

Planning Committee 14 February 2023
Report of the Planning Manager (Development Management)

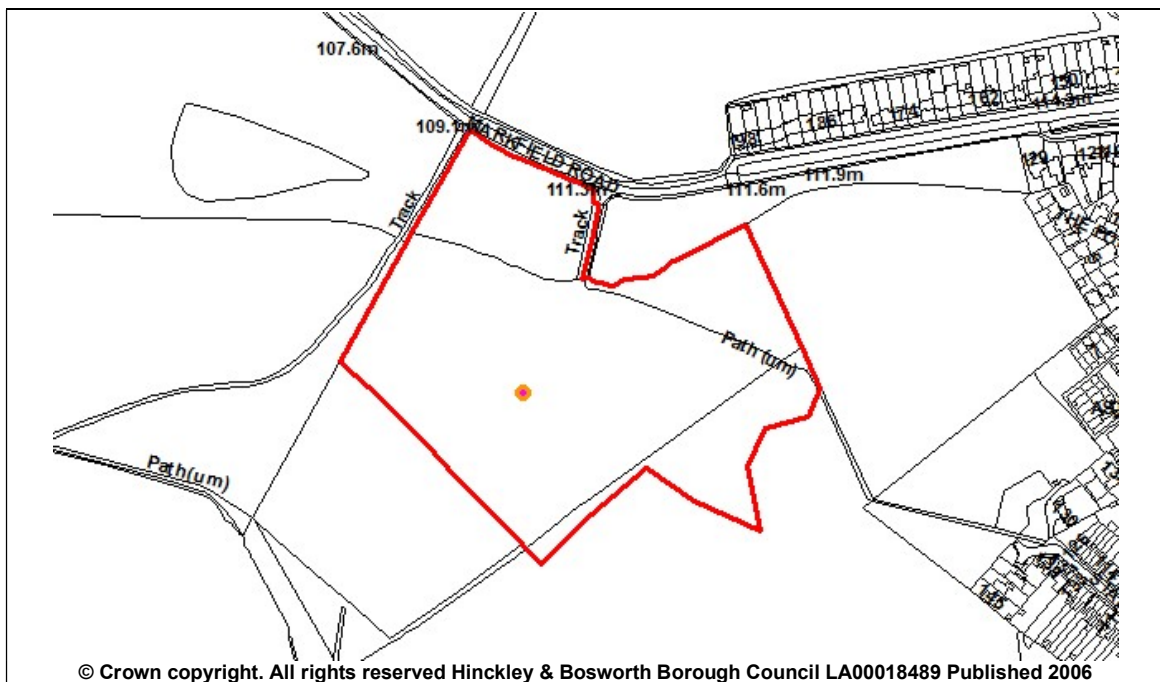


Hinckley & Bosworth
Borough Council

Planning Ref: 22/00648/OUT
Applicant: LAGAN HOMES LIMITED
Ward: Ratby Bagworth And Thornton

Site: Land to the South of Markfield Road, Ratby

Proposal: Outline Planning Application for residential development of up to 75 dwellings alongside associated site infrastructure and open space (All matters reserved except for access)



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1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report
- S106 Agreement to secure the following:
 - Health contribution = £33,966.00
 - Library contribution = £2,270.70
 - Waste contribution = £1,790.25
 - Primary Education contribution = £128,492.00
 - 40% affordable housing provision = 30 units
 - A contribution of £29,285 towards the Coalville Transport Strategy to enable required highway works at the A50 / Field Head junction.
 - Travel Packs @ £52.85 per dwelling = £3,963.75
 - Bus passes @ £360.00 per dwelling = £26,250.00
 - Provision of raised kerbs, flag pole and timetable case at the nearest bus stop to the development site on Charnwood, adjacent to Bevington Close (ID 2527)
 - Off site open space (sports) contribution = £26,064.00

- Off site open space (sports) maintenance = £12,384.00
- On site open space contribution = £49,121.10
- On site open space maintenance = £103,620.00
- Monitoring Fees

2. Planning application description

- 2.1. The application seeks outline planning permission for the development of up to 75 dwellings, associated infrastructure and open space. All matters are reserved at this stage except for access which is a detailed matter for consideration. Access for the development is proposed off Markfield Road which is the only vehicle entry point at the northern side of the site. Internal roads are proposed to allow access to all dwellings within the development.
- 2.2. 30 units are proposed as affordable housing (40%). The planning application details indicate that a mixture of detached, semi-detached and linked (terraced) dwellings would be provided to ensure a wide range of accommodation and tenure.
- 2.3. The site extends to around 5.47 hectares approximately, of which, 2.26ha will comprise residential development with the remainder made up of the retention of existing vegetation, new tree planting and the delivery of other on site open/green space.

3. Description of the site and surrounding area

- 3.1. The application site comprises agricultural land adjacent to but outside of the existing settlement boundary of Ratby. Markfield Road runs along the northern edge of the site. There is a residential development site immediately to the east which is currently under construction.
- 3.2. Martinshaw Wood surrounds the site to the north and Pear Tree Wood and National Forest Way are situated to the west. Agricultural fields surround the majority of the site. There is a Public Right of Way running through the site in a north west, south east direction. A further Public Right of Way lies just beyond the sites north western boundary. The site slopes to the west.
- 3.3. Under the Town and Country (Planning Impact Assessment) Regulations 2017 there is a requirement to 'screen' certain types of major development or other industrial, agricultural schemes to ascertain whether they would have significant environmental effects and are considered to be EIA development. Under Schedule 2 of these Regulations there are thresholds and criteria that are applicable to certain types of development in order to be 'Schedule 2 development'.
- 3.4. This development is considered under Category 10 (b) 'urban development project' and the thresholds for this are:
- The development includes more than 1 hectare of urban development which is not housing development
 - The development includes more than 150 dwellings
 - The overall site of the development exceeds 5 hectares
- 3.5. In this case, the development exceeds 5 hectares and so is considered to be Schedule 2 development. This type of development requires 'screening' to determine whether it requires an Environmental Impact Assessment. The scheme has been screened by the Council and it has been concluded that the site is not in or adjacent to an environmentally sensitive area (as per the definition within the

Regs), is not unusually complex and does not pose potentially hazardous environmental effects. Although it is acknowledged that the proposal would create some effects upon the environment when compared to the existing situation it was concluded that these effects would not be 'significant' and therefore under the provisions of the screening regulations the proposal did not require an Environmental Impact Assessment.

4. Relevant planning history

14/00108/OUT

- Residential scheme of up to 158 dwellings
- Refused
- 12.11.2014

15/00002/PP

- Residential development (outline - access only)
- Appeal Dismissed
- 09.10.2015

20/00462/FUL

- Residential development for 90 dwellings
- Planning Permission
- 04.05.2021

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. 12 letters of objection have been received which state the following:

- Another proposal for a development that will eat into infrastructure again.
- There are two developments currently underway for circa 250 houses for which no infrastructure provision has been made and now we have an additional proposal for another 75 dwellings. Small applications to avoid the need to provide anything other than money making opportunities for Lagan Homes Ltd.
- There are also 6 extra houses being built at the Ratby end of Markfield Road. As well, at the Markfield end of this same road (although its name has changed to Ratby Lane at that end) there are more houses currently being built at the retirement village.
- There is also a massive Jelson development being built in Markfield with another one planned soon. This also will impact on traffic using the Markfield Road because people use it as a rat run to avoid the speed cameras and speed limit of 40 and 50 miles an hour on the main A50.
- This proposal is directly in the countryside on the edge of the village and will have a significant adverse impact on the intrinsic value, beauty and open character of the area contrary to policy DM4 of the Site Allocations and Development Management Policies DPD.
- This development would result in a significant extension of the built up area of Ratby into beautiful countryside within the National Forest.
- There would be little settlement separation between the neighbouring villages if this further development is allowed.
- DM10 Development and Design states that developments will be permitted providing that it compliments or enhances the character of the surrounding

- area with regard to scale, layout, density, mass, design, materials and architectural features. This application is clearly contrary to this policy.
- This development would have a significant impact on highway safety, generating a significant additional increase in traffic movements on an already busy road, one that has had to have traffic calming measures introduced due to the sheer volume of vehicles on this road. This will particularly impact the junction of Markfield Road and Main Street and Groby Road.
 - The local school is full. The school is basically the same as when it was built in the early 1900s when the village was a few hundred people but, apparently, we can still find space for ever increasing numbers of children. The local primary school children will inevitably be sent to Matinshaw in Groby, which I understand is creaking under the strain. This also increases traffic. Brookvale Learning Campus is also full.
 - There is insufficient pre school child care provision.
 - It is absolutely ridiculous that villages can grow at the expected rates on a road network that put in place, in some cases, hundreds of years ago.
 - This is not about providing necessary housing but merely about making money at everyone else's expense.
 - It is an absolute joke having a speed limit of 60 on a narrow country lane with blind bends and no cycle track or foot paths or lighting.
 - For the last few months, I have witnessed Lagan Homes laying new pipes all the way down to the park next to the Plough public house. I ask the question, would Lagan Homes invest all that money into doing that if they knew they wouldn't get planning approval to build more houses?
 - Ratby has had an enormous amount of development recently, it can't go on like this. I'm pleading with you and Hinckley & Bosworth council to put a stop to this continuous development in the village. At this rate, we'll have no green spaces left, once it's gone, it's gone forever. No more destruction to our beautiful countryside.
 - Your consideration of this application is not fair to us people that live close to this development. I have to put up with red dust all over my house and car. Covering my white windowsills. We have not had the time gap of building between the large site off Markfield road of 175 houses and the development of Lagan Homes that we had been told we would have.
 - We recently had part of a report from the County Council informing us that the council will have to cut some services! We have also been informed that road repairs and gritting in the winter is under threat due to the amount that the county council has to use for this area.
 - Living in Ratby has become a nightmare when entering the village centre. With so many extra cars there is never anywhere to park. We have stopped using the local post office as there is nowhere to park. Congestion can be at any time of the day but especially during early morning and school drop off time.
 - Since Lagan homes started building this 90 houses on this area of countryside, they have also shown themselves repeatedly to be completely irresponsible builders.

6. Consultation

6.1. No objection has been received from:

- HBBC Conservation Officer
- HBBC Drainage – subject to conditions
- HBBC Pollution – subject to conditions relating to contamination, noise attenuation and construction management and hours of construction working

- LCC Drainage – subject to conditions

6.2. Ratby Parish Council – Object

DPD DM4 Safeguarding the countryside and settlement separation - This additional development of 75 houses would have a significant, adverse impact on the intrinsic value, beauty and open character of the area, contrary to Policy DM4 of the Site Allocations and Development Management Policies DPD.

DM10 Development and Design - Developments will be permitted providing that the following requirements are met: It compliments or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. This application is contrary to Policy DM10 of the Site Allocations and Development Management Policies DPD.

DM17 Highways and Transportation - The development would have a significant impact on highway safety, generating a significant increase in traffic movements on an already busy road, particularly at the junction of Markfield Road, Main Street and Groby Road, Ratby, contrary to Policy DM17 of the Site Allocations and Development Management Policies DPD.

This further development would be detrimental to the area, since the infrastructure is insufficient in relation to education, traffic congestion, highways. There are already three development sites taking place in this area, one with 9 dwellings, the Millers Development of 168 and the Lagan Homes development of 90 dwellings at present under construction. Which is already overwhelming the existing now inadequate infrastructure.

- 6.3. S106 Compliance and Monitoring Officer - Would the footpath link also accommodate those residents for the development adjacent so that they could also gain access to the open space on site which would then link this development (was under the same ownership) to this one and to Stamford Street. Play Space should be in the form of a LAP and a LEAP should be provided and the methodology is detailed in the POS recreation study and should be incorporated into the s106 Agreement for sqm per dwelling and a minimum of what play equipment they should provide on site. An offsite contribution should be secured if not provided, especially Outdoor Sports where a contribution should be secured towards Boroughs Road Recreation ground (this is leased off Cawrey now Lagan Homes) – There is a question as to whether it would be possible that Lagan Homes gift this now to Ratby Parish Council?

The play and open space obligations should be secured in the legal agreement and clawback terms should be 5 years for provision and 15 years for the maintenance. If there is a possibility that the Parish Council wish for the open space on site to be transferred then a reasonable timescale for this should be incorporated in the legal agreement. If a MC is the way forward then a timeframe would be required to ensure that management and maintenance details are provided for approval.

- 6.4. LCC Ecology – In principle this development is acceptable, with regard to biodiversity, the land is currently arable, of low value, and the Ecology surveyors (FPCR 2022) did not record protected species apart from a possible bat roost in a large broken Ash (T1) along the southern boundary. A survey of this will be needed, as a planning condition, prior to removal; it is assessed as Category C. Although badgers were not recorded, this is in an area with expected high badger activity. I recommend a survey update prior to each phase of reserved matters - this should

be a condition. Houses adjacent to open space should have a range of bird boxes and bat bricks. This can be picked up as reserved matters.

One hedge (H7) is identified as species rich and H4 (east side of the entrance road and along Markfield Rd eastwards) is classed as 'important' under the Hedge Regulations and should therefore be retained. It's not clear whether this is possible under the masterplan provided. Hedge H7 (from the southern end of H4 westwards) should also be retained. Both these hedges should be retained with a 5m buffer zone of natural vegetation alongside in order to ensure they remain in good health as biodiversity features. This appears possible, but the masterplan is not completely clear. A buffer zone is shown on the BNG plans along both hedges, but as 'modified grassland' which may indicate an intention to mow this as amenity grassland, which would not be the best option; instead the grassland along the hedges should be allowed to grow tall and be cut every year as part of the meadow management regime, or cut in alternative years. The masterplan may show part of H7 as back garden boundary. Retained species-rich hedges should not form back gardens boundaries - they will lose value if this happens, and will be downgraded in the biodiversity metrics (they will count as part of gardens, of low biodiversity value, rather than hedges of higher value). I recommend therefore that retention of these 2 hedges with 5m buffer zone of natural vegetation is subject to a planning condition.

The masterplan and BNG plan shows plenty of opportunities for biodiversity net-gain within the site. The baseline ecology value derived from an approved metric should be referred to in a planning condition. The condition should also cover the strategy for achieving net-gain – which I assume is all on-site, pending final approval of the metric calculations – and a programme for establishment of the BNG features, preferably up-front before commencement, or within a year of site clearance. If this does not take place within this timeframe, the value of on-site gains is reduced; the metric incentivises early establishment of gains. The BNG metric will need to be reviewed and completed with post-development details at each reserved matters phase (it is understood that these details may change) and any subsequent shortfalls may require off-site measures if it cannot be accommodated onsite.

Further response from Ecology - The BNG metric is acceptable. Conditions recommended.

6.5. Local Highway Authority - The Local Highway Authority does not consider that the application as submitted fully assesses the highway impact of the proposed development and further information is required as set out in this response. The LHA requires the following information to be submitted:

- Additional information in respect of the site access, including visibility splays, a Stage 1 RSA and designer's response.
- Provision of raw speed survey data for both directions along with detail as to where the survey was undertaken.
- Provision of an adoptable pedestrian footway alongside Markfield Road, which would also fall fully within the Applicants red line boundary and the adopted highway.
- An updated traffic count for Junction 3 and provision of the raw data along with Covid-19 uplift factors for Junction 1.
- Inclusion of anticipated development traffic for application reference 19/00680/OUT at junction 3.

Further highway response dated 9 January 2023 – Additional information required.

Further highway response dated 27 January 2023 – No objections subject to conditions and S106 contributions.

- 6.6. Affordable Housing Officer – This outline planning application is for a development of 75 dwellings. This would mean 30 properties should be available for affordable housing. The housing mix as proposed by the applicant is acceptable. As this site is in the rural area, the section 106 agreement requires a connection in the first instance to people with a local connection to Ratby, with a cascade to a connection to the Borough if there are no village connection applicants. The local connection criteria is set out in the council's Housing Allocations Policy.
- 6.7. Environment Agency - From a flood risk perspective, the development falls within flood zone 1 and therefore we have no fluvial flood risk concerns associated with the site. There are no other environmental constraints associated with the application site which fall within the remit of the Environment Agency.
- 6.8. LCC Arboricultural Officer - The proposed site does not impact on any LCC TPO trees or woodland, therefore I make no comments on the application.
- 6.9. Leicestershire Police - Vehicle parking is in curtilage to dwellings which does offer good natural observation. I would recommend consideration of gable end windows were possible to increase the possible natural observation available. Consideration of the use of CCTV coverage of the key vehicle entry point at Markfield Road is recommended to include Automatic Number Plate Recognition capability. This will add an element of general security to the development providing improved security. In the event of it being required appropriate General Data protection Act signage would need to be displayed. A Section 38 Agreement is recommended to install an electrical spur to the nearest lamppost to the junction to site the CCTV camera. The remainder of the site is recommended to have general coverage of key areas including walkways, and any other vulnerable areas. Emergency Services access at this development is appropriate without obstruction. Lighting throughout the site including the key vehicle entry point and other key areas such as walkways and open space as well as water attenuation should be to BS5489. Foliage at ground floor level is recommended to be trimmed to no higher than 1m, which trees are recommended to have been trimmed to have no foliage lower than 2m from the ground to provide a 1m clear field of vision. Wheelie bin storage and cycles should be stored in secure areas where possible to avoid the potential for criminal use, as a ladder, mode of removal or arson risk for Bins or mode of escape in respect to cycles.
- 6.10. Landscape Consultant on behalf of HBBC - Whilst recognising the appropriateness of a proportionate appraisal, the review has identified a brevity in the appraisal which is unhelpful in terms of delivering a level of transparency that enables a reviewer to understand how key elements of the appraisal are combined and how conclusions and judgements have subsequently been reached. These omissions have been identified and relate to core aspects of the appraisal including how value and susceptibility to change combine to establish sensitivity; how scale, extent and duration combine to establish magnitude of impact; and, how both sensitivity and magnitude of impact are then considered to establish the overall level of effect. Whilst these matters are referenced within the methodology and presented within Appendices B and C there is limited accompanying narrative to explain how these different factors are brought together within the appraisal. There are also no descriptors to aid an understanding of the identified levels of effect. Whilst there is

a broad level of agreement in the findings between the reviewer and the appraiser, there is some order of variance in terms of identified sensitivity ratings and identified magnitudes of impact, both for landscape and visual receptors, which then translate through into higher levels of effect than those identified within the LVA. The appraisal also notably declines to consider the landscape character areas that lie within the (undefined) study area individually. The coverage of visual receptors is generally appropriate although the LVA would have benefitted from a fuller coverage that extended to additional visual receptor groups in the interests of undertaking an appropriately comprehensive appraisal. In terms of the proposed landscape scheme and mitigation planting, it is considered that there is clear evidence of a generally appropriate and responsive design approach aside from the decision to bring residential units forward to the horizon line as seen from the areas of landscape to the south of the Site (refer to the Illustrative Masterplan). The Illustrative Masterplan otherwise indicates a generally considered response to sensitive receptors, in particular users of the surrounding public right of way network. There is some disagreement over the extent to which the proposed development will relate to the existing settlement edge and the extent to which it is perceived to extend into the surrounding countryside. There is no noted recognition within the LVA of the loss of open landscape that presently exists between the settlement edge of Ratby and Pear Tree Wood, the loss of which would change the perception of the relationship between Ratby and its landscape setting along its northwestern edge. It is agreed that the site is well enclosed to the north and west and that the character of the existing baseline and the distribution of visual receptors are such that the extent of landscape and visual effects, including those upon visual receptors, will be relatively contained. The Development Framework Plan and Illustrative Masterplan Development demonstrate a commitment to a strong landscape envelope, particularly around the Site's northern and western margins. However, there is a concern with respect to the potential visual exposure of the proposed development in views principally from the south, but also from the south east, and the extent to which development will be seen to be extending westwards beyond the existing settlement edge of Ratby. This is compounded by the locally exposed and slightly elevated character of the Site.

- 6.11. LCC Archaeology - The Leicestershire and Rutland Historic Environment Record (HER) shows that the site has good potential for the presence of prehistoric and Anglo-Saxon remains and is also crossed by the projected line of the Via Devana Roman road, which could have associated road-side settlement or activity. The applicant has submitted an archaeological Heritage Impact Assessment (CA Report Ref.: MK0712_1), which is welcome, and we are generally supportive of its findings which confirm the known archaeological potential of the site. Some limited geophysical survey was carried out on the site in 2005. Following discussions with the applicant's archaeological consultant we have advised that further geophysical survey could be carried out across the remaining area to support the application and review the scope for trial trenching.

The preservation of archaeological remains is, of course, a "material consideration" in the determination of planning applications. The proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information. Since it is possible that archaeological remains may be adversely affected by this proposal, we recommend that the planning authority defer determination of the application and request that the applicant complete an Archaeological Impact Assessment of the proposals. This will require provision by the applicant for:

- A field evaluation, by appropriate techniques including geophysical survey and trial trenching, if identified necessary in the assessment, to identify and locate any archaeological remains of significance, and propose suitable treatment to avoid or minimise damage by the development. Further design, civil engineering or archaeological work may then be necessary to achieve this.

This information should be submitted to the planning authority before any decision on the planning application is taken, so that an informed decision can be made, and the application refused or modified in the light of the results as appropriate. Without the information that such an Assessment would provide, it would be difficult in our view for the planning authority to assess the archaeological impact of the proposals.

Should the applicant be unwilling to supply this information as part of the application, it may be appropriate to consider directing the applicant to supply the information under Regulation 4 of the Town and Country Planning (Applications) Regulations 1988, or to refuse the application. These recommendations conform to the advice provided in DCLG National Planning Policy Framework (NPPF) Section 16, paras. 194 & 195).

Should you be minded to refuse this application on other grounds, the lack of archaeological information should be an additional reason for refusal, to ensure the archaeological potential is given future consideration.

The Historic & Natural Environment Team (HNET), Leicestershire County Council, as advisors to the planning authority, will provide a formal Brief for the work and approve a Specification for the Assessment at the request of the applicant. This will ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority, in a cost-effective manner and with minimum disturbance to the archaeological resource. The Specification should comply with relevant Chartered Institute for Archaeologists "Standards" and "Code of Practice", and should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable. Information on suitable archaeological organisations to carry out this work can be obtained from HNET.

- 6.12 LCC Minerals - The proposed development does not fall within a Mineral Consultation Area (it is adjacent to a sand and gravel MCA) or a waste safeguarding area. Therefore the MPA do not have any comments to make on this application.

7. Policy

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- 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 21: National Forest
- 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 DM9: Safeguarding Natural and Semi-Natural Open Spaces
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- 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
- Ratby Village Design Statement (SPD 2011)

8. Appraisal

8.1. Key Issues

- Principle of Development
- Impact on Archaeology
- Impact on Heritage
- Design and Impact upon the Landscape Character of the Area
- Impact upon Neighbouring Residential Amenity
- Impact upon Highway Safety
- Flood Risk and Drainage
- Ecology
- Housing Mix
- Contamination and Other Issues
- 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. Ratby is identified within the Core Strategy (CS) as a Key Rural Centre. Policy 7 of the CS states that in Ratby land will be allocated for the development of a minimum of 75 new dwellings. Developers will be expected to demonstrate that the number, type and mix of housing proposed will meet the needs of Ratby taking into account the latest Housing Market Assessment and local housing needs survey where they exist in line with Policies 15 and 16 of the CS.

- 8.4. The Emerging Local Plan for 2020-39 has previously been out for consultation at Regulation 19 draft stage (February to March 2022). The latest update/progress on plan making was clarified on 22nd December 2022 when the Council took its Local Development Scheme to Committee. This confirmed that the previous Reg 19 plan needs to be re-run and this is estimated to be Spring 2024 with adoption due around January 2025. Plan adoption is still some time away. However, in the Hinckley & Bosworth Settlement Hierarchy Paper December 2021, it states that:

'Ratby is located in the east of the borough close to the urban area of Leicester and offers a broad range of services and facilities. It has a population of around 4,760 making it, in population terms, the third largest rural settlement in the borough. 5.27 In the 2006-2026 Local Plan, Ratby was classified as a Key Rural Centre. It benefits from the following key primary facilities -a primary school, a GP surgery, convenience stores (including post office), community halls and employment areas. Ratby also offers a broad range of secondary facilities including a library, pubs, restaurants/takeaways, places of worship and pharmacy.'

- 8.5. Emerging Policy HO01 does not allocate any sites for residential development within Ratby instead seeking to rely on a number of existing committed sites to deliver additional homes in the settlement in the period 2020-2039. However this only carries limited weight as the Local Plan is not yet adopted/agreed.
- 8.6. For information purposes it is highlighted this site formed part of an area that was previously being considered for inclusion as an allocation in the Regulation 19 Local Plan. The site fell out of the plan following consideration at the Council's Scrutiny Commission in November 2021 and so was not included in the Pre - Submission (Regulation) version of the Plan published for consultation in February 2022. Only limited information and evidence has been published by the Council explaining the reason for removing this site, however a Preliminary Site Selection Paper published alongside the Pre-Submission Plan indicates that there are significant school capacity concerns in Ratby and that the scale of development cannot be sustained. However, it is noted that Leicestershire County Council have requested education contributions to form part of a Section 106 legal agreement and have not objected to the proposal on education issues.
- 8.7. 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.

8.8. The application lies adjacent to but outside the settlement boundary of Ratby 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

8.9. 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).

8.10. A Landscape Visual Impact Assessment has been submitted as part of the application details and has been independently assessed by a Landscape specialist.

8.11. 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.

Impact on Archaeology

8.12. 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 assessment detailing the significance of any affected asset. Paragraph 194 of the NPPF reiterates this advice. LCC Archaeology responded and requested further information from the applicant. Specifically, an Archaeological Impact Assessment of the proposals to include a field evaluation, by appropriate techniques including geophysical survey and trial trenching, and, if necessary to identify and locate any archaeological remains of significance, and propose suitable treatment to avoid or minimise damage by the development.

- 8.13. The Leicestershire and Rutland Historic Environment Record (HER) shows that the site has good potential for the presence of prehistoric and Anglo-Saxon remains and is also crossed by the projected line of the Via Devana Roman road, which could have associated road-side settlement or activity. The applicant has highlighted that the route of the Roman Road was not proven during previous survey work and is thought to be in a different location as the HERS sets out a projected line only. Moreover, previous investigations, including trial trenching on the immediately adjoining development site (ref: 20/00462/FUL) has not uncovered any features of note.
- 8.14. In liaison with the Planning Manager it has been agreed that the request for trial trenching works can be imposed by way of pre commencement condition as opposed to being provided up front and prior to the determination of the application. Subject to a suitably worded condition the Council considers that this outline application is acceptable in respect of archaeological considerations and accords with Policy DM13 of the SADMP and the NPPF.

Impact on Heritage

- 8.15. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. In determining planning applications, local planning authorities should take account of paragraph 197 of the NPPF and:
- a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) The desirability of new development making a positive contribution to local character and distinctiveness.
- 8.16. Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) Development Plan Document seek to protect and enhance the historic environment and heritage assets. Policy DM11 states that the Borough Council will protect, conserve and enhance the historic environment throughout the borough. All development proposals affecting the significance of heritage assets and their setting will be assessed in accordance with Policy DM11 and will require justification as set out in this policy. Policy DM12 requires all development proposals to accord with Policy DM10: Development and Design. Policy DM12 also states that all proposals for development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.
- 8.17. The HBBC Conservation Officer has been consulted on the application and raises no objections.
- 8.18. There are designated heritage assets located within a proportionate study area from this application site including the Scheduled Ratby Bury Camp (c.700m to the south-west) and western boundary of the Ratby Conservation Area (c.400m to the south-east). Within the historic core of the conservation area there are also a small number of listed buildings which includes The Church of St. Phillip & St. James, this being a grade II* listed building with a tower that is a prominent feature within the landscape.
- 8.19. There is no inter-visibility between the application site and any of the designated heritage assets identified above, nor is there any known key historic, functional or

other relevant relationships between the application site and these heritage assets.

- 8.20. The application site is therefore not considered to fall within their setting and due to the form of the proposal it is considered that none of the designated heritage assets would be sensitive to or affected by the proposed development within the application site. Due to the above it is considered that the proposal will have no effect upon the significance of any designated heritage assets and this is therefore not a material consideration for the determination of this application.
- 8.21. Therefore it is considered that the proposal would not impact upon the historic environment and accords with development plan policy and the requirements of the NPPF.

Design and impact upon the landscape character of the area

- 8.22. 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.
- 8.23. 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.
- 8.24. The Council's Good Design Guide (2019) identifies design objectives for Ratby. These objectives seek to protect the setting of the Church (Church Lane), retain the dispersed built form and surviving farm buildings, protect the stone boundary treatments and resist the encroachment of modern domestic elements on a characteristically agricultural area. As the settlement falls within the National Forest development should meet the general design principles of the National Forest. Policy 21 of the CS expects a proportion of new development to comprise woodland planting and landscaping. For a development of this size, 20% of the site is expected to be landscaped. The application details denote that the scheme will deliver around 50% landscaping and open space provision and will therefore comfortably meet National Forest planting guidelines.
- 8.25. The Ratby Village Design Statement sets out the contextual analysis for the village and highlights the distinctive elements and characteristics of Ratby that should be considered. It includes details relating landscape features, green spaces, boundary treatments, highway and traffic.
- 8.26. This development is for around 75 homes at a net density of 33 dwellings per hectare approximately alongside locally significant levels of open space and habitat creation. There is proposed to be a mixture of detached, semi-detached and linked (terraced) buildings providing a wide range of accommodation and tenure. The illustrative masterplan indicates that the proposed built development would be located within the central part of the site away from the boundaries and sloping land to the west so that housing occupies the same landform level of the existing housing area to the east and that of the built edge of Ratby and the edges of the site comprise landscaping and planting.
- 8.27. This application site falls within Landscape Sensitivity Area 13 (Ratby). The area comprises arable and pasture farmland defined by hedgerows and tree belts and is

predominantly undeveloped crossed by a small number of roads. The assessment area is considered to have a medium sensitivity to residential development due to the relationship it has with built development and the visual containment from existing woodland to the north. Guidance for development within this area includes a requirement that new development should seek to enhance rural character, conserve rural views and the setting of the settlement.

- 8.28. A Landscape and Visual Appraisal (LVA) has been undertaken by FPCR in support of this application and this has been assessed by an independent landscape consultant on behalf of HBBC.
- 8.29. No landscape or ecological designations apply to the application site, although, areas of existing woodland to the north and west of the site are assessed as being of Grade A High Quality and/or are designated as a Local Wildlife Site.
- 8.30. The landscape consultant on behalf of HBBC considers that the site contributes to the setting of Ratby and that it provides the only remaining open area of landscape separating Ratby from Pear Tree Wood. As a result it is considered that the overall landscape value of the application site and its immediate context is High-Medium. This is principally a reflection of the site's locally elevated landform and its function as the last remaining area of open landscape to the south of Markfield Lane that provides a separation and the setting between the settlement edge of Ratby and Pear Tree Wood.
- 8.31. In terms of the proposed landscape scheme and mitigation planting, it is considered that there is clear evidence of a generally appropriate and responsive design approach aside from the decision to bring residential units forward to the horizon line as seen from the areas of landscape to the south of the application site. The Illustrative Masterplan otherwise indicates a generally considered response to sensitive receptors, in particular users of the surrounding public right of way network. It is agreed that the site is well enclosed to the north and west and that the character of the existing baseline and the distribution of visual receptors are such that the extent of landscape and visual effects, including those upon visual receptors, will be relatively contained.
- 8.32. It is considered that the effects upon landscape character at the National-Regional scale will be negligible. However, at the District/Local scale it is considered that the effects upon the different character areas should have been considered individually rather than collectively within the submitted LVA alongside some narrative to accompany the assessment of effects upon each of the character areas.
- 8.33. The development will occupy a locally elevated location and noticeably extend development further to the west beyond the existing defined limits of the settlement. The landscape consultant on behalf of HBBC does agree that the Illustrative Masterplan seeks to demonstrate a commitment to a strong landscape envelope, particularly around the site's northern and western margins.
- 8.34. The high sensitivity of the residential receptors is agreed but it is considered that the magnitude of effect will be such that the overall level of effect will be Major-Moderate at both construction stage and upon completion only easing to Moderate/Moderate-Minor at Year 15.
- 8.35. The major-moderate effect is noted but it is considered that this impact does not outweigh the benefits of the scheme as a whole whereby permission should be

granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework.

- 8.36. Overall, if Members are minded to approve this outline application, 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 Ratby and the National Forest 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

- 8.37. 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.
- 8.38. 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.
- 8.39. 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.
- 8.40. As set out throughout the report because this is an outline application with all matters reserved save for access there are limited details on the specifics of the development. However, it is apparent from the illustrative plans provided that the provision of 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. 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.
- 8.41. 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

- 8.42. 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)).
- 8.43. Policy DM10 (g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.44. 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.
- 8.45. The proposed development site is to be accessed off Markfield Road. A 2 metre wide footway would be provided alongside Markfield Road and would tie in to the existing footway approved as part of the neighbouring development. The applicant has confirmed that land adjacent to the highway and proposed footway falls within their control and therefore the footway can be delivered. The proposed footway would provide an adopted pedestrian link to/ from the site.
- 8.46. 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. Junction modelling and associated traffic flow evidence was subsequently submitted by the applicant. A speed survey was also undertaken to the immediate west of the proposed site access.
- 8.47. The applicant has undertaken a detailed assessment of the following junctions in order to establish the likely impact of the additional vehicular trips which could be generated by the development:
1. Site access/ Markfield Road priority junction
 2. Markfield Road/ Main Street/ Groby Road mini roundabout
 3. Groby Road/ Ratby Road ghost right turn lane
 4. Leicester Road/ Sacheverell Way roundabout

The LHA has a preferred mitigation scheme for the Field Head junction and has sought a financial contribution towards its delivery in order to providing the required capacity enhancements to accommodate the associated demand and growth. The LHA advises that a contribution of £29,285 would need to be secured towards improvements to the Field Head roundabout as part of the extended Coalville Transport Strategy and in mitigating the otherwise severe highway impact of this development.

- 8.48. The Applicant has provided plans to show the proposed off-site works following comments by the local highway authority. A Pell Frischmann drawing number 106232 PEF ZZ XX DR TP 000004 Rev. P04 details a series of speed cushions, a junction table at the site access and relocated 30mph/national speed limit signage along with a gateway feature. The proposals have been subject to a Stage 1 RSA and a Designer's Response. The local highway authority considers the Designer's Response in respect of the RSA to be acceptable.

- 8.49. The LHA has advised that the proposed traffic calming scheme would need to be subject to a public consultation exercise as well as detailed design and therefore the design may change slightly following the consultation exercise. Consideration would also need to be given to the location of street lighting in respect of the proposed cushions, as well as their design and any carriageway narrowing/ widening which may be required in the vicinity of the cushions for them to be accommodated. Implementation of the traffic calming scheme and public consultation exercise would need to be at the full expense of the applicant.
- 8.50. The local highway authority has also advised that the applicant would be required to provide raised kerbs and other bus stop infrastructure at the nearest bus stop to the site which is located on Charnwood, adjacent to Bevington Close (ID 2527). To comply with Government guidance in NPPF and commensurate with Leicestershire County Council Planning Obligations Policy the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift target and reducing car use:
- a. Travel Packs, one per dwelling; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
 - b. Six month bus passes, two per dwelling (application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at £360.00 per pass).
- 8.51. Therefore, the local highway authority in their most updated response have now confirmed that subject to conditions and S106 contributions set out above, this proposal is acceptable and in compliance with Policies DM10, DM17 and DM18 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF with respect to highway matters.

Flood Risk and Drainage

- 8.52. 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.
- 8.53. 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.
- 8.54. The 5.47ha Greenfield site is located within Flood Zone 1 being at low risk of fluvial flooding and a very low to surface water flooding. The proposals seek to discharge at 9.9 l/s via a dry detention basin to the on-site watercourse. No commitment to source control SuDS has been provided in the outline surface water drainage strategy. As part of the detailed design, the Lead Local Flood Authority will expect source control SuDS to be included in the internal site layout in order to provide greater benefit from SuDS.

- 8.55. The LLFA therefore advises that the proposals are considered acceptable subject to a surface water drainage condition, management plan and long term maintenance details. With these conditions imposed it is considered that the development will satisfy Policy DM7 of the SADMP and the NPPF with respect to flooding and drainage matters.

Ecology

- 8.56. 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.
- 8.57. The Ecology Officer has been consulted on the application and states that the masterplan and BNG plan shows opportunities for biodiversity net-gain within the site. From a biodiversity perspective, the land is currently arable, of low value, and the Ecology surveyors (FPCR 2022) did not record protected species apart from a possible bat roost in a large broken Ash (T1) along the southern boundary. A survey of this will be needed, as a planning condition, prior to removal. The Ecologist also noted that although badgers were not recorded, this proposal is in an area with expected high badger activity. A survey update prior to each phase of reserved matters should be imposed as a condition. The proposed houses adjacent to the open space should have a range of bird boxes and bat bricks. The Ecologist confirmed that this can be covered as part of the reserved matters details.
- 8.58. The ecologist notes that retained species-rich hedges should not form back gardens boundaries - they will lose value if this happens, and will be downgraded in the biodiversity metrics (they will count as part of gardens, of low biodiversity value, rather than hedges of higher value). Retention of two hedges (H4 and H7) with a 5m buffer zone of natural vegetation should be the subject of a planning condition.
- 8.59. It is considered that given this is an outline application and there is no in principle objection from Ecology that suitably worded conditions in respect of the above matters raised will provide the necessary ecological measures required. Therefore, subject to ecological conditions the proposal accords with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

Housing Mix

- 8.60. The affordable housing requirement for Hinckley and Bosworth is set out in Policy 15 of the Core Strategy. As this site is classed as a site in the rural area, the affordable housing requirement would be for 40% affordable housing (30 dwellings). The tenure should be split between 75% social rented and 25% intermediate tenure.
- 8.61. Guidance in National Planning Policy Framework states that: "Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups." Government has also introduced First Homes as a form of affordable home ownership, and requires that after the

transitional period, 25% of all affordable housing on qualifying sites should be for First Homes.

- 8.62. The applicant has proposed the following housing mix:

Affordable Rent (AR) = 8 units (or 25% of the total number of affordable homes)

4 X 1B2P Maisonettes
3 X 2B4P Houses or Flats
4 X 3B5P Houses

Intermediate Tenure = 11 units (or 50% of the balance of affordable homes) (Shared Ownership or Discounted Market Sale at 80% OMV)

4 x 2B3P Houses
7 x 3B4P Houses

First Homes or DMS = 11 units (or 50% of the balance of affordable homes at 75% OMV)

4 x 2B3P Houses
7 x 3B4P Houses

- 8.63. The Housing Officer has agreed to the affordable housing mix and if Members are minded to approve this mix will form part of the Section 106 legal agreement.

Contamination and Other Issues

- 8.64. 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.

- 8.65. HBBC Environmental Services Team have been consulted on the proposals and do not raise objections but do request conditions in relation to contaminated land, noise attenuation, construction management plan and hours of construction. It is considered that the application is considered to be acceptable and in accordance with development plan policy with respect to contamination and other issues.

Planning Obligations

- 8.66. 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. Specifically, 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 both off-site and on-site contributions.
- 8.67. 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.

8.68. The Open Space and Recreation Study 2016 states that all of the open space typologies for Ratby fall below the recommended quantity target with the exception of natural and semi-natural open space which is indicative only. The most significant shortfall is in Formal Parks and Amenity Green Space.

8.69. The following on site and off site open space contributions are proposed as part of this development proposal:

On site

- Equipped Children's Play Space Provision = £49,121.10 for 270sqm and Maintenance = £103,620.00
- Casual/Informal Play Spaces Maintenance = £13,608.00
- Accessibility Natural Green Space Maintenance = £42,600.00

Off site

- Outdoor Sports (Provision) total = £26,064.00 for 2,880 sq m
- Outdoor Sports (Maintenance) total = £12,384.00

8.70. Leicestershire County Council are not objecting to this development subject to Section 106 financial contributions towards Primary Education, Ratby Library and the local recycling and household waste site.

8.71. The County Council have confirmed that the development yields 22.5 primary aged children. Ratby Primary School has a net capacity of 420 and there will be a deficit of 23 places if this development goes ahead. When taking into consideration the other Primary Schools within a two-mile walking distance from the development there is an overall deficit of 7 places. Therefore, a primary contribution of **£128,492.00** is requested. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities within the DfE approved planning area serving the development or any other school within the locality of the development.

8.72. The development yields 15 secondary aged children. Brookvale Groby Learning Campus has a net capacity of 1574 places and there will be a surplus of 6 places if this development goes ahead. No secondary education contribution is therefore sought for this development.

8.73. The nearest library to this development is Ratby Library and it is estimated that the total assumed occupancy of 225 arising from the development will create additional pressures on the availability of the facilities at that library, and others nearby. The contribution of **£2,270.70** is sought to provide improvements to the library and its facilities, including, but not limited to, books, materials, or associated equipment or to reconfigure the internal or external library space to account for additional usage of the venue arising from an increase in members to the library as a result of this development.

- 8.74. The nearest Recycling and Household Waste Site to this development is Whetstone RHWS and the proposed development of 75 dwellings would create additional pressures on the site. A contribution of **£1,790.25** is therefore sought.
- 8.75. The NHS have also requested a financial contribution of **£33,966.00**. Ratby Surgery has seen significant increase in patient registration and demand for appointments over the past 5 years. S106 healthcare contributions are therefore required to increase and improve primary care services in Ratby town in order to support the practice/s supporting this development.
- 8.76. In respect of highways, a contribution of **£29,285.00** towards the Coalville Transport Strategy to enable required highway works at the A50 / Field Head junction. This is required as a mitigation measure in order to alleviate the impact of the development on the A511/ A50 corridor. Furthermore, in order to comply with Government guidance in NPPF and commensurate with Leicestershire County Council Planning Obligations Policy the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use:
- a. Travel Packs, one per dwelling; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at **£52.85 per pack**).
 - b. Six month bus passes, two per dwelling (application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at **£360.00 per pass**).

In addition to this, the local highway authority have also requested that raised kerbs, flag pole and timetable case at the nearest bus stop to the development site on Charnwood, adjacent to Bevington Close (ID 2527) is implemented as part of any works approved in order to help mitigate the impact of the development and encourage sustainable travel to and from the site. It is considered that this can be incorporated into the wording of the legal agreement if Members are minded to approve the application.

- 8.77. 40% affordable housing (30 units) on site is also requested comprising the following mix:

Affordable Rent (AR) = 8 units (or 25% of the total number of affordable homes)

4 X 1B2P Maisonettes
3 X 2B4P Houses or Flats
4 X 3B5P Houses

Intermediate Tenure = 11 units (or 50% of the balance of affordable homes) (Shared Ownership or Discounted Market Sale at 80% OMV)

4 x 2B3P Houses
7 x 3B4P Houses

First Homes or DMS = 11 units (or 50% of the balance of affordable homes at 75% OMV)

4 x 2B3P Houses
7 x 3B4P Houses

- 8.78. The above contributions are considered to be CIL compliant and will ensure the development complies with the requirements of Policy DM3 of the SADMP and Policy 19 of CS. (Any highway contribution requests will be provided by way of update at the Committee).

Planning Balance

- 8.79. 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.

- 8.80. 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.

- 8.81. 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”*

- 8.82. 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”.*

- 8.83. 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.

- 8.84. The proposal conflicts with Policy DM4 as the application lies adjacent to but outside the settlement boundary of Ratby 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.

- 8.85. The landscape consultant on behalf of HBBC has assessed the LVA submitted with the application and considers that the scheme would have a high-medium impact upon landscape character. This is a material consideration and weighs against the proposal. However, this impact is to be weighed against the benefits of the scheme which include 75 dwellings, 40% affordable housing provision, Section 106 contributions towards health (specifically Ratby Surgery), Primary education (Ratby Primary School), Ratby library and the local recycling and household waste facility.

Open space will be provided on site and there are also off site contributions towards outdoor sports provision. The ecologist has also confirmed that biodiversity net gain will be achieved as part of the proposed works. The scheme would also contribute towards attaining a 5 year housing land supply for Hinckley Bosworth Borough Council.

- 8.86. Appearance, landscape, layout and scale are all reserved matters in this case for future consideration and therefore details are limited in this case.
- 8.87. Ratby is a Key Rural Centre offering a large number of services and facilities. The site is not isolated albeit is situated outside of the settlement boundary within open countryside, but is within walking distance of a number of shops, services and the local school.
- 8.88. Overall, taking all of the above issues/material considerations into account, subject to suitably worded conditions and a legal agreement to secure the requested contributions, open space and affordable housing provision, 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 the requested financial contributions set out above, affordable housing, open space and monitoring costs.

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) Appearance of the development including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes. Details of bird/bat boxes will also be required as part of the appearance details.
 - 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 to include native species mix hedgerows. The Biodiversity Net Gain Metric will need to be reviewed and submitted as part of the landscaping details.
 - c) Layout of the site including the location/provision 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.
 - d) 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. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted in writing to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

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

4. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt

with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied.

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

5. Prior to the submission of the first reserved matters application for the development a badger survey shall be submitted to and approved in writing by the local planning authority. Any agreed mitigation measures or recommendations resulting from the findings of the survey shall be implemented as agreed prior to the commencement of development.

Reason: To help protect and conserve badgers and their habitat in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016.

6. The hedges identified as H4 and H7 within the details hereby approved for this site shall be retained as part of any future development proposal with a 5 metre buffer zone of natural vegetation alongside in order to help protect and enhance on site biodiversity features. These retained hedgerow features should not form back garden boundaries for any approved dwellings.

Reason: In order to preserve and enhance existing biodiversity features on site in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016.

7. No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority. The development must be carried out in accordance with these approved details and completed prior to first occupation.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site in accordance with DM7 of the Site Allocations and Development Management Policies DPD 2016.

8. No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority. The construction of the development must be carried out in accordance with these approved details.

Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016.

9. No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. The

surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.

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 surface water drainage system (including sustainable drainage systems) within the proposed development in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016.

10. 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 in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016.

11. Development shall not begin until a scheme for protecting the proposed dwellings from noise from the nearby road network has been submitted to and approved by the Local Planning Authority. All works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.

Reason: To help prevent and mitigate noise pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016.

12. 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. The agreed details shall be implemented throughout the course of the development.

Reason: To help mitigate adverse impacts from pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016.

13. 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 help protect residential amenity in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD 2016.

14. No demolition/development shall take place on site unless and until a staged programme of archaeological work, commencing with an initial phase of trial trenching has been undertaken. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been submitted to and

approved in writing by the local planning authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
- The programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting

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

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

15. The development hereby permitted shall be carried out in accordance with the following details:

- Site Location Plan (ref 10783-L-01) Issue P02 Submitted 16 September 2022
- Development Framework Plan (Ref 10783-L-01 Issue P01) Submitted 22 June 2022
- Updated Transport Statement 06232-PEF-ZZ-XX-RP-TS-000002 submitted 25/10/2022 Includes:
- Site access design Drawing 106232 PEF ZZ XX DR TP 000002 (Revision PO7)
- Site Access design Drawing Refuse Vehicle Tracking Assessment 106232 PEF ZZ XX DR TP 000003 (Revision PO5)
- Potential Location of Speed Control Measures 106232 PEF ZZ XX DR TP 000004 (revision PO3) submitted 19 January 2023

Reason: To ensure the development is carried out in accordance with the approved details.

16. 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 and the requirements of the NPPF.

17. No part of the development shall be occupied until such time as the offsite works (traffic calming measures) shown on Pell Frischmann drawing number 106232 PEF ZZ XX DR TP 000004 Rev. P04 (or an appropriate amended scheme, following public consultation/ detailed design) have been implemented in full.

Reason: To mitigate the impact of the development and for highway safety in accordance with Policy DM17 of the Site Allocations and Development Management DPD 2016 and the requirements of the National Planning Policy Framework.

18. No part of the development hereby permitted shall be occupied until such time as the access arrangements, visibility splays and 2.0m wide footway to tie in to existing footway provisions on Markfield Road shown on Pell Frischmann drawing number 106232-PEF-ZZ-XX-DR-TP-000002 Rev P07 have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, to afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the National Planning Policy Framework (2021).

19. No development shall take place until a scheme for the treatment of the Public Right(s) of Way has been submitted and approved in writing by the Local Planning Authority. Such a scheme shall include provision for their fencing, surfacing, width, structures, signing, landscaping, and management during construction in accordance with the principles set out in the Leicestershire County Council's Guidance Notes for Developers. Thereafter the development shall be carried out in accordance with the agreed scheme and timetable.

Reason: To protect and enhance Public Rights of Way and access in accordance with Paragraph 100 of the National Planning Policy Framework (2021).

20. Prior to construction, changes to existing boundary treatments running alongside the Public Right of Way, must be approved by the Local Planning Authority in accordance with the principles set out in the Leicestershire County Council's Guidance Notes for Developers. The works shall be implemented in accordance with the approved details prior to occupation of the development.

Reason: in the interests of protecting and enhancing Public Rights of Way and access in accordance with Paragraph 100 of the National Planning Policy Framework (2021).

21. The development hereby approved shall only be carried out in accordance with the findings and recommendations of the Ecological Impact Assessment ref fpcr dated June 2022 and the bat and bird survey details ref fpcr dated 27 July 2022.

Reason: To ensure ecology is conserved and enhanced in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

10.2 Notes

1. The applicant should be aware the further approval of reserved matters should be sought before the development commences in respect to the following matters :-
 - Appearance
 - Landscape
 - Layout
 - Scale
2. In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application and this has resulted in the approval of the application. The Local Planning Authority has therefore acted proactively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).
3. 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.
4. 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.
5. 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.
6. 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 property ownership. For commercial properties (where relevant), this should also include procedures that must be implemented in the event of pollution incidents.
7. 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. Where infiltration is deemed viable, proposed

infiltration structures must be designed in accordance with CIRIA C753 "The SuDS Manual" or any superseding version of this guidance.

8. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>.
9. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
10. 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>
11. No trees or shrubs should be planted within 1 metre of the edge of the Public Right(s) of Way. Any trees or shrubs planted alongside a Public Right of Way should be non-invasive species
12. Prior to construction, measures should be taken to ensure that users of the Public Right of Way are not exposed to any elements of danger associated with construction works.
13. The Public Right of Way must not be re-routed, encroached upon, or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980. If there are any Public Rights of Way which the applicant considers impracticable to retain on their existing lines, a separate application for diversion is required. It should be submitted under the Town and Country Planning Act 1990 to the Local Planning Authority. The applicant is not entitled to carry out any works directly affecting the legal line of a Public Right of Way until a Diversion Order has been confirmed and become operative.
14. The Public Right of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
15. If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to networkmanagement@leics.gov.uk at least 12 weeks before the temporary diversion is required.
16. Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be

the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.

17. No new gates, stiles, fences, or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way, and the County Council may be obliged to require its immediate removal.