

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

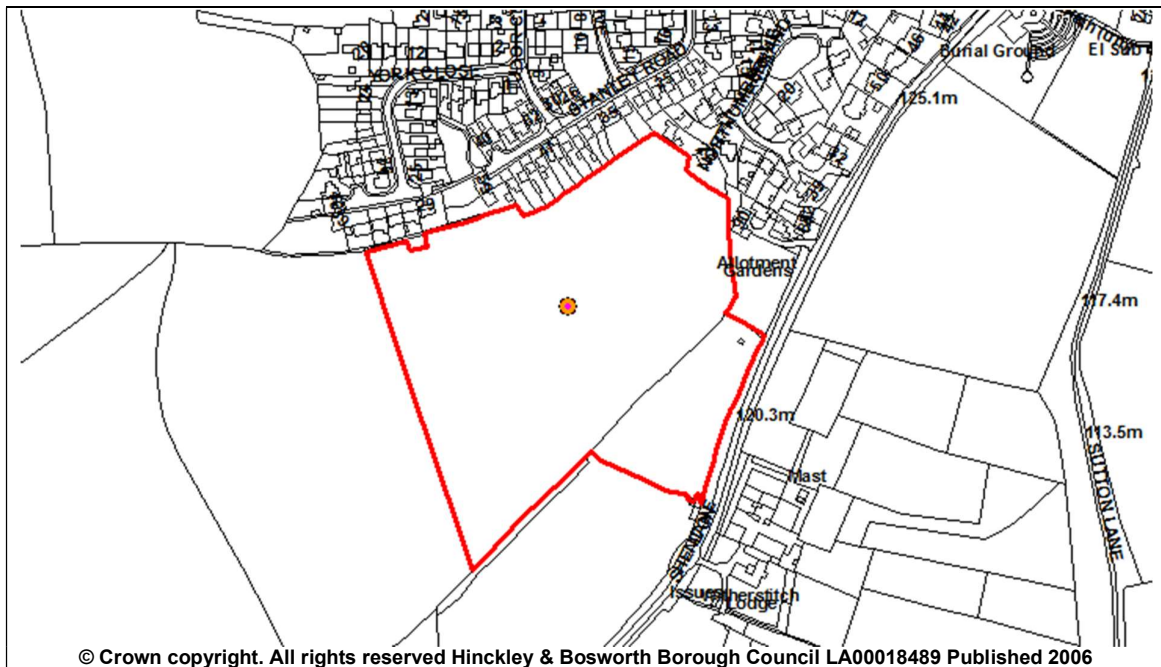


Hinckley & Bosworth
Borough Council

Planning Ref: 22/00167/OUT
Applicant: Gladman Developments
Ward: Cadeby, Carlton, Market Bosworth and Shackerstone

Site: Land North of Shenton Lane, Market Bosworth, Leicestershire

Proposal: Outline planning application for the erection of up to 125 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point (All matters reserved except for means of access)



1. Recommendations

- 1.1. The Applicant has formally appealed against non-determination of the application and therefore the application is being reported to Committee for information purposes and for the Committee to confirm that had it been able it would have **refused** the application for the reasons set out at the end of the report.
- 1.2. That the Head of Planning be given powers to determine the final detail of the reasons for refusal with regard to contesting the appeal, which is likely to dealt with by means of a formal Inquiry.

2. Planning Application Description

- 2.1. The application seeks outline permission for the erection of up to 125 dwellings (including 40% affordable housing), public open space and associated infrastructure that includes vehicular access, landscaping and a sustainable drainage system (SuDS), with all matters reserved except for access.

- 2.2. The new access is from Shenton Lane in the form of a priority junction. Illustrative layout plans indicate the majority of trees and hedgerows on the site being retained and a mix of natural and semi-natural greenspace and amenity space being provided along with an equipped children's play space located centrally within the site. A large attenuation pond is indicated in the north-west corner of the site to the rear of York Close and new footpath links are indicated. Over 1.8 hectares of formal and informal green/open space is provided comprising approximately 32% of the total site area.
- 2.3. The illustrative Development Framework shows an area of green space to the south of the allotments with a pedestrian access on to Shenton Lane with the main vehicular access to the south of the green space. To the south of the access housing is set back behind the existing boundary treatment on Shenton Lane. South and west facing boundaries of the site are indicated as having deep buffer areas for new planting.
- 2.4. The proposed new access arrangement include footway/cycle links and highway improvements on Shenton Lane which comprise the following works:
- A priority access junction to the west of Shenton Lane (the main access into the site)
 - Localised widening of Shenton Lane and the provision of a new 1.2m to 2m footway leading from the new access, crossing to the eastern side of the carriageway and then returning to the western side close to the junction with Warwick Lane
 - Two one-way priority features on Shenton Lane
 - Creation of a priority system on Warwick Lane and the creation of a new 1.2m to 2m footway on the western side of Warwick Lane
 - Provision of parking bays to the south of the access to the Market Bosworth Cemetery and the extension of the existing waiting restrictions to the north of Shenton Lane alongside two h-bars across existing accesses
- 2.5. The application is accompanied by the following reports and documents:
- Planning Statement
 - Development Framework Plan
 - Socio-economic Sustainability Statement
 - Affordable Housing Statement
 - Statement of Community Involvement
 - Transport Statement
 - Travel Plan
 - Foul Drainage Analysis
 - Flood Risk Assessment
 - Air Quality Assessment
 - Noise Screening Assessment
 - Archaeology and Built Heritage Desk-Based Assessment
 - Landscape and Visual Appraisal
 - Arboricultural Assessment
 - Ecological Appraisal
 - Phase 1 Geo-environmental Assessment
 - Mineral Resource Assessment

3. Description of the Site and Surrounding Area

- 3.1. The application site covers an area of 5.58 hectares and is located to the south-west of Market Bosworth, which is identified as a Key Rural Centre in the Council's Core Strategy. The site is bordered by Shenton Lane to the east as well as by the existing allotments and the gardens of properties on Shenton Lane and on Northumberland Avenue. To the north the site backs on to the rear gardens of properties on Stanley Road and York Close. To the east and south is open farmland and isolated farms. The access to the site is located approximately 800 metres from the centre of Market Bosworth. The nearest bus stop is on Market Place, approximately 670 metres from the centre of the site.
- 3.2. The site currently comprises two agricultural fields that are used for pasture, one of which forms the boundary of the site with Shenton Lane, and which is much smaller than the larger field to the north and west that backs on to neighbouring dwellings. A small area of roadside verge adjacent to the cemetery is also included within the red line of the application. The two fields are separated by a hedgerow and are bordered by hedgerows and mature trees, particularly on the Shenton Lane frontage. The site is on a north-west facing slope that has a fall of approximately 10 metres to the lowest point in the north-west corner.
- 3.3. The application site is located within flood zone 1. A public footpath (PRoW S72/6) runs westwards from York Place close to the north-west corner of the site.

4. Relevant planning history

- 4.1. None

5. Publicity

- 5.1. The application has been publicised by sending out letters to 45 local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. A total of 189 objections have been received from the occupiers of neighbouring properties, raising the following concerns and points:
- Access is not adequate. This will make the existing bad parking problem even worse. Roads are too narrow, particularly the access into Shenton Lane, and cannot be widened, even cars have difficulty at this junction. The volume of traffic this would bring to an already over-trafficked village road is reckless, dangerous and can only result in accidents – an unacceptable impact on highway safety contrary to paragraph 111 of the NPPF
 - The site is outside of the 30mph zone, has no street lighting, no pavement and is part of the national cycle route – this would be dangerous for pedestrians, cyclists and horse riders. There was a serious accident near to the cemetery involving car, horse and rider which resulted in the horse having to be euthanised
 - The proposed widening of Shenton Lane removes green space and creates a dangerous walking route that is popular with locals and tourists
 - The traffic survey is flawed as people were still working from home and it did not include the afternoon peak when children were leaving school
 - Construction traffic cannot access the site safely and would make life unbearable
 - Emergency vehicles will be unable to access the site safely/easily

- The land is not allocated for development in the Market Bosworth Neighbourhood Plan – what is the point of having a neighbourhood plan if it is going to be ignored. It would undermine local democracy if it was approved.
- Important views and vistas would be lost - the application is contrary to Neighbourhood Plan Policies CE1 Character and Environment, CE2 Local Green Space, CE3 Important Views and Vistas, CE5 Landscape of the Wider Parish
- There is insufficient infrastructure to cope with this additional population increase
- The development is out of character. Market Bosworth has a special character that should be retained – the housing would be prominent and intrusive and would significantly harm the beauty and open character of the landscape close to the town – the beautiful country lane will be changed and this beautiful town will be destroyed – contrary to HBBC policies DM4 and DM10
- Insufficient capacity in local schools, dentists, and doctors
- The site is outside the settlement boundary and within the countryside and so should not be allowed. It is contrary to policies 7 and 11 of the Core Strategy
- This is overdevelopment and is contrary to the aims of paragraph 174 of the NPPF that requires developments to recognise the intrinsic character and beauty of the countryside and the wider benefits of natural capital and ecosystem services
- There have been enough new dwellings in the local area and Market Bosworth has met its housing requirement and has done its bit with regard to housing needs
- Loss of prime agricultural land – food production should be maximised
- Loss of trees and hedgerows
- Brownfield sites should be developed first
- The proposal undermines the locally supported sustainable development on the Station Fields site where the Parochial Church Council has entered into terms with Miller Homes to bring forward a planning application at the earliest opportunity
- The application ignores the Council's Climate Change Strategy
- Increase in noise and disturbance and pollution and would lead to poorer air quality,
- There are not enough job opportunities in the area
- The allotments should be retained *Officer comment: The site does not include the allotments*
- Detrimental effect on flora and fauna - endangered/declining wildlife such as brown hares, yellow hammers and skylarks – the proposal fails to provide an increase in biodiversity on the site
- Detrimental effect on tourism
- The site is prominent when viewed from the Battlefield Visitor Centre and new houses would spoil this
- Loss of green space would have a detrimental effect on mental health and wellbeing – Public Health England has recently stated that "...it is now formally recognised that green environments are associated with reduced levels of depression, anxiety and fatigue and can enhance quality of life for both children and adults"
- Loss of privacy
- This would have a significant environmental impact
- Detrimental effect on the quiet cemetery
- Detrimental effect on the conservation area – the Conservation Area Appraisal states that the countryside around the settlement and its

relationship to the entrance roads is a major factor in the appreciation of the character of the village and its Conservation Area. It also highlights the distinctive form of Shenton Lane concluding that it is 'a very memorable characteristic of the settlement which should be protected'

- If this is approved developers should pay for an extension to the doctors' surgery and for the cost of dealing with new patients
- The development is on an historic ridge and furrow field which would be lost – Planning Inspectors have dismissed appeals in the region due to harm caused to such historic landscapes
- This will result in more crime, litter and graffiti
- The affordable housing is of no benefit
- It is great that 40% of this housing is affordable
- Increase in flooding
- There is no evidence that these would be energy efficient homes
- The site lies within the impact risk zone of a Site of Special Scientific Interest meaning that it would have 'significant adverse impacts on a statutorily protected nature conservation site and natural landscape' (as defined by Natural England)
- Significant detrimental effect on the nearby livery meaning it would have to close
- Concerns that the attenuation pond might attract rats and mosquitos and that it might smell
- The supporting documents contain many mistakes, incorrect information, dodgy data and false conclusions – as such the application cannot be trusted

5.3. The above objections include representations objecting to the proposed development from the Market Bosworth Society, the Parochial Church Council and the Bosworth Vision Planning Group, which is a working group of the Parish Council.

5.4. Three representations in support of the proposed development have been received raising the following points:

- The provision of affordable housing is the real priority facing the community
- The Station Fields site has been identified for development for a long time, but no developer has come forward – evidence that the Neighbourhood Plan requires amendment
- This is a better site than Station Fields for development as it does not disrupt existing businesses

6. Consultation

6.1. Market Bosworth Parish Council – Strongly objects to the proposal for the following reasons:

- The development is outside of the settlement boundary – as such it is contrary to Policy DM4 and Policy CE5 of the Market Bosworth Neighbourhood Plan (MBNP)
- Development in open countryside – contrary to Policy DM4, contrary to the draft Local Plan, contrary to MBNP Policies CE3 and CE5 as the scheme detrimentally affects key views and vistas, and contrary to paragraph 170 of the NPPF
- Character and heritage – the application sits in open countryside between Stanley Road and Shenton Lane which provides an open vista of Ambion Hill and the symbolic flags of the site of the Battle of Bosworth. Shenton Lane is one of the few characteristic narrow rural lanes that help define the character

of the area and provide a genuine feel and flavour of the rural way of life on approaching and leaving the town. The development would have a significant urbanising effect and destroy the very nature of the reason why people want to live and work in and visit the town. The HBBC Destination Management Plan is a cornerstone for growth based on the visitor appeal that has led to the Richard III Sculpture Trail project – six unique art installations connecting the associated villages and starting and ending in Market Bosworth. Shenton Lane and Sutton Lane are the most used pedestrian and cycle routes connecting Market Bosworth to the Battlefield and Heritage Centre

- Character approach into the conservation area – the site sits in very close proximity to the conservation area. The approach towards the town along Shenton Lane quintessentially represents the unique transition from countryside to town centre and which is a key feature in the HBBC Landscape and Character Assessment and in the MBNP. The proposals widening of Shenton Lane and the provision of footways and parking bays would seriously detrimentally impact the character of this historic area which has remained unspoiled for centuries. The proposed development would be at odds with the context, rationale and strategic approach to planning policies in respect of open countryside in all relevant documents relating to Market Bosworth
- Unwarranted and unsustainable development – the proposed development does not demonstrate a sustainable approach at a time of significant climate change and appears to conflict with the HBBC Climate Change Strategy. There is no effective sustainable solution demonstrated by the application which simply relies on paragraph 11 of the NPPF without defining how the development can do this
- Highway matters, traffic and transport concerns – Shenton Lane is not suitable for an increase of traffic movement associated with a development of this nature. The proposals would impact significantly on Shenton Lane in an area that marks a sharp transition from settlement to countryside featuring farmland bounded by ancient hedgerows and trees. The proposals would destroy significant lengths of historic hedgerow. Development would have a significant impact on highway safety and performance which cannot be mitigated against due to the constraints of the immediate conservation area and immediate historic highways infrastructure. The proposals include the narrowing of Warwick Lane which is in the conservation area. This would destroy the historic Warwick Lane bank as well as restrict the only availability to facilitate required diversions when there are road closures in Market Place. The road closures only occur on Sundays when public transport is not running, and considerable notice has to be given so other large/heavy vehicles do not use the route as they are unable to turn into Shenton Lane when approaching from the east. Road closures are infrequent but are needed a few times a year for key events. The applicants traffic data shows 30% fewer movements at each peak than the Parish Council's regular monitoring. Most people who would move to this development would require a car to commute. The Transport Assessment (TA) peak times are incorrect. The measures put forwards in the TA are contrary to the Local Plan, the emerging draft Local Plan and the MBNP.
- Housing requirements – the MBNP recognises what makes the town special and seeks to ensure that this distinctive character is retained at the same time as allocating new land for development. Market Bosworth has met and exceeded its housing targets. Approval of this application would seriously jeopardise the support for updating the MBNP and would signal to all rural parishes that community led planning and the democratic process expressed through the Localism Act 2011 and reinforced by the Neighbourhood Planning

Regulations 2012, the Neighbourhood Planning Act 2017 and the NPPF is futile

- Tourism – Market Bosworth is a key visitor attraction and Shenton Lane is a key route for tourists to the Battlefield Centre and much of the enjoyment of approaching the centre along the narrow lane is that the lane is undisturbed, retains its historic feel and is free from all the urban clutter that is proposed in this application
- The Planning Application – The Design and Access Statement is a generic document used for all applications and the content has been decontextualised to fit any settlement and bears little resemblance to Market Bosworth or the site itself. The Design and Access Statement contains 100 or more contestable statements. The Planning Statement has similar flaws and the TA and Travel Plan are based on theory and assumptions that can't be validated. The documents are full of promises that are unachievable

In conclusion the Parish Council considers that paragraph 11 of the NPPF is not sufficient reason to develop a site that is so highly valued by the local community as a countryside and heritage asset that provides a unique transition gateway in and out of the town. Decision makers must consider sustainability in the context of Market Bosworth as an important historic town with considerable heritage and as a key visitor destination.

The applicant has failed to understand the nature or the rural location, the impact of the development on heritage, tourism, harm to landscape views and vistas, the long-term harm to the flora, fauna and biodiversity not just of the site but along a significant length of Shenton Lane.

The proposed development has a significant adverse impact on the landscape and visual character of the area and does not protect the intrinsic value, beauty and open character of this countryside location or the individual settlement identity of Market Bosworth, contrary to Core Strategy Policy 11, policies DM1, DM4 and DM10 of the Site Allocations and Management Policies Development Plan Document and policies CE1, CE3 and CE5 of the Market Bosworth Neighbourhood Plan.

- 6.2. Sutton Cheney Parish Council – Objects to the proposal. The site is part of the verdant and bucolic setting of the southern approach to Market Bosworth. Any development would cause significant harm to the landscape. The application would introduce buildings into the pedestrian route from market Bosworth to the historic site of the Battle of Bosworth, helping to ruin that verdant link between the two and establishing a very harmful principle of building along Shenton Lane that would in time lead to further significant damage. Any development should occur to the west and north-west of the town.
- 6.3. Carlton Parish Council – Objects to the application on the grounds that the site is not allocated for development in the MBNP and on the grounds that the site has totally inadequate transport links to the town centre via Shenton lane and Warwick Lane both of which are narrow, already congested, lack adequate footways and have substandard junction geometries.
- 6.4. LCC Highway Authority – The Local Highway Advice (LHA) advice is that the residual cumulative impacts of the development are severe in accordance with the NPPF and the Local Planning Authority is advised to consider refusal on transport/highway grounds as the Applicant has failed to demonstrate that a safe and suitable access route to the site for all highway users can be achieved to/from

the site along Shenton Lane, and from Warwick Lane, contrary to paragraph 110 of the NPPF.

The LHA is also mindful of application 21/00966/OUT for the construction of 90 dwellings to the south of Shenton Lane, which was submitted by the same applicant and is currently a live planning application, to which the LHA has also advised refusal.

Access to the site is proposed off Shenton Lane, a C classified road subject to the national speed limit. The access consists of a 5.5m carriageway, 2m wide footways on either side and 6m junction radii. Shenton Lane would also be widened to 5.5m fronting the site.

At the request of the LHA the Applicant has undertaken an automatic speed survey at the site access, given that the speed survey within the Transport Assessment was undertaken within the 30mph zone. The new survey indicated average 85thile speeds of 42mph northbound and 43.6mph southbound. The LHA accepts that acceptable visibility splays can be achieved based on these speeds. The LHA also has no objection to the existing speed limit remaining in its current location. Street lighting and drainage could be addressed at reserved Matters stage.

The site access arrangements have been subject to a Stage 1 Road Safety Audit and are considered to be acceptable.

With regard to Personal Injury Collisions and road safety the LHA is satisfied that the proposals are unlikely to exacerbate an existing, known road safety concern in terms of PIC cluster sites in the area.

The anticipated trip rates and trip distribution are considered acceptable.

In order to consider the impact of the proposed development traffic on the surrounding road network the Applicant has undertaken capacity assessments at nine priority controlled junctions. Covid uplift factors have been applied and traffic from committed developments at station Road have been included and spot checks on the flows have also been undertaken by the LHA. The modelling shows that eight of the nine junctions would operate within capacity and that at the ninth, Bosworth Road/A447/Bosworth Lane, the overcapacity would not be so severe as to require an improvement scheme for the junction.

The LHA has been involved in extensive discussions with the LPA and the Applicant team in respect of the off-site works that have been proposed. For clarity the following measures are proposed on Shenton Lane:

- Widening of Shenton Lane to between 5m and 5.5m where possible
- Provision of a 1.8m to 2m footway
- Priority give way systems
- On-street parallel parking space
- A junction table/pedestrian crossing build-out
- Double yellow lines
- H-bar markings at existing drives

The following measures are proposed on Warwick Lane:

- A 1.2m to 1.5m footway on Warwick Lane bounded by a retaining wall
- A priority give way system
- Footway over-run area for larger vehicles

The Applicant has undertaken parking surveys on Shenton Lane and Warwick Lane and again Covid uplift factors have been applied.

The opinion of the LHA is that the off-site works on Shenton Lane and Warwick Lane do not provide a safe and suitable mitigation scheme that accommodates the additional pedestrians and vehicles resulting from the development. Overall, the LHA consider that the proposals present dangers to pedestrians and highway safety and that the additional land necessary to overcome these concerns is not within the Applicant's control, or within the extent of the public highway.

With regard to the proposed yellow lining there is no guarantee the associated Traffic Regulation Order would be successful at public consultation. Shenton Lane remains narrow as it approaches Market Place with forward visibility severely restricted. The LHA remain of the view that an increase in traffic could exacerbate the current situation where vehicles come into conflict at the bend, to the detriment of free-flowing traffic and highway safety.

Warwick Lane is considered a key walking route to schools within the village as well as properties to the west of the village centre. Further development which is likely to increase both pedestrian and vehicle movements along the route should therefore provide a safe and suitable scheme of mitigation. The Leicestershire Highway Design Guide (LHDG) sets out that the width of a footway should be 2m with a minimum width of 1.2m past an obstacle, for a maximum of 6m. On Warwick Lane the over run area would be approximately 1.2m for a distance of approximately 15m, considerably further than the maximum length advised within the LHDG. The LHA considers that pedestrians and vehicles would come into conflict at the footway/over run area and these concerns cannot be resolved by widening the carriageway due to third party land.

The site is located within an approximate 600 metre walk of the centre of Market Bosworth where there are local amenities and bus services to Leicester, Coalville and Hinckley. The Travel Plan is considered acceptable.

- 6.5. LCC Minerals and Waste – The site is identified as being within a minerals safeguarding area for sand and gravel. Whilst this is an important resource, Policy M11 of the Leicestershire Minerals and Waste Local Plan allows for development where there is an overriding need for the incompatible development. Given that the application is for housing the Minerals Planning Authority are satisfied that it is a matter for the Borough Council to determine whether there is an overriding need in this instance.
- 6.6. LCC Tree Officer – No comments to make.
- 6.7. LCC Archaeology – The application site lies near the historic settlement core of Market Bosworth and there is nearby evidence of prehistoric settlement activity. In addition to consideration of buried remains, there is also the issue of the impact of the proposals upon the earthworks of the medieval and post-medieval open field system. The fields immediately west of Shenton Lane are part of a discrete area of ridge and furrow earthworks identified as a local heritage asset in the MBNP. Information submitted regarding the ridge and furrow monument is noted but it is considered that the desk-based assessment downplays the significance of the monument.

Whilst the desk based assessment states that the ridge and furrow monument is not included within the Neighbourhood Plan, the area in question is identified within the supporting document 'Notable Buildings in the Parish of Market Bosworth where at page 23 it is described as 'The best example of medieval curved ridge and furrow near to the town. The relevant paragraph within the Neighbourhood Plan itself (6.1h) identifies the 'buildings and assets' recorded in the supporting document as local heritage assets worthy of protection and conservation. It additionally refers to the Historic Environment Record as a further source of non-designated assets. Paragraph 203 of the NPPF is therefore relevant and the impact of the proposals on this wide historic landscape should be taken into account in the decision making process.

A satisfactory Written Scheme of Investigation has been submitted with regard to archaeological trial trenching and earthwork survey.

If the proposals are considered acceptable it is advised that a requirement for recording of the ridge and furrow is made. While this won't adequately offset the impact of their loss particularly in respect of their aesthetic and communal value, the record will in part mitigate the impact of their loss in respect of their evidential and historical significance.

- 6.8. LCC Ecology – An ecological appraisal has been undertaken which demonstrates that the 'poor semi-improved' grassland does have some conservation value with several local wildlife site indicator species being present which indicates that the site may be of higher quality. No evidence of protected species resident on site has been found and no need for further species surveys is needed. A biodiversity net-gain assessment is required, and further comments will be provided once this has been received and the site has been visited.

Officer comment: The biodiversity information has been submitted and the Ecology Unit re-consulted. No further comments have been received to date.

- 6.9. LCC Planning Obligations – The following contributions totalling £1,017,205.74, are required as a result of this development:
- Waste – Barwell RHWS - £6,191.25
 - Libraries – Market Bosworth Library - £3,784.50
 - Primary Education – St Peters Primary Academy - £389,147.20
 - Secondary Education – The Market Bosworth School - £373,161.50
 - Post 16 Education – Bosworth Academy - £79,723.88
 - Primary SEND Education – Dorothy Goodman School - £29,795.04
 - Secondary SEND Education – Dorothy Goodman School - £40,765.50
 - Early Years Education – St Peters Primary Academy - £94,636.87
- 6.10. Severn Trent Water – No comments but provides advice.
- 6.11. Environment Agency – No response to date.
- 6.12. Coal Authority – No observations.
- 6.13. Leicestershire Police – No objections but provides advice.
- 6.14. NHS England – The GP practice closest to this development is already experiencing capacity issues in relation to their premises and would need to increase facilities to meet the needs resulting from this proposed development. A

contribution of £51,892.50 is required and this should be released prior to first occupation.

- 6.15. HBBC Conservation – There are no designated heritage assets within the application site boundary, however there are other designated heritage assets located within the wider area including the Market Bosworth Conservation Area (MBCA) and a large number of listed buildings and buildings of local heritage interest that are contained within the conservation area. There are ridge and furrow earthworks within the site boundary that are identified as a non-designated heritage asset.

Whilst the site is a reasonable distance from the conservation area boundary there is change to the highway and surrounds of Shenton Lane resulting from the development, with the physical implementation of such change being adjacent to the conservation area. The proposal therefore has the potential to affect the setting of the MBCA.

There are legible ridge and furrow earthworks present across most of the site including the best example of medieval curved ridge and furrow near to the town.

The requirement for carriageway widening and provision of a footway results in the loss of grass verges on either side of Shenton Lane. A section of hedgerow would also be lost to provide parking spaces. Whilst these arrangements would not alter the distinctive form of Shenton Lane as highlighted in the MBCA Appraisal (2014), the removal of the verges and section of hedgerow would result in the loss of key features that contribute to the character of the lane, with the loss extending further along its length from the site up to the conservation area boundary.

The physical alterations to Shenton Lane would result in an urbanisation of the edges of the lane and erode its well established rural character. This loss of a key positive characteristic of the setting of the southern side of the MBCA would result in an adverse impact upon its significance. In this case the level of harm is considered to be less than substantial, likely towards the lower to middle range of this spectrum of harm given that the adverse effects are upon the setting of the designated heritage asset.

The development would result in the total loss of the of the majority of ridge and furrow earthworks throughout the site. This would have a major adverse impact upon the archaeological and historic interest and thus significance of the non-designated asset.

In accordance with local and national policy, as the proposal causes harm to heritage assets this harm must be weighed against the public benefits of the proposal. The proposal is not considered to demonstrate any particular heritage benefits.

- 6.16. HBBC Affordable Housing – As this site lies in a rural area the affordable housing requirement is 40%, or 50 properties, which should be split between 75% social rented and 25% intermediate tenure. To comply with guidance there should be 12 First Homes, 28 for affordable rent and 10 for shared ownership. The preference would be for the rented dwellings to provide a mix of smaller 1, 2 and 3 bed houses. Affordable home ownership properties should be a mix of 2 and 3 bed homes. All affordable housing should be spread in small clusters across the site. A cascade should be included in any S106 Agreement requiring that the affordable housing is provided first to people with a local connection to Market Bosworth.

- 6.17. HBBC Compliance and Monitoring – An equipped area of play would be welcomed, and this should be secured via S106 Agreement. A minimum of £81,868.50 should be spent on the play area.
- 6.18. HBBC Drainage – No objections subject to conditions regarding surface water drainage.
- 6.19. HBBC Environmental Health – No objections subject to conditions regarding contamination and a Construction Environmental Management Plan.
- 6.20. HBBC Tree Officer – On Warwick Lane the only tree that appears to be in conflict with the highway widening is an immature Norway maple. Widening to create a 2m footway would necessitate severing roots under the existing battered slope and on the ground level to within 3m of the trunk. If the new footway could be limited to 1.2m width and the 3.5m tree clearance maintained there would be a greater likelihood of the tree continuing to thrive. The alternative would be to plant a semi-mature replacement.

On Shenton Lane it is recommended that the site access point and access route is moved further away from T37 and T4, which is a category B tree and is wrongly identified as category C. There is sufficient space for to widen the carriageway using the wide verge on the east side of the carriageway.

7. Policy

- 7.1. Market Bosworth Neighbourhood Plan 2014-2026 with minor update 2021 (17 March 2021)
 - Policy CE1: Character and Environment
 - Policy CE3: Important Views and Vistas
 - Policy CE4: Trees
 - Policy CE5: Landscape and the Wider Parish
 - Policy CE6: Building and Development
 - Policy BD1: Affordable Housing
- 7.2. Core Strategy (2009)
 - Policy 7: Key Rural Centres
 - Policy 11: Key Rural Centres Stand Alone
 - Policy 14: Rural Areas: Transport
 - Policy 15: Affordable Housing
 - Policy 16: Housing Density, Mix and Design
 - Policy 17: Rural Needs
 - Policy 19: Green Space and Play Provision
 - Policy 20: Green Infrastructure
 - Policy 23: Tourism Development
 - Policy 24: Sustainable Design and Technology
- 7.3. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding

- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

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 Guide
- Landscape Character Assessment (2017)
- Landscape Sensitivity Study (2017)
- The Green Infrastructure Strategy (2020)
- Open Space and Recreation Study (2016)
- Heritage Strategy (2020)
- Housing Needs Study (2019)
- Affordable Housing SPD (2011)
- Leicestershire Minerals and Waste Local Plan
- Market Bosworth Conservation Area Appraisal (2014)
- Leicestershire and Rutland Historic Environment Record

8. Appraisal

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

- Principle of Development
- Housing Land Supply
- Housing Mix and Supply
- Impact upon Highway Safety
- Impact on the Character and Appearance of the Area
- Impact on Heritage Assets
- Design and Layout
- Residential Amenity
- Flood Risk and Drainage
- Ecology and Biodiversity
- Tourism
- Archaeology
- Trees
- S106 Heads of Terms
- Conclusions and Planning Balance

Principle of Development

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications.

Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS), the Site Allocations and Development Management Policies DPD (2016) (SADMP) and the Market Bosworth Neighbourhood Plan (MBNP) which was updated in March 2021 and carries full weight as part of the development plan. The NPPF states at paragraph 12 that where a planning application conflicts with an up-to-date neighbourhood plan, permission should not usually be granted.
- 8.4. Paragraph 14 of the NPPF states that in situations where the presumption in favour of sustainable development referred to in paragraph 11, applies to applications for 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:
- The neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
 - The neighbourhood plan contains policies and allocations to meet its identified housing requirement;
 - The LPA has at least a three year supply of deliverable housing sites;
 - The LPA's housing delivery was at least 45% of that required over the previous three years.
- It is considered that all of these circumstances apply in this instance.
- 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. The Core Strategy (CS) sets out the settlement hierarchy for the Borough. The application site is located adjacent to the settlement of Market Bosworth but is on land which is designated as countryside. As such Policies DM4 of the SADMP and CE5 of the MBNP are of most relevance with regard to the principle of development.
- 8.7. The Market Bosworth Neighbourhood Plan (MBNP) was made in September 2015 but was updated and modified to take account of the most recent housing needs assessment and which ensures that the MBNP is up to date.
- 8.8. Policy C5 of the MBNP sets out that in the open countryside outside the settlement boundary, new development will only be permitted:
- a. Where it contributes to the local economy
 - b. For the re-use or extension of an existing building or
 - c. For sport or recreation or

- d. For new dwellings where special circumstances apply such as homes for rural workers; where the development represents the optimal viable use of a heritage asset; where the development re-uses redundant buildings or where the design of the dwellings is of exceptional quality or is of innovative design.
In all cases the development will only be permitted where it does not cause harm to the landscape or biodiversity of the countryside that cannot be effectively mitigated.
- 8.9. Policy DM4 of the SADMP states “that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development.
- 8.10. Development in the countryside will be considered sustainable where:
a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation”.
- 8.11. The proposed development does not relate to any of the criteria above in either Policy DM4 or CE5, but this does not mean that the development is not sustainable. The application seeks to justify why development in this location might be deemed to be sustainable; and puts forward a reasonable assessment of how the proposal would contribute to sustainable development as required by the NPPF. The thrust of the justification for the proposal is that it responds positively to the identified lack of a five-year housing land supply in the Borough. The urbanising effects of the proposal are acknowledged by the applicant, but these are said to be minimised and acceptable and the applicant considers that the development is not out of character within its settlement edge location. The proposal is also supported by a Landscape Visual Impact Assessment (LVIA) setting out the impact on the wider landscape character.
- 8.12. Officers take a different view with regard to Policy DM4 and Policy CE5 and this is explored in greater detail in the section relating to the effect of the development on the character and appearance of the area. Importantly Policy DM4 also requires that development meets five further requirements, of which the key one relevant to this particular application is that development is only considered to be sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside. Policy CE5 requires that development does not cause harm to the landscape or biodiversity of the countryside that cannot be mitigated effectively.
- 8.13. It is considered that the proposed development fails to comply with policies DM4 and CE5. To the extent that Policy DM4 seeks to implement the Core Strategy through its approach to the countryside and settlement boundaries it is out of date. In terms though of the weight that should be afforded to Policy DM4 the emphasis of the policy is to promote sustainable development proposals within the countryside and protect it from unsustainable proposals. In that regard Policy DM4 is consistent with and accords with the NPPF. Policy DM4 can therefore be afforded significant weight.

- 8.14. Policy 17 of the Core Strategy allows for small scale development to meet a local need adjacent to settlement boundaries provided that the need is a) identified in a plan such as a Neighbourhood Plan and b) cannot be met within the settlement and is otherwise acceptable.
- 8.15. The Market Bosworth Neighbourhood Plan was updated in 2021 and it is considered therefore that it is up to date for the purposes of paragraph 14 of the NPPF and carries full weight.
- 8.16. The Council considers that the proposal is offered no support by Policy DM4 of the SADMP and does not comply with the exception criteria set out in Policy CE5 of the MBNP and that the Neighbourhood Plan meets the criteria set out in Paragraph 14 of the NPPF. As such the application does not accord with development plan policy and is unacceptable in principle.

Housing Land Supply

- 8.17. 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.
- 8.18. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1 April 2022. Due to this and the change in the housing figures required for the borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (NPPF) whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise. It should be noted that the assessment of housing land supply is due to be updated very soon.
- 8.19. Paragraph 11d) of the NPPF states 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.”*
- 8.20. 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”*.

- 8.21. Paragraph 60 of the NPPF sets out that *“it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”*.
- 8.22. Paragraph 77 of the NPPF sets out that *“To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority’s housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of under delivery and identify actions to increase delivery in future years.”*
- 8.23. Development on this site would contribute to the housing land supply and consideration should be given to paragraph 77 of the NPPF which states:

“To help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability.”
- 8.24. 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.
- 8.25. The housing requirement for Market Bosworth in the updated Neighbourhood Plan is given as 108 following an up to date assessment of local housing needs carried out in 2020. The MBNP identifies a site for mixed use development including housing on land south of Station Road. Including the development of the Station Road site over the Plan period the number of dwellings built or committed far exceeds the number of dwellings provided for in the Neighbourhood Plan.
- 8.26. The provision of up to 125 dwellings, a proportion of which is to be Affordable Housing, is therefore not considered to be a significant benefit. In light of the failure to deliver a 5 year supply though it is considered that moderate weight should be given to the provision of the proposed dwellings.

Housing Mix and Supply

- 8.27. Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data. All developments of 10 or more dwellings are also required to meet a ‘very good’ rating against Building for Life, unless unviable. A minimum density of 30 dwellings per hectare is required in rural areas, a lower density may be required where individual site circumstances dictate and are justified.
- 8.28. The Good Design Guide SPD advocates the use of the Building for Life assessment.
- 8.29. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning

policies. The above policy allows for the most recent evidence to be taken into account in decisions and thus policy 16 is considered up to date in this regard.

- 8.30. Final number and mix of dwellings will be determined at Reserved Matters stage, but the illustrative layout shows that a mix of types and sizes can be accommodated. The development is for up to 125 dwellings and the appropriate layout and density will be determined at Reserved Matters stage. The applicant has not undertaken a Building for Healthy Life Assessment (the replacement for Building for Life). A detailed assessment could be provided at Reserved Matters stage and could be required as a condition.
- 8.31. Policy 15 of the CS sets out that a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026. At least 480 dwellings will be in the rural areas, at a rate of 40%. The rest will be delivered in urban areas at a rate of 20%. The Borough has an unmet affordable housing need, and this is given significant weight in the planning balance. The Housing Needs Study (2019) identifies a Borough need for 271 affordable dwellings per annum (179 in the urban area and 92 in the rural area) for the period 2018-36. The Study states this is not a target, but that affordable housing delivery should be maximised where opportunities arise.
- 8.32. The housing officer has requested 40% of units on the site to be affordable, with a mix of 75% of those to be social or affordable rented and 25% intermediate tenure/shared ownership. The greatest need for affordable rented housing in the Borough is for smaller units of accommodation to assist single people or childless couples, and for small families with or two children.
- 8.33. The applicant has indicated that the site will provide the policy-compliant requirement of 50 affordable homes. The preferred mix of property types for rent would be of smaller properties comprising 1, 3 and 3 bedrooms. The intermediate tenure should be a mix of 2 and 3 bedroomed houses, and all should meet the Nationally Described Space Standards.
- 8.34. As this site is in the rural area, the Section 106 Agreement requires a connection to the Borough as set out in the Council's Housing Allocations Policy.
- 8.35. Subject to these requirements being met through completion of a Section 106 legal agreement, this proposal is deemed to be acceptable with respect to housing mix and affordable housing.

Impact upon Highway Safety

- 8.36. 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 highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.37. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.38. Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users Paragraph 111 of the NPPF 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.

- 8.39. The applicant has been in lengthy discussions with the Local Highway Authority to overcome a number of initial concerns that were raised. They have submitted additional technical information, road safety audits, and proposals for offsite highway improvements. These are detailed above.
- 8.40. Despite the submission of further technical highway information the Local Highway Authority have objected to the proposed development. The detailed and precise nature of the concerns are set out in the consultation section of the report. In summary however, the advice of the LHA is that the applicant has failed to demonstrate that a safe and suitable access route to the site for all highway users can be achieved to/from the site along Shenton Lane and from Warwick Lane, contrary to paragraph 110 of the NPPF and contrary to the requirements of Policy DM17 of the SADMP.
- 8.41. Highway concerns have been raised by many local residents, by Carlton Parish Council and by Market Bosworth Parish Council. The narrowness of Warwick Lane and of Shenton Lane, particularly on that section of Shenton Lane closest to Market Place is self-evident and officers have witnessed the difficulties and dangers of navigating these sections of road during site visits.
- 8.42. The effects of this proposed development in relation to access are considered to be severe in this case and to pose an unacceptable impact on highway safety, meeting the threshold set out in Paragraph 111 of the NPPF. This counts heavily against approval of the development, and it is recommended that refusal on highway grounds is justified.

Impact on the Character and Appearance of the Area

- 8.43. Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and it does not undermine the physical and perceived separation and open character between settlements; and it does not create or exacerbate ribbon development. The site is located within open countryside, outside of the settlement boundary and is therefore considered against this policy.
- 8.44. Point c) of Policy DM10 of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.45. The Council's Landscape Character Assessment states that the site falls within Landscape Character Area C: Bosworth parkland within the more general Agricultural Parkland landscape type, comprising rolling farmland and estate parkland with scattered trees and woodland around former agricultural villages. Two key characteristics of this landscape include " a rural and peaceful character with development limited to scattered farm buildings and historic settlements well integrated into the landscape by vegetation and small scale of buildings", " a good network of public footpaths and routes popular with cyclists. Destinations include Market Bosworth and the Battlefield Visitor Centre."

- 8.46. Key sensitivities and values noted in the Assessment include “the rural character and relative sense of tranquility” and “ the quintessential East Midlands landscape of mixed farming with pasture, arable and ridge and furrow providing a strong sense of place... Market Bosworth and its landscape setting of fields and trees”. Three of the landscape strategies outlined in the Assessment include “maintaining the rural character of the landscape”, “retaining features such as open roadsides with grass verges” and “maintaining rural views and setting of Market Bosworth”.
- 8.47. Key characteristics of the Urban Character Area 6 that comprises the majority of the town include “setting provided by open countryside and farmland which lends a rural and peaceful character and permeates the town”. Key sensitivities and values include “the distinctive character and historic value of the market place and the historic link between the town, Bosworth Hall and parkland and the surrounding agricultural landscape and Bosworth Battlefield” and “green spaces which penetrate the historic core...which create a transition to the surrounding landscape”, the rural setting which lends a distinctive character as well as recreational and visual amenity value” and views to and from the surrounding landscape are important to the character of the town”.
- 8.48. Townscape strategies for Urban Character area 6 include “prioritising local distinctiveness in every element of change and future development” and “encouraging opportunities to enhance safe pedestrian / cycling connections”.
- 8.49. Policy CE5 of the MBNP states that in the open countryside outside the settlement boundary, new development will only be permitted in certain circumstances, none of which apply to the proposed development. It goes on to states that in all cases development will only be permitted where it does not cause harm to the landscape and biodiversity of the countryside that cannot be effectively mitigated.
- 8.50. Policy CE3 of the MBNP relates to important views and vistas and states that development that harms important views onto or vistas out of Market Bosworth will be resisted and that new development will not be supported if it has a significantly adverse impact on an important view or vista.
- 8.51. The location of the views and vistas referred to in Policy CE3 are set out on the map on page 34 of the MBNP and includes the view along Shenton Lane towards Market Bosworth as one of nine key views. The commentary on page 31 states that this key view starts from a point next to Witherstitch Lodge Stables. This group of agricultural buildings lies directly to the south and opposite the southernmost corner of the site on the Shenton Lane frontage.
- 8.52. At this point anyone walking or driving towards the settlement will be on relatively high ground with limited but clear views of open fields to the west and wider and more open views of farmland to the east. Shenton Lane remains narrow allowing two cars to pass with care. There are wide grassed verges to both sides of the lane with the occasional telegraph pole being the only urbanising feature with the stables being one of the naturally occurring agricultural related building typically encountered within the countryside.
- 8.53. The stables complex of agricultural buildings is set at a lower level to the lane which further reduces their impact and all appear single storey in character. A telecommunications mast to the rear of the site appears uncharacteristic in this setting. Beyond the stables the telegraph poles no longer run along Shenton Lane, heightening the very rural characteristics of the highway at this point. Hedgerows on both sides of the road are sparse and unmanaged and feature a significant number

of trees, no doubt accounting for the difficulty in easily managing the hedgerows. This though allows pedestrians or people on bicycles or in vehicles to readily appreciate the fields on both sides of the road.

- 8.54. Once past the stables the first existing dwelling is viewed, framed by the trees on both sides of the lane. The Development Framework indicates that dwellings will be easily viewed to the west. At this point Market Bosworth remains barely appreciable but the proposed dwellings will be very apparent and the introduction of the footway and the road widening will be clearly visible in the foreground marking a distinct change in the character of the lane.
- 8.55. The commentary on page 31 of the MBNP, as part of paragraph 6.1p, states that as you move along, local allotments are located on the left, then residential dwellings, including the remains of the original Poor House, become apparent. The Development Framework indicates that the most prominent dwellings on the site will be then be behind you given that an area of open space is shown north of the vehicular access and south of the allotments.
- 8.56. The commentary states that this is an important view as it is the location of rural business and reminders of the past in the form of the Poor House. It is an example of the unique setting of Market Bosworth with the close proximity of farmed countryside and grazing land so close to the historic core. The key characteristic of the setting to the town provided by open countryside and farmland which lends a rural and peaceful character and permeates into the town is referred to in the Landscape Character Assessment where it refers to Urban Character Area 6, which comprises the majority of the town.
- 8.57. The distinctive character of Market Bosworth is derived from four key factors:
- Location as a ridge top settlement
 - Agricultural economy
 - The manorial tradition based on Bosworth Hall and its parkland setting
 - Gateways and views
- 8.58. The proposed development is located where it would have a significant detrimental effect on the historic setting of the town. The site is not one that could in any way be categorised as urban fringe. It is land that is actively grazed and is nothing other than farmland that forms part of the unique character that makes Market Bosworth special – the way in which the rural nature of Shenton Lane rapidly changes from being totally rural to being on Market Place at the heart of the Conservation area surrounded by listed buildings.
- 8.59. Paragraph 6.1a of the MBNP sets out that the setting of Market Bosworth is considered to be its most striking characteristic. Located at the top of a hill and bound in all directions by mature wooded landscape, parkland and farmed countryside with green fingers of land penetrating in towards the market place. The combination of natural landscape and parklands provides dramatic approaches into Market Bosworth as the centre appears unexpectedly with a sharp transition from rural to built form.
- 8.60. It is considered that paragraph 6.1a perfectly describes Shenton Lane and the farmed countryside of the site.
- 8.61. A Landscape and Visual Impact Assessment (LVIA) has been submitted as part of the application.

- 8.62. The LVIA points out that there is a high degree of intervisibility between the site and the developed edge of the town to the north with wide ranging and distant views over the rolling farmland landscape to the south. It states that the site has a semi-rural and peaceful character and that the site serves as a transition between the village to the north and the wider predominantly agricultural landscape to the south and west.
- 8.63. Offers disagree with this characterisation of the site. It is considered that it is the allotments to the north that can only genuinely be described as a transition between settlement to the north and the countryside of the site and the further farmland to the south and west.
- 8.64. At paragraph 4.53 of the LVIA which refers to the rarity and representativeness of the site it simply states that overall the site is representative of the wider farmland to the south and west of the settlement, ignoring the key characteristics of the site that the LVIA references as stated within the MBNP and the Landscape Character Assessment. The same flaw that has been identified in the Archaeology and Built Heritage Desk-Based Assessment is revealed at paragraph 4.55 which states that the site is of limited conservation interest, ignoring the off-site highway works which are considered to do so much to change the character of Shenton Lane and the area of land adjacent to the cemetery that is included in the red line boundary.
- 8.65. At paragraph 4.58 the LVIA states that the site forms a small part of the agricultural landscape setting to the south of the settlement, ignoring the special characteristics of the site as historic farmland penetrating close to the historic core of the town that contributes so significantly to the uniqueness of the settlement.
- 8.66. The LVIA's conclusion to the characteristics of the site are that the site and the immediate landscape is of medium to high landscape value. As officers have pointed out above this significantly underestimates the landscape value of the site and the immediate landscape.
- 8.67. With regard to the landscape effects of the proposed development the LVIA again ignores the changes to Shenton Lane and the characteristic grass verges and considers that the effects are no more than moderate adverse over the short term, reducing to minor adverse as planting along site boundaries matures. Officers consider that this significantly underestimates the impacts of the proposal.
- 8.68. With regard to the visual effects on Urban Character Area 6 which comprises most of Market Bosworth these are considered to be no more than minor adverse in the short term and negligible over the long term, ignoring the distinctive and characteristic role that the site and Shenton Lane play in the close and swift transition from rural countryside to historic core. Officers consider that this significantly underestimates the impacts of the development on the character of the area.
- 8.69. The effects on users of the footpath to the north-west of the site are considered to be major / moderate adverse reducing to moderate adverse effects over the long term. Officers agree with the LVIA on this point.
- 8.70. Turning to road and transport users no mention is made of the changes to Shenton Lane as a result of the off-site highway works and the visual effects are considered to be major / moderate adverse over the short term, reducing to moderate adverse

over the long term as planting matures. For the reasons outlined above, officers disagree with this finding.

- 8.71. Finally, the visual effects on the Bosworth Battlefield Visitor's Centre are considered to be moderate / minor adverse, reducing to minor adverse / negligible over the long term. Officers agree with this finding.
- 8.72. It is material to note that the area is not a 'valued landscape' for NPPF purposes. Indeed there are no landscape or environmental designations or sensitivities or note for the site and its immediate surroundings.
- 8.73. The LVIA submitted as part of the application assesses the proposal's impact on landscape and finds that the development has a number of major/moderate adverse impacts. The LVIA has been shown to be flawed due to its disregard for the changes brought about by the proposed off-site highway works. The site sits within a landscape area with a particularly distinctive sense of place and character that is described above. For the reasons set out officers consider that the LVIA significantly underestimates the effects that the proposal has on the character and appearance of the site and surrounding area and in particular of Shenton Lane and that these effects are major rather than major / moderate.
- 8.74. The application is considered to have major adverse effects on the landscape that continue into the long term, and it is considered that the proposed development results in a significant detrimental effect on the character and appearance of the site and surrounding area and in particular of Shenton Lane. These effects are considered contrary to Policies DM4 and DM10 of the SADMP, Policies CE3 and CE5 of the MBNP and the requirements of the NPPF. These adverse effects are significant and weigh significantly against the application.
- 8.75. It is considered that refusal of the application is justified with regard to its effect on the character and appearance of the area.

Impact on Heritage Assets

- 8.76. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention must be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.77. Section 16 of the NPPF provides national policy on conserving and enhancing the historic environment. In determining planning applications, paragraph 197 of the NPPF advises local planning authorities to take account of
- 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 viability; and
 - c. The desirability of new development making a positive contribution to local character and distinctiveness.
- 8.78. Paragraphs 199-202 of the NPPF require that great weight is given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification and for that harm to be weighed against the public benefits of a proposal. Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing

applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 8.79. Paragraph 206 of the NPPF states that local planning authorities should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 8.80. Policies DM11 and DM12 of the SADMP 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. This will be done through the careful management of development that might adversely impact both designated and non-designated heritage assets. All development proposals which have the potential to affect a heritage asset or its setting will be required to demonstrate:
- an understanding of the significance of the heritage asset and its setting; and
 - the impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts; and
 - how the benefits of the proposal will outweigh any harm caused; and
 - any impact on archaeology in line with Policy DM13.
- 8.81. Policy DM12 requires all development proposals to accord with Policy DM10 and states that development proposals should ensure that development proposals should make every effort to retain the significance of locally listed heritage assets.
- 8.82. The Market Bosworth Conservation Area lies approximately 300 metres to the north-east of the site and contains a large number of listed buildings including the Grade II* Listed Church of St Peter which has a spire that is a prominent feature in the surrounding landscape. The boundary of the Conservation Area lies alongside the eastern side of Warwick Lane and the northern side of Shenton Lane beyond its junction with Warwick Lane. There are no listed buildings or non-designated locally important buildings within close proximity of the site itself. There are extensive areas of ridge and furrow earthworks within the site which are dealt with in greater detail in the section below on archaeology.
- 8.83. Paragraph 4.1 of the Market Bosworth Conservation Area Appraisal (MBCAA) points out that all routes into Market Bosworth converge on the Market Place which is the centre of the Conservation Area. Shenton Lane is one of these routes. The Appraisal goes on to state that the historic relationships between the town, the church, Bosworth Hall and park and the agricultural landscape are clearly apparent and define the setting of the Conservation Area and hugely contribute to its unique sense of place.
- 8.84. Paragraph 4.6 of the MBCAA describes how Shenton Lane also approaches the Conservation Area through pleasant countryside which is interrupted only by clumps of trees and shrubs. Closer to the Conservation Area, Shenton Lane is bordered by a short length of residential development before entering the settlement proper adjacent to the new cemetery with properties set back behind mature trees in large front gardens. Paragraph 4.11 sets out that green spaces create a special ambience in the town and that wide grass verges add to the character. Paragraph 7.5 describes how Shenton Lane reflects the development of the village with existing development emphasizing the rural qualities of the lane.

- 8.85. The Council's Conservation Officer has assessed the submitted Archaeology and Built Heritage Desk-Based Assessment and considers that it is proportionate and meets the requirements of paragraph 194 of the NPPF and Policy DM11 of the SADMP. It is noted though that the Desk Based Assessment does include that part of the red line site area boundary that is adjacent to the cemetery and makes no reference to the extensive off-site highway works that the applicant requires to attempt to demonstrate a safe and suitable access route to the site. It is considered therefore that the applicant's Assessment is flawed in terms of this omission.
- 8.86. It is agreed that there are no listed buildings or scheduled monuments affected by the proposed development. Also the Conservation Area is not discernible from the site itself and barely perceptible in views when adjacent to the site on Shenton Lane.
- 8.87. The requirement for carriageway widening and provision of a footway from the junction of Shenton Lane and Warwick Lane would result in the loss of varying extents of the grass verges on either side of Shenton Lane. This would predominantly be the verge to the eastern side of Shenton Lane other than for the section on the western side immediately adjacent to the site boundary. A section of hedgerow would also need removal adjacent to the cemetery to provide parking spaces. Whilst these arrangements would not alter the distinctive form of Shenton Lane as highlighted within the MBCAA, the removal of the verges and small section of hedgerow would result in the loss of key features that contribute to the character of the lane, with this loss extending along its full length from the application site up to the immediate setting of the Conservation Area boundary at the junction of Warwick Lane and Shenton Lane.
- 8.88. The physical alterations to Shenton Lane required to provide a potential safe and suitable access would result in an urbanisation of the lane and erode its well established rural character. This loss of a key positive characteristic of the setting of the south side of the Market Bosworth Conservation Area would result in an adverse impact upon its significance. It is considered that in this case the level of harm is considered to be less than substantial and towards the middle to lower range of this spectrum of harm given that the adverse effects are upon the aspects of the setting of the Conservation Area as opposed to being direct.
- 8.89. Due to the extent and siting of the proposed residential development this would result in the total loss of the majority of the ridge and furrow earthworks on the site. This would have a major adverse impact upon the archaeological and historic interest and thus significance of this non-designated heritage asset. It is not considered that the proposed development can demonstrate any particular heritage benefits.
- 8.90. Given the loss than substantial harm caused by the development it is considered that refusal of the application is justified on heritage grounds.

Design and Layout

- 8.91. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.

- 8.92. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment.
- 8.93. This is an outline application with all matters reserved except for access and therefore detailed layout and appearance considerations are not being assessed at this stage - however, they will form details at the Reserved Matters stage. Notwithstanding this, the indicative plans illustrate that the development will comprise up to 125 dwellings with access into the site from Shenton Lane. It provides a reasonable approach to the scheme that will flow through into the detailed plans submitted at Reserved Matters stage and indicate that a suitable form of development could be brought forward in accordance with Policy DM10 of the SADMP and the Good Design Guide SPD.

Impact upon Residential Amenity

- 8.94. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.95. 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.
- 8.96. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.97. 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.
- 8.98. It is considered that the scheme, subject to the detailed matters to come forward at Reserved Matters stage, could be designed such to have a suitable relationship with nearby residential units.
- 8.99. Additional information with respect to contamination and a Construction Environmental Management Plan could be appropriately sought via condition.
- 8.100. Concerns raised by the neighbours to the scheme are noted, but it is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, would ensure that sufficient scrutiny and control would be retained to ensure all concerns are appropriately addressed.

- 8.101. It is considered that the proposed development could be designed such to be acceptable in amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.

Flood Risk and Drainage

- 8.102. 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.
- 8.103. 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.
- 8.104. The site lies within Flood Zone 1 on the Environment Agency Flood Maps for Planning. A small part of the site, predominantly in the north-west corner and along the northern boundary, is subject to surface water flooding. The indicative site layout indicates that the attenuation pond is located in this north-west corner of the site.
- 8.105. The HBBC Drainage Officer advises that the proposals are acceptable subject to conditions to secure a surface water drainage scheme, management and maintenance of surface water and infiltration testing. No objections have been received from Severn Trent or from the Environment Agency. Subject to the suggested conditions, it is considered that the proposed development would satisfy Policy DM7 of the SADMP and the NPPF.

Ecology and Biodiversity

- 8.106. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.
- 8.107. The ecology information submitted with the application indicates that the site comprises poor semi-improved grassland with mature boundary treatments. The County Ecologist has assessed the information and considers that while no further surveys are required with regard to protected species biodiversity net gain information is needed before any decision is made on the application and there were some concerns that the quality of the site had been underestimated. The applicant's further information indicates that a biodiversity net gain of approximately 20% could be secured as a result of the development. While the County Ecologist is yet to confirm their views it is considered that given that a significant proportion of the site is indicated as being landscaped that it would be possible for a net gain in biodiversity on the site to be delivered.
- 8.108. It is considered that the provision of a biodiversity net gain and appropriate protection of existing habitats and wildlife could be secured via condition. Subject to the condition requirements this application is considered be acceptable with respect to ecology and biodiversity matters and complies with Policy DM6 of the SADMP.

Tourism

- 8.109. Policy 23 of the Core Strategy sets out that tourism development for new and extended visitor attractions will be supported in suitable locations. Bosworth Battlefield is considered one of the three main visitor attractions in the Borough along with Mallory Park and Twycross Zoo.
- 8.110. Paragraph 4.73 of the Core Strategy points out that Hinckley and Bosworth contains attractive and distinctive landscapes and areas of historic importance and that to encourage people to visit the borough and to contribute to a dynamic and vibrant economy, there is a need to develop a 'sense of place', a distinctive and focused tourism story for the Hinckley and Bosworth area, to motivate people to visit and stay in the area.
- 8.111. Paragraph 4.73 also points out that Hinckley and Bosworth's lead attraction is the Bosworth Battlefield and that it is renowned the world over for its importance and role during the Wars of the Roses. The application site lies approximately 2000 metres north of the Bosworth Battlefield Country Park and the entrance to the associated Heritage Centre on Ambion Lane.
- 8.112. Policy 11 of the Core Strategy states that, amongst other things, the Council will support the role of Market Bosworth as a tourist destination in its own right in line with Policy 23.
- 8.113. Objections have been received on the grounds that the development of the site would detrimentally impact on tourism as it would make the walk along Shenton Lane to the Battlefield Visitor Centre more dangerous due to increased traffic and therefore less likely to be used and less attractive when it was used as the rural countryside would be lost to development.
- 8.114. While officers agree that the development of the site would have a significant detrimental effect on the character and appearance of the area the Local Highway Authority does not object on grounds that that part of Shenton Lane heading south and east would be inherently unsafe. Additionally the indicative Development Framework indicates that the existing boundary treatment on Shenton Lane would be largely retained.
- 8.115. In addition the Bosworth 1485 Sculpture Trail promotes Sutton Lane as the walking route between Market Bosworth and the Battlefield Heritage Centre as opposed to Shenton Lane.
- 8.116. Given the above and the distance between the site and the Battlefield Heritage Centre it is not considered that the proposal would have a significant detrimental effect on the role that Market Bosworth plays in the support of tourism within the borough.

Archaeology

- 8.117. Policy DM13 of the SADMP states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate desk based assessment and where applicable a field evaluation. Paragraph 194 of the NPPF also reiterates this advice.
- 8.118. In line with the NPPF Section 16, the planning authority is required to consider the impact of the development upon any heritage assets, taking into account their particular archaeological and historic significance. Paragraph 199 states that where

loss of the whole or a material part of the heritage asset's significance is justified., local planning authorities should require the developer to record and advance understanding of the significance of the affected resource prior to its loss. The archaeological obligations of the developer, including publication of the results and deposition of the archive, must be proportionate to the impact of the proposals upon the significance of the historic environment.

- 8.119. Paragraph 203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that in weighing applications that directly affect non-designated assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 8.120. Discussions between the applicant and LCC Archaeology led to the following actions being taken:
- 20 trial trenches excavated
 - Trenches measuring 30m length by 1.8m width
 - All works monitored by a suitable qualified archaeologist
- 8.121. The County Archaeologist has commented that the on-site works are acceptable. They have also though expressed their concern regarding the loss of the ridge and furrow earthworks that the Historic Environment Record describes as being the best example of curved ridge and furrow near the town. The County Archaeologist considers that the submitted Archaeology and Built Heritage Desk-Based Assessment also downplays the significance of the ridge and furrow earthworks. This is the same document that officers considered is flawed given its lack of any assessment of the impact on the setting of the Conservation Area of the works to Shenton Lane and Warwick Lane.
- 8.122. As set out above in the section on Consultations the County Archaeologist considers that the recording of the ridge and furrow does not adequately offset the impact of their loss particularly in respect of their aesthetic and communal value. While the loss is mitigated with regard to the evidential and historic significance it remains the case that the extent and siting of the proposed residential development this would result in the total loss of the majority of the ridge and furrow earthworks on the site. This would have a major adverse impact upon the aesthetic and communal value and thus significance of this non-designated heritage asset. It is not considered that the proposed development can demonstrate any particular heritage benefits.
- 8.123. As set out in paragraph 203 the scale of the loss of the ridge and furrow earthworks is considered to be significant and while this is in part mitigated, the loss weighs moderately against approval of the development. It is considered that refusal of the application is justified on archaeological grounds.

Trees

- 8.124. Policy DM6 of the SADMP sets out that on site features should be retained, buffered and managed favourably to maintain their ecological Value, connectivity and functionality in the long term.
- 8.125. Policy CE4 of the MBNP states that mature trees should be protected wherever possible. Development that would result in the loss of or damage to protected trees

will not be permitted unless a satisfactory scheme for the replacement of lost trees or mitigation of any damage to the landscape is agreed.

- 8.126. In this instance both the Country and Borough Tree Officers have commented on the proposals and do not have significant concerns. In addition the proposals provide for significant new tree planting.
- 8.127. It is considered therefore that the proposal is acceptable with regard to the requirements of policies DM6 and CE4.

Other Matters

- 8.128. The loss of agricultural land is not considered significant given the sites use as grazing land rather than for crops.
- 8.129. The site lies within a Sand and Gravel Mineral Consultation Area. Given the proximity of the site to the settlement, it is considered that it would not realistically be quarried for mineral resources.

S106 Heads of Terms

- 8.130. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016 updates these standards and also identifies the costs for off-site and on-site contributions.
- 8.131. 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.
- 8.132. The contributions sought are detailed below:
- Open Space (On-site Provision to the value of £81,868.50 and Maintenance (sum to be agreed) to be provided and maintained by a Management Company.
 - Affordable Housing – 40% (75% social or affordable rented and 25% intermediate tenure/shared ownership).
 - Library Services (£3,784.50)
 - LCC Waste Management (£6,191.25)
 - Healthcare (£51,892.50)
 - Primary Education (£389,147.20)
 - Secondary Education (£373,161.50)
 - Post 16 Education (£79,723.88)
 - Primary SEND Education (£29,795.04)
 - Secondary SEND Education (£40,765.50)
 - Early Years Education (£94,636.87)

- £6,000.00 for the monitoring of the residential travel plan
- Appointment of a residential travel plan co-ordinator from commencement of development until 5 years after occupation of the last unit
- Travel packs for all new residents (one per dwelling) £52.85 per pack
- 2 x 6 month bus passes per dwelling to encourage new residents to use bus services and make behavioural changes

The total S106 financial contribution resulting from the development is £1,163,573.

- 8.133. All of the above contributions are considered to meet the tests for planning obligations and should therefore form part of the Section 106 legal agreement to be formulated should the application be approved. No such S106 agreement has been submitted and as such the application is not considered to comply with the requirements of Policy DM3 of the SADMP and Policy 19 of the Core Strategy and is therefore a reason for refusal of the application.

Conclusions and Planning Balance

- 8.134. 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.
- 8.135. The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. The MBNP has been updated and is considered to be up to date. It's housing needs assessment though, understandably, does not take account of any wider Borough wide need. It is necessary therefore to consider that 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.
- 8.136. The provision of up to 125 dwellings, 40% of which are to be affordable units, is considered to be a benefit of the proposal to which moderate weight in favour of the scheme is attached.
- 8.137. The Council considers that the proposal is offered no support by Policy DM4 of the SADMP and does not comply with the exception criteria set out in Policy CE5 of the MBNP. As such the application does not accord with development plan policy and is unacceptable in principle. These policies are considered to be broadly consistent with the overall aims of the NPPF and that significant weight should be attached to the fact that the proposal is contrary to the development plan and would undermine the plan led approach endorsed by the Framework.
- 8.138. The proposed development has a harmful effect on the character and appearance of the countryside . It would be contrary to Policy DM4 of the SADMP and Policies CE3 and CE5 of the MBNP. These policies seek to protect the intrinsic character and beauty of the countryside and the key characteristics of the site and Shenton Lane that are a valued feature of Market Bosworth. The development would also be contrary to the environmental protection aims of the NPPF. This matter attracts significant weight.

- 8.139. The effects of this proposed development in relation to access are considered to be severe and to pose an unacceptable impact on highway safety, contrary to the requirements of Policy DM17 of the SADMP and meet the threshold set out in Paragraph 111 of the NPPF. This counts heavily against approval of the development, and also attracts significant weight.
- 8.140. The physical alterations to Shenton Lane required to provide a potential safe and suitable access would result in an urbanisation of the lane and erode its well established rural character. This loss of a key positive characteristic of the setting of the south side of the Market Bosworth Conservation Area would result in an adverse impact upon its significance. It is considered that in this case the level of harm is considered to be less than substantial and towards the middle to lower range of this spectrum of harm given that the adverse effects are upon the aspects of the setting of the Conservation Area as opposed to being direct. This matter attracts moderate weight.
- 8.141. Due to the extent and siting of the proposed residential development this would result in the total loss of the majority of the ridge and furrow earthworks on the site. This would have a major adverse impact upon the archaeological and historic interest and thus significance of this non-designated heritage asset. It is not considered that the proposed development can demonstrate any particular heritage benefits and moderate weight is given to this matter.
- 8.142. Significant weight is given to the lack of a S106 Agreement. It is acknowledged though that the applicant has expressed no unwillingness to enter into such a legal agreement.
- 8.143. Other benefits of the scheme apart from the delivery of market and affordable homes include the relative accessibility to facilities and services, the likely increase in biodiversity on the site and the economic and social benefits through the construction of dwellings and from subsequent activities of future residents in the local area. These benefits are considered to attract moderate weight.
- 8.144. Consequently, even taking into account the housing land supply position, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole. The proposal would not therefore represent sustainable development.

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 **That the application would have been Refused** for the reasons set out below:
1. The applicant has failed to demonstrate that a safe and suitable access route to the site for all highway users can be achieved to/from the site along Shenton Lane, and from Warwick Lane, contrary to paragraph 110 of the National Planning Policy Framework (2021) and contrary to the requirements of Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document.
 2. The application site lies outside of the defined settlement boundary of Market Bosworth, within the countryside that permeates towards the town centre, on an area of landscape that positively contributes to the important rural and historic character of Market Bosworth. Built development in this location would erode the strong countryside gateway currently provided along Shenton Lane which reinforces the distinctive character of the area and of this key approach to the town. The proposal would cause significant harm to important view 9 as identified within the Market Bosworth Neighbourhood Plan. The proposed development therefore has a significant adverse impact on the landscape and visual character of the area and fails to protect the intrinsic value, beauty, open character and landscape character of this countryside location or protect the distinctive individual settlement identity of Market Bosworth, contrary to Core Strategy Policy 11, Policies DM1, DM4, and DM10 of the Site Allocations and Development Management Policies Development Plan Document, Policies CE3 and CE5 of the Market Bosworth Neighbourhood Plan and the environmental aims of the National Planning Policy Framework (2021).
 3. The introduction of built form highway measures and the physical alterations to Shenton Lane would result in an urbanisation of the edges of the lane and erode its well established rural character. This loss of a key positive characteristic of the setting of the southern side of the Market Bosworth Conservation Area would result in an adverse impact upon its significance. In this case the level of harm is considered to be less than substantial, likely towards the lower to middle range of this spectrum of harm given that the adverse effects are upon the setting of the designated heritage asset. The harm identified is not outweighed by the identified public benefits of the scheme. The proposal is therefore contrary to Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document, section 16 of the National Planning Policy Framework (2021) and

the statutory duty of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4. The development would result in the total loss of the majority of ridge and furrow earthworks throughout the site. This would have a major adverse impact upon the archaeological and historic interest and thus significance of the non-designated asset. The harm identified is not outweighed by the identified public benefits of the scheme. The proposal is therefore contrary to Policy DM13 of the Site Allocations and Development Management Policies Development Plan Document and Section 16 of the National Planning Policy Framework (2021).
5. The applicant has not confirmed/agreed Section 106 contributions or the delivery of Affordable Housing and public open space. As such the application is considered contrary to Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.