

Committee Report 21st March 2023
Report of The Head of Planning (Development Management)

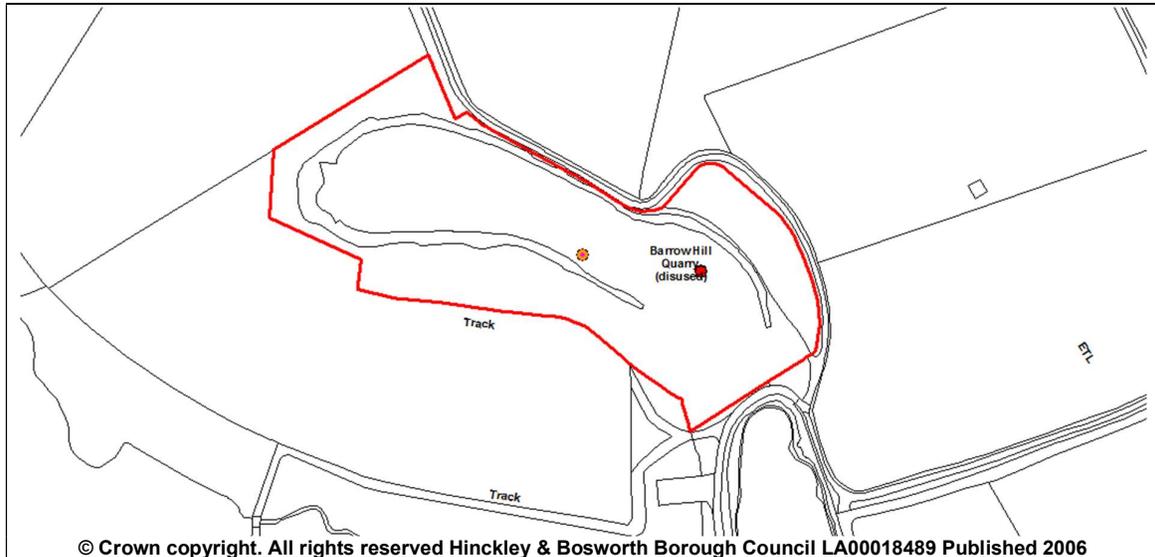


Hinckley & Bosworth
Borough Council

Planning Ref: 21/01390/FUL
Applicant: MR IAN FENNY
Ward: Earl Shilton

Site: Barrow Hill Quarry, Mill Lane, Earl Shilton, Leicester

Proposal: Erection of 21 residential holiday lodges and a management building with associated vehicular accesses, parking, surface water balancing and landscaping.



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

2.1. The application seeks planning permission for the development of 21 single storey holiday lodges and management building with associated vehicular access, parking, surface water drainage provision and landscaping – specifically:

- 21 Holiday lodges with a maximum ridge height of less than 5m;
- Parking for each lodge with 4 parking spaces at the main entrance;
- Single storey Management Building with terrace area;
- Main access from Mill Lane and a new access track through the site;
- Landscape buffers to parts of the southern boundary and across the site; and
- A new acoustic fence along the south eastern corner of the site.

2.2. Amended plans and have been submitted since the initial application was made and the proposed lodges comprise two bedroom, four person accommodation with decking areas and the management building would comprise an office, storage facilities, WCs and a kitchen/communal area with terrace.

2.3. The site is accessed from Mill Lane. Mill Lane is accessed directly off the A47, Clickers Way.

2.4. The site extends to approximately 2.9 hectares.

3. Description of the site and surrounding area

3.1. The application site lies to the south of Mill Lane approximately 2 kilometres from the centre of Earl Shilton. The nearest farm is The Yennards, which is accessed off Potters Marston Lane to the east. Mill Lane also serves Hinckley Equestrian Centre at Mirfield Farm, an existing riding school.

3.2. The site comprises a former quarry area.

3.3. A number of PRow footpaths surround the Site. PRow Bridleway U107 lies along the track at the northern boundary of the Site and leads to the public highway to the east. PRow Footpath T88/1 is at the north western corner of the Site and runs roughly parallel to Mill Lane.

3.4. The M69 lies to the south of the site.

4. Relevant planning history 2016/CM/0302/LCC

- Restoration of former Barrow Hill Quarry to an agricultural use with inert waste and soils including temporary passing bays on Mill Lane
- Refused

5. Publicity

5.1. The application has been publicised by a site notice in close proximity to the site, an advert in the local newspaper and sending out letters to local residents.

5.2. Six letters of objection have been received which make the following comments:

- We have had no notification about change of use or planning request are (sic) property is adjacent to the site. There is no notification of planning signs situated around the site that are visible to the public.
- Turning into Mill Lane is on a blind summit off Clickers Way that has traffic travelling at 60 mph, accidents have already occurred and we have had a car run into the back of our tractor when turning off Clickers Way.
- Mill Lane is a single track lane with no passing places, it is unmaintained with many pot holes some 12 inches deep it is not suitable for cars only agricultural vehicles. In the summer it is used a lot by tractors and trailers during growing and harvesting.
- We cannot see the attraction of luxury holiday accommodation next to a major Motorway with the noise and traffic fumes and being next door to a large dairy farm with its associated odours.
- As a visitor to the area, and a local property, I was confused when I heard about this application. Having looked at the detail I cannot see why people would want to stay in this location. Access is poor, noise from the motorway will be an issue, the adjoining off road motorcycle site will create both noise and traffic, and facilities are not close at hand.
- Having carried out further background research it has become obvious to me that there would appear to be an attempt to circumnavigate planning regulations, to try to establish an alternative use for this site.
- I strongly suspect that a traveller's site is the real reason for this application. This obviously contravenes the planning process and the related regulations.

- The location, facilities, impact on the environment, and implications for the local residents, make this type of use entirely inappropriate.
- I have not read about any proposals for renewable energy especially.
- I think that Policy 7 C and D will be infringed upon.
- Due to the nature of the areas surrounding the site the requirements of Development Management Policy 10 B and C cannot be met.
- Policy 17 cannot be met. Development Management Policy 17 C is of particular importance and cannot be adhered to due to the access point being from a major A road with a national speed limit. This road has already has (sic) several accidents on it and this will be even worse with people using the road unfamiliar with it.
- Has there been any flood risk assessments done? If so, I couldn't seem to access this.
- Due to the isolated location of the site Development Management Policy 24 cannot be met.
- I am concerned that this will become a failed business and that the caravans will be used to accommodate permanent residents. The understaffing of the council means this will not be followed up.
- Currently the mains water supply is hardly adequate for dwellings that it supplies without adding another 21 dwellings.
- The development would have an adverse effect on the privacy and security of the farm as well as noise and visual intrusion from the holiday makers staying in the lodges. There has been no consultation with us as neighbours as to how amenities (water/electricity) are going to be supplied to the site.
- There has been no consultation from the applicant to us as neighbours with regards to access and how the site will be made secure. The farm has over 400 cows which are frequently moved past the quarry site and the safety & welfare of livestock needs to be addressed.
- There is a barrier in place which needs to be closed and the potential movement needs to be addressed as per the Highways report.
- To have 21 residential holiday lodges where access via Mill Lane is not viable as it's a bridle path and is not wide enough for vehicles and horses to pass by safely.

6. Consultation

6.1. No objection has been received from:

- LCC Tree Officer
- LCC Archaeology
- LCC Drainage (subject to conditions)
- Leicestershire Police
- HBBC Drainage (subject to a condition)
- HBBC Waste (subject to a condition)
- HBBC Environmental Health (subject to conditions in respect of land contamination, landfill gas and noise attenuation)

6.2. Earl Shilton Town Council – Object

This application fails to address certain concerns or is contrary to HBBC planning policies

- HBBC policy DM4 – 'development in open countryside outside the settlement boundary'.

- Mill Lane from the A47 Clickers Way to Barrow Hill Quarry is a farm track so only accessible safely by 4 wheel drive vehicles during the best of weather conditions. It is not suitable for family saloon holiday traffic.
 - Health and safety issues. The site is close to the M69 and subject to exhaust fume and noise pollution due to the prevailing wind and cannot be seen in isolation to the plans for the HNRFI; in particular new M69 junctions proposed for the motorway.
 - What lies beneath the quarry site? Is there methane under where the 21 lodges are to be sited as has been the recent major issue at Huncote Leisure Centre, (a former household waste site)?
- 6.3. S106 Monitoring Officer - Clarification of what the definition of "residential holiday lodges " is so that it can be determined whether they are to be used for residential purposes or holiday lodges as if they were to be permanent residents then perhaps a contribution could be sought for off site open space. Improvements and / or additional links to the existing bridle path and footpaths within the vicinity of the site could I believe do with some improvements otherwise no other comments from a POS point of view.
- 6.4. Local Highway Authority – Further information required.
- 6.5. LCC Ecology – The application should not be determined until a Badger survey, Reptile survey, BNG assessment using DEFRA v.3.0 metric (submitted on a spreadsheet, not as pdf) and biodiversity improvement plan have been submitted and approved. The development is required by NPPF policy to be in measurable net-gain to biodiversity. In addition, I would like to visit the site prior to determination.

Further response received 6 February 2023 - The submitted metric and habitat creation proposals are acceptable. Reptiles were not found on site, and the presence of badgers can be addressed with a Precautionary Method of Working within the CEMP. Japanese knotweed was found on site along the NE boundary, and this will require a specialist remediation strategy prior to development of the site. To mitigate the chances of GCN being impacted by the works, a District level licence has been obtained. A copy of the Impact Assessment & Conservation Payment Certificate (IACPC) is required to be submitted to the LPA prior to determination. Subject to Conditions relating to a Construction and Environmental Management Plan and a Landscape and Ecological Management Plan this application is acceptable.

- 6.7. LCC Minerals and Waste – It would appear from the history of the application site, that the area has previously been worked for sand and gravel. Therefore, it is likely that any mineral within the proposed development area has been exhausted and there would be no concerns from a minerals safeguarding perspective. Thus, a minerals reports is not required in relation to this submission. The County Planning Authority (CPA) have no concerns in relation to waste safeguarding. The CPA would like to bring the District's attention that this ex quarry site has only been partially infilled and has recently been subject to a planning application for the restoration of the former Barrow Hill Quarry to an agricultural use with inert waste and soils, including inert waste recycling and temporary passing bays on Mill Lane that was refused by the County Council Ref. 2016-1119-04 (2016-CM-0302-LCC) and dismissed on appeal Ref. APP/M2460/W/19/3239442. It is not clear from the submitted application if the land is to be infilled to enable the development given the current condition/topography of the site. If the application site is to be infilled, this would require planning permission and the County Planning Authority

would seek to know the extent of the infilling to be carried out including the amount and type of material intended to be used in this process.

Further response received 14/02/2023 - The Minerals and Waste Safeguarding Authority have no further comment to make and no further clarification is needed.

7. Policy

7.1. Core Strategy (2009)

- Policy 14: Rural Areas: Transport
- Policy 17: Rural Needs
- Policy 20: Green Infrastructure
- Policy 23: Tourism Development

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the countryside and settlement separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM24: Cultural and Tourism Facilities

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
- LCC Minerals and Waste Local Plan

8. Appraisal

8.1. Key Issues

- Principle of Development
- Impact on Archaeology
- Design and Impact upon the Landscape Character of the Area
- Impact upon Neighbouring Residential Amenity
- Impact upon Highway Safety
- Flood Risk and Drainage
- Ecology
- Contamination and Other Issues
- 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.
- 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 Local Development Scheme (LDS), was approved at Full Council on 13 December 2022. The updated LDS extends the Local Plan period to 2041, revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a second Regulation 19 Consultation which is not scheduled until May-June 2024. The Replacement Local Plan therefore carries little weight at this time.
- 8.5. The application lies adjacent to but outside the settlement boundary of Earl Shilton within open countryside at a former quarry site. 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.
- 8.6. The application proposes 21 holiday lodges and therefore can be considered to comply with part of DM4. The development would have no perceptible impact on the separation of settlements, as it is located outside of the built confines of Earl Shilton. The purpose of Policy DM4 is to protect the open character and landscape character of the countryside. Policy DM4 is considered to be 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.
- 8.7. The application is accompanied by a Landscape and Visual Impact Assessment.

8.8. Policy DM24 of the SADMP is also applicable. This policy states that development of new cultural and tourism facilities will be supported across the Borough. Policy 23 of the Core Strategy also supports tourism development including holiday accommodation comprising bed and breakfast, holiday lodges and tenting fields in suitable locations where:

- The development can help to support existing local community services and facilities and
- Is of a design and at a scale which is appropriate to minimise impact and assimilate well with the character of the area with acceptable landscaping and
- The development adds to the Hinckley and Bosworth's local distinctiveness and
- Complements the tourism themes of the Borough and
- The development adds to the economic wellbeing of the area

8.9. Paragraph 84 of the NPPF states that planning policies and decisions should enable:

- The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well designed new buildings
- The development and diversification of agricultural and other land-based rural businesses
- Sustainable rural tourism and leisure developments which respect the character of the countryside and
- The retention and development of accessible local services and community facilities such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship

8.10. This site is located on a former quarry site, however, a quarry is not defined as previously developed land within the NPPF.

Impact on Archaeology

8.11. 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.

8.12. LCC Archaeology responded to the consultation and stated that the proposal will not result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets. The application warrants no further archaeological action and is therefore in accordance with Section 16, para. 194-195 of the NPPF and Policy DM13 of the SADMP.

Design and impact upon the landscape character and appearance of the area

8.13. 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.

8.14. 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.

- 8.15. The LCC Tree Officer has confirmed that the proposal does not affect any Protected Trees.
- 8.16. The proposed holiday lodges and management building are single storey in proportion and approx. 4.7 metres in maximum height to the ridge of the roof. In relation to materials, timber cladding would be used, together with profiled metal cladding to reflect the site's surroundings. Floor to ceiling glazing would be included on the front elevation of the proposed lodges to provide a contemporary feel to the otherwise traditional looking buildings.
- 8.17. The LVIA submitted with the application sets out that the application site lies within Landscape Character Area F- Burbage Common Rolling Farmland. This character area lies at the eastern edge of the Borough and surrounds settlement at the settlement fringe. The Site appears slightly elevated as compared to that of the surrounding countryside to the south and lies approximately at 85m AOD.
- 8.18. The key characteristics of this Landscape Character Area, as relevant to the Site, are listed below:
- 1) Large scale, gently rolling arable and pasture farmland with local variations in topography influenced by small streams.
 - 2) Burbage Common and ancient woodland is of national and local importance as an ecological and recreational resource.
 - 3) Medium to large scale rectilinear field pattern bounded by low hedgerows and post and wire fencing with smaller scale pasture fields around the settlements. Field boundaries and hedgerows generally follow contours.
 - 4) Urban fringe influences as a result of exposed settlement edges of Hinckley and Earl Shilton situated on higher ground and recreational uses around Burbage Common.
 - 5) Sparse settlement within the area, comprising individual buildings and scattered farm complexes.
 - 6) Major transport corridors dissect the landscape and introduce noise and movement.
 - 7) Open landform and lack of tree cover allows for expansive and distant views to edge of settlement, often situated on the skyline, and punctuated by major infrastructure.
 - 8) Public rights of way including the Leicestershire Round, concentrated around Burbage Common and extending outside the borough into Blaby.
 - 9) Green Wedge providing separation between Hinckley and Barwell and green infrastructure to the cluster of settlements of Burbage, Hinckley, Barwell and Earl Shilton."
- 8.19. The application site falls within sensitivity area 11: Earl Shilton East. The area is described as 'a semi-rural area in arable land use with limited tree planting'.
- 8.20. The key sensitivities for this area are listed below:
- Mature trees in hedgerow and woodland in the landscape;
 - Open views and some intervisibility to higher lying land including parts of Earl Shilton settlement;
 - Semi-rural nature of the landscape;
 - Isolated farmsteads; and
 - Woodland and wetland habitats
- 8.21. The application site is within the boundaries of the former quarry, but outside of the lake that lies to the south. The centre of the site is at a much lower ground plane to

that of the sides of the former quarry. Parts of the site are naturalised with scrub, ruderal and other types of vegetation. More mature scrub with some trees lies at the boundaries of the site, with greater gaps in this boundary vegetation and security fencing at the roadside, along the access track and designated PRoW bridleway to the north, and to the eastern boundary, that allow for some visibility into the site at these accessible locations.

- 8.22. The LVIA submitted with the application assesses the site as having a low to medium sensitivity to the proposals due to the small scale and nature of the proposals as well as lack of valued features at the former quarry. Valued elements include semi-natural habit areas of trees and scrub and grassland.
- 8.23. The immediate landscape surrounding the site is assessed as having a low to medium sensitivity due to its semi-rural arable character with local detractors such as noise and movement from transport infrastructure, local recreational activities and the lines of pylons running across the local landscape.
- 8.24. The proposal will however be visible from a number of PRoW routes.
- 8.25. Guidelines given for new development are:
- Consider the extensive visibility of the area in siting and design of new development and incorporate screening to existing visual detractors where appropriate and ensure any new built development is well-integrated into the landscape.
 - Seek to retain historic field patterns where distinctive s-shaped or dog-leg boundaries remain.
 - Retain the pattern of hedgerows and hedgerow trees and incorporate further planting of trees and vegetation.
 - Maintain the separate identity of Earl Shilton and prevent gradual incremental extension eastwards, considering opportunity for a carefully planned new development with its own separate identity.
 - Seek to maintain and enhance the network of rights of way and consider opportunities to create and promote an integrated green infrastructure network around the Burbage, Hinckley, Barwell and Earl Shilton urban edge.
 - Conserve and enhance woodland and wetland habitats associated with Barrow Hill Quarry.
- 8.26. The LVIA proposes mitigation in the form of greater screening to the lodges, particularly, to the more open areas of the site, along part of the southern boundary and at the south east corner. New areas of structural planting are also proposed within site to include the use of native species.
- 8.27. It is considered overall that the low rise height of the lodges and new vegetation, would be unlikely to significantly alter views within the local Landscape character of Burbage Common Rolling Farmland LCA and intervisibility to surrounding LCAs would be limited to very elevated positions to the east and west of the application site.
- 8.28. Subject to appropriate landscaping on site and a long term management plan for the landscaping provision by way of suitably worded conditions, it is considered that this application is acceptable with respect to its impact on the character and appearance of the area and therefore in accordance with Policies DM4 and DM10 of the Site

Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

Impact upon neighbouring residential amenity

- 8.29. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.30. 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.
- 8.31. The proposal seeks provision of 21 detached, single storey, holiday lodges. Spacing between lodges is good and landscaping measures throughout the site and between lodges will help to promote the feeling of privacy. There are no residential properties so close to the site that the proposal would impact upon existing levels of residential amenity.
- 8.32. The site is located in close proximity to the M69 motorway. The site layout drawing 1001 shows proposed upgraded fencing "for acoustic break". The Noise Impact Assessment models an acoustic fence and shows a low level of improvement to be achievable on site. The Environmental Health Team have been consulted on the application details and state that the recommendations within the noise impact assessment relating to the sound reduction requirements for the lodges should be followed. Noise attenuation and details of the acoustic fence are therefore proposed as conditions if Members are minded to approve the application.
- 8.33. Overall, it is considered that subject to conditions the proposal 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

- 8.34. 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)).
- 8.35. Policy DM10 (g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.36. 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.

- 8.37. The local highway authority have sought various pieces of data and information during the application process in respect of trip generation, upgrade proposals for Mill Road and access provision/suitability for larger vehicles.
- 8.38. Access to the site is proposed off Mill Lane, a single track unclassified adopted road subject to the national speed limit. The application details show 2.4m x 43m visibility splays and the applicant has confirmed that the existing gate would be relocated to prevent unauthorised access to The Yennards.
- 8.39. The local highway authority initially advised that the submitted vehicle tracking of the site access drawing indicated larger vehicles such as refuse collection vehicles or a fire engine could have difficulty in accessing the site. The applicant subsequently provided further information which shows an increased junction radii along with revised tracking drawings of a fire engine and refuse collection vehicle. The LHA are now satisfied larger vehicles could access the site without over-running the kerb.
- 8.40. The local highway authority also advised that the proposed trip rates for the application were considered to be low in comparison to those accepted elsewhere in the county, (notably for a similar application for 21 holiday lodges in the Harborough district (reference 22/00719/FUL)). The applicant has now proposed the same weekday and weekend trip rates as those accepted by the LHA as part of the referenced application. The LHA consider the trip rates to be accurate and acceptable for a proposal of this kind.
- 8.41. However, the LHA has also advised that Mill Lane is in a poor condition at a number of points along its length. Leicestershire County Council only maintains the route for its current level of use, which is considered to be minimal, if any, daily traffic. The proposals would introduce a new destination at the end of Mill Lane which could generate regular vehicle trips along the road throughout the day on a permanent basis. Given the nature of the proposals and the location of the site, these trips are also considered more likely to be car trips made by visitors who could be unfamiliar to the area. Cars are typically less able to travel along such terrain in comparison to farm vehicles which may use the route at present for example. Therefore, the LHA advises that the Applicant should provide details of surfacing improvements to Mill Lane appropriate for the use of the development.
- 8.42. At the time of writing the Committee report details of the improvement works remained outstanding and the local highway authority required re-consultation. Further information with regards to the proposed road widening and surfacing has been provided on 7th March 2023, with further comments from LCC Highways awaited. An update will be provided to Members in relation to this outstanding matter on the day of the Planning Committee.

Flood Risk and Drainage

- 8.43. 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.
- 8.44. 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.

- 8.45. The 2.9ha former quarry site is located within Flood Zone 1 being at low risk of fluvial flooding and a low to medium risk of surface water flooding. The proposals seek to discharge at 7.2 l/s via two attenuation basin to a watercourse off site and not on land under the developers control via a sewer run.
- 8.46. The applicant has submitted a flood risk assessment with supplementary information for the drainage strategy and an agreement from the neighbouring landowner for a sewer run to the proposed outfall. Following Land Registry checks of the land title this is accepted as valid.
- 8.47. Leicestershire County Council as Lead Local Flood Authority (LLFA) advises the Local Planning Authority (LPA) that the proposals are considered acceptable subject to conditions. The proposal is therefore considered to be in accordance with Policy DM7 of the SADMP and the requirements of the NPPF.

Ecology

- 8.48. 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.
- 8.49. The Ecology Officer has been consulted on the application and initially requested further information in relation to badgers, a reptile survey and biodiversity net gain provision on site.
- 8.50. Upon further re-consultation the Ecologist has confirmed that the submitted biodiversity metric and habitat creation proposals are acceptable. Reptiles were not found on site, and the presence of badgers can be addressed with a Precautionary Method of Working within the wording of a suitably worded Construction and Environmental Management Plan (CEMP) condition.
- 8.51. To mitigate the chances of Great Crested Newts being impacted by the works, the Ecologist has confirmed that a District level licence has been obtained. A copy of the Impact Assessment & Conservation Payment Certificate (IACPC) is required to be submitted to the LPA prior to determination.
- 8.52. Therefore, subject to ecological conditions as recommended by the Ecologist the proposal accords with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF with respect to biodiversity net gain and ecological considerations.

Contamination and Other Issues

- 8.53. 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.
- 8.54. HBBC Environmental Services Team have been consulted on the proposals and do not raise objections but do request conditions in relation to contaminated land, landfill gas and noise attenuation. It is considered that the application is considered to be

acceptable subject to the imposition of suitably worded conditions and therefore in accordance with development plan policy with respect to contamination, landfill gas and noise.

- 8.55. The S106 Monitoring Officer has asked for clarification on whether the lodges could also be used for residential purposes. It is recommended to Members that a condition be placed on the permission (if approved) to ensure the lodges can only be used for holiday purposes and this is also made clear in the description of development. The lodges are therefore for holiday/recreation purposes only.
- 8.56. The Minerals and Waste Team have confirmed that the area has previously been worked for sand and gravel. Therefore, it is likely that any mineral within the proposed development area has been exhausted and there would be no concerns from a minerals safeguarding perspective. Thus, a minerals report is not required in relation to this submission. The County Planning Authority (CPA) have no concerns in relation to waste safeguarding.
- 8.57. It has been brought to the local planning authority's attention that this ex quarry site has only been partially infilled. The Minerals and Waste Team have highlighted that if the land is to be infilled to enable the development, then this would require planning permission and the County Planning Authority would seek to know the extent of the infilling to be carried out including the amount and type of material intended to be used in this process. The applicant has confirmed that no infilling is required and that the scheme would rely on the existing ground levels so that no importation of materials or infilling would be needed in this instance. The Minerals and Waste are satisfied with this response and have no further comments.

Planning Balance

- 8.58. 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.
- 8.59. The proposal seeks the provision of 21 holiday lodges which accords with Policy 23 of the Core Strategy and Policy DM24 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.
- 8.60. Policy DM4 seeks to protect the open character and landscape character of the countryside. The LVIA submitted with the application concludes that the proposal would have low to medium impact on the landscape character.
- 8.61. At the time of writing the report the highway response on improvement works to Mill Lane remained outstanding, with further information submitted by the applicant on 7th March.
- 8.62. Should the highway works be considered to be acceptable by the LHA then overall, taking all of the above issues/material considerations into account, subject to suitably worded conditions 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:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

Site Location Plan drawing 1002 Rev A received 19 November 2021

Site Layout drawing 1001 Rev C received 19 November 2021

Revised Lodge Elevations and Floorplans (2b4p) Id 01 Rev A received 12 October 2022

Revised Management Building Elevations and Floorplan Id 02 Rev A received 12 October 2022

Noise Assessment ref 26726-04-NA-O1 dated October 2021

Phase II Ground Investigation ref 26726-04-G1-01 dated Feb 2022

Ecological Impact Assessment ref RSE_5294_R2_V1_ECIA dated November 2022

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

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. No development approved by this permission shall be commenced until a scheme for gas protection on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any landfill gas 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 public safety and monitor risk in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

6. Development shall not begin until a scheme for protecting the proposed mobile homes/lodges from noise from the M69 has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the scheme shall be completed before any of the permitted holiday lodges are first occupied.

Reason: To protect amenity and mitigate noise impact in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

7. No development shall take place until a scheme which makes adequate provision for waste and recycling storage of containers and collection across the site has been submitted to and approved in writing by the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided to facilitate collection of waste via a registered waste carrier. The development shall be carried out in accordance with the approved details.

Reason: To ensure the bin storage on site is not detrimental to the character and appearance of the area and waste can be collected satisfactorily in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. The holiday accommodation units shall be for holiday purposes only and shall not be used as the sole or main residence of the occupiers. No person shall occupy any part of the accommodation for a period exceeding four weeks.

Furthermore, no person shall occupy the accommodation within a period of two weeks following the end of a previous period of occupation by that same person. The owners/operators of the holiday accommodation shall maintain an up-to-date register of the names and main home addresses of all the individual occupiers and shall make this information available for inspection within 7 days of any request in writing from the Local Planning Authority.

Reason: The site of the permission is outside any area where planning permission would normally be forthcoming for residential development and is permitted only as a dwelling for holiday purposes in the interests of contributing to tourism and the economy of the area and to ensure compliance with Policy DM4 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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

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

10. No development shall take place (including ground works or vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the LPA. The LEMP shall include the following details:

- A) Description and evaluation of the features to be created/managed
- B) Aims and objectives of management
- C) Appropriate management options for achieving aims and objectives
- D) Prescriptions for management actions
- E) Work schedule
- F) Species/seed mixes to be planted/sown
- G) Ongoing monitoring and remedial measures

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policies DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the requirements of the NPPF.

11. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the holiday lodges and management building hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

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

12. No external lighting of the site shall be installed until details have been submitted to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

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

13. Prior to first occupation of the holiday lodges hereby permitted details of the acoustic fence for the development site in relation to height, length, location and proposed materials shall be submitted to and approved in writing by the local planning authority. The acoustic fence shall be erected and in place on site before the holiday lodges are first brought into use.

Reason: In order to help protect users of the site from noise pollution in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

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

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

15. No development shall take place (including ground works or vegetation clearance) until a Construction Environment Management Plan for biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the LPA. The CEMP shall include the following details:
 - A) Identification of potentially damaging construction activities
 - B) Identification of biodiversity protection zones
 - C) Practical measures and sensitive working practices to avoid or reduce impacts during construction, in particular for badgers and reptiles
 - D) Timing of works to avoid harm to nesting birds
 - E) Responsible persons for overseeing sensitive works
 - F) Use of protective fencing where requiredThe approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the LPA.

Reason: To help to protect and enhance ecological features, habitats and wildlife in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

16. No development 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 on site.

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

17. No development 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 and the requirements of the NPPF.

18. 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 phase in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

19. 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 and the requirements of the NPPF.

Potential highway conditions to add, any update will be provided.