

Committee Report 21<sup>st</sup> March 2023  
Report of the Head of Planning (Development Management)

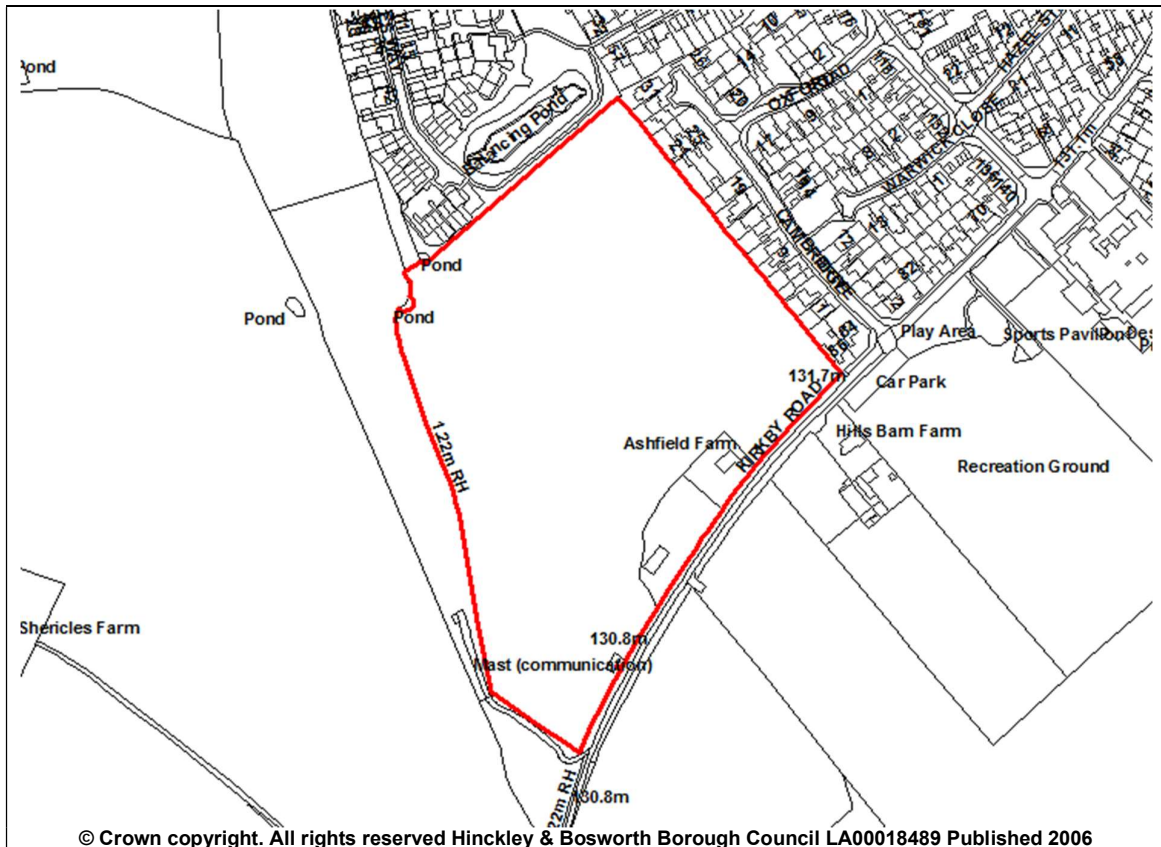


Hinckley & Bosworth  
Borough Council

Planning Ref: 22/01227/OUT  
Applicant: DAVIDSONS DEVELOPMENTS LIMITED  
Ward: Newbold Verdon with Desford and Peckleton

Site: Ashfield Farm, Kirkby Road, Desford, Leicester

Proposal: Outline Planning Application for residential dwellings of up to 120 dwellings, all matters reserved, except for access



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 = £57,968.64
  - Library contribution = £3,623.72
  - Waste contribution = £5,943.60
  - Primary Education contribution = £532,324.00
  - Secondary Education contribution = £358,235.04
  - Post 16 Education = £76,534.92
  - SEND Education = £67,738.12
  - 40% affordable housing provision = 48 units comprising 12 First Homes (with local connection criteria)

27 Affordable Rent (with local connection criteria)

9 Shared Ownership

- Travel Packs @ £52.85 per dwelling = £3,963.75
- Bus passes @ £360.00 per dwelling = £26,250.00
- A Travel Plan Monitoring fee = £6,000.00
- £254,378.57 towards improvements to the A47 / B582 Desford Road (Desford Crossroads) junction
- Off site outdoor sports contribution = £41,702.40
- Off site Outdoor Sports maintenance contribution - £19,814.40
- Off site Accessibility Natural Green Space contribution = £19,632.00
- Off site Accessibility Natural Green Space maintenance contribution = £34,080.00
- On site open space contribution = £78,593.76
- On site open space maintenance to be covered by a Management Company
- Monitoring Fees

## **2. Planning application description**

- 2.1. The application seeks outline planning permission for the development of up to 120 dwellings, associated infrastructure and open space. All matters are reserved at this stage except for access which is a detailed matter for consideration. A new vehicular access for the development is proposed off Kirkby Road.
- 2.2. 48 units are proposed as affordable housing (40%). The planning application details indicate that the affordable housing mix for this site would comprise 12x First Homes, 27x Affordable Rent and 9x Shared Ownership units made up of 2 and 3 bed properties.
- 2.3. The application details also state that the proposal will provide:
- A play area and provision of landscaped public open space;
  - Provision of a pedestrian link within the public open space, connecting to the north and south; and
  - A sustainable drainage system (SuDS) to manage surface water

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

- 3.1. The application site measures 5.35ha approximately and is located to the western edge of Desford within open countryside. The site is relatively flat and bordered by Kirkby Road to the south, agricultural fields to the west and residential properties within the established neighbourhoods of Desford to the north and east.
- 3.2. An existing football playing field and a play area is located to the south of the proposed site and a Public Right of Way runs east-west to the southern boundary of the site, linking Kirby Road with the centre of Desford.
- 3.3. The site is located in Flood Zone 1, the area with lowest probability of flooding.
- 3.4. 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'.

3.5. 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

3.6. 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 Regulations), 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**

##### **14/01166/OUT**

- Development of up to 120 dwellings
- Refused
- 22.07.2015

##### **19/01243/OUT**

- Development of up to 120 dwellings
- Refused
- 20.05.2020

##### **20/00984/OUT**

- Development of up to 120 dwellings
- Refused
- 09.12.2020

#### **5. Publicity**

5.1. The application has been publicised by a site notice in close proximity to the site and an advert in the local newspaper. Letters were also sent out to local residents.

5.2. Over 300 letters of objection have been received from local residents/third parties which raise the following concerns:

- The site is outside the village plan area
- The housing quota has been exceeded for Desford
- School capacity and pressure concerns for the local primary school
- The development will increase traffic flows along Kirkby Road – the Transport Assessment is rigged
- The traffic survey is not a true representation of the current traffic problems in the area
- Existing services are under strain and this development will exacerbate this problem

- Desford is already overcrowded and has accommodated a significant amount of housing development already
- Noise pollution concerns
- Loss of agricultural land
- Loss of tranquil area and use as a recreational facility
- Additional traffic from the development will present an added danger for users and pupils of the Primary School
- Kirkby Road is not suitable for this level of development
- Above average and adequate off street parking must be provided throughout the site
- There is evidence of sustained flooding on this site and this is being ignored
- Whilst this is a reserve site for housing within the Neighbourhood Plan is there evidence to support that this is of greater necessity than other housing sites identified across Hinckley Bosworth Borough Council?
- Bats will be adversely affected by the development
- The development will adversely impact on privacy and light for properties in Cambridge Drive – specifically Numbers 1, 3 and 5.
- Desford's neighbourhood plan in 2019 highlighted a lack of services for the village's current population and severe congestion issues in several areas. Since that time, 80 new houses (Earls Place) have been built on Peckleton Lane and 80 (Dukes Fields) built off Barns Way. Planning permission has also been granted for 2 large commercial buildings on the edge of the Neovia/Caterpillar site; the edge nearest to the village. In the planning announcements, these 2 buildings were expected to add 1,200 new full-time staff.
- It would be good for the council to give residents enough time to see the impact that the 3 new developments will have on the community. Although I doubt very much that 160 new households and 1,200 new workers added to the population will help either the amenities or congestion issues.
- Please think of the residents that already live in the village not about lining the pockets of house builders who just want to put up as many houses as possible without a care for the people who already live there.

## **6. Consultation**

6.1. No objection has been received from:

- HBBC Waste – subject to a condition relating waste and recycling
- HBBC Drainage – subject to conditions relating to a surface water drainage scheme, management, long term maintenance and infiltration testing
- HBBC Pollution – subject to conditions relating to contamination, noise attenuation and construction management and hours of construction working
- HBBC Conservation Officer
- Leicestershire Police
- LCC Archaeology
- Environment Agency
- Local Highway Authority – subject to conditions and financial contributions

6.2. Desford Parish Council – Object for the following reasons:

The Desford Parish Neighbourhood Plan, which was made in 2021, forms part of the Local Plan. The housing provision in the Neighbourhood Plan was based upon an indicative, caveated figure, provided by HBBC as Local Planning Authority, and the period of the Neighbourhood Plan runs until 2036. Unless that requirement is altered by a review of the Local Plan, or a new figure is otherwise sought by the LPA, the

Neighbourhood Plan should be considered up to date until 2036. The current, suspended review of the Local Plan does not alter that requirement. The proposal is presumed to cause harm to the Local Plan, incorporating the Neighbourhood Plan, until May 2023 (NPPF 11(d)). Thereafter, the Parish Council believes it will do irreparable harm to local people's faith in Localism if substantial changes are made to its overall housing requirement in a plan already lasting until 2036, save as part of a Local Plan review. Such changes would effectively rob the local community of the opportunity to choose what they believe to be the proper and sustainable locations for the required numbers.

Desford Parish Council, the Neighbourhood Planning Authority, has consistently opposed development to the West of Desford village in general, and to the application site in particular. The impact of such developments on their immediate locality, and on the amenities of those living in and using nearby estate roads and junctions, is far greater than that of developments to the East of the village, such as Cortanis Way. In public consultation, the community has consistently favoured development to the east of Desford. The Neighbourhood Plan Review, which is planned to be made available for pre-submission consultation before the end of March, allocates a site for residential development which is in line with the community's preferences and will exceed its future housing requirement. A report from a Traffic Expert commenting favourably on such an approach has been received and will be presented to the LPA in the near future.

The amount of proposals received by the NPA when it called for possible sites in its current review of the made plan exceeded 1000: such a number cannot be accommodated without major infrastructural improvements, particularly with the general through traffic arising from developments in neighbouring parishes, and the particular impact of nearly 1,000,000 square feet of employment floorspace being created to the immediate south of the village.

The NPA cannot see any material difference in the access arrangements proposed, which the LPA's expert found unsafe in the last application. The NPA is particularly concerned for the safety of children and parents entering/leaving the Primary School. Additionally, because of the site's position, the impact of construction, although time limited, will be intolerable, dangerous and damaging to the amenities of those in the nearby properties fronting narrow, winding and heavily parked streets. In short, the application, if approved, would cause harm and would conflict with the policies contained in the Neighbourhood Plan which remain a part of the development plan for HBBC even though the Local Plan is out of date and cannot be relied upon. Generally, Desford is already overcrowded and too busy. Its schools are full and services, such as the GP practice, are under pressure. New development must happen if the new Local Plan requires it. But Localism requires that local people have a proper input through the Local Plan review process in the decision as to how their existing made plan might be strategically altered and then in proposing proper sustainable locations.

The Desford Neighbourhood Plan was made in May 2021. The National Planning Policy Framework (2021) is very clear. It says that where there is an up-to-date Neighbourhood Plan that has been made within the last two years, where it contains policies and allocations to meet its housing requirement and where the LPA has at least a three-year housing supply 'the adverse impact of allowing development that conflicts with the Neighbourhood Plan is likely to significantly and demonstrably outweigh the benefits. This application is clearly in breach of this requirement and should be refused.

- 6.3. HBBC Tree Officer - The important trees for retention T1, 2, 4, 5 & 6 as identified by fpcr in the arboricultural survey can be given sufficient space to be incorporated well and successfully retained, if an appropriate tree protection and arboricultural supervision plan is implemented. Larger front gardens should be provided in the landscape plan to enable successful sustainable establishment of boulevard trees. Attention should be paid to high diversity in landscape species. A softer landscape feature is required at the focal junction so that the design provides a village green character.
- 6.4. LCC Minerals - The application site falls within a Mineral Consultation Area (MCA) for Sand and Gravel. However, the applicant has submitted a Mineral Assessment Letter, which concludes that the extraction of the mineral is unlikely due to the close proximity of the site to residential properties and that deposits on the application site are unlikely to be of consistent quality. The County Council is satisfied that it is unlikely that extraction of the mineral would occur in the future at the application site and the findings of the submitted Minerals Assessment. Thus, the Council does not wish to provide any objections from a mineral safeguarding perspective.
- 6.5. S106 Compliance and Monitoring Officer - The development will need to provide on-site and / or off site play and open space contributions. The Design & Access Statement advises that 1.9ha of public open space and 0.01ha for a LAP. The C&M Officer would like to see what is being provided for each of the typologies (equipped, informal, accessible green space and outdoor sports) in the Play & Open Space Recreation study to ensure they are providing satisfactory areas within each and this should be secured through the S106 Agreement.

If they are providing in excess of required open space the maintenance would need to be addressed and secured through the legal agreement, a question should be asked of the Parish if they provide on-site would the Parish be interested in adopting?

Strict triggers for completing the open spaces and transferring (either to the Parish or MC) should be included in the agreement as developers are not completing open spaces within reasonable timescales and a penalty may help in addressing this. Those typologies that they do not provide on-site should be provided off site, however, the Parish may have some community facilities that they wish to improve as Kirkby Road is at present fully equipped. Please ensure you liaise with the Parish Council as to what and where they would like any off site contributions towards, and or whether they would prefer a small equipped area on site for toddlers that would complement what is already at Kirkby Road.

- 6.6. LCC Ecology – The majority of the land consists of low value habitats (arable fields). There are grass snakes present and two badger latrines were recorded but no other protected species were recorded. It is felt that the survey work carried out and evaluations made are sufficient at this stage. As this is an outline application, an Ecological Constraints and Opportunities Plan (ECOP) would be my one recommended Condition. The main purpose of this document is to inform and lead the overall design process. It should show the key biodiversity constraints and opportunities associated with the development as currently proposed. The ECOP should identify the following, in accordance with BS 42020:2013 Clause 5.4:
1. Areas and features including appropriate buffer areas that, by virtue of their importance, should be retained and avoided by both construction activities and the overall footprint of the development.
  2. Areas and features where opportunities exist to undertake necessary mitigation and compensation.

3. Areas and features with potential for biodiversity enhancement, in line with the submitted Defra metric.
4. Areas where ongoing ecological management is required to prevent deterioration in condition during construction/implementation.
5. Areas needing protection on site and/or in adjacent areas (e.g. from physical damage on site or pollution downstream) during the construction process
6. Areas where biosecurity measures are necessary to manage the risk of spreading pathogens or non-native invasive species.

The ECOP will become an 'approved document' of any outline permission granted and any reserved matters application must be designed in accordance with the ECOP.

- 6.7. Affordable Housing Officer – As this scheme is in a rural area, policy set out in the Core Strategy (policy 15), indicates that 40% of the dwellings should be for affordable housing, of which 75% should be for affordable rent and 25% for shared ownership. However, the policy relating to tenure has been superseded by national guidance. Whilst 48 properties should be provided for affordable housing, the tenure split would be determined by the guidance in National Planning Policy Framework which 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. To comply with this guidance, which supersedes the tenure mix set out in the Core Strategy, 12 properties should be provided as First Homes, 27 properties for affordable rent and 9 for shared ownership. This would satisfy the requirements in NPPF that 25% of all affordable housing should be provided as First Homes, and more than meet the requirement for 10% of all dwellings for affordable home ownership (subject to rounding).
- The last local Housing Needs Survey was carried out by the Rural Housing Enabler in July 2017 and is therefore out of date. It is expected that any need outstanding from that survey would be reflected in the waiting list numbers as they would have been advised to join the Housing register.

Currently there are 132 units of social rented housing in Desford, 107 of which belong to Hinckley and Bosworth Borough Council. These units consist of:

- 2 x 1 bedroomed bungalows
- 45 x 2 bedroomed bungalows
- 7 x 2 bedroomed flats
- 11 x 2 bedroomed houses
- 66 x 3 bedroomed houses and
- 1 x 4 bedroomed house.

40% affordable housing requirement will be provided on site. The preferred mix of properties for the affordable rented housing on this site would currently be for 6 x 1 bedroomed 2 person maisonettes or quarter houses, 14 x 2 bed 4 person houses and 7 x 3 bedroomed 5 person houses. Affordable Home Ownership properties should consist of a mixture of 2 and 3 bedroomed houses. As this site is in the rural area, the section 106 agreement should contain a requirement for applicants for rented properties in the first instance to have a local connection to Desford, with a

cascade in the second instance for a connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection. The Borough Council is following national guidance with respect to First Homes properties, therefore the local connection will be set as people who have current residency, employment requirements, family connections or special circumstances, such as caring responsibilities. The level of discount for the First Homes properties will be at 30% discount from open market values.

## **7. Policy**

### **7.1. Core Strategy (2009)**

- Policy 8: Key Rural Centres relating to Leicester
- Policy 14: Rural Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the countryside and settlement separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy 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. Desford Neighbourhood Plan**

- Policy H3: Reserve Sites
- Policy H4: Affordable Housing
- Policy H5: Housing Mix
- Policy H7: Housing Design
- Policy ENV 3: Biodiversity General
- Policy ENV 6: Safeguarding Important Views
- Policy F2: New or Improved Community Facilities
- Policy T1: Traffic Management
- Policy T3: Electric Vehicles

### **7.4. National Planning Policies and Guidance**

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

### **7.5. Other relevant guidance**

- Good Design Guide (2020)
- Leicestershire Highway Design Guidance
- HBBC Open Space and Recreation Study 2016
- HBBC Landscape Character Assessment (2017)



- HBBC Landscape Sensitivity Assessment (2017)

## 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, the Development Management Policies (SADMP) Development Plan Document (2016) and the Desford Neighbourhood Plan (2018-2036). The Desford Neighbourhood Plan was made by the Council in May 2021 and holds full weight as part of the development plan. The NPPF states that where a planning application conflicts with an up-to-date neighbourhood plan (as part of the development plan), permission should not usually be granted.
- 8.4. However, within the Desford Neighbourhood Plan, this application site is identified as a reserve site for housing development (in bold). Policy H3 states the following:
- ‘Land at the following locations as shown on Figure 4 are allocated as reserve sites:*
- **A 5.4 hectare site immediately north of Kirkby Road**
  - **A 4.19 hectare site south of Hunts Lane**
- Planning applications for residential development on one or both of these sites will be supported if (and to the extent necessary) by the replacement Local Plan. In the event of only one site being needed, planning permission will be supported of the site that having considered applicable plan policies and other material considerations at the relevant time is more appropriate. In the event of no replacement Local Plan being in place by 31 December 2022 the matter should be determined on the evidence available at that time.’*
- 8.5. 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 is therefore delayed.

- 8.6. Although the application site is not a draft allocation within the emerging Local Plan; it is listed as a commitment/residential development as the site is identified as a reserve site in the made Desford Neighbourhood Plan (2021) and is therefore inside the draft settlement boundary for Desford.
- 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. However, at a recent appeal (application ref: 21/01131/OUT, appeal Ref: APP/K2420/W/22/3301735, determined 4 January 2023) the Council signed a Statement of Common Ground which updates the monitoring position. On this basis, the Council have agreed that the 5 year housing land supply currently stands at 4.76 years, as of 1st April 2022.
- 8.8. The housing policies in the Local Plan are, as a matter of planning judgment, out-of-date and therefore paragraph 11d of the NPPF is engaged and the 'tilted balance' applies. 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.
- 8.9. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:
  - a) The neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
  - b) The neighbourhood plan contains policies and allocations to meet its identified housing requirement;
  - c) The local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
  - d) The local planning authority's housing delivery was at least 45% of that required over the previous three years.
- 8.10. The Desford NDP was made in May 2021 and therefore satisfies NPPF paragraph 14a. Counsel's advice from 2021 suggests the figure of a minimum 163 dwellings was capable of being a "requirement" for the purposes of paragraph 14b. In regard to meeting that housing requirement, Counsel advice states:

*'Policy H1 (settlement boundary) is flexible – the "careful control" outside it recognises that local or national policies may require development to take place there. It even identifies two reserve sites in the event that the emerging local plan deems further housing development to be necessary, or in the absence of a new local plan, the evidence base at December 2022 indicates such a need. It therefore 'covers all bases' with a plan-led solution'*

8.11. Policy H3 of the made Desford NDP states that if the emerging local plan deems further housing development to be necessary or if the evidence base indicates such a need, then the reserve sites may come forward. This application is one of two identified reserve sites in the made Desford NDP and is also a commitment in the draft HBBC Local Plan 2020-2039. Counsel advice finds the Desford NDP is capable of being given very substantial weight in decision-taking on housing planning applications including in the assessment of the 'basket' of most important policies and the 'tilted balance' where it applies.

8.12. The Desford Neighbourhood Plan Examiner's Report provides a useful summary of the key issues in considering this site:

*'I am satisfied that the two alternative sites that require fuller consideration are those being promoted by Davidsons Development Limited and by Jelson Limited, and that I have sufficient evidence to do this. Each is a relatively flat site in single ownership on the edge of Desford within a reasonable distance of facilities. Neither would have access problems and neither is the sort of site that has features that would rule it out of consideration or make it an absolute last resort. Each would be deliverable and neither would be subject to constraints that prevented delivery of affordable housing. Neither would have a significant environmental effect on the Botcheston Bog SSSI. There would be some limited localised landscape harm in each case.'*

8.13. It is also of note that Site LPR35 (the application site) is submitted within the SHELAA. The outcome in the most recently published SHELAA in 2020 was that the site was suitable, available and achievable within a 6-10 year timeframe. The site was classified as developable. The site is located in Flood Zone 1, the area at least risk from flooding. The Site remains within the SHELAA for 2022 which is ongoing and due to be published by April 2023. This should be afforded some weight.

8.14. The application lies adjacent to but outside the settlement boundary of Desford 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

8.15. The site does not fall under any of the categories identified in Policy DM4 as sustainable development but is a reserve housing site in a made and up to date

Neighbourhood Plan. The purpose of Policy DM4 is to protect the open character and landscape character of the countryside. 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 some weight as it is consistent with the up to date Framework (NPPF).

- 8.16. A Landscape Visual Impact Assessment has been submitted as part of the application details.
- 8.17. 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. The Local Plan has been delayed and as per Policy H3 of the made Desford NP, in the event of no replacement Local Plan being in place by 31 December 2022 the matter should be determined on the evidence available at that time. The local planning authority therefore consider that the site is acceptable in principle subject to material considerations set out in the following sections.

Impact on Archaeology

- 8.18. 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 have responded to say that they have no objections or concerns with the proposal from an archaeological perspective and no conditions have been recommended in this instance. The application is therefore considered to be acceptable and in accordance with Policy DM13 of the SADMP.

Impact on Heritage

- 8.19. 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.
- 8.20. 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.

- 8.21. The HBBC Conservation Officer has been consulted on the application and raises no objections.
- 8.22. There are no designated or non-designated built heritage assets within the site boundary, however there are a small number of listed buildings, including the Grade II\* Church of St Martin, located within the historic core of Desford which is c.800m north-east of the application site. The historic core of the village is also a designated conservation area.
- 8.23. Due to a combination of the topography and presence of intervening built form and vegetation there is no inter-visibility between the application site and any designated heritage assets, nor is there any known key historic, functional or other relevant relationships between the application site and these heritage assets. The application site is therefore not considered to fall within their setting and none of these heritage assets would be sensitive to or affected by an appropriate form of development within the application site.
- 8.24. 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

- 8.25. 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.
- 8.26. 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.
- 8.27. The Council's Good Design Guide (2019) identifies design objectives for Desford but these are concentrated within the historic parts of the Village.
- 8.28. This development is for up to 120 homes alongside areas of open space. There is proposed to be a mix of property types but the details will be considered as part of a future reserved matters application.
- 8.29. The Borough's Landscape Character Assessment (2017) identifies the site within Landscape Character Area D- Newbold and Desford Rolling Character Farmland. This area is characterised by predominantly arable farmland with clustered areas of industry and recreational facilities near to the village fringes and clustered villages of varying sizes centred on crossroads. Large to medium sized field patterns are common in the area defined by single species hawthorn hedgerows.
- 8.30. The application site is characterised by arable farm land following an existing field pattern on the village edge. There is a tree lined boundary to the west of the site, which separates the site from a wider rural landscape. The southern boundary is formed by Kirkby Road, and existing residential development bounds the north-east and north-west, creating physical boundaries to these edges.

- 8.31. The site also falls within Landscape Sensitivity Area 12, as set out by the Landscape Sensitivity Assessment (2017) this assessment area is located to the south of Desford and is described as having a medium level of sensitivity to development.
- 8.32. The sensitivity of the landscape in the LCA (2017) is assessed as arising from its rural character with limited urbanising influences, providing an attractive setting to Desford. However, this particular site is influenced by urbanising features, including adjacent residential development and overhead electricity cables that cross the site. The site is also fairly well contained by boundary planting meaning it is relatively contained from the wider rural landscape. Therefore, the site has a semi-rural, settlement fringe character.
- 8.33. The submitted Landscape and Visual Impact Appraisal sets out that the landscape qualities of the site are low and the site does not represent a 'valued landscape' with reference to the definitions within the NPPF. The LVIA also considered the visual environment around the site and concludes that the site is only partially visible from the immediate surrounding as a result of existing mature vegetation and residential development largely restricting views of the site with residential development to the north also visible in some views.
- 8.34. The proposed scheme seeks to maintain and enhance the existing landscape character through retention of the boundary hedgerows and trees, planting up of existing gaps and additional soft landscaping through the site so that the development integrates in to the landscape context and provides for a landscape buffer to the adjacent countryside. Therefore, the LVIA concludes that the proposal would not cause long term significant harm to the landscape character area although there is moderate localised impact through the loss of an arable field. It is also considered that whilst the proposal would represent a degree of localised change to the visual environment, this would not amount to harm to amenity. Through the maturing of landscape planting the site would continue to be relatively contained and where views would be available this would be in the context of existing urban development.
- 8.35. The Landscape Character Assessment (2017) also includes urban character assessments. The document describes the key characteristics of Desford urban area, and includes a built form of largely two storey terraced cottages, with prominent red brick chimneys, an historic core situated to the northern edge, mixed building materials, small compact streetscapes which then opens out to a wider street pattern with winding cul-de-sacs. Proposals should address the townscape strategies, which includes respecting the rural setting of the village in terms of siting, scale, design and materials used. Development proposal should also provide landscape enhancements and tree planting to the settlement edge. The plans submitted with the application are illustrative only, however, it appears that development can be accommodated within the site that would be able to assimilate well in to the urban character of Desford, whilst also delivering key townscape strategies as set out in the LCA.
- 8.36. Notwithstanding the reserved matters, there is no reason that the proposal could not provide development that reflects the character of Desford, in accordance with Policy DM10 of the SADMP.
- 8.37. It is also of importance to note that the Desford Neighbourhood Plan Examiners Report stated that there would be limited localised landscape harm on this site and as such further considered to be suitable as a reserve site for residential development within the made Neighbourhood Plan for Desford.

8.38. Overall, it is considered that the proposed development would not result in significant harm to the landscape character or visual environment. However, it would result in limited localised harm to the countryside through the urban development of an existing arable field. Overall, taking all the above matters into account whilst the application is considered to have a limited impact on landscape character this impact would not result in a robust reason for refusal when taking into account the benefits associated with the scheme as a whole.

Impact upon neighbouring residential amenity

8.39. 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.

8.40. 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.

8.41. 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.

8.42. 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.

8.43. Local objections have been received in relation to the impact the proposed development would have on neighbouring properties in Cambridge Drive. These objections are noted but the plans indicate that suitable separation distances could be achieved between properties with rear garden sizes that would provide a satisfactory level of privacy in amenity terms and access to light. Boundary treatments could also further protect privacy between existing residents and future occupiers. It is also important to ensure however that due to the siting of the development outside of the settlement boundary 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.

8.44. 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

- 8.45. 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)).
- 8.46. Policy DM10 (g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.47. 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.
- 8.48. Access is a matter being considered in detail by the proposal and an access plan and junction layout details have been provided. As part of the current application, the Applicant has submitted a Transport Assessment and Travel Plan in support of the proposed development. In addition, a letter dated 6 February 2023 was also submitted by the Applicant following informal advice being provided by the LHA to the Local Planning Authority on 1 February 2023, which included a PV2 assessment of the proposed Zebra crossing and a Stage 1 Road Safety Audit (RSA) of the site access and off-site works.
- 8.49. The proposed development site is to be accessed off Kirkby Road an unclassified road subject to a 30mph speed limit. The Applicant has undertaken a speed survey at the approximate location of the site access between 16-22 September 2022.
- 8.50. Kirkby Road would be realigned in to the site, with the single track carriageway forming the minor arm of a simple junction with the site access. These are the same proposals which were accepted by the LHA as part of the 2019/ 20 applications. As part of the access arrangements, the Applicant has proposed to 'Stop Up' a 35m long section of redundant Kirkby Road carriageway between the access bend and the redirected single track access.
- 8.51. Personal Injury Collision data has also been provided as part of the application details and the LHA accepts the Applicants conclusions that there are no trends, in the location, type or cause of PICs recorded in the study area and that the proposals are unlikely to exacerbate an existing highway safety concern.
- 8.52. The applicant has also undertaken a detailed assessment of the following junctions in order to establish the likely impact of the development:
1. Kirkby Road/ Holmfield Road priority controlled T junction
  2. Kirkby Road/ Peakleton Lane/ High Street priority controlled T junction
  3. High Street/ B582 Manor Road/ Main Street/ B582 High Street mini roundabout
  4. B582 Leicester Lane/ Barns Way mini roundabout
  5. A47 Desford Crossroads
  6. A47 Hinckley Road/Dan's Lane T-junction
- This approach is consistent with the assessments undertaken to support the 2019/20 applications.
- 8.53. The LHA has reviewed the traffic flow diagrams and considers these to be acceptable. The impact of the development has also been tested in appropriate



junction model software PICADY (priority junction), ARCADY (roundabout) and LINSIG (traffic signals) where appropriate.

- 8.54. The Applicant has proposed a number of improvements to Kirkby Road, as shown on ADC drawing number ADC1969-DR - 002 Rev P4, dated 6 February 2023. This details the provision of a dropped pedestrian crossing and tactile paving at the Cambridge Drive junction and a new footway on the eastern side of Kirkby Road to tie the proposed development in to existing footway provision. The new footway would be constructed within the extents of the public highway. A Zebra crossing has also been proposed outside the school and the Applicant has highlighted that since the previous planning applications at the site, bollards have been installed around the junction of St Martin's Drive.
- 8.55. The Applicant has undertaken a PV2 assessment for the proposed Zebra crossing, however the LHA can advise that it does not consist of the full PV2 assessment which it would usually require. The LHA would usually expect an actual pedestrian survey and the four busiest hours being considered. The Applicant has considered a two way traffic flow on Kirkby Road of 230 vehicles and as a worst case scenario, 420 pupils (all those in attendance at the school) crossing the road along with one parent per pupil, who would cross the road with the pupil and then return. A total of 1,260 pedestrian movements has therefore been considered (420 pupils + 420 adults +420 adults). It has been highlighted that there could be groups of pupils with a single adult, some may walk along the eastern side of Kirkby Road and not need to cross, and a small number may arrive by bicycle. Therefore 1,260 is considered to be a worst case scenario.
- 8.56. The results of the Applicant's assessment has identified that a pedestrian crossing could not be justified at the site. Furthermore, the Applicant has undertaken a sensitivity test that has identified if the number of pedestrians was halved, traffic volumes would need to almost double for the threshold of a Zebra crossing to be met.
- 8.57. Whilst the Applicant has not undertaken a full PV2 assessment, the LHA consider under the site specific circumstances that no further assessment is required. This is on the basis that it is highly unlikely higher pedestrian and vehicle volumes would occur outside of the AM peak period given the location of the site.
- 8.58. The LHA visited the site between 08:30 - 09:00 during school term time and also reviewed existing measures outside the school, which include mandatory keep clear markings, pedestrian dropped crossings with tactile paving and a junction table at the Kirkby Road/ St Martin's Drive junction and also an advisory school 20mph zone which is in operation during school start/ finish times. In addition, bollards have been installed at the junction of Kirkby Road and St Martin's Drive to prevent inconsiderate parking since the 2019/20 applications at the site. Further from the immediate school surroundings, Kirkby Road, St Martin's Drive, Willow Street and Parkstone Road which are key pedestrian routes to the school are also covered by speed/ junction tables to reduce the speed of traffic.
- 8.59. The LHA therefore advises there are no additional off-site works considered necessary or justifiable as part of the proposed development. The Applicant has subsequently provided ADC drawing number ADC1969-DR - 002 Rev P5 which removes the proposed Zebra crossing.

- 8.60. The LHA have reviewed the Travel Plan (TP), which is an updated version of the document submitted for the previous applications. This is considered to be acceptable.
- 8.61. The illustrative masterplan shows a new pedestrian route through the site which would link in to the adjacent development which was approved by the LPA in December 2017 under LPA ref 17/01102/FUL. This new link will improve pedestrian connectivity from the site to public transport and other facilities / services in Desford. The LHA recommends a condition to ensure this is provided.
- 8.62. 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).
  - c. A £6,000 Travel Plan monitoring fee
- 8.63. A contribution of £254,378.57 towards improvements to the A47 / B582 Desford Road (Desford Crossroads) junction is also requested by the LHA in order to mitigate against the impact of the development in line with the submitted transport evidence.
- 8.64. 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

- 8.65. 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.
- 8.66. 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.
- 8.67. The 5.35 ha greenfield site is located within Flood Zone 1 being at low risk of fluvial flooding and a very low to low risk of surface water flooding. The proposals seek to discharge at 23.5 l/s via pervious paving and a dry detention basin an existing Severn Trent Water (STW) surface water sewer to the north-east of the site with two options. The preferred option requires a sewer requisition for a new sewer in a private shared driveway. The second relies on an alternate sewer requisition for a new sewer in public open space.

- 8.68. Subsequent to the previous LLFA response the applicant has submitted an updated drainage strategy plan as requested. In an application for reserved matters the LLFA would expect the drainage outfall selection to be finalised and the drainage strategy plan updated to reflect this.
- 8.69. Subject to conditions therefore it is considered that the application is acceptable with respect to flooding and drainage considerations and therefore in accordance with Policy DM7 of the SADMP and the NPPF.

#### Ecology

- 8.70. 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 ecological details. The county ecologist has been consulted on the application and is satisfied in principle.
- 8.71. The Ecology Officer has stated that the majority of the land consists of low value habitats (arable fields). There are grass snakes present and two badger latrines were recorded but no other protected species were recorded. The survey work carried out and evaluations made are considered to be sufficient at this stage. As this is an outline application, an Ecological Constraints and Opportunities Plan (ECOP) would be a recommended Condition.
- 8.72. 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.
- 8.73. 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

- 8.74. 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.
- 8.75. 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.
- 8.76. To comply with this guidance, which supersedes the tenure mix set out in the Core Strategy, 12 properties should be provided as First Homes, 27 properties for affordable rent and 9 for shared ownership. This would satisfy the requirements in NPPF that 25% of all affordable housing should be provided as First Homes, and more than meet the requirement for 10% of all dwellings for affordable home ownership (subject to rounding).

- 8.77. The design and access statement submitted with the application indicates that the full 40% affordable housing requirement will be provided on site. The preferred mix of properties for the affordable rented housing on this site would currently be for 6 x 1 bedroomed 2 person maisonettes or quarter houses, 14 x 2 bed 4 person houses and 7 x3 bedroomed 5 person houses.
- 8.78. Affordable Home Ownership properties should consist of a mixture of 2 and 3 bedroomed houses.
- 8.79. As this site is in the rural area, the section 106 agreement should contain a requirement for applicants for rented properties in the first instance to have a local connection to Desford, with a cascade in the second instance for a connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection. The Borough Council is following national guidance with respect to First Homes properties, therefore the local connection will be set as people who have current residency, employment requirements, family connections or special circumstances, such as caring responsibilities. The level of discount for the First Homes properties will be at 30% discount from open market values.

#### Contamination and Other Issues

- 8.80. 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.
- 8.81. 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

- 8.82. 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.
- 8.83. 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.

- 8.84. The Open Space and Recreation Study 2016 states that the existing provision of open spaces below the recommended quantity standard are formal parks, amenity green space and children's play area and facilities for young people.
- 8.85. 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.
- 8.86. The policy requirement would be for 432sqm of on-site equipped play, the indicative layout plan indicates that an area of play is to be provided on site.
- 8.87. It is clear from the indicative layout that there is no on-site outdoor sports provision or inclusion of accessible natural green space currently within the development, which would therefore have to be provided and maintained off site. The nearest off site public open space that contains outdoor sport provision is DES05 (Kirkby Road Recreation Ground), which has a quality score lower than the target of 80%. Therefore, the off-site, outdoor sport provision should be directed here. The applicant has also indicated that an off-site financial contribution would be made for accessibility natural green space with an associated maintenance cost. However, as this application is in outline with a number of matters to be agreed at the reserved matters stage, it is requested that some flexibility be incorporated into the legal agreement to potentially allow for accessibility natural green space to be provided on site should the layout and landscaping details allow for it. If Members are minded to approve the application then it is considered that this matter could be negotiated and appropriately worded by HBBC legal team.
- 8.88. The developer will also be obligated to provide and then transfer the on-site open space area to a Management Company, or, in the alternative, requesting that either the Borough Council or the Parish Council maintain it. In the latter eventuality, the open space area would be transferred to the relevant authority together with a maintenance contribution. The applicant has indicated that the on-site open space provision would be maintained and managed by a Management Company.
- 8.89. 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 = £78,593.76 and
- Maintenance = Management Company

**Off site**

- Outdoor Sports (contribution) total = £41,702.40
- Outdoor Sports (maintenance) total = £19,814.40
- Accessibility Natural Green Space (contribution) total = £19,632.00
- Accessibility Natural Green Space (maintenance) total = £34,080.00

- 8.90. Leicestershire County Council are not objecting to this development subject to Section 106 financial contributions towards Primary Education, Secondary Education,

Post 16 Education and SEND, Desford Library and the local recycling and household waste site.

- 8.91. The County Council have confirmed that the development yields 36 primary aged children. Desford Community Primary School is the catchment primary school for the development and has a net capacity of 420 places and there will be a deficit of 29 places if this development goes ahead. Therefore a full request for contributions in respect of the primary education sector of **£532,324.00** is justified.
- 8.92. The development yields 21 secondary aged children. Bosworth Academy is the catchment secondary school for the development and has a net capacity of 1250 places and there will be a deficit of 36 places if this development goes ahead. The overall deficit including all schools within a three mile walking distance of the development is 211 pupil places. A total of 70 pupil places have been deducted that are being funded from S106 agreements for other developments in the area leaving a deficit of 141 places. Therefore a full request for contributions in respect of the secondary education sector of **£358,235.04** is justified.
- 8.93. The development yields 4 post 16 aged children. Bosworth Academy is the catchment post 16 school for the development and has a net capacity of 293 places and there will be a deficit of 194 places if this development goes ahead. A total of 7 pupil places have been deducted that are being funded from S106 agreements for other developments in the area, leaving a deficit of 187 places. Therefore a full request for contributions in respect of the post 16 education sector of **£76,534.92** is justified.
- 8.94. This development yields 1 SEND child. All special schools in Leicestershire are full and have a deficit of available spaces, which is forecast to remain so. This development will yield 0.44 primary aged children with SEND, and 0.48 secondary aged children with SEND, and therefore a request of **£67,738.12** is justified.
- 8.95. The total request therefore for Education across all sectors for the proposed development is **£1,034,832.08**.
- 8.96. The nearest library to this development is Desford Library and it is estimated that the total assumed occupancy of 360 arising from the development will create additional pressures on the availability of the facilities at that library, and others nearby. The contribution is sought to provide materials such as books, audio books, newspapers, periodicals for loan and reference use, and associated equipment or to reconfigure the library space to account for additional usage of the venue for residents to hold meetings, including book reading and activity sessions. The contribution of **£3,623.72** is therefore sought.
- 8.97. The nearest Recycling and Household Waste Site to this development is Barwell and the proposed development of 120 dwellings would create additional pressures on the site. A contribution of **£5,943.60** is therefore sought.
- 8.98. The NHS have also requested a financial contribution of **£57,968.64**. This contribution would go to Desford Medical Centre. The proposed housing development will result in a minimum population increase of 288 patients. This figure would evidently be higher dependent on the number bedrooms in each dwelling. The healthcare contributions would be used to support the increase in capacity at Desford Medical Centre and to help improve primary care services for the area.

8.99. 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**).
- c. Travel Plan Monitoring Fee = **£6,000**

8.100. A contribution of **£254,378.57** towards improvements to the A47 / B582 Desford Road (Desford Crossroads) junction as considered appropriate by Hinckley and Bosworth Borough Council in consultation with Leicestershire County Council.

8.101. 40% affordable housing (48 units) on site is also requested comprising the following mix:

**Affordable Rent (AR) = 27 Affordable Rent (with local connection criteria)**  
**6 x 1 bedroomed 2 person maisonettes or quarter houses**  
**14 x 2 bed 4 person houses and**  
**7 x 3 bedroomed 5 person houses.**

**Shared Ownership = 9 units**  
**A mix of 2 and 3 bedroom houses**

**First Homes = 12 Units (with local connection criteria)**  
**A mix of 2 and 3 bedroom houses**

8.102. 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

8.103. 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.

8.104. 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.

8.105. 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”*

8.106. 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”.*

8.107. 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.

8.108. The site is a reserve housing site within the made Desford Neighbourhood Plan. Policy H3 of the DNP specifically states that:

***‘Land at the following locations as shown on Figure 4 are allocated as reserve sites:***

- ***A 5.4 hectare site immediately north of Kirkby Road***
- ***A 4.9 hectare site to the south of Hunts Lane***

***Planning applications for residential development on one or both of these sites will be supported if (and to the extent necessary) by the replacement Local Plan. In the event of only site being needed planning permission will be supported of the site that having considered applicable plan policies and other material considerations at the relevant time is more appropriate. In the event of no replacement Local Plan being in place by 31 December 2022 the matters should be determined on the evidence available at the time.’***

8.109. There is no replacement Local Plan at the time of determining this application and it has been confirmed that the Plan is delayed to at least 2024. In addition to this, the Council cannot demonstrate a 5 year housing supply and a recent appeal case has indicated that the supply of housing is falling even further below the level calculated as of April 2022.

8.110. There are not considered to be any material considerations that outweigh the benefits of this scheme. Therefore, with the evidence available at this time the application is considered to be accord with the provisions of Policy H3 of the Desford Neighbourhood Plan.

8.111. Overall, taking all of the above issues/material considerations into account, subject to suitably worded conditions and a legal agreement to secure the requested financial 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.
  - 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. The Biodiversity Net Gain Metric will need to be reviewed and submitted as part of the landscaping details. A Tree Protection and Arboricultural Supervision Plan will also be required as part of the landscape 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 including details of finished floor levels and existing and proposed ground levels of the development site

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

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

Site Location Plan P17-1428\_08 received 28 December 2022  
Access Junction Layout ADC1969-DR-001-P6 received 2 March 2023  
Proposed Pedestrian Enhancements ADC1969-DR-002-P5 received 28 February 2023

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

- 4. Prior to the submission of the first reserved matters application an Ecological Constraints and Opportunities Plan (ECOP) shall be submitted to and approved in writing by the local planning authority. The ECOP should identify the following, in accordance with BS 42020:2013 Clause 5.4:

Areas and features including appropriate buffer areas that, by virtue of their importance, should be retained and avoided by both construction activities and the overall footprint of the development.

Areas and features where opportunities exist to undertake necessary mitigation and compensation.

Areas and features with potential for biodiversity enhancement, in line with the submitted Defra metric.

Areas where ongoing ecological management is required to prevent deterioration in condition during construction/implementation.

Areas needing protection on site and/or in adjacent areas (e.g. from physical damage on site or pollution downstream) during the construction process.

Areas where biosecurity measures are necessary to manage the risk of spreading pathogens or non-native invasive species.

The development hereby permitted shall be carried out in accordance with the approved details and in accordance with any approved timeframes.

**Reason:** To ensure that ecological features and flora and fauna is protected and opportunities provided for enhancement in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 5. 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).

6. 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).

7. 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 in writing 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.

8. 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.

9. 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.
10. During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as maybe specified in writing by the Local Planning Authority.  
**Reason:** To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019).
11. 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 Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.
12. 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 though 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.
13. 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 and the requirements of the NPPF.

14. 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.
15. 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 DM17 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.
16. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on ADC drawing number ADC1969-DR-001-P6 have been implemented in full.  
**Reason:** To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in accordance with Policy 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 shown on ADC drawing number ADC1969-DR - 002 Rev P5 have been implemented in full.  
**Reason:** To mitigate the impact of the development, in the general interests of highway safety 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).
18. Any reserved matters relating to layout and landscaping shall include detail of a pedestrian link from the site, adjoining to the north boundary in broad

conformity with the illustrative masterplan P17-1428 003 01 Rev G dated 23/02/18.

**Reason:** To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the National Planning Policy Framework.

19. The Travel Plan shall be carried out in accordance with the details contained within reference ADC1969-RP-B (Version 5 dated 24 November 2022). A Travel Plan Co-ordinator shall be appointed from commencement of development until 5 years after first occupation. The Travel Plan Co-ordinator shall be responsible for the implementation of measures as well as monitoring and implementation of remedial measures.

**Reason:** To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport 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).

## 10.2. Notes to Applicant

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 pro-actively 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. 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>

4. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
5. 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>
6. 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.