

Planning Committee 22nd August 2023
Report of the Head of Planning (Development Management)

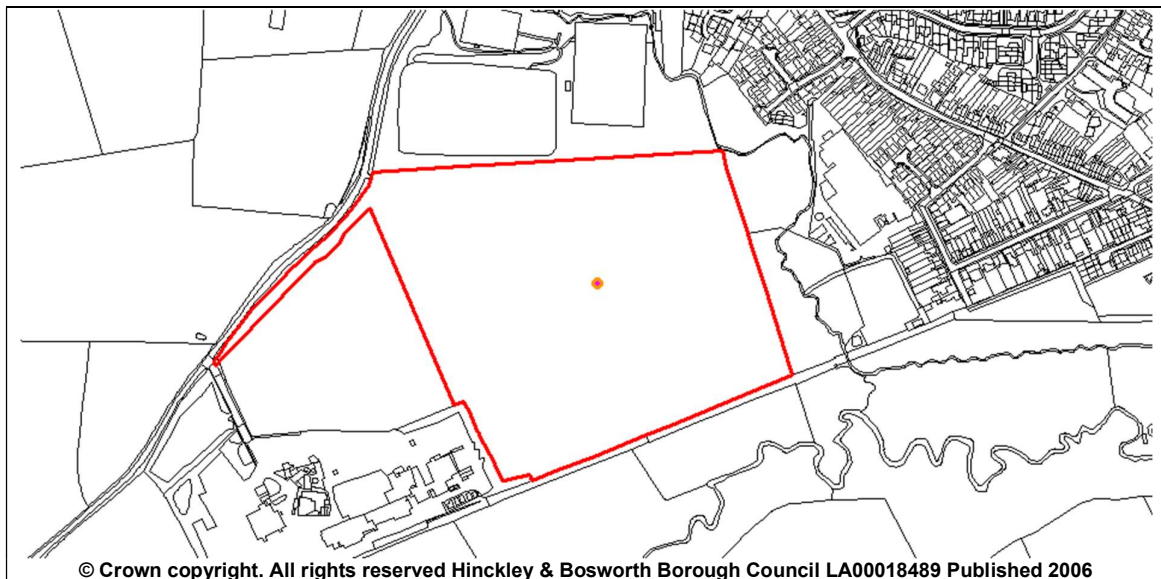


Hinckley & Bosworth
Borough Council

Planning Ref: 21/01295/OUT
Applicant: Gladman and Bletsoe
Ward: Ratby, Bagworth and Thornton

Site: Land off Desford Lane, Ratby, Leicestershire

Proposal: Outline planning application for the erection of up to 225 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. That the application be approved subject to:
- Conditions outlined at the end of this report
 - A S106 Agreement to secure the following:
 - Health contribution - £165,702.24
 - Library contribution - £6,794.48
 - Waste contribution - £5,370.75
 - Early Years Education contribution - £351,058.50
 - Secondary Education contribution - £815,310.00
 - SEND Education contribution - £127,008.97
 - 40% Affordable Housing provision – 90 homes comprising 68 for social or affordable rent (with local connection criteria) and 22 for intermediate tenure
 - 90 dwellings should be for affordable housing; 68 for social or affordable rent and 22 for intermediate tenure
 - Travel Pack provision of £52.85 per dwelling - £11,891.25
 - Bus Pass provision of £360 per person (maximum of two per dwelling) - £81,000
 - Travel Plan Monitoring Fee - £6,000
 - Highway contribution towards the Coalville Transport Strategy to enable works at the A50/Field Head junction - £62,754.00

Highway contribution for the introduction of a 40mph speed limit - £8,985.00
Off site outdoor sports contribution - £78,192.00
Off-site outdoor sports maintenance contribution - £37,152.00
Off site natural green space contribution - £36,810.00
Off site natural green space maintenance contribution - £63,900.00
On site equipped children's play space contribution - £147,363.30
On site equipped children's play space maintenance contribution -
£142,236.00
On site informal play space – n/a
On site informal play space maintenance contribution – 40,824.00
S106 monitoring fees

- 1.2. That the Head of Planning be given powers to determine the final detail of the conditions.

2. Planning Application Description

- 2.1. The application seeks outline permission for the erection of up to 225 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 Desford Lane in the form of a priority-controlled T junction with a ghost island right turn lane 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 in the form of a LEAP in the western section of the site. Attenuation basins are indicated in the east and southern sections of the site. The existing footpath is indicated as being retained with a green corridor and new footpath links are indicated. Approximately 6.29 hectares of formal and informal green/open space is indicated.
- 2.3. The illustrative plans indicate the housing to be located in the northern and central areas of the site with green space to the peripheries of the site. The proposals indicate an average density of 38 dwellings per hectare, and a variety of dwellings and house types to include affordable housing.
- 2.4. The proposed new access arrangements include footway/cycle links and highway improvements on Desford Lane which comprise the following works:
- A priority-controlled T junction access junction to the east of Desford Lane (the main access into the site)
 - The introduction of a continuous 3m wide shared footway/cycleway along the east side of Desford Lane
 - Introduction of bus stops on both sides of Desford Road to the south of the access and a pedestrian island to connect the Site to the northbound stop
 - Traffic calming measures and street lighting on Desford Lane
 - A reduction of the speed limit to 40mph
 - A Toucan crossing on Desford Lane to the north of the site
- 2.5. The application is accompanied by the following reports and documents:
- Planning Statement
 - Design and Access 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 Assessment
- Heritage Desk-Based Assessment
- Landscape and Visual Impact Appraisal
- Arboricultural Assessment
- Ecological Impact Assessment
- Odour Assessment
- Mineral Resource Assessment

3. Description of the Site and Surrounding Area

- 3.1. The application site covers an area of 12.2 hectares and is located to the south of Ratby, which is identified as a Key Rural Centre in the Council's Core Strategy. Ratby itself lies approximately 2 miles to the west of the Leicester Principal Urban Area that includes Glenfield, Leicester Forest East and Kirby Muxloe. Leicester city centre is 5 miles to the east and Hinckley lies 9 miles away to the south west.
- 3.2. The site is bordered by Desford Lane to the west, Ratby sports club/ pitches to the north and Stonecroft commercial site and disused railway to the south. Agricultural land lies to the east, south and west beyond Desford Lane. The proposed site access is within approximately 800m of the village centre. The current nearest bus stops are located on Desford Lane, approximately 700m to the north of the site. Blaby District lies to the south of the site.
- 3.3. The site currently comprises a single agricultural arable field, an area of roadside verge adjacent to Desford Lane is also included within the red line of the application. There are a number of hedgerows and mature trees within the site, particularly to the site boundaries. Land levels on the site fall from west to east with a difference of over 10 metres between the highest and lowest point of the site.
- 3.4. The application site is located predominantly within Flood Zone 1 on the Environment Agency Flood Maps for Planning with small areas to the south and east of the site, which is indicated as being used as informal open space and landscaping, lying within Flood Zones 2 and 3. A public footpath (PRoW R41) runs south eastwards from Desford Lane close to the south-west boundary of the site.
- 3.5. The site lies adjacent to the National Forest and the Charnwood Forest the boundaries of which lie to west on the opposite side of Desford Lane.

4. Relevant planning history

- 4.1. None

5. Publicity

- 5.1. The application has been publicised by sending out letters to the occupiers of 249 neighbouring properties. 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 81 objections have been received from the occupiers of 62 neighbouring properties, raising the following concerns and points:

Principle of development:

- The site is outside the designated limits to development in the local plan
- Ratby has already had 267 dwellings over 3 sites in recent years which is too much for a village of this size
- The walking distances to Ratby is stated as 800m this is a very conservative estimate
- The developer has failed to demonstrate sufficient housing need for the development in Ratby
- The main economic benefit would be to the development landowner not the local community
- The development would contribute to increasing the size of the settlement to a level where the sense of community breaks down
- There is already sufficient house building underway at Lubbesthorpe and other areas in the region to meet need
- Objections under paragraph 80 of the NPPF and DM4 as intrusion into the countryside.

Infrastructure:

- The current infrastructure is unable to support the current habitants of the village with the school already being oversubscribed, only one village store and doctors currently present.
- In order for additional houses to be built, an additional school is a necessity not a desire.
- Kirby Muxloe school is full.
- There is insufficient secondary school provision

Roads/Highways:

- Ratby is a small village with one narrow main street
- The roads are already extremely chaotic and congested and an increase in more homes would only increase what is already a dangerous situation especially around school time.
- There are already parking problems, there is no car park in the village so drivers park on the road when using facilities
- As drivers park on the street you cant walk down the street without having to walk on the road
- The narrow lanes near the site are dangerous
- The approaches to Kirby Muxloe are heavily congests and includes HGV routes. These roads are dangerous and busy, the impact is of major concern to Kirby Muxloe.
- The lane is seems inadequate in width for emergency services and refuse collection vehicles.
- The bus only operates once an hour, there is no Sunday or evening service and tickets are expensive.
- No pedestrian or cycle links are indicated on the plans.
- The proposed access is near a blind bend
- There is not a safe walking route into the village
- The new bus stops would have a minimal reduction in car use

- Other villages along the routes to Leicester, the M1 and A46 will suffer from traffic overload and pollution
- The proposal conflicts with DM17

Flooding/Drainage:

- The area often floods and will be very wet no matter how much sustainable drainage there is
- The existing drainage system is already at capacity, concerns that the development will lead to drainage/flooding area for the surrounding areas.
- Objections under DM17 as the site is on a flood plain

Ecology:

- There isn't reference in the planning documents considering local bat colonies and deer populations
- The application fails to show that it meets the environmental aspects of sustainability. It claims that there would be an improvement of biodiversity on the site by planting a small area of trees. There is far more potential for improving the biodiversity of the site by leaving it all as green fields.
- The development may impact the National Forest as increase use of local woodlands may damage paths and increase littering and dog waste

Character/Design:

- The development would erode the separation of Ratby from surrounding villages
- The site is not in keeping with the local area
- Loss of green space/countryside is not acceptable
- The development would erode the identity of Ratby as a village
- The installation of street lighting at the entrance to the site would increase the drift toward urbanisation
- The increase in traffic will have a detrimental impact on the conservation area
- The site sits atop a hill making the application visually prominent within the context of the local landscape, conflicting with the Councils landscape character assessment 2017 and eroding the sense of rural environment.
- Conflict with DM10

Pollution:

- The increase in lorries and car are concern including in terms of pollution

Noise:

- Some of the proposed houses will be very close to the Stoneworks, has consideration been given to the fact they may want to sit in their gardens
- The additional cars will cause more noise particularly on Main Street

Other:

- Villagers already experience a high volume of power cuts due to additional residents
- HBBC has declared a climate emergency and this application is completely inconsistent with such a declaration
- The development would lead to a loss of arable agricultural land

6. Consultation

6.1. **Ratby Parish Council** – The Parish Council has employed a firm of solicitors to object on their behalf and the objection runs to 19 pages. It is therefore summarised below.

Principle of development:

- The development is in the countryside, outside of the settlement boundary and visually and physically separated from the southern edge of the settlement by 250m. Even with the recent grant of planning permission for a new medical centre at Desford Lane there is still a significant extent of undeveloped land between the application site and existing built development at Ratby.
- The proposals are for market housing in an inherently unsustainable location, outside of the settlement boundary of Ratby in the open countryside. There is therefore a fundamental objection to the principle of development in this location and it is considered that the proposals are contrary to the objectives of policies 7 and 8 of the Core Strategy, policy DM4 of the SADMP and paragraph 80 of the NPPF.
- The proposed development also conflicts with the objectives of Policy 17 of the Core Strategy, as it is a large scale housing development isolated from the settlement of Ratby.

Impact on the character of the countryside:

- The application site is highly visible within the surrounding landscape both from the north, within the settlement of Ratby, and from the south at Desford Lane. The site is visible from numerous locations within the public realm and will effectively appear as a new isolated settlement, some distance from Ratby.
- The proposed development will significantly change the character of both the immediate and wider surrounding area, in a location that is demonstrably sensitive to further development. The application site is located in a visually prominent location, in an area which has a recognised high amenity value in terms of views of the surrounding area.
- The proposals will introduce a significant quantum of built development on a site that has historically been undeveloped and used for agriculture, providing a rural vista into Ratby from the south-west. The proposals will also contradict the objectives of the Council's Landscape Character Study,
- The proposed footway will appear as a significant anomalous urbanising feature within the surrounding landscape.
- The proposals conflict with the objectives of Policy DM4 of the SADMP.

Noise and Amenity

- The submitted Noise Assessment confirms at paragraph 7.2.10 that the results of the BS4142 assessment indicate that, with no mitigation measures in place, noise levels from the industrial premises near to the site will exceed background sound levels during the night-time period at proposed sensitive receptors, resulting in significant adverse effects. Without a significant scheme of mitigation in place, the proposals will be in conflict with Policy DM7 of the SADMP and paragraph 174e of the NPPF.

Highway matters, traffic and transport concerns

- Concerns regarding the Transport Assessment including whether a sensitivity test has been undertaken, concerns about the timing of the data collection (April 2021) and lack of raw data for the A46 and A50. Concerns that the TA does not accurately assess the impacts of the proposals upon the surrounding highways network, and that the proposals, should they be granted planning permission, would lead to an unsafe highway environment. It is noted that, at present the swept path analysis for refuse vehicles results in vehicles overrunning into the right hand lane, which is concerning given the current layout of the road and lack of visibility from the site access when turning right toward Ratby.

- 6.2 **Kirby Muxloe Parish Council**- Strongly object on the following grounds:
- It is outside the settlement boundary and therefore contrary to Policy DM4
 - There are no bus stops on Desford Lane
 - Local primary schools are full
 - There is simply insufficient infrastructure to cope with the development
 - This will generate significant amounts of traffic on roads in Kirby Muxloe which are incapable of taking further commuter traffic
 - The development should not be considered in isolation and must be viewed in light of previously approved applications in the area by both Hinckley and Bosworth Borough Council and Blaby District Council

- 6.3 **Blaby District Council** – Strongly objects to the application. The proposal is within the countryside and therefore contrary to Policy DM4 of the Site Allocations and Development Management Policies DPD as well as policies 7 and 8 of the Core Strategy. The application site is divorced from the nearby settlement of Ratby and would have poor linkages to wider services and facilities. Having only one access into the site exacerbates these issues. There is also little opportunity to integrate into the wider cycle and footpath network. Consequently the development would create a car dominated and isolated settlement, with poor access to services and facilities, which therefore represents an unsustainable form of development contrary to the Development Plan and the National Planning Policy Framework. Blaby District Council is particularly concerned regarding the cumulative impacts arising from a development of this scale on the highway network. Of particular concern is the impact of the development both in terms of congestion and air quality at the Ratby Lane, Desford Road junction in Kirby Muxloe and on the A47 in Leicester Forest East.

The District Council also forwarded objections from Leicester Forest East Parish Council. The responses from the parish councils is to the consultation from Blaby rather than direct to HBBC in response to consultation on the planning application.

The Parish Council objects to the application on highway grounds, the impact on residents' health due to the effect on air quality due to increased traffic and the negative effect on local wildlife. If permission is granted pavements would be required on the A47 to allow safe pedestrian access.

- 6.4 **National Highways** – No objections

- 6.5 **LCC Highway Authority** – The Local Highway Advice (LHA) advice is that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe.

The LHA had initially recommended refusal of the application and had then, after the submission of a revised Transport Assessment, advised that insufficient information had been submitted.

The LHA now advises that given the proposed off-site highway works, a speed reduction to 40mph on Desford Lane is accepted. The applicant will be required to contribute £8,985 towards the costs associated with the Traffic Regulation Order (TRO) required to relocate the speed limit and would be responsible for the installation of the TRO and a gateway feature.

Access to the site is proposed to be taken from Desford Lane, a C class road subject to the national speed limit. At the request of the LHA the Applicant has undertaken a

Road Safety Audit (RSA) which has not raised any problems with the proposed site access/ghost right turn lane other than the speed limit.

The LHA previously advised it did not consider a reduction in the national speed limit past the site as suggested by the Applicant to be necessary. However, given the proposed off-site works and recorded speeds, as well as the RSA1 recommendation to reduce the speed limit, the LHA has re-considered this advice and would accept a speed limit reduction to 40mph. The LHA advise that a 40mph buffer limit to the proposed gateway signs (at least 400m from the existing 30mph limit), dragons teeth gateway and 40mph Roundel markings should be installed at the village name plate signs.

The Applicant has stated that the redundant section of Desford Lane would be broken up and replaced with grass verge/ planting. This is welcomed by the LHA. The drawing also provides details of the access junction radii, which are considered to be acceptable. In respect of swept path analysis, vehicle tracking of a fire appliance has now been provided by the Applicant and is acceptable. The vehicle tracking of a refuse collection vehicle has not been raised as a concern in the RSA1 and it is accepted that, whilst it will over-run adjacent lanes, this would occur on an infrequent basis and it is not uncommon.

Vehicular visibility splays of 2.4 x 120m can be provided to the right of the access and 2.4 x 118m to the left, through realignment of Desford Lane along the site frontage. The Applicant has provided several drawings within Appendix C of the Transport Assessment to show how this is proposed to be undertaken. While the visibility splay to the left of the access is below the 120m which the LHA previously advised was required based on Part 3, Table DG4 of the Leicestershire Highway Design Guide ([LHDG] and the recorded vehicle speeds, as detailed within Part 4.4 of the TA, this is within the desirable minimum standards detailed within the Design Manual for Roads and Bridges (DMRB). The Applicant has stated that without realignment of the carriageway DMRB visibility splays could not be met. The LHA is content that the proposed visibility splays are acceptable.

The LHA Previously raised concerns with how the proposed development could impact existing accesses along Desford Lane, including the field access opposite the site access, Alexandra Stone access and additional field access opposite Alexandra Stone. Following the submission of vehicle tracking and the RSA the LHA is satisfied that the impacts would not be severe.

With regard to Personal Injury Collisions (PIC) and road safety the LHA identified a clear pattern of PICs at the Desford Lane/Botcheston Road junction involving four right turning PICs. Notwithstanding the above, since the previous highway observations provided by the LHA, the LHA advised that Leicestershire County Council have since identified the two existing Vehicle Activated Signs (VAS) close to the site for replacement and are also intending to install additional 'SLOW' markings at the junction. The LHA advise that a signing and lining scheme would have been considered proportionate for the level of traffic which would have been generated by the site. However, on the basis similar improvements to improve road safety are now planned by LCC, it is considered that the LHA would not require any additional works by the Applicant.

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 11

junctions. The modelling shows that nine of the eleven junctions would operate within capacity. The LHA has advised that a contribution of £62,754 would be required towards improvements to the Field Head roundabout (Junction 10) as part of the extended Coalville Transport Strategy to mitigate the otherwise severe highway impact of the proposed development. In respect of the A46/A50 Groby Road/Markfield Road/Leicester Road roundabout the Ratio of Flow to Capacity (RFC) of the junction exceeds 85% predominantly in the AM peak and the greatest impact of the development would be on the 'A50(N) Ahead' link, where the RFC increases from 91.9% in the 2028 base scenario (without the development in place) to 93.3% in the 2028 With Development scenario. The RFC of the Leicester Road arm also increases from 92.2% to 93.4%. However, queueing and delays are only predicted to increase by approximately one vehicle and three seconds on the A50(N) Ahead link, while by approximately three vehicles and 7.5 seconds on the Leicester Road arm. Two links on the A46 (National Highways) arms of the roundabout would exceed 85% in the 2028 With Development scenario. However, the LHA have advised they do not have the evidence to demonstrate that this impact would be severe.

The LHA has been involved in extensive discussions with the LPA and the Applicant team in respect of the off-site works/implications. For Desford Lane the overall pedestrian and cycle strategy for the site includes the following proposals:

- Introduction of a 3.0m shared footway/cycleway with a 0.5m verge (where achievable) along the east side of Desford Lane and a short section on the west side of the road in the vicinity of the Pear Tree Business Park access;
- Introduce a pedestrian island to connect the site access to the northbound bus stop on Desford Lane;
- Introduction of traffic calming measures on Desford Lane;
- Reduce the speed limit along the site frontage; and
- Introduce a Toucan crossing on Desford Lane to the north of the site.

This has been judged acceptable subject to planning conditions.

The LHA previously advised that the Travel Plan was considered to be acceptable. Given the date of this however (February 2020) it is advised that it is updated to ensure it reflects the current situation and the LHA have therefore advised an appropriate planning condition.

It was previously advised that the LHA had concerns with the connectivity of the site with the village of Ratby, which the LHA considered to be poor. The Applicant had also confirmed that they were unable to provide a direct pedestrian link between the site and Station Road, for example via Brook Drive.

However, a shared use footway/ cycleway has now been proposed alongside Desford Lane leading up to the Pear Tree Business Park access. This now provides an improvement for cyclists in addition to pedestrians heading towards Ratby in the absence of any more direct links. While the lack of connectivity between the site and Ratby village is limited, given the proposed off-site works along with the provision of bus stops close to the site, which would serve the existing hourly bus service that runs along Desford Lane, the LHA could not sustain a reason for refusal regarding transport sustainability.

- 6.6 **LCC Minerals and Waste** – No objections based on the findings of the Mineral Assessment, compliance with policy M11 of the Leicestershire Minerals and Waste local Plan has been demonstrated.

- 6.7 **LCC Archaeology** – The proposed development area lies outside the historic settlement core of Ratby village, to the north of Rothley Brook and to the south of the projected line of the Via Devana Roman Road. The site has not undergone any previous archaeological investigation and our records show that there has been very little investigation within the surrounding area. The Leicestershire and Rutland Historic Environment Record (HER), supported by the submitted Desk-Based Assessment (DBA), indicates however that the site lies within a wider landscape that is rich in archaeological remains. Given the size of the development area and the apparent absence of modern ground disturbance there is good potential for archaeological remains to be present here, particularly relating to Roman activity.

The submission of a DBA, which is welcomed, is noted and its findings, which confirm the known archaeological potential of the site, are generally supported. It is recommended that this satisfies the desk-based element of the Archaeological Impact Assessment. The suggestion within the DBA that further evaluation could take the form of geophysical survey in the first instance, which would help to refine the subsequent trial trenching programme, is supported.

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

This will require provision by the applicant for:

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

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

- 6.8 **LCC Ecology** – Having reviewed the submitted full biodiversity net gain metric this is acceptable and shows an 11.5% gain in habitat units and a 9.1% gain in hedgerow units. A detailed Landscape and Ecological Management Plan for the offsetting site should be required by condition to detail how the target habitat conditions will be delivered. The biodiversity net gain calculations should be re-run at reserved matters stage once detailed plans have been produced. Conditions are required regarding precautionary mitigation, further pre-commencement surveys a Construction Environmental Management Plan regarding habitats, lighting and landscaping.
- 6.9 **Lead Local Flood Authority** – It is noted that the site lies within Flood Zone 1 being at low risk of fluvial flooding with a small portion of the site at the southern boundary in Flood Zones 2 and 3 due to the proximity of the Rothley Brook watercourse. Development is shown to be outside these areas but despite this housing close to flood zone 2 have been recommended to have raised finished floor levels as per

LLFA standing advice. The site is shown to be at very low risk from surface water flooding. All other sources of flood risk have been appropriately assessed.

The drainage strategy provided demonstrates the site will discharge at QBar greenfield run off rates into the Rothley Brook, the drainage strategy includes attenuation storage and conveyance swales. The LLFA advises the LPA that the proposals are acceptable subject to planning conditions requiring a surface water drainage scheme to be submitted, appropriate maintenance schemes and infiltration testing.

6.10 **LCC Planning Obligations** – The following contributions totalling £1,305,542.70 are required as a result of this development:

- Waste – Whetstone RHWS - £5,370.75
- Early Years Education – Ratby Primary School - £351,058.50
- Secondary Education (11-18) – Brookvale Groby Learning Campus - £815,310.00
- Libraries – Ratby Library - £6,794.48
- Primary Education – Ratby Primary School – No requirement
- SEND Education – Forest Way School- £127,008.97

6.11 **Sport England** – Whilst the application is below the threshold on which Sport England would wish to comment and they do not intend to make comments the proposal has the potential to impact on the adjacent sports facilities. Sport England advise that the occupiers of the new development will generate demand for sporting provision. Sport England considers that new developments should contribute towards meeting the demand that they generate through the provision of on-site facilities and/or providing additional capacity off-site.

In addition Sport England, in conjunction with Public Health England, has produced 'Active Design' (October 2015), a guide to planning new developments that create the right environment to help people get more active, more often in the interests of health and wellbeing. Whilst the proposal includes a number of circulatory paths and traffic free routes around the site, the pedestrian/cycle connections to and from the detached site appear limited to Desford Lane.

The layout, as currently indicated in the development framework, includes a separation of the new residential properties of around 15m to 20m to the southern boundary of Ratby Sports Club, which would be utilised as a linear open space containing a footpath/cycle route. Given the current layout of sports pitches there may be occasions when footballs cross the boundary and could therefore create issues. It is also noted that the noise assessment has not considered any impacts from the use of the sports facilities, which may indeed be low given the separation distances. The impact of the development on the use of the playing field may therefore be considered to be minimal, but this is not addressed or explained in the DAS.

An assessment of the potential impacts on the current and future use of Ratby Sports club should be submitted for consideration or the assessment undertaken so far should be clarified. In any event if the development is assessed as appropriate, the linear open space which separates the housing area from the sports club, should be secured by condition.

Notwithstanding the abovementioned concerns Sport England does not consider that there is so significant prejudicial impact on the existing facilities at Ratby Sports Club to warrant an objection to the development as currently proposed.

- 6.13 **Natural England** – No comments to make on the application but refers to standing advice.
- 6.14 **National Forest Company** – The application adjoins but falls outside the National Forest boundary. The planting on both sides of Desford Lane is noted and it is anticipated that full details of this will be covered by condition should the application be approved.
- 6.15 **Leicestershire Police** – No objections but provides advice.
- 6.16 **NHS England** – The GP practice closest to this development is Ratby Surgery which covers Ratby, Groby, Desford, Kirby Muxloe and Leicester Forest East/Lubbesthorpe, all areas which have seen a significant increase in population via new developments. The practice is currently preparing its final plans for the proposed new surgery. The Care Commissioning Group recognise that this will play a key role in supporting Ratby and the surrounding area in the future. For this reason the West Leicestershire Care Commissioning Group would like to seek S106 healthcare contributions towards the cost of improving clinical space in order to increase access for patients in the area. The proposed development generates a requirement for a contribution of £165,702.24 and this should be released prior to first occupation.
- 6.17 **HBBC Conservation** – There are no designated heritage assets within the application site boundary, but the proposal affects the significance of two designated heritage assets by being located within their wider setting.

The proposal will cause less than substantial harm to the Ratby Conservation Area and the Grade II* listed building the Church of St Philip and St James. The harm caused to heritage assets should be weighed against the public benefits of the proposal to be identified by the decision-taker. Should the balancing exercise not come out in favour of the proposal it should be refused due to its conflict with Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD, the relevant paragraphs of the National Planning Policy Framework. In addition should the application of paragraph 11d of the NPPF be relevant for decision taking then it should be recognised that the Ratby Conservation Area and the grade II* listed building the Church of St Philip and St James are designated heritage assets of particular importance (as referenced in footnote 7).

There are no designated or non-designated heritage assets within the site boundary. The Ratby Conservation Area is c.250m north-east of the site boundary. The conservation area contains a small number of listed buildings, including the grade II* Church of St Philip and St James, and a reasonable number of buildings of local interest. Ratby Camp scheduled monument is located c.900m north-west of the site. There are other designated heritage assets within the wider area including a number within Kirby Muxloe to the south-east of the application site, which is within the local authority of Blaby District Council.

Although there are no designated or non-designated heritage assets within the application site there a small number of heritage assets located within the vicinity, as identified above.

The Grade II* listed building the Church of St Philips and St James is located c.500m to the north of the application site. The tower of the church is visible from various positions within the site and from the wider area looking over the site.

The southern boundary of the Ratby Conservation Area is located c.250m north of the application site. The conservation area encompasses the historic core of Ratby and includes the church, two other listed buildings and a number of buildings of local heritage interest. Due to the changes in topography and intervening development and vegetation there is limited intervisibility between the application site and much of the conservation area. Only the church is visible from the application site as it is located on a high point in the conservation area.

The application site is considered to fall within the setting of the Ratby Conservation Area and the Grade II* listed Church of St Philip and St James only.

The introduction of built form would curtail the visibility of the tower of the Grade II* listed Church of St Philip and St James from within the application site, limiting it at best to some possible glimpses from the indicative primary roads and the areas of green infrastructure. The surroundings in which remaining views would be experienced would likely be transformed from a predominantly agricultural and rural scene to a prospect dominated by new housing. The proposal would therefore have a negative effect on the ability to experience and understand the significance of the church from within its landscape setting. The level of these effects is considered to be minor adverse given that they arise from a proposal within the setting of the heritage asset rather than being a direct impact, and views to the church from within the site are not key views, such as those offered from historic routes to the church from nearby settlements. As the church is a heritage asset of high significance as a grade II* listed building and the level of the effects is minor the proposal is considered to have a moderate adverse impact upon the significance of the Church of St Philip and St James. In terms of the NPPF this level of harm should be considered as less than substantial, and likely towards the lower end of this spectrum of harm.

The reduction in visibility of the church tower from within the application site and the resulting transformation of the context of the views from a rural scene to one dominated by new housing will also have a negative effect upon the Ratby Conservation Area. The loss of a component of the agricultural hinterland of the historic settlement to built form will also have a negative effect upon the conservation area. The level of these adverse effects is considered to be relatively minor given that the effect on the conservation area as a whole is limited, with only one building being visible, and the site only forms a relatively small part of the rural context of the area, one within which there are few remnants of its medieval past. Given the medium significance of the heritage asset as a designated conservation area and the minor level of the effects the proposal is considered to have a negligible adverse impact upon the significance of the Ratby Conservation Area. In terms of the NPPF this level of harm should be considered as less than substantial, and likely at the very lowermost end of this spectrum of harm.

As the proposal would cause harm to the Grade II* listed building the Church of St Philip and St James and the Ratby Conservation Area the harm caused to these designated heritage assets must be carefully weighed up against the public benefits of the proposal as required by Policies DM11 and DM12 of the SADMP and paragraphs 199, 200 and 202 of the National Planning Policy Framework.

It is considered that the proposal can demonstrate no particular heritage benefits, other than a possible minor increase in the amount of boundary hedgerow, thicket and tree planting along the realigned section of Desford Lane which would reinforce a key rural characteristic and positive contributor to the setting of the affected heritage assets.

- 6.18 **HBBC Affordable Housing** – As this scheme is in a rural area, policy set out in the Core Strategy (policy 15), indicates that 40% of the dwellings should be for affordable housing. Of these properties, 75% should be for social or affordable rent and 25% for intermediate tenure. This site will cross the threshold for the provision of affordable housing to be required. For 225 units, 90 dwellings should be for affordable housing; 68 for social or affordable rent and 22 for intermediate tenure. For this development, a spread of dwellings across all property types would be welcomed, including 1 bedroomed quarter houses or apartments, and bungalows.

The need for rented accommodation is therefore predominantly for smaller accommodation for single people or couples, or small families. Since Ratby is in the rural area of the Borough, the Section 106 agreement should include a cascade that the affordable housing for rent is offered firstly to people with a connection to the parish, and secondly to people with a connection to the Borough of Hinckley and Bosworth.

- 6.19 **HBBC Compliance and Monitoring** – They are providing a LEAP and a small trim trail along with SuDs to the development. The areas of play are welcomed in this area for the amount of houses being proposed as there is nothing within the vicinity. It is also not close to a formal park where outdoor sports can be played this should be provided by way of a MUGA or something similar for this part of Ratby. If no outdoor sports area is provided on site, a contribution would be sought for Boroughs Road recreation ground to make some improvements here for outdoor sport provision.
- 6.20 **HBBC Drainage** – No objections subject to conditions regarding surface water drainage.
- 6.21 **HBBC Environmental Health** – No objections subject to conditions regarding contamination, noise attenuation, lighting and a Construction Environmental Management Plan.
- 6.22 **HBBC Waste Management** – No objections subject to a condition regarding provision for waste and recycling storage and collection.
- 6.23 **HBBC Tree Officer** – The submitted tree survey and arboricultural impact assessment appears to be thorough and accurate. The proposals would appear to only significantly impact on roadside trees for Desford Lane highway purposes and these are mostly young immature, low category (Cat C) trees. It would probably be better to replace these prominent Cat C trees with different species of advanced nursery stock. Cat B tree(s) should be retained with appropriate protective barriers.

7. Policy

- 7.1. Core Strategy (2009)
- Policy 7: Key Rural Centres
 - Policy 8: Key Rural Centres Relating to Leicester
 - Policy 14: Rural Areas: Transport
 - Policy 15: Affordable Housing
 - Policy 16: Housing Density, Mix and Design
 - Policy 17: Rural Needs
 - Policy 19: Green Space and Play Provision
 - Policy 20: Green Infrastructure
 - Policy 24: Sustainable Design and Technology

- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. Leicestershire Waste and Minerals Local Plan (2019)
- Policy M11: Safeguarding of Mineral Resource
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2021)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.4. Other relevant guidance
- Good Design Guide (2020)
 - Leicestershire Highway Design 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)
 - Ratby Village Design Statement Supplementary Planning Document (2011)
 - 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 and relate largely to the principle of development. 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
 - Archaeology
 - Trees

- S106 Heads of Terms
- Planning Balance

Principle of Development

- 8.2. 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. Paragraph 2 of the National Planning Policy Framework (NPPF) repeats this and states 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 Leicestershire Minerals and Waste Local Plan (2019).
- 8.4. The Emerging Local Plan for 2020-39 has previously been out for consultation at Regulation 19 draft stage (February to March 2022). The latest Local Development Scheme (LDS) was approved at Full Council on 13 December 2022. The updated LDS extends the Local Plan period to 2041, revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a second Regulation 19 Consultation which is not scheduled until May-June 2024 with adoption due around January 2025. The Replacement Local Plan is therefore delayed and so is not considered to carry weight in the decision making process at this time.
- 8.5. The Core Strategy (CS) sets out the settlement hierarchy for the Borough, Ratby is identified within the CS as a Key Rural Centre. The Hinckley and Bosworth Settlement Hierarchy Paper dated December 2021 states that Ratby is located in the east of the borough close to the urban area of Leicester and offers a broad range of services and facilities. It has a population of around 4,760 making it, in population terms, the third largest rural settlement in the borough. In the Local Plan, Ratby was classified as a Key Rural Centre. It benefits from the following key primary facilities – a primary school, a GP surgery, convenience stores, a post office, community halls and employment areas. Ratby also offers a broad range of secondary facilities including a library, pubs, restaurants, takeaways, places of worship and a pharmacy.
- 8.6. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Due to this and the change in the housing figures required for the Borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (NPPF) whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework.

Therefore, sustainable development should be approved unless other material considerations indicate otherwise.

8.7. 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 proposed⁷; 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.”*

8.8. 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”*.

8.9. 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”*.

8.10. 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.”*

8.11. 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.”

8.12. 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.

8.13. The application site is located adjacent to the settlement of Ratby, albeit that it is separated from existing residential development by the Ratby Sports Club and its pitches to the north and by the Rothley Brook and its flood plain to the east and is on farmland which is designated as countryside. As such Policies DM4 of the SADMP is of most relevance with regard to the principle of development.

- 8.14. 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.
- 8.15. 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
- and:
- i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - ii) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii) It does not create or exacerbate ribbon development; with Core Strategy Policies 6 and 9; and
 - iv) If within a Green Wedge, it protects its role and function in line
 - v) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21
- 8.16. The proposed development does not relate to any of the criteria above in Policy DM4, 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, includes affordable housing, public open space beyond normal requirements, mitigation of the scheme and other socio-economic benefits. The urbanising effects of the proposal are acknowledged by the applicant, but these are said to be minimised, so far as is possible, and acceptable. The proposal is also supported by a Landscape Visual Impact Assessment (LVIA) setting out the impact on the wider landscape character.
- 8.17. It is considered that the proposed development fails to comply with policies DM4. 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, particularly paragraph 174b which provides that planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Policy DM4 can therefore be afforded significant weight.
- 8.18. Paragraph 174 of the NPPF also requires that planning decisions recognise the benefits of the best and most versatile agricultural land. Most of the district falls with category 3, ‘good to moderate’, with some being ‘very good’ and a much smaller percentage being ‘poor’. Best and most versatile agricultural land is defined as being

grades 3a, 2 and 1. While no specific site assessment has been undertaken in this instance the site is used for the growing of crops as opposed to being land used for grazing. It is therefore highly likely that it would fall with category 3a and therefore be considered best and most versatile agricultural land. The loss of such land to agricultural use is not considered to be significant though given the fact that most of the district is also likely to fall within this same category and the provision of the new dwellings that the Borough needs will not be achievable using brownfield land or by using agricultural land of a lower grade.

- 8.19. As the Borough Council cannot currently demonstrate a five-year supply of housing, the presumption in favour of sustainable development needs to be considered. The three objectives to achieving sustainable development are identified as economic, social and environmental.

Housing Mix and Supply

- 8.20. 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.
- 8.21. The Good Design Guide SPD advocates the use of the Building for Life assessment.
- 8.22. 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 of the CS is considered up to date in this regard.
- 8.23. Final number, mix of dwellings, layout and density will be determined at Reserved Matters stage, but the illustrative layout and Design and Access Statement shows that a mix of types, sizes and density of dwellings can be accommodated. 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.
- 8.24. 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.
- 8.25. 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 couples, or small families.

- 8.26. The applicant has indicated that the site will provide the policy-compliant requirement of 90 affordable homes including 68 for social or affordable rent and 22 for intermediate tenure. For this development, a spread of dwellings across all property types would be welcomed, including 1 bedroomed quarter houses or apartments, and bungalows. As this site is in the rural area, the Section 106 Agreement requires a cascade that the affordable housing for rent is offered firstly to people with a connection to the parish, and secondly to people with a connection to the Borough of Hinckley and Bosworth.
- 8.27. 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.
- 8.28. The provision of up to 225 dwellings, 40% of which would be affordable homes, is considered to be a significant benefit of the proposal that would positively contribute towards the Council's need for a 5 year supply of housing land and to the need for affordable homes within the borough.

Impact upon Highway Safety

- 8.29. 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)).
- 8.30. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.31. 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.
- 8.32. The applicant has been in lengthy discussions with the Local Highway Authority and National Highways to overcome a number of significant initial concerns that were raised. In response the applicant has submitted additional technical information, road safety audits, and proposals for offsite highway improvements. These are detailed above.
- 8.33. As a result of this additional information Highways England has no objections and the County Highway Authority advice is that the impacts of development on highway safety would not be unacceptable and the impacts on the road network would not be severe. The application includes several off site improvements as detailed below
- Provision of new northbound and southbound bus stops at the site frontage south of the main site access
 - Slight realignment of Desford Lane south of the main site access to improve visibility

- Introduction of a 3m shared footway/cycleway plus a 0.5m verge where possible, on the east side of Desford Lane and a short section on the west side in the vicinity of the Pear tree Business Park access;
 - Introduction of a traffic island to connect the site access to the northbound bus stop on Desford Lane
 - Introduction of traffic calming measures on Desford Lane
 - Reduction in the speed limit along the site frontage
 - Introduction of a Toucan crossing on Desford Lane to the north of the site at the new medical centre
- 8.34. Given the views of Highways England and the County Highway Authority, and subject to conditions, it is considered that the proposals accord with the requirements of the NPPF and Policy DM17 of the Site Locations and Development Management Policies Development Plan Document.

Impact on the Character and Appearance of the Area

- 8.35. 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.
- 8.36. Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.37. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.38. The Council's Good Design Guide (2019) identifies design objectives for Ratby. These objectives seek to protect the setting of the Church (Church Lane), retain the dispersed built form and surviving farm buildings, protect the stone boundary treatments and resist the encroachment of modern domestic elements on a characteristically agricultural area. The Ratby Village Design Statement sets out the contextual analysis for the village and highlights the distinctive elements and characteristics of Ratby that should be considered. It includes details relating landscape features, green spaces, boundary treatments, highway and traffic.
- 8.39. The site lies outside but adjacent to the boundary of the National Forest and Charnwood Forest which lie to the north and north west of Desford Lane.
- 8.40. This development is for up to 225 homes with an average density of 38 dwellings per hectare alongside locally significant levels of open space and habitat creation. Housing on the most elevated parts of the site nearer the northern boundary are proposed to be of lower density than the remainder of the site. Whilst the mix of dwellings would be determined at subsequent Reserved Matters stages the indicative

proposals include a mixture of detached, semi-detached and terraced buildings providing a wide range of accommodation and tenure. The illustrative masterplan indicates that the proposed built development would be located within the central and northern parts of the site away from Stonecroft to the southwest and the flood zone to the east.

- 8.41. Approximately 6.29ha of land is indicated for new green spaces, predominantly but not exclusively to the southern and eastern edges of the site. This green space is proposed to include the retention of key landscape features (hedges and trees), informal public open space, childrens play areas, wildlife enhancement areas and a 'trim trail' along a new recreational route to the east of the site to provide a series of 'play on the way' stations. The indicative framework plan shows the retention of the existing public right of way on its current route in addition to a number of new pedestrian routes, which the applicant states are designed to allow access for all members of the Ratby community to the proposed new public green spaces. Attenuation basins are also proposed to the east and south of the site.
- 8.42. The site falls at the northern edge of Landscape Character Area D: Newbold and Desford Rolling Farmland in the Council's Landscape Character Assessment within the more general Rolling Farmland landscape type, comprising a sparsely settled area of undulating mixed farmland with local variations in topography influenced by small streams. Key characteristics of this landscape include "gently rolling landform rising to the north from the lower lying land around the River Soar", "predominantly arable farmland with clustered areas of industry and recreational facilities near to the village fringes", "open views where hedgerows have been removed, giving an impression of a large scale landscape".
- 8.43. Key sensitivities and values noted in the Assessment include "the rural settlement pattern of compact and nucleated agricultural settlements connected by a network of rural lanes and minor roads is largely unspoiled. The rural landscape and sense of tranquillity is sensitive to change from further development". "Long distance and panoramic views from the elevated land in the north creates a high scenic quality and adds to the visual amenity" and "The areas which provide a rural setting to the settlements are sensitive to changes as a result of new development, as well as views from the wider landscape to church spires." Three of the landscape strategies outlined in the Assessment include "conserve the relatively small-scale villages and ensure any new development contributes positively to the character and built vernacular", "conserve and enhance the long, panoramic views from higher ground of unclutters skylines and church spires" and "promote regeneration and enhancement of tree cover".
- 8.44. Key characteristics of the Urban Character Area 8 that comprises the majority of the village include "historic hilltop settlement with an open countryside setting to the west and south", "church of St. Phillip and St James...forms a clear focal point" and "settlement clearly visible from the surrounding landscape, on a hill rising from the flatter topography". Key sensitivities and values include "the open landscape to the west and south plays an important role in providing a rural context to the historic core" and "views and vistas of the Church of St Philip and St James which dominates the skyline from the surrounding countryside and within the settlement" and "the rural village character". Townscape strategies for Urban Character Area 8 include "ensuring that future new development respects the setting of the village and its rural interface, including historic landscape elements" and "protecting views and vistas of the church of St Phillip and St James, retaining its dominance on the skyline from the surrounding countryside".

- 8.45. A Landscape and Visual Impact Assessment (LVIA) has been submitted as part of the application and has been independently reviewed. While the review of the submitted LVIA is critical of many aspects of the Assessment and as is often the case in these matters there is a difference in opinion regarding the impact of the proposed development.
- 8.46. The site is unusual in that there are no existing dwellings in close proximity.
- 8.47. Overall, it is broadly agreed that the site is visually relatively well-contained albeit that it is visually exposed in views towards it from the south, reflecting the topography of the site and the presence of the Rothley Brook valley between the site and the locally elevated settlement fringes of Kirby Muxloe.
- 8.48. However, the character of the existing site and relatively few views from existing dwellings, footpaths, highways or other public viewpoints are such that the extent of landscape and visual effects will be relatively contained. The development framework plan indicates a commitment to a strong landscape treatment, particularly to the site's southern, eastern and western boundaries. This landscaping will, in the medium to longer term, enable the better integration of the development into the local context. The immediate proximity of the National and Charnwood Forests provides further justification for ensuring that the strong landscape envelope indicated is secured at reserved matters stage.
- 8.49. Overall, it is considered that the site is capable of accommodating development subject to an appropriate mitigation strategy as shown on the development framework plan without resulting in significant landscape or visual effects to the wider area. In the longer term it is considered that the effect on the character and appearance of the area and on the wider landscape will be limited. The proposed development is considered therefore to broadly accord with the requirements of Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document.

Impact on Heritage Assets

- 8.50. 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.
- 8.51. 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.
- 8.52. 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.

- 8.53. 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.
- 8.54. 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:
 - a. an understanding of the significance of the heritage asset and its setting; and
 - b. the impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts; and
 - c. how the benefits of the proposal will outweigh any harm caused; and
 - d. any impact on archaeology in line with Policy DM13.
- 8.55. 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.
- 8.56. There are no designated or non-designated heritage assets within the site boundary. The Ratby Conservation Area lies approximately 250m north-east of the site boundary. The conservation area contains a small number of listed buildings, including the grade II* Church of St Philip and St James, and a reasonable number of buildings of local interest. Ratby Camp scheduled monument is located approximately 900m north-west of the site. There are other designated heritage assets within the wider area including a number within Kirby Muxloe to the south-east of the application site, which is within the local authority of Blaby District Council.
- 8.57. The site would have been part of the agricultural hinterland to settlement at Ratby in the medieval period. The Heritage Desk-Based Assessment (HDBA) undertaken on behalf of the applicant identifies traces of ridge and furrow earthworks within the site which are consistent with the medieval use of the area, and the site has remained in agricultural use to the present day.
- 8.58. The Council's Conservation Officer has assessed the submitted 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.
- 8.59. Although there are no designated or non-designated heritage assets within the application site there a small number of heritage assets located within the vicinity, as identified above. The Conservation Officer considers that due to factors such as distance, intervisibility and function the site does not fall within the setting of Ratby Camp or the designated heritage assets located to the south-east of the application site within Kirby Muxloe. Therefore these heritage assets would not be sensitive to or affected by an appropriate form of development within the application site.

- 8.60. The site does however fall within the setting of the Church of St Phillips and St James and the Ratby Conservation Area.
- 8.61. The Grade II* listed building the Church of St Philips and St James is located approximately 500m to the north of the application site. The application site, as agricultural land, does not make any direct contribution to the significance of the church. Intervening built form prevents views of the churchyard and main building from the application site. However, the tall church tower is visible from large parts of the surrounding area giving it a commanding presence in the wider rural and agricultural landscape that surrounds the village. The application site forms part of this wider agricultural landscape and forms part of the wider setting to the church. The church tower is visible from various sections of the application site, and such views allow for an understanding and appreciation of the significance of the church from within its rural setting. Conversely, views of the application site from the churchyard are heavily filtered by trees and the site is not prominent in these views. As such views from the church to the site do not make any appreciable contribution to its significance.
- 8.62. The southern boundary of the Ratby Conservation Area is located approximately 250m north of the application site. The Ratby Conservation Area principally derives its significance from the historic and architectural interest of its associated spaces and historic buildings, including listed buildings and buildings of local interest, as well its historic settlement layout. Agriculture has been a component of the historic development of the village which has influenced its layout and settlement form, so due to the application site forming part of its agricultural hinterland it is considered to make a direct and positive contribution to the conservation area. Given the relatively limited size of the site as a component of a larger rural context, distance of the application site from the historic core the village, and only being limited remnants of the medieval rural landscape within the site this contribution to the conservation area as a whole is considered to be minor. The application site is only visible from few locations within the conservation area, mainly from within the higher ground of the churchyard. The site does not form part of the important 'views or vistas to be protected' within the Ratby Conservation Area Appraisal (RCAA) (2014), and where visible it forms a minor part of its surrounding rural hinterland. From the application site the only part of the conservation area that is visible is the church tower, so whilst this allows for some appreciation of the significance of the conservation area, considering the conservation area as a whole views from within the site can be considered to only make a negligible contribution to its significance.
- 8.63. The introduction of built form would curtail the visibility of the tower of the Grade II* listed Church of St Philip and St James from within the application site, limiting it at best to some possible glimpses from the indicative primary roads and the areas of green infrastructure. The surroundings in which remaining views would be experienced would likely be transformed from a predominantly agricultural and rural scene to a prospect dominated by new housing. The proposal would therefore have a negative effect on the ability to experience and understand the significance of the church from within its landscape setting. The level of these effects is considered to be minor adverse given that they arise from a proposal within the setting of the heritage asset rather than being a direct impact, and views to the church from within the site are not key views, such as those offered from historic routes to the church from nearby settlements. As the church is a heritage asset of high significance as a Grade II* listed building and the level of the effects is minor the proposal is considered to have a moderate adverse impact upon the significance of the Church of St Philip and St James. In terms of the NPPF this level of harm should be considered as less than substantial, and likely towards the lower end of this spectrum of harm.

- 8.64. Conversely, as views of the application site from the churchyard are heavily filtered by trees the site is not prominent in these views. As such views from the church to the site do not make any appreciable contribution to its significance and this position is not considered to be altered by the proposed development.
- 8.65. As above the reduction in visibility of the church tower from within the application site and the resulting transformation of the context of the views from a rural scene to one dominated by new housing will also have a negative effect upon the Ratby Conservation Area. The loss of a component of the agricultural hinterland of the historic settlement to built form will also have a negative effect upon the conservation area. The level of these adverse effects is considered to be relatively minor given that the effect on the conservation area as a whole is limited, with only one building being visible, and the site only forms a relatively small part of the rural context of the area, one within which there are few remnants of its medieval past. Given the medium significance of the heritage asset as a designated conservation area and the minor level of the effects the proposal is considered to have a negligible adverse impact upon the significance of the Ratby Conservation Area. In terms of the NPPF this level of harm should be considered as less than substantial, and likely at the very lowermost end of this spectrum of harm.
- 8.66. As the proposal would cause harm to the Grade II* listed building the Church of St Philip and St James and the Ratby Conservation Area the harm caused to these designated heritage assets must be carefully weighed up against the public benefits of the proposal as required by Policies DM11 and DM12 of the SADMP and paragraphs 199, 200 and 202 of the National Planning Policy Framework.
- 8.67. Paragraph 199 of the NPPF states that great weight should be given to the conservation of designated heritage assets, and the more important the asset, the greater the weight should be. Paragraph 200 of the NPPF states that any harm to the significance of a designated heritage asset should require clear and convincing justification. The need for justification is re-iterated in Policy DM11 of the SADMP. The applicant has provided some justification for the low level of harm caused as summarised within the HDBA.
- 8.68. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the NPPF (paragraph 8). The proposal can demonstrate no particular heritage benefits, other than a possible minor increase in the amount of boundary hedgerow, thicket and tree planting along the realigned section of Desford Lane which would reinforce a key rural characteristic and positive contributor to the setting of the affected heritage assets. This is likely to be only a minor heritage benefit. Non-heritage economic, social and environmental benefits can be demonstrated by the proposal. This balancing exercise is undertaken within the conclusion.

Design and Layout

- 8.69. 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.
- 8.70. 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.

- 8.71. 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 225 dwellings with access into the site from Desford 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

- 8.72. 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.
- 8.73. 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.
- 8.74. 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.
- 8.75. 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.
- 8.76. There are no residential properties which immediately adjoin the site and 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 internal relationship for proposed residential units.
- 8.77. Concerns have been raised by residents with regards to the proximity to adjacent commercial units and the potential for noise disturbance, alongside concerns regarding pollution as a result of the development. The HBBC Environment Officer has reviewed the submitted Air Quality Assessment and has judged this to be acceptable subject to mitigation during the construction phase of development. The Odour Impact Assessment is judged to be satisfactory and the Environment Officer does not foresee odour having a significant impact on the site.
- 8.78. With regards to noise, the Environment Officer has reviewed the submitted noise investigation and noted that mitigation is required to reduce noise impact from adjacent commercial operations which it is predicted without such mitigation the

impact at night is predicted as significant. Some properties will require closed windows and ventilation scheme to achieve standards. However, the noise investigation is based on the indicative layout, the investigation will need to be reviewed and mitigation incorporated at Reserved Matters stage. Therefore the Environment Officer has raised no objection subject to a condition requiring a reviewed noise investigation and mitigation strategy.

- 8.79. Additional information with respect to contamination, a Construction Environmental Management Plan and lighting are recommended via condition.
- 8.80. 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. Therefore 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

- 8.81. 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.
- 8.82. 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.
- 8.83. The site lies within Flood Zone 1 on the Environment Agency Flood Maps for Planning being at low risk of fluvial flooding, with a small part of the site, predominantly at the southern boundary being in Flood Zone 2 and 3 due to the proximity of the Rothley Brook watercourse.
- 8.84. Whilst detailed layout and design would be finalised at Reserved Matters stage the proposals show development located outside of Flood Zone 2 and 3, with housing close to Flood Zone 2 having raised finished floor levels as per the Lead Local Flood Authority (LLFA) Standing Advice. The site is at very low risk from surface water flooding and the LLFA considers that all sources of flood risk have been appropriately assessed.
- 8.85. The drainage strategy provided demonstrates the site will discharge at QBar greenfield runoff rates into the Rothley Brook at three separate outfall locations for the three site sub-catchments identified from the topographical survey. Attenuation is provided to achieve this suitable to store surface water drainage from the impermeable areas up to the 1 in 100 year return period plus a 40% allowance for increase in projected volumes due to climate change and 10% increase in impermeable areas due to 'urban creep'. It is explained within the flood risk assessment and drainage strategy report that source control SuDS such as permeable paving will also be considered in detailed design.
- 8.86. The drainage strategy includes conveyance swales within the largest site sub-catchments to the attenuation basins rather than a pipe run. Although the inclusion of these SuDS is welcomed by the LLFA and should be retained, the detailed design should carefully consider adoption and maintenance responsibility of these.

- 8.87. Both the LLFA and 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 and the scheme accords with the Environment Agency standing advice given that all dwellings and gardens would be within flood zone 1. 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

- 8.88. 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.
- 8.89. The ecology reports submitted with the application indicates that the site is predominantly arable with mature boundary vegetation. No evidence of badger or their setts were recorded onsite other than footprints, although there is potential for an offsite sett in proximity to the site. There were no ponds on site and great crested newt was considered unlikely to be present. An otter spraint was recorded on an offsite bank, but no opportunities for shelter or breeding was recorded on or adjacent to the site. The County Ecologist has assessed the information and considers that the report is satisfactory subject to conditions.
- 8.90. A full biodiversity net gain (BNG) metric has been submitted and reviewed by the County Ecologist and is acceptable. This shows a 11.51% gain in habitat units and 9.11% gain in hedgerow units. A detailed Landscape and Ecological Management Plan for the offsetting site should be required by condition, to detail how the target habitat conditions will be delivered and the BNG calculations should be re-run at reserved matters once detailed plans have been produced.
- 8.91. 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.

Archaeology

- 8.92. 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.
- 8.93. 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.

- 8.94. 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.
- 8.95. The County Archaeologist submitted a consultation response in just the last few weeks despite having been originally consulted when the application was originally submitted. It is considered therefore that it would be disproportionately unreasonable in these circumstances for the applicant to be required to undertake further work at this point prior to the consideration of the application. The application is submitted in outline with an 'up to' figure regarding the maximum number of dwellings. It is considered that in the circumstances a condition ensuring that no works take place until the field evaluation has been undertaken, submitted, assessed and approved is, on this occasion, acceptable in this instance.

Trees

- 8.96. 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.
- 8.97. In this instance the Borough's Tree Officer has commented on the proposals and does not have significant concerns. In addition the proposals provide for significant new tree planting.
- 8.98. It is considered therefore that the proposal is acceptable with regard to the requirements of policies DM6.

Mineral Safeguarding

- 8.99. The site lies within a Sand and Gravel Mineral Consultation Area. In order to comply with policy M11 of the Leicestershire Minerals and Waste Local Plan which seeks to protect mineral resources for the long term for future generations the applicant was required to submit a minerals assessment.
- 8.100. The minerals assessment found that it is highly unlikely that the mineral would ever be worked and the mineral is therefore no longer of any value or potential value. LCC planning department therefore consider that compliance with policy M11 has been demonstrated and have raised no objection to the development.

S106 Heads of Terms

- 8.101. 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.
- 8.102. 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.

8.103. The contributions sought are detailed below:

- Health contribution - £165,702.24
- Library contribution - £6,794.48
- Waste contribution - £5,370.75
- Early Years Education contribution - £351,058.50
- Secondary Education contribution - £815,310.00
- SEND Education contribution - £127,008.97
- 40% Affordable Housing provision – 90 homes comprising 68 for social or affordable rent (with local connection criteria) and 22 for intermediate tenure
- 90 dwellings should be for affordable housing; 68 for social or affordable rent and 22 for intermediate tenure
- Travel Pack provision of £52.85 per dwelling - £11,891.25
- Bus Pass provision of £360 per dwelling - £81,000
- Travel Plan Monitoring Fee - £6000
- Highway contribution towards the Coalville Transport Strategy to enable works at the A50/Field Head junction - £62,754
- Highway contribution for the introduction of a 40mph speed limit- £8,985
- Off site outdoor sports contribution - £78,192
- Off site outdoor sports maintenance contribution - £37,152
- Off site natural green space contribution - £36,810
- Off site natural green space maintenance contribution - £63,900
- On site equipped children's play space contribution - £147,363.30
- On site equipped children's play space maintenance contribution - £142,236
- On site informal play space maintenance contribution - £40,824
- S106 monitoring fees

The total S106 financial contribution resulting from the development of the maximum 225 dwellings is £2,188,352.49

8.104. All 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. The applicant has expressed their willingness to enter into such a legal agreement and as such the application is considered to comply with the requirements of Policy DM3 of the SADMP and Policy 19 of the Core Strategy.

Conclusions and Planning Balance

8.105. 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.

8.106. 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. 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.

- 8.107. The site lies in a relatively accessible location close to Leicester and close to the motorway network with new bus stops being provided close to the site entrance on Desford Lane. Following significant highway improvements to the scheme the Country Highway Authority no longer objects to the proposal.
- 8.108. The provision of up to 225 dwellings, 40% of which are to be affordable units, is considered to be a benefit of the proposal to which significant weight in favour of the scheme is attached.
- 8.109. It is considered that the proposal is offered no support by Policy DM4 of the SADMP. 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.
- 8.110. The proposed development is not considered to have a significant harmful effect on the character and appearance of the countryside. In this regard it would be broadly acceptable and consistent with the requirements of Policy DM4 and Policy DM10 of the SADMP. The development would also be broadly consistent with the environmental protection aims of the NPPF.
- 8.111. The effects of this proposed development in relation to access are not considered to pose an unacceptable impact on highway safety, in accordance with the requirements of Policy DM17 of the SADMP.
- 8.112. The proposal would cause harm to the Grade II* listed building the Church of St Philip and St James and the Ratby Conservation Area. This harm is considered to be at the very lowermost end of this spectrum of harm. Paragraph 202 of the NPPF requires that where a development will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.
- 8.113. The proposal can demonstrate a minor heritage benefit increase in the amount of boundary hedgerow, thicket and tree planting along the realigned section of Desford Lane which would reinforce a key rural characteristic and positive contributor to the setting of the affected heritage assets.
- 8.114. The delivery of market and affordable housing is a significant benefit of the scheme to which significant weight should be given. Other benefits of the scheme include an overprovision of public open space beyond what is required to mitigate the scheme, 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 each considered to attract moderate weight. It is considered that the benefits of the scheme in this instance outweigh the less than substantial harm caused to the setting of the Grade II Church of St Philip and St James and to the setting of the Ratby Conservation Area.

- 8.115. As the tilted balance applies, paragraph 11(d) of the NPPF requires that 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. Taking into account the housing land supply position and the need for affordable homes within the borough, it is considered that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole. Therefore, planning permission should be granted in this instance.

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 be Approved** subject to the conditions set out below and subject to the entering into of a S106 Agreement to secure the required financial contributions and other measures set out above at paragraph 1.2 that include affordable housing, junction improvements, open space, maintenance and monitoring costs.

10.2 Conditions

1. No development shall commence until details of the layout, scale, appearance, landscaping and access other than vehicular access (hereafter called the reserved matters) have been submitted in writing to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved reserved matters.

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

2. Application for approval of reserved matters shall be made within three years of the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted shall not exceed 225 dwellings in total and shall be carried out in accordance with the submitted application details, as follows:

- Site Location Plan – CSA/5249/108 Rev B
- Proposed Access Strategy – 1726/16 Rev E
- Proposed Access Arrangements – 1726/15 Rev H
- Proposed Toucan Crossing – 1726/19 Rev C

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

4. The layout submitted at reserved matters shall be consistent with the green infrastructure indicated on the submitted Development Framework Plan CSA/5249/107 Rev F.

Reason: To minimise impacts on designated heritage assets, provide a soft edge to the development, minimise impact of the development on the character of the surrounding area and to secure a net gain in biodiversity in accordance with Policies DM6, DM10 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

5. No demolition/development shall take place/commence until a written scheme of investigation (WSI) has been submitted in writing to and approved by the Local Planning Authority in writing for the first phase of archaeological works. Further WSI/s would be needed for Mitigation stage/s. For land that is included within the WSIs, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives,
and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme as set out in the WSI.

Reason: To ensure satisfactory archaeological investigation, recording, dissemination and archiving in accordance with the requirements of Policies

DM11, DM12 and DM13 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. The existing hedges along the boundaries of the site shall be retained at a minimum height of not less than two metres and any trees or plants which die, are removed or become seriously damaged or diseased within 5 years from the completion of the development shall be replaced in the next planting season with others of similar size and the same species, unless the Local Planning Authority gives written consent to any variation.

Reason: To provide an effective and attractive screen for the development in the interests of visual amenity and to accord with policies DM6 and DM10 of the Site Allocations and Development Management Policies DPD.

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

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

8. Any reserved matters application shall be accompanied by a Building for Healthy Life Assessment of the proposal.

Reason: To ensure the development is appropriate to the local area and meets amenity standards in accordance with policy DM10 of the Site Allocations and Development Management Policies DPD and the Good Design Guide SPD.

9. A Landscape and Ecological Management Plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned, domestic gardens, shall be submitted in writing to and approved in writing by the Local Planning Authority prior to the occupation of the development. The Plan shall be carried out as per the approved details.

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

10. No external lighting of the site shall be installed until details have been submitted in writing to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles) and demonstrate that the lighting will not cause harm to protected species or their habitats (bats). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area, the environment and local residents from nuisance from artificial light in accordance with Policies DM6, DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. No development shall commence on site until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted in writing to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The approved scheme shall be implemented in accordance with the agreed details.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted in writing to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

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

13. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied.

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

14. Upon completion of any remediation works a Verification report shall be submitted in writing to and approved in writing by the Local Planning Authority. The Verification Report shall be written by suitably qualified persons and shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be included in the Verification Report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To ensure that the risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7

of the Site Allocations and Development Management Policies Development Plan Document (2016).

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

Site preparation and construction shall be limited to the following hours;

Monday - Friday 07:30 - 18:30

Saturday 09:00 - 14:00

No working on Sundays and Bank Holidays

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

16. No development approved by this planning permission shall take place until such time as a surface water drainage and foul sewage disposal scheme has been submitted in writing to and approved in writing by the Local Planning Authority.

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

17. No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted in writing to and approved in writing by the Local Planning Authority.

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

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

Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

19. No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted in writing to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsuitable roads and lead to on-street parking problems in the area in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

20. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Ashley Helme drawing number 1726/15 Rev G have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

21. No part of the development shall be occupied until such time as the offsite highway works shown on Ashley Helme drawing number 1726/16 Rev E including the shared use footway/ cycleway connecting to existing footway provisions on Desford Lane, bus stops, bus lay-bys, gateway feature and pedestrian refuge/ traffic island have been implemented in full.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

22. Prior to commencement of the development hereby permitted, a scheme detailing a pedestrian crossing point to the north of the site access on Desford Lane, which has been informed by a full PV2 assessment shall be submitted in writing to and agreed in writing by the Local Planning Authority. Thereafter, the approved scheme shall be implemented in full prior to occupation of any dwelling.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

23. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 120 metres to the right of the site access and 2.4 x 118m to the left of the site access have been provided. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway / verge / highway.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with policy DM17 of the adopted

Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2021).

24. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays for existing accesses 1, 2 and 3 as detailed on Jackson drawing number 2112 Rev D have been provided. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To afford adequate / improved visibility at the existing accesses following realignment of Desford Lane, in the interests of general highway safety, and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2021).

25. No part of the development hereby permitted shall be first occupied until an amended full Travel Plan which sets out actions and measures with quantifiable outputs and outcome targets has been submitted in writing to and agreed in writing by the Local Planning Authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.

Reason: To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the National Planning Policy Framework (2021).

26. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 10 metres of the highway boundary, nor shall any be erected within a distance of 10 metres of the highway boundary unless hung to open away from the highway.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway, and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

27. No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided in writing to and approved in writing by the Local Planning Authority. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

28. Prior to commencement of development details of how a Biodiversity Net Gain shall be achieved and maintained on the site shall be submitted in writing to and agreed in writing by the Local Planning Authority. The site shall be maintained and managed in accordance with the approved details thereafter.

Reason: To ensure that the development provide biodiversity enhancement in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and Government guidance contained within the National Planning Policy Framework (2021).

29. Prior to the occupation of each dwelling/unit on site full fibre broadband connection shall be available and ready for use in relation to each such dwelling/unit.

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

30. Any reserved matters application dealing with layout or landscaping shall be accompanied by a report setting out how the recommendations of the submitted CSA Ecological Impact Assessment have been or are to be implemented.

Reason: To ensure that the development provide biodiversity enhancement in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and Government guidance contained within the National Planning Policy Framework (2021).

31. Any reserved matters application dealing with layout shall be accompanied by a noise investigation and mitigation strategy detailing how the occupants of the proposed dwellings shall be protected from noise from the adjacent Stonecroft works.

Reason: To ensure that the occupiers of the proposed development are adequately protected from the nearby noise source in accordance with the requirements of Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and Government guidance contained within the National Planning Policy Framework (2021).