  - £6,000.00 for the monitoring of the residential travel plan
  - Appointment of a residential travel plan co-ordinator from commencement of development until 5 years after occupation of the last unit
  - Travel packs for all new residents (one per dwelling) £52.85 per pack
  - 2x 6 month bus passes per dwelling to encourage new residents to use bus services and make behavioural changes
  
- Planning conditions outlined at the end of this report

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

10.3 That the Planning Manager be given delegated powers to finalise the terms of the S106 agreement including trigger points and claw-back periods.

## 11. Conditions and Reasons

1. Application for the approval of reserved matters shall be made within two 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) Appearance of the development including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes
  - b) Landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges

- c) Layout of the site including the housing mix, the location of electric vehicle charging 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.
- d) Scale of each building proposed in relation to its surroundings have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

- 3. The development hereby permitted shall not exceed 85 dwellings in total and shall be in accordance with the following approved details:
  - Site Location Plan n1456 001 A received 25 February 2022
  - Proposed habitat plan received 11 November 2022
  - Acoustics and Overheating Assessment (MEC, June 2022) received 5 July 2022
  - Flood risk and drainage strategy and addendum (ADC January 2022 and June 2022), received 25 March 2022 and 5 July 2022
  - Air Quality Assessment (MEC, June 2022), received 5 July 2022
  - Phase 1 Geo-Environmental Survey (Groundsure, October 2021) received 25 February 2022
  - Ecological Appraisal and Great Crested Newt Survey (FPCR, January 2022), received 25 February 2022
  - Arboricultural Assessment, FPCR January 2022, received 25 February 2022
  - Landscape and Visual Appraisal, FPCR January 2022, received 25 February 2022
  - Transport Assessment, ADC January 2022, received 25 February 2022
  - Travel Plan, ADC January 2022, received 25 February 2022
  - Geophysical Survey Report, Magnitude Surveys, December 2021, received 25 February 2022

Where the above documents and plans include recommendations or propose mitigation measures, they shall be implemented in accordance with the approved details and timeframes and retained thereafter.

**Reason:** To ensure a suitable form of development comes forward in accordance with Policy DM3 of the Site Allocations and Development Management Policies DPD 2016.

- 4. All Reserved Matters submissions to be in broad accordance with the indicative layout as illustrated on Masterplan Dwg no n1456 005D, received 5 July 2022.

**Reason:** To ensure the development broadly accords with the details/information submitted to inform the consideration of the outline application in accordance with Policy DM3 of the Site Allocations and Development Management Policies DPD 2016.

- 5. Land Contamination

- a). Notwithstanding the recommendations within the Phase 1 Geo-Environmental desk study carried out by Rodgers Leask Environmental dated the 30 September 2020 (Ref: 20291-RLE-20-XX-RP-O-0001) 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.
- b). 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).

6. Land Contamination Found Later
  - a). 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.
  - b). 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).

7. Noise Attenuation
  - a). Development shall not begin until a scheme for protecting the proposed dwellings from noise from the road network has been submitted to and approved in writing by the Local Planning Authority
  - b). 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 suffer from annoyance as a result of nearby noise sources in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. No occupation of any dwelling shall take place until a scheme that 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. The approved details shall be implemented prior to the occupation of the dwelling/unit to which the waste facilities are associated.

**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).

9. No development shall commence until a scheme to provide a sustainable surface water drainage system in accordance with the Flood Risk Assessment dated January and June 2022 has 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 prevent flooding and ensure satisfactory storage and disposal of surface water from the site to accord with Policy DM7 of the Site Allocations and Development Management DPP (2016).

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

Details regarding the protection of any proposed infiltration areas should also be provided.

**Reason:** To prevent flooding and ensure satisfactory storage and disposal of surface water from the site to accord with Policy DM7 of the Site Allocations and Development Management DPP (2016).

11. Prior to commencement of development details in relation to the long-term maintenance of the sustainable surface water drainage system on the development shall be submitted to and approved in writing by the Local Planning Authority. Details of the SuDS Maintenance Plan shall include for routine maintenance, remedial actions and monitoring of the separate elements of the system and should also include procedures that must be implemented in the event of pollution incidents within the development site.

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

12. No development approved by this planning permission shall take place until such time as infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To demonstrate that the site is suitable (or otherwise) for the use of infiltration techniques as part of the drainage strategy and in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016.

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

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

14. Prior to commencement of development a landscape and ecology management plan shall be submitted to and approved in writing by the local planning authority. The plan shall provide details on the mitigation and management measures required by this development to ensure that the flora and fauna is appropriately considered and protected. The development shall only be carried out in accordance with the approved details and timescales.

**Reason:** To protect and enhance the landscape, flora and fauna in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016.

15. No development shall commence on site until such time as the existing and proposed ground levels of the site and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.

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

16. Prior to commencement of development a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting scheme shall ensure there shall be no more than 1 lux of light spill onto bat foraging corridors. The lighting shall be installed, maintained and operated in accordance with the approved details.

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

17. No development shall commence above foundation level until a scheme for the installation of electric vehicle charging points shall 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 details of the location fitting and timetable for installation 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.

18. A `Building for a Healthy Life` assessment shall be submitted as part of the reserved matters submission details for this development. The details of the development shall incorporate the 12 considerations set out within the `Building for a Healthy Life` document (Homes England) and parameters shall be agreed with the local planning authority and implemented on site in accordance with the approved details.

**Reason:** To ensure the site is delivers design quality, health and wellbeing provision and an integrated neighbourhood in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD and Paragraph 130 of the NPPF.

19. No development shall commence on the site until such a time as construction traffic management plan including as a minimum details of the routing of construction traffic, wheel washing 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 Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

20. No part of the development hereby permitted shall be occupied until such time as the access arrangements and off-site works (widening of Lychgate Lane) shown on ADC drawing number ADC2167-DR-001 Rev P6 have been implemented in full.

**Reason:** To ensure a safe and suitable access for the development in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD and the requirements of the NPPF.

21. Development shall not commence before a scheme of highway improvements for the junction of Burbage Rd/Hinckley Rd/Sapcote Rd have been submitted to and approved in writing by the local planning authority. No dwellings shall be occupied before the improvements have been completed in accordance with the approved details.

**Reason:** To mitigate the impact of the development in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD and the requirements of the National Planning Policy Framework.

22. The measures and incentives included in ADC, Document Ref: ADC2167-RP-E, Residential Travel Plan, Version 3, dated 19 January 2022 and submitted to the Local Planning Authority on 25 February 2022 shall be implemented in full from first occupation unless an alternative timetable is submitted to and approved in writing by the Local Planning Authority.

**Reason:** To reduce the need to travel by single occupancy vehicle and promote the use of sustainable modes of transport in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD and the requirements of the National Planning Policy Framework.

23. The new vehicular access hereby permitted shall not be used for a period of more than one month from being first brought into use unless the existing vehicular access on Lychgate Lane that becomes redundant as a result of this proposal has been closed permanently and reinstated in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

**Reason:** To ensure a safe and suitable access for the development in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD and the requirements of the NPPF

24. No development shall take place (including ground works or vegetation clearance) until a Biodiversity Net Gain Plan (the Plan) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be based on the submitted Biodiversity Net Gain metric spreadsheet (Sam Weston 05/05/2022) and shall provide a minimum of 1% net gain on the reported baseline habitat loss. The Plan shall include the following details:
- a) Location plan of the area(s) to be used for Biodiversity Net Gain;
  - b) Description of existing habitats on and off site;
  - c) Description of planned habitat creation/enhancement, including species;
  - d) Baseline habitat data used to inform metric;
  - e) Habitat creation/enhancement plans used to inform metric;
  - f) Timetable for implementation of habitat creation/enhancement;
  - g) Habitat management and monitoring plan including timetable for management routines and reviews, and strategy for any remedial measures, if and when required;
  - h) Mechanism for securing the implementation of the biodiversity off-setting and its maintenance/management for a period of 30 years in accordance with details approved in the Plan.

The Plan shall be supported by up to-date Biodiversity Net Gain metric calculations for both the application site and the site for off-setting using the latest DEFRA version of the metric. The Plan shall be implemented in accordance with the approved details.

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

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

**Reason:** To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2021).

26. No development shall take place/commence until a programme of archaeological work, comprising further post-determination trial trenching, specific metal-detecting and as necessary targeted archaeological investigation. The full programme and timetable will be detailed within a Written Scheme of Investigation, submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- The programme and methodology of site survey, investigation and recording (including assessment of results and preparation of an appropriate mitigation scheme)
- The programme for post-investigation assessment
- Provision to be made for analysis of the site investigation and recording
- Provision to be made for publication and dissemination of the analysis, interpretation and presentation of the site investigation
- Provision to be made for archive deposition of the analysis and records of the site investigation
- Nomination of a competent person or persons/organisation to undertake the works, with particular reference to the metal detecting survey, as set out within the Written Scheme of Investigation.

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

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

27. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 26; and provision has been made for analysis, publication and dissemination of results and archive deposition has been secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

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



28. Prior to the occupation of each dwelling/unit on site full fibre broadband connection should be available and ready for use.

**Reason:** To ensure the provision of a high quality and reliable communications infrastructure network to serve the development to accord with paragraph 112 of the National Planning Policy Framework (2021).

## 11.1

### Notes to applicant

1. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.
2. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
3. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
4. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
5. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations.
6. Full details for the drainage proposal should be supplied including, but not limited to; construction details, cross sections, long sections, headwall details, pipe protection details (e.g. trash screens), and full modelled scenarios for the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change storm events.
7. Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of

development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.

8. Details of the surface water Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the surface water drainage system that will not be adopted by a third party and will remain outside of individual householder ownership.
9. The results of infiltration testing should conform to BRE Digest 365 Soakaway Design. The LLFA would accept the proposal of an alternative drainage strategy that could be used should infiltration results support an alternative approach.
10. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development. If the applicant proposes to divert the sewer, the applicant will be required to make a formal application to the Company under Section 185 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website ([www.stwater.co.uk](http://www.stwater.co.uk)) or by contacting our Developer Services Team (Tel: 0800 707 6600).