

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

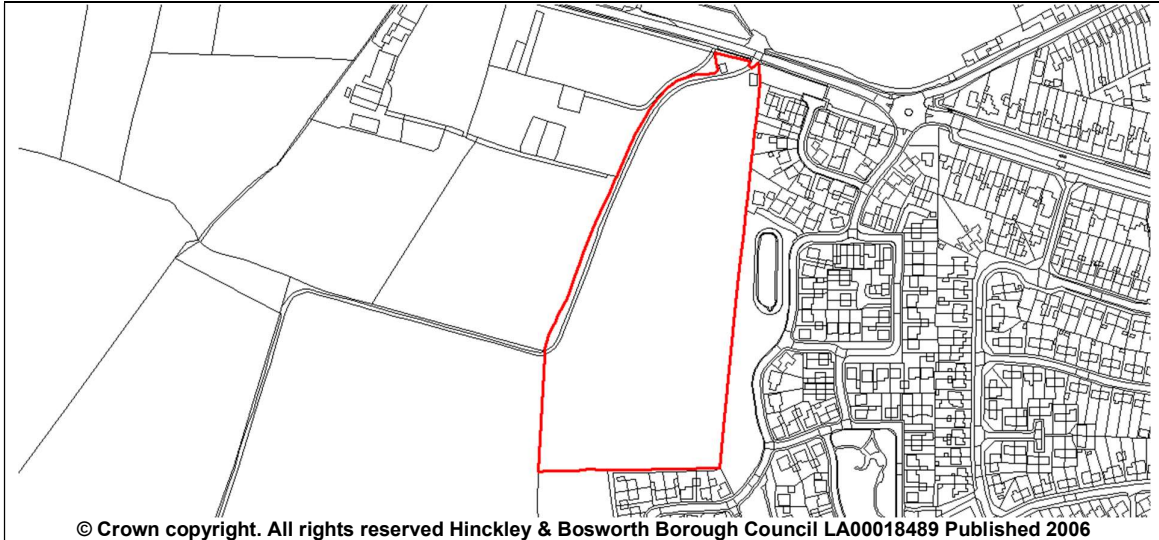


Hinckley & Bosworth  
Borough Council

**Planning Ref: 23/00061/OUT  
Applicant: Mr Mitesh Rathod  
Ward: Newbold Verdon with Desford & Peckleton**

**Site: Land Adjacent to Lockey Farm Hunts Lane Desford**

**Proposal: Residential development of up to 100 dwellings with associated public open space and infrastructure (All matters reserved except for access).**



**1. Recommendations**

**1.1. Grant planning permission subject to:**

- Planning conditions outlined at the end of this report.
- The entering into of a S106 Agreement relating to affordable housing, highway improvements, open space provision and management and the financial contributions detailed above.
- That the Head of Planning be given powers to determine the final detail of planning conditions

**2. Planning Application Description**

2.1. The application seeks outline permission for the provision of a residential development of up to 100 dwellings with associated public open space and infrastructure at the Land adjacent to Lockey Farm, Hunts Lane, Desford. The scheme includes 60 units for market housing and 40 units for social, affordable, or intermediate rent within 2.85ha of the site, which creates a development density of 35 dwellings per hectare.

2.2. Only access is sought for approval within this outline application, and all other matters are reserved for a future application. Access is proposed to the site via a new simple priority junction onto Hunts Lane. As a result of this, the adjacent Public Right of Way (PRoW), Footpath R95, is reduced to 2m in width at the entrance to the site.

2.3. The Design and Access Statement suggests that the majority of the residential units are two to two-and-a-half-storey in massing, but none shall exceed this massing.

There are also bungalows are indicated towards the south of the site. These properties are suggested to be constructed in red brick, and a mixture of slate and red tile roofs. Certain feature properties may include a rendered finish, and some units incorporate front porches. The Design & Access Statement suggests that all dwellings within the scheme are provided with two off-street parking spaces including spaces within garages. All these matters though and for a future application.

- 2.4. The Planning Statement and the Illustrative Site Plan suggest that the scheme creates a total of 1.3ha of green infrastructure, which is over 31% of the site area. Surface water is disposed of via a sustainable drainage system and the existing water course.
- 2.5. The application is accompanied by the following reports and documents:
- Arboricultural Assessment
  - Archaeological Desk-Based Assessment
  - Biodiversity Net Gain Metric
  - Design & Access Statement
  - Ecological Appraisal
  - Flood Risk Assessment & Outline Drainage Strategy
  - Framework Travel Plan
  - Geophysical Survey Report
  - Illustrative Masterplan
  - Phase 1 Environmental Report
  - Planning Statement
  - Response to LCC's 5<sup>th</sup> June 2023 Highways Consultation Response
  - Road Safety Audit Decision Log
  - Site Location Plan
  - Stage 1 Road Safety Audit
  - Transport Assessment

### **3. Description of the Site and the Surrounding Area**

- 3.1. The 4.15ha application site is located adjacent to, but outside of, the western settlement boundary of Desford within the designated countryside. Desford is classified within the adopted Core Strategy as a Key Rural Centre relating to Leicester.
- 3.2. Outside of the identified settlement boundary of Desford, the application site is located within the Newbold and Desford Rolling Farmland, which is identified as Character Area D within the Council's Landscape Character Assessment (2017). Key characteristics of this area include gently rolling landform that rises to the north from the lower lying land around the River Soar, and clustered villages of varying size centred on crossroads. 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.
- 3.3. The application site is currently a large single arable field that has two mobile phone masts towards its northern boundary and two sets of powerlines that travel east to west across the site. The land is relatively level, with a gentle slope from the southeast corner to the northwest of the site, and there are existing hedgerows and trees along its boundaries. A Public Right of Way (PRoW), Footpath R95, also runs within and along the western boundary of the site and this footpath runs north to south from Hunts Lane, and then proceeds southwest towards the south of the site.

- 3.4. The site is bounded by Hunts Lane to the north, and beyond this is Desford Cemetery and open agricultural fields. Further agricultural uses are located to the southwest of the site. To the east and south of the site are residential dwellings within the identified settlement boundary of Desford. The Hunts Lane Allotments is located to the west of the site, which is accessed via a track from Hunts Lane. Hunts Lane is a classified 'B' road (B582) that is subject to a 40mph speed limit.
- 3.5. The application site is identified as a reserve site to meet the housing requirements of Desford within Policy H3 of the Desford Neighbourhood Development Plan (2021). The Neighbourhood Plan does not state the capacity of the site, but the site is described within Paragraph 42 of the Examiner's Report of the draft Neighbourhood Plan to have a capacity for approximately 62 three-bedroom houses.
- 3.6. The application site is located within Flood Zone 1 and is considered to have a very low probability of flooding.

#### **4. Relevant planning history**

- 4.1. None.

#### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to 372 local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. In total, 433 responses were received, 354 of which were from different households. All responses objected to the development, and raised the following concerns:
1. Highway safety concerns.
    - The scheme exacerbates existing traffic and congestion issues within Desford.
    - The existing roads within Desford were not built to accommodate this level of traffic.
    - Multiple traffic incidents have already occurred near the site, and further traffic will exacerbate this.
    - Pedestrian safety concerns for children attending the primary school and Kirkby Road Park.
    - The Key Rural Centre has poor transport sustainability, and the future occupiers will be dependent on private motorised vehicles to meet their day-to-day needs.
    - Existing traffic speeds are excessive along the B582.
    - Increased on-street parking within Desford and near local services and facilities.
    - The proposed site access does not provide safe access or egress to the site in these site-specific circumstances.
    - Limited vehicular visibility at the site access as it is on the brow of a hill.
    - Existing traffic has already been exacerbated by HGVs and construction vehicles at the commercial units along Peckleton Lane and the other residential developments being provided within Desford.
  2. Infrastructure concerns.
    - Local services such as the schools and doctors are already oversubscribed and cannot take more people.
    - Insufficient facilities and services to cope with additional users.
  3. Desford is already overdeveloped.

- The Key Rural Centre has met its obligation to provide additional housing with residential developments taking place along Peckleton Lane and Barns Way, alongside the commercial development on Peckleton Lane.
4. Significant adverse harm to the countryside.
    - Development on arable fields causes significant visual harm.
    - Erosion of the green space and settlement separation between Desford and Newbold Verdon.
    - Loss of farmland.
  5. Significant adverse harm to the character of Desford.
    - Loss of rural character.
    - The growth of Desford is destroying its character as a village.
  6. Ecological harm and harm to wildlife within the site.
    - Wildlife, trees and hedgerows will be destroyed during this development.
  7. Significant adverse harm to the residential amenity of neighbouring properties.
    - Air pollution.
    - Increases in anti-social behaviour.
    - Light pollution.
    - Loss of visual amenity.
    - Noise pollution.
  8. Harm to the existing Public Right of Way, Footpath R95.
  9. Flooding concerns.
  10. Overdevelopment of the site.
  11. Inappropriate location for development adjacent to Desford Cemetery.
- 5.3. It has been noted by members of the public that, contrary to Section 3.4.3 of the Applicant's Transport Assessment, the Arriva Bus Service 152 is no longer operational through Desford.

*The Planning Officer notes that the Arriva Bus Service 152 was discontinued on Tuesday 03 January 2023.*

- 5.4. A couple of members of the public suggested that Leicester Lane or locations to the east of the Key Rural Centre may be a more suitable location for further residential development.
- 5.5. A selection of members of the public also requested that the determination of this application and further housing applications is paused until the review of the Desford Neighbourhood Development Plan has been completed.

*The Planning Officer notes that it would be considered unreasonable of the Local Planning Authority to delay the determination of applications to accommodate potential revisions to the Development Plan.*

- 5.6. A number of the responses also referred to application site as, “Greenbelt land,” and the diminishing access to public open green space.

*It is highlighted by the Planning Officer that the site is not in a formal green belt or green wedge. In addition, the development does not reduce access to publicly accessible areas of open green space.*

- 5.7. One member of the public has highlighted that the hedge that adjacent to Shericles Way is not within the ownership of the Applicant and cannot be removed. Another member of the public has stated that they have been granted unrestricted vehicular access to the Public Right of Way track within the application site.

*The Planning Officer notes that the Applicant could not remove hedgerow or commence development on land that is not within their ownership, or without the express permission of the owner(s) of the land.*

- 5.8. Some members of the public have expressed disappointment at the Applicant’s disregard to the Desford Neighbourhood Development Plan.

- 5.9. Ultimately, the overwhelming response from members of the public has been that Desford does not want to, and cannot, accommodate further residential development.

## **6. Consultation**

- 6.1. To summarise, there has only been one objection to the application as a result of statutory consultation, which was from Desford Parish Council.

### **6.2. Desford Parish Council**

Desford Parish Council objects to the application for the following reasons:

- The development is, “Clearly,” in breach of the Desford Neighbourhood Plan (2021).
- Highway safety concerns.
  - Additional traffic from 100 houses
  - A simple priority junction cannot provide safe access into the site at this location.
  - Vehicular visibility concerns as traffic from the west travels over the brow of a hill at 40mph along Hunts Lane.
- Increasing pressure on existing infrastructure such as schools, doctors, and dentist services within Desford.
- Significant adverse effects on the character of the area.
- Significant adverse effects on the residential amenity of neighbouring residents, particularly as a result of using nearby estate roads and junctions.

Desford Parish Council has also suggested that the development is presumed to cause harm to the Local Plan and the Desford Neighbourhood Plan by virtue of Paragraph 11(d) of the National Planning Policy Framework. As a result of this, Desford Parish Council consider the scheme to do irreparable harm to local peoples’ faith in localism. The Parish Council have referred to the content of the Levelling Up and Regeneration Bill, which is currently going through Parliament, and the draft of the National Planning Policy Framework, and have suggested that the application should not be considered until these issues are finalised.

*The Planning Officer notes that, as the proposed reforms to the Levelling Up and Regeneration Bill and the National Planning Policy Framework have not yet been implemented, they are currently offered minimal weight in the planning balance. It is also considered that the Local Planning Authority would be unreasonable to delay the determination of applications to accommodate potential future legislation.*

If permission is granted for this development, Desford Parish Council requests that they are consulted on the allocation of Section 106 funds within the Parish.

**6.3. Environment Agency**

The Environment Agency have not made any formal comment on the submission. This is because the development falls within Flood Zone 1, and therefore the Environment Agency have no flood risk concerns associated within the site. Furthermore, there are no other environmental constraints associated with the application site that fall within the remit of the Environment Agency.

**6.4. National Grid**

No response to date.

**6.5. NHS England**

As part of the NHS Trust, the University Hospitals of Leicester have requested a contribution of £39,638.00 to go towards the gap in funding created by each potential patient from this development.

However, Section 122(2) within the Community Infrastructure Levy (CIL) Regulations (2010) states that a planning obligation may only constitute a reason for granting permission for the development if the obligation is:

- (a) Necessary to make the development acceptable in planning terms.
- (b) Directly related to the development
- (c) Fairly and reasonably related in scale and kind to the development.

It is noted that the High Court of Justice ruling from 13 February 2023 between R (on the application of the University Hospitals of Leicester NHS Trust) and Harborough District Council, Leicestershire County Council, and Hadraj Limited, dismissed the University Hospitals of Leicester's appeal against the District Council for not requiring a financial contribution via Section 106 Agreement towards the delivery of health care by the Trust to mitigate what were said to be the harmful effects of additional demands upon its services.

The NHS Trust states that it is funded from the social security contributions and other State funding. The annual funding for the Trust is based on the previous year's activity, and as such it is not related to local planning authorities' housing needs, projections or land supply. Within their response to the application, the Trust stated that there is no possibility to change the NHS funding model, or the spending priorities of the Government.

Whilst it is acknowledged that financial contributions to the Borough's medical infrastructure are important, it is considered that, by virtue of the reasoning for the financial contributions, and the systematic funding issues with the Trust, the request is not directly related to the development, nor necessary to make the development acceptable in planning terms. This is because, if there was no funding gap within the NHS' funding model, then there would not be any relevant impacts to justify a Section 106 contribution. In such circumstances, the Local Planning Authority cannot properly require the Applicant to contribute to those additional costs.

Given the above, the Council does not consider this request to be CIL-compliant, and therefore this contribution has not been included in the financial contributions that are sought within a Section 106 Agreement for this application.

6.6. **Severn Trent Water**

No response to date.

6.7. **Local Highway Authority**

Originally the Local Highway Authority (LHA) did not consider the application as submitted to fully assess the highway impact of the proposed development, and further information was required to provide final highway advice on the application. As a result of this, the LHA requested additional information in relation to detailed highway impacts, such as a Stage 1 Road Safety Audit, revisions to the geometry of the site access, and modelling of the Desford Crossroads.

Since then, the Applicant provided a Response to LCC Highways Consultation Response on 03 May 2023. A Stage 1 Road Safety Audit and a further response to the Highways Consultation Response was received on 03 July 2023.

The Local Highway Authority made its final comments on 09 August 2023 and concluded that, in their view, the impacts of the development on highway safety are not unacceptable, and when considered cumulatively with other developments, the impacts on the road network are not severe.

*Contributions*

1. A contribution of £1,551,088.81 towards improvements to the A47 / B582 Desford Road (Desford Crossroads) junction is considered appropriate by Leicestershire County Council in consultation with Hinckley and Bosworth Borough Council.

**Justification:** To mitigate against the impact of the development in line with the submitted transport evidence.

2. To comply with Government guidance in NPPF and commensurate with Leicestershire County Council Planning Obligations Policy the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use:
  - a) Travel Packs, one per dwelling; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack). Justification: To inform new residents from first occupation what sustainable travel choices are available in the surrounding area.
  - b) Six-month bus passes, two per dwelling (two application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at the current cost of £360.00 per pass). Justification: To encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation.
  - c) A Travel Plan monitoring fee of £6,000.

**Justification:** To enable Leicestershire County Council to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated planning enforcement.

### *Highway Safety*

The Local Highway Authority checked its own Personal Injury Collision (PIC) database and identified four PICs that have occurred within the last five years within the same study area as the Applicant's Transport Assessment. Two of these were classified as 'slight' in severity whilst the other two were classified as 'serious.' The Local Highway Authority have considered the circumstances of these PICs and believe that there are no existing road safety issues in the vicinity of the site.

### *Internal Layout*

The internal layout of the development is not for consideration at this stage, and therefore the Local Highway Authority strongly advise the Applicant that, in the event that the development is granted planning permission, the internal road network is designed to an adoptable standard in accordance with the Leicestershire Highway Design Guide (LHDG) guidance for possible adoption in the future.

### *Junction Capacity Assessments*

The Applicant has undertaken capacity assessments at the following junctions:

1. Hunts Lane / Site Access proposed priority-controlled 'T' Junction.
2. Hunts Lane / Newbold Road / Lockeymead Drive Roundabout.
3. High Street / Manor Road / Main Street Roundabout.

As the Automatic Travel Count (ATC) survey was undertaken by the Applicant between Monday 31 October 2022 and Sunday 06 November 2022, the Local Highway Authority do not require COVID-19 uplift factors for these surveys due to the date that they were undertaken.

As a result, the Local Highway Authority are satisfied that the Site Access and Hunts Lane / Newbold Road / Lockey Mead Drive Roundabout can operate within their practical limits of capacity. The Local Highway Authority are also satisfied that that the applied growth factors within Section 5.1 of the Applicant's Transport Assessment are acceptable.

Further to the Local Highway Authority's previous observations, the Applicant modelled the proposed development's impact on the 'Desford Crossroads', which is junction connecting the A47 Hinckley Road, B582 Leicester Lane and B582 Desford Road using the Local Highway Authority's LINSIG model. The capacity assessment results indicate that this junction will operate above capacity in 2028 prior to the addition of committed development traffic and traffic associated with the proposed development. The Applicant has further compared the 2028 background and committed development traffic with the proposed development traffic and has calculated that the proposed development results in an, "Almost 0%," increase in traffic in both the AM and PM peaks.

In addition, following the submission of Junction 9 model files within Appendix D of the Applicant's Highway Consultation Response from 03 July 2023, which included HGV percentages in the Vehicle Mix matrix and the amended results shown in Table 1 of the main report, the Local Highway Authority are satisfied that the High Street /



Manor Road / Main Street Junction can operate within the practical limit of capacity in all scenarios.

Moreover, the Local Highway Authority is satisfied that the Leicester Lane / Barns Way Junction has been modelled in a consistent manner with the 'Ashfield Farm' application and that this Junction is likely to operate within the practical limit of capacity in all scenarios.

Notwithstanding this, to mitigate the cumulative impact of development traffic in the local area, the Local Highway Authority is progressing with a scheme of mitigation at the Desford Crossroads. As a result, the Local Highway Authority advises that the Applicant is required to make a fair and reasonable Section 106 contribution to the highway works, which will replace the current signal crossroads with a four-arm roundabout.

#### *Off-Site Implications*

The development widens the existing footway on Hunts Lane to 2m, which ties in to an existing 2m-wide section of existing footpath that is 62m to the east of the access. This is considered to be in accordance with Table DG9 of Part 3 of the LHDG.

The Local Highway Authority have requested that the Applicant undertakes the footway improvements works along Hunts Lane as indicated on Tetra Tech drawing number PRJ01-TTE-00-ZZ-DR-O-0001 Revision P03.

#### *Public Rights of Way (PRoW)*

The Local Highway Authority has no objections to the development proposal's impact on Public Right of Way (PRoW) Footpath R95, at this stage, subject to conditions.

#### *Site Access*

The Local Highway Authority previously advised in pre-application advice that the Applicant should consider providing an access via Lockeymead Drive, but the current submission does not suggest that such consideration has been given. In spite of this, the Local Highway Authority has expressed disappointment that access rights could not be agreed, given the potential benefits that a link would have in reducing pedestrian / cycle journey times to services in the village (particularly Desford Primary School and the village park). Nevertheless, the Local Highway Authority does not support a refusal of the application on this basis.

The Applicant advised that they do not have access rights across the land to the east to provide an access via Lockeymead Drive. As such, the access to the site is proposed via Hunts Lane, which has recorded 85<sup>th</sup> percentile vehicle speeds of 38.9mph in an eastbound direction and 42mph in a westbound direction.

The original 'Response' document indicated that speed reduction measures are proposed on Hunts Lane that consist of a reduced speed limit to 30mph for 112m to the west of the site access alongside a gateway entry feature, teeth markings, speed limit rounded markings, and improved welcome signs.

Notwithstanding the previous highway observations, the Local Highway Authority has investigated the Traffic Regulation Order for the speed limits on Hunts Lane further and have established that the speed limit at the site access is 40mph as per the current signage. The Local Highway Authority are not supportive of a 30mph speed

limit extension on Hunts Lane, as the Local Highway Authority has concerns that the lack of frontage development and rural nature of the road in this location would reduce the effectiveness of the existing 30mph speed limit. As a result of this, the previously proposed speed limit change and associated gateway entry feature has been removed from the proposed site access arrangement.

However, following this, the RSA1 identified the current speed limit change / village gateway to present a hazard for the new access, as vehicles would be focusing on these measures as opposed to traffic turning into or out of the access. The RSA1 recommended that the 30mph speed limit / village gateway be relocated to the west of the proposed site access junction.

Notwithstanding the RSA1, the Local Highway Authority are not supportive of the proposed change in speed limit given its rural nature and lack of frontage development, which - in the LHA's view - is likely to reduce the effectiveness of the existing 30mph speed limit. Nevertheless, the Local Highway Authority is satisfied that vehicular visibility splays of 2.4 metres by 120 metres can be provided in both directions, which is in accordance with Table DG4 of Part 3 of the LHDG.

No vertical visibility splay drawings have been submitted in support of this application as the Applicant has contended that the change in gradient on Hunts Lane is approximately 140m west of the proposed site access, which is beyond the required 2.4m x 120m visibility splay. After further assessment work, the Local Highway Authority are satisfied that gradient changes would not affect the required vehicular visibility splays, and that the splays are in accordance with Figure DG2 of Part 3 of the LHDG.

The site's access has a carriageway width of 6.75m, a kerbed radii of 6m, and 2m width footpaths on either side of it. This carriageway width is greater than the 5.5m required by Table DG1 of Part 3 of the Leicestershire Highway Design Guide (LHDG). The Applicant suggests that this has been proposed in order to futureproof the site for potential development.

### *Transport Sustainability*

Table 2 within the Applicant's Transport Assessment indicates that food and grocery store, medical centre and play park are located within 800m of the application site, which is in accordance with Paragraph 1.38 of Part 1 of the Leicestershire Highway Design Guide (LHDG). In addition, Table 2 suggests that café, primary school, pharmacy, secondary school, and day nursery are located within 1.2km of the application site. The Transport Assessment also suggests that the application site is within 800m of bus stops with minimum hourly services to Leicester and Market Bosworth.

However, the site is not within 5km of the Principle Urban Area of Leicester or a Sub Regional Centre and, as such, is not fully in accordance with Paragraph 1.38 of Part 1 of the LHDG. Notwithstanding this, the Local Highway Authority is satisfied that the site is sustainable in transport terms and is satisfied for the Local Planning Authority to include this transport context in its wider sustainability considerations for the site.

### *Trip Generation*

Following amended trip rates within the 'Response' document, the development is likely to result in 68 two-way vehicular movements in the AM peak hour (08:00 to 09:00), and 69 two-way vehicular movements in the PM peak hour (17:00 to 18:00).

The Local Highway Authority are satisfied the trip rates are robust and that the flow rates have been updated accordingly.

**6.8. Leicestershire County Council (LCC) Archaeology**

The Leicestershire and Rutland Historic Environment Record (HER) notes that the application site lies within an area of archaeological interest relating to prehistoric and Roman finds and sites recorded within the surrounding landscape.

In addition to the archaeological desk-based assessment and geophysical survey of the site that have been submitted by the Applicant, LCC Archaeology recommends that a programme for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary, by intrusive and non-intrusive investigation and recording. It is also advised that the Applicant must obtain a suitable Written Scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the Local Planning Authority. These recommendations are secured via planning condition.

**LCC Drainage (Local Lead Flood Authority (LLFA))**

No response to date.

**6.9. LCC Ecology**

LCC Ecology advises that the ecology surveys and reports that have been submitted as part of this application are sufficient for the proposed works.

LCC Ecology requests that the recommendations for the protection of protected species such as badgers, commuting and foraging bats, and nesting birds within the Applicant's Ecological Appraisal should be secured via pre-commencement planning conditions. However, given the presence of great crested newts within close proximity to the site, an additional condition is requested relating to the provision of Reasonable Avoidance Measures Method Statement (RAMMS), which sets out the measures that will need to be adhered to during the construction phase to ensure that no impacts occur upon terrestrial newt populations. The RAMMS should also apply to the potential for reptiles to be present in such habitats and relate to badgers across the entirety of the site.

At Reserved Matters stage, LCC Ecology requires that the Biodiversity Net Gain Metric 3.1 continues to be refined as the design developments. As such, LCC Ecology anticipates that at Reserved Matters:

- i.) The Metric 3.1 is updated to reflect the final detailed design and layout.
- ii.) Consideration is given to refining the current estimated allowance for developed land. This needs to be updated to ensure overall feasibility of achieving biodiversity net gain on site.
- iii.) If, as a result of the future design proposals, on-site biodiversity net gain cannot be achieved then proposals for off-site enhancements should be incorporated within the Metric 3.1.
- iv.) A 30-Year Landscape and Ecological Management Plan (LEMP) should be submitted in support of the landscape proposals (on and/or off-site) to demonstrate how biodiversity net gain will be achieved.

**6.10. LCC Planning Obligations**

The following contributions totalling £924,678.70 are required as a result of this development. These contributions include:

- Early Years Education (Desford Community Primary School) (£75,709.50)
- Libraries (Desford Library) (£3,019.77)

- Primary Education (Desford Community Primary School) (£422,188.00)
- Second Education (11 – 18) (Bosworth Academy) (£362,360.00)
- Secondary SEND Education (Dorothy Goodman School Hinckley) (£56,448.43)
- Waste (Barwell (RHWS)) (£4,953.00)

The request for planning obligations has regard to Paragraph 57 of the NPPF, which states that planning obligations must only be sought where they meet the three tests. The County Council's approach to requesting developer contributions as part of the planning application process is set out in its Planning Obligations Policy (July 2019).

6.11. **LCC Tree Officer**

No comments to either support or oppose the application.

6.12. **Hinckley Area Committee**

No response to date.

6.13. **Hinckley & Bosworth Borough Council (HBBC) Affordable Housing**

As the site lies in a rural area, the affordable housing requirement is 40%, which should be split between 75% social rented, and 25% intermediate tenure. Given that the planning application is for a development of 100 dwellings, this means that 40 properties are required to be available for affordable housing.

To comply with National Guidance, such as the National Planning Policy Framework (NPPF), and the First Homes Initiative, the development should provide:

- 10 x First Homes
- 21 x Affordable Rent
- 9 x Shared Ownership

This provision is considered to satisfy the requirements of the NPPF that requires 25% of all affordable housing to be provided as First Homes, and 10% of all dwellings to be for the provision of affordable home ownership.

The preference for affordable rented dwellings in Desford is suggested to be a mixture of:

- 06 x one-bedroom, two-person maisonettes or quarter houses.
- 10 x two-bedroom, four person dwellings.
- 5 x three-bedroom, five person properties.

Affordable housing ownership properties are recommended to be a mixture of two-and-three-bedroom houses. These properties should meet Nationally Described Space Standards.

As this site is in the rural area, any Section 106 (s106) Agreement should include a cascade priority requirement to people with a local connection to Desford in the first instance, then to people with a connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection.

The Council is following National Guidance with respect to First Homes properties, therefore the local connection will be set as people who have current residency, employment requirements, family connections, or special circumstances, such as caring responsibilities. The level of discount for the First Homes properties will be at 30% discount from open market values.

6.14. **HBBC Arboricultural Officer**

No response to date.

**6.15. HBBC Compliance and Monitoring**

The Council's Compliance and Monitoring Officer has noted within the Illustrative Masterplan that public open space is proposed on-site. As on-site provision, the development should provide a contribution of £100,246.80 to open space and £171,184.00 for its maintenance. Alternatively, off-site provision contributions totalling £124,066.00 and maintenance contributions totalling £85,592.00 are required. These calculations are based upon the development's maximum provision for up to 100 dwellings and will be confirmed at Reserved Matters upon the confirmation of the total number of residential units has been provided. This public open space should be secured via S106 Agreement, and off-site contributions are welcomed where on-site provision cannot be fully provided.

It has also been recommended that the development creates a pedestrian access between the site's public open space and the public open space at Bluebell Green. In addition, knee rail fencing should be located on open space edges to avoid off-road parking in these areas. It has been advised that the Locally Equipped Area for Play (LEAP) should be enclosed, and bins and benches should be provided across the site.

**6.16. HBBC Drainage**

No objections to the scheme, subject to three pre-commencement planning conditions in relation to a scheme for a sustainable surface water system; details in relation to the management of surface water on site during the construction of the development; and details in relation to the long-term maintenance of the sustainable water drainage system.

**6.17. HBBC Environmental Health**

The Council's Pollution Officer requested clarity over why the Phase 1 Report does not recommend intrusive investigation into potential contamination associated with agricultural uses, such as pesticides and herbicides.

The Applicant did not provide any justification for the absence of this recommendation, and therefore a land contamination condition is required.

Planning conditions are requested in relation to contaminated land, a Construction Environmental Management Plan (CEMP), and limitations to the site preparation and construction hours.

**6.18. HBBC Green Spaces**

No response to date.

**6.19. HBBC Waste Management**

If all or part of the new road to the new properties is to be private (unadopted), then consideration will need to be given to adequate and safe collection point space at the adopted highway boundary for the placement of all the containers on collection day (up to two bins per property at one time).

To ensure this a planning condition to ensure that a scheme makes adequate provision for waste and recycling storage of containers and collection across the site.

**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 19: Green Space and Play Provision
  - Policy 20: Green Infrastructure
- 7.2. Site Allocations and Development Management Policies DPD (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM3: Infrastructure and Delivery
  - Policy DM4: Safeguarding the Countryside and Settlement Separation
  - Policy DM6: Enhancement of Biodiversity and Geological Interest
  - Policy DM7: Preventing Pollution and Flooding
  - Policy DM9: Safeguarding Natural and Semi-Natural Open Spaces
  - Policy DM10: Development and Design
  - Policy DM13: Preserving the Borough's Archaeology
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards
- 7.3. Desford Neighbourhood Plan (2018 – 2036) (2021):
- Policy H1: Settlement Boundary
  - Policy H3: Reserve Sites
  - Policy H4: Affordable Housing
  - Policy H5: Housing Mix
  - Policy H7: Housing Design
  - Policy T1: Traffic Management
  - Policy T3: Electric Vehicles
- 7.4. National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (2021)
  - Planning Practice Guidance (PPG)
  - National Design Guide (2019)
- 7.5. Other relevant guidance:
- Good Design Guide (2020)
  - Leicestershire Highway Design Guide (LHDG) (2022)
  - 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)
- 8. Appraisal**
- 8.1. As this is an outline planning application with all matters reserved except for access, the number of detailed considerations relevant at this stage are limited. Nonetheless, the following represent the key issues:
- Principle of Development
  - Housing Land Supply
  - Housing Mix and Supply
  - Impact upon Highway Safety

- Impact on the Character and Appearance of the Area
- Impact on Heritage Assets
- Design and Layout
- Residential Amenity
- Flood Risk and Drainage
- Ecology and Biodiversity
- Archaeology
- Trees
- S106 Heads of Terms
- Conclusions and Planning Balance

Principle of Development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise, and that the NPPF is a material planning consideration in planning decisions.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted 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. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.4. The current Development Plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.5. Both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.6. Policy 7 of the adopted Core Strategy states that the Council will support housing development within settlement boundaries that provides a mix of housing types and tenures as detailed in Policies 15 and 16 of the adopted Core Strategy.
- 8.7. In spite of this, the development is considered to be outside of the identified settlement boundary of Desford, in the designated open countryside, which is contrary to Policies 7 and 8 of the adopted Core Strategy.
- 8.8. Section 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 174(b) specifically highlights that this should be achieved by, "Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services."

- 8.9 Policy H1 of the Desford Neighbourhood Plan (DNP) states that land outside the defined settlement boundary will be treated as open countryside, where development will be carefully controlled in line with local and national strategic policies.
- 8.10 Outside the defined settlement boundaries, the countryside is not regarded as a sustainable location for development. This is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. Policy DM4 of the SADMP only considers development in the countryside sustainable where:
- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
  - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
  - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
  - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
  - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation”.
- 8.11 However, it is acknowledged that, through its intentions to implement the Core Strategy through its approach to the countryside and settlement boundaries, Policy DM4 is considered out-of-date. Nevertheless, the emphasis of Policy DM4 is to promote sustainable development proposals within the countryside and to safeguard it from unsustainable schemes. In this regard, Policy DM4 is consistent with, and accords with, the NPPF, and therefore it is afforded significant weight within the planning balance.
- 8.12 Importantly, Policy DM4 also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.
- 8.13 Ultimately, the proposed development does not relate to, or comply with, any of the criteria above in either Policy DM4 of the SADMP, but this does not mean that the development is not sustainable.
- 8.14 On the contrary, it is noted that the application site is identified as a reserve site for housing within Figure 4 and Policy H3 of the DNP. Given the fact that the DNP is less than five years old, the Neighbourhood Plan is considered to be in date, and offered substantial weight in the planning balance.
- 8.15 Within Paragraph 40 of the Examiner’s Report of the draft DNDP, the Inspector discusses both reserve sites and asserts that:

*“Each [reserve site] is a relatively flat site in single ownership on the edge of Desford within a reasonable distance of facilities. Neither would have access problems, and neither is the sort of site that has features that rule it out of consideration or make it an absolute last resort. Each would be deliverable, and neither would be subject to constraints that prevented delivery of affordable housing. Neither would have a significant effect on the Botcheston Bog Site of Specific Scientific Interest (SSSI). There would be some limited localised landscape harm in each case.”*



- 8.16 It is acknowledged that the application site is located close to the settlement boundary of Desford, and to other residential properties along Gables Close, Lockeymead Drive, and Shericles Way to the east and south of the site. Therefore, the application site is not considered to be in an isolated location.
- 8.17 The Settlement Hierarchy Review Paper (2021) outlines the broad range of services and facilities that the settlement provides, such as key primary facilities like a primary school, a secondary school, a GP surgery, convenience stores, a community hall, and employment areas. Desford also offers a broad range of secondary facilities including a library, pub, takeaways, dentist, and pharmacy. Bus services also provide access to Market Bosworth, Newbold Verdon, and Leicester. The nearest bus stop to the application site is 110m east of the site and it is serviced by the Arriva 153 Bus Service.
- 8.18 It is also acknowledged that the application site is within walking distance/catchment of the Local Centre and Community Facilities, including the St. Martin's Drive Neighbourhood Centre, which is approximately 400m from the site. Educational facilities such as Desford Community Primary School and Bosworth Academy are 850m and 1.4km from the site respectively. Medical services such as Desford Medical Centre and Desford Pharmacy are also both 750m from the application site. Furthermore, existing open space, recreation and sports facilities are located adjacent to the application site including Hunts Lane Allotments and Hunts Lane Cemetery, and Bluebell Green Play Park is only 600m from the application site.
- 8.19 Therefore, Desford meets the definition of a Key Rural Centre, and due to its proximity to the settlement and the services and facilities within it, it is considered that the application site is in a sustainable location in transport terms where future occupiers can meet most of their day-to-day needs without being dependent on private motorised transport. Given the above, the development complies with Policy DM17 of the SADMP.
- 8.20 However, Paragraph 43 of the Examiner's Report also suggests that:
- "The Hunts Lane site would have greater impact on views and detract from the experience of those using the public footpath."*
- In spite of this, the Inspector also stated that:
- "This impact on views does not relate to one of the important views identified on Figure 12 and could be mitigated by planting."*
- It is also noted that the Inspector's assessment of the reserve site within Paragraph 42 was for a development with a capacity of, *"Approximately 62 three-bedroom houses."*
- 8.21 To summarise, the application site is adjacent to, but outside of, the identified settlement boundary of Desford in the designated open countryside. The proposal is offered no support from Policy DM4 of the SADMP, and as such, the application does not accord with the Development Plan. Nevertheless, the application site is an identified reserve site for housing within the DNP, and, in line with the Examiner's Report for the draft DNP, the Council considers the application site to demonstrate adequate transport sustainability. Therefore, it is considered that the principle of the development is subject to the assessment of all other material considerations.

- 8.22 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.
- 8.23 Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.24 Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), the Council are able to demonstrate 4.89 years of deliverable housing as of 01 April 2022. The position as of 1 April 2023 is still being calculated and is not yet available.
- 8.25 In addition, both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.26 Given the above and the change in the housing figures required for the Borough, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered.
- 8.27 Paragraph 11 (d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.28 Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. Paragraph 78 of the NPPF states that planning policies should be responsive to local circumstances and support housing developments that reflect local needs, and Paragraph 79 of the NPPF states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 8.29 Policy 8 of the adopted Core Strategy allocates land for the development of a minimum of 110 new homes within Desford. The application site is identified within Policy H3 of the DNP as a reserve site for housing.
- 8.30 Policy H3 of the DNP states that planning applications for residential on one or both of the identified reserve sites will be supported, to the extent necessary, by the replacement Local Plan. In the event that no replacement Local Plan is in place by 31 December 2022, the matter should be determined on the evidence available at the time.
- 8.31 No replacement Local Plan has been adopted and therefore, in accordance with Policy H3 of the DNP, the application should be determined on the evidence available

at the time. It is acknowledged that an outline application, 22/01227/OUT, for up to 120 dwellings at the other reserve site for housing that is identified within Policy H3 of the DNP was refused in December 2022. The development is currently awaiting an appeal decision.

- 8.32 The DNP utilises a guide figure that demonstrates that a minimum of 163 dwellings are required to be accommodated within the DNP plan period up to 2036. It is noted that the guide figure does not have a limit on the provision of residential dwellings that exceed this figure. In addition, the housing allocation within Policy H2 of the DNP only accommodates up to 80 residential dwellings, which is significantly lower than the Neighbourhood Development Plan's guide figure of 136. Whilst some of this provision will be achieved by windfall sites in accordance with Policy H6 of the DNP, as stated previously, this guide figure is only a minimum, and there is no maximum to the number of dwellings that can be provided within the area.
- 8.33 The scheme provides up to 100 dwellings, and a policy-compliant proportion of which is to be Affordable Housing. This is considered to provide a significant benefit to the housing land supply within the Borough. Additionally, the development can provide almost all the current required net housing need for the Desford Neighbourhood Plan Area up to 2036. Given the above and in light of the Council's failure to deliver a five-year supply of housing land and the need for affordable homes in the district, it is considered that significant weight should be given to the provision of the proposed dwellings.
- Housing Mix and Supply
- 8.34 Policy 16 of the Core Strategy 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 Core Strategy, 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.
- 8.35 Paragraph 62 of the NPPF states that the size, type, and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The above policy allows for the most recent evidence to be taken into account in decisions and thus Policy 16 is considered up to date in this regard.
- 8.36 The final number and mix of dwellings will be determined at Reserved Matters stage, but the illustrative layout shows that a mix of types and sizes can be accommodated. The development is for up to 100 dwellings and the appropriate layout and density will be determined at Reserved Matters stage. However, the Applicant suggests that the scheme provides a density of 35 dwelling per hectare, which is in accordance with Policy 16 of the adopted Core Strategy.
- 8.37 The Good Design Guide SPD advocates the use of the Building for Life Assessment; however, it is noted that the Building for a Healthy Life Assessment has since replaced this assessment.
- 8.38 Nevertheless, the Applicant has undertaken a Building for Life Assessment, and they have concluded that their development results in 12 green light ratings. However, as this planning application only seeks permission for the scheme's access, only the first three factors are applicable to this scheme, and the rest are subject to further details within the Reserved Matters Stage.

- 8.39 Policy 15 of the Core Strategy 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.
- 8.40 The Council's Affordable 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. This is in accordance with Policy H4 of the DNP, which requires 40% of all residential developments of 10 units or more to be affordable housing provision.
- 8.41 Given that the planning application is for a development of 100 dwellings, this means that 40 properties are required to be available for affordable housing. The Council's Affordable Housing Officer has advised that, in line with National Guidance, the development should provide ten First Homes, 21 affordable rent units, and nine shared ownership properties. As this site is in the rural area, the Section 106 Agreement requires a connection to the Borough as set out in the Council's Housing Allocations Policy.
- 8.42 The preferred mix of property types for rent should consist of six one-and-two-bedroom, two-person maisonettes or quarter houses; ten two-bedroom, four-person dwellings, and five three-bedroom, five-person properties. These dwellings should all meet the Nationally Described Space Standards.
- 8.43 The Applicant has indicated that the site can provide the policy-compliant requirement of 40 affordable homes. However, the specific type of affordable housing within this provision will be confirmed at the Reserved Matters Stage. 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.
- 8.44 Impact upon Highway Safety  
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.
- 8.45 Policy 14 of the adopted Core Strategy requires developments to support accessibility within rural areas by:
- Supporting the delivery of a viable, high quality public transport network between the Key Rural Centres and their nearest urban centre and between the Rural Villages and their nearest Key Rural Centre or urban centre.
  - Supporting the provision of accessible transport services for mobility impaired and rurally isolated residents.
  - Delivering safe cycle paths as detailed in the Hinckley & Bosworth Council's Rural Parishes Cycling Network Plan. This will deliver safe routes to school, to

residential and employment areas, Key Rural Centres/urban areas, community, and leisure facilities and into the countryside.

Developers will be required to contribute towards these initiatives through developer contributions and/or land where they meet the tests set out in National Guidance. New development that would prejudice their implementation will not be permitted.

- 8.46 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)).
- 8.47 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.48 This is supported by Policy T1 of the DNP, which states that housing and commercial development must:
- (a) Be designed to minimise additional traffic generation and movement through the villages.
  - (b) Incorporate sufficient off-road parking in line with housing policy H6.
  - (c) Not remove or compromise the use of any existing off-road parking areas unless a suitable equivalent is provided.
  - (d) Provide any necessary improvements to the site access, communal parking and the highway network either directly or by financial contribution.
  - (e) Consider, where appropriate, the improvement, and where possible the creation of, footpaths and cycleways to key village services.
- 8.49 Policy DM10(g) of the SADMP states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible. This is reinforced by Policy T3 of the DNP, which requires housing developments, where appropriate, to provide 7KW cabling to the most practical points to facilitate subsequent installation of electric vehicle charging points.
- 8.50 No charging points for electric or low emissions vehicles have been included at this stage, but this can be conditioned at the Reserved Matters phase of the development.
- 8.51 Highway concerns have been raised by many residents and Desford Parish Council in relation to increased congestion and traffic issues.

#### *Highway Safety*

- 8.52 The Local Highway Authority (LHA) advised that the impacts of the development on highway safety are not considered to be unacceptable, and when considered cumulatively with other developments, the impacts on the road network are not severe, subject to planning conditions and obligations. This is supported by the Applicant's Personal Injury Collision (PIC) analysis, which was accepted by the LHA, which concluded that there does not appear to be any existing road safety issues in the vicinity of the site.

#### *Internal Layout*

- 8.53 The internal layout of the development is not for consideration at this stage.

### *Junction Capacity Assessments*

- 8.54 The Applicant has undertaken capacity assessments at the following junctions:
1. Hunts Lane / Site Access proposed priority-controlled 'T' Junction.
  2. Hunts Lane / Newbold Road / Lockeymead Drive Roundabout.
  3. High Street / Manor Road / Main Street Roundabout.
- 8.55 As the Automatic Travel Count (ATC) survey was undertaken by the Applicant between Monday 31 October 2022 and Sunday 06 November 2022, the Local Highway Authority do not require COVID-19 uplift factors for these surveys due to the date that they were undertaken.
- 8.56 As a result, the Local Highway are satisfied that the Site Access and Hunts Lane / Newbold Road / Lockey Mead Drive Roundabout can operate within their practical limits of capacity. The Local Highway Authority are also satisfied that that the applied growth factors within Section 5.1 of the Applicant's Transport Assessment are acceptable.
- 8.57 Further to the Local Highway Authority's previous observations, the Applicant modelled the proposed development's impact on the 'Desford Crossroads', which is junction connecting the A47 Hinckley Road, B582 Leicester Lane and B582 Desford Road using the Local Highway Authority's LINSIG model. The capacity assessment results indicate that this junction will operate above capacity in 2028 prior to the addition of committed development traffic and traffic associated with the proposed development. The Applicant has further compared the 2028 background and committed development traffic with the proposed development traffic and has calculated that the proposed development results in an, "Almost 0%," increase in traffic in both the AM and PM peaks.
- 8.58 In addition, following the submission of Junction 9 model files within Appendix D of the Applicant's Highway Consultation Response from 03 July 2023, which included HGV percentages in the Vehicle Mix matrix and the amended results shown in Table 1 of the main report, the Local Highway Authority are satisfied that the High Street / Manor Road / Main Street Junction can operate within the practical limit of capacity in all scenarios.
- 8.59 Moreover, concerning the Leicester Lane / Barns Way Junction, the LHA is satisfied that the Leicester Lane/ Barns Way Junction has been modelled in a consistent manner with the 'Ashfield Farm' application and that this Junction is likely to operate within the practical limit of capacity in all scenarios.
- 8.60 Notwithstanding this, to mitigate the cumulative impact of development traffic in the local area, the Applicant is required to make a fair and reasonable Section 106 contribution to the highway works at the Desford Crossroads, which will replace the current signal crossroads with a four-arm roundabout.

### *Off-Site Implications*

- 8.61 The development widens the existing footway on Hunts Lane to 2m, which ties in to an existing 2m-wide section of existing footpath that is 62m to the east of the access. This is considered to be in accordance with Table DG9 of Part 3 of the LHDG.

### *Public Rights of Way (PRoW)*

- 8.62 The Local Highway Authority has no objections to the development proposal's impact on Public Right of Way (PRoW) Footpath R95, at this stage, subject to conditions.

#### *Site Access*

- 8.63 The access to the site is proposed via Hunts Lane, which has recorded 85<sup>th</sup> percentile vehicle speeds of 38.9mph in an eastbound direction and 42mph in a westbound direction. The site's access has a carriageway width of 6.75m, a kerbed radii of 6m, and 2m width footpaths on either side of it. This carriageway width is greater than the 5.5m required by Table DG1 of Part 3 of the Leicestershire Highway Design Guide (LHDG). The Applicant suggests that this has been proposed in order to futureproof the site for potential development.
- 8.64 The Local Highway Authority is satisfied that vehicular visibility splays of 2.4 metres by 120 metres can be provided in both directions at this site access, which is in accordance with Table DG4 of Part 3 of the LHDG.
- 8.65 No vertical visibility splay drawings have been submitted in support of this application as the Applicant has contended that the change in gradient on Hunts Lane is approximately 140m west of the proposed site access, which is beyond the required 2.4m x 120m visibility splay. After further assessment work, the Local Highway Authority are satisfied that gradient changes would not affect the required vehicular visibility splays, and that the splays are in accordance with Figure DG2 of Part 3 of the LHDG.

#### *Transport Sustainability*

- 8.66 Table 2 within the Applicant's Transport Assessment indicates that food and grocery store, medical centre and play park are located within 800m of the application site, which is in accordance with Paragraph 1.38 of Part 1 of the Leicestershire Highway Design Guide (LHDG). In addition, Table 2 suggests that café, primary school, pharmacy, secondary school, and day nursery are located within 1.2km of the application site. The Transport Assessment also suggests that the application site is within 800m of bus stops with minimum hourly services to Leicester and Market Bosworth.
- 8.67 However, the site is not within 5km of the Principle Urban Area of Leicester or a Sub Regional Centre and, as such, is not fully in accordance with Paragraph 1.38 of Part 1 of the LHDG. Notwithstanding this, the Local Highway Authority is satisfied that the site is sustainable in transport terms in accordance with Policy DM17 of the SADMP, subject to financial contributions for the provision of travel packs and bus passes for each dwelling to encourage future occupants to travel sustainably.

#### *Trip Generation*

- 8.68 Following amended trip rates within the first 'Response' document, the development is likely to result in 68 two-way vehicular movements in the AM peak hour (08:00 to 09:00), and 69 two-way vehicular movements in the PM peak hour (17:00 to 18:00). The Local Highway Authority are satisfied the trip rates are robust and that the flow rates have been updated accordingly.

#### *Summary*

- 8.69 The LHA has recommended four planning conditions in relation to a construction traffic management plan, a travel plan, off-site works, and access arrangements. Furthermore, the LHA have requested two financial contributions:
- £1,551,088.81 towards improvements to the A47 / B582 Desford Road Desford Crossroads) Junction
  - One travel pack per dwelling (which can be supplied by LCC at £52.85 per pack).
  - Two six-month bus passes per dwelling (which can be supplied by LCC at £360 per pass).

- 8.70 With support from the planning conditions and financial contributions that are required, the effects of the proposed development in relation its access and impact upon highway safety and the road network are not considered to be unacceptable, nor severe. Therefore, in accordance with Paragraph 111 of the NPPF, the development is considered acceptable in relation to highways grounds.

Impact on the Character and Appearance of the Area

- 8.71 Policy DM4 of the SADMP states that development in the countryside will be considered sustainable where:
- 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.
  - iv.) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
  - v.) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21.
- 8.72 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.73 The existing site is bounded by broken hedgerow and tree planting on all edges except for a section to the southwest of the site. The landscape of the application site is not considered to be particularly distinctive or noteworthy and it does not contain any rare or unusual landscape features or have any cultural associations. Due to its location, its use as an agricultural field, and its screening from the public highway, the site is considered to make a limited contribution in terms of the wider landscape character area.
- 8.74 Although the site does not comprise a valued landscape for the purposes of Paragraph 174(a) of the NPPF, it is evident that the site is valued by local residents as part of public recreational route from the village to the countryside, which also links Desford to Newbold Verdon. Therefore, it is considered that the site makes a moderate positive contribution to the character and appearance of the countryside.
- 8.75 Ultimately, the development is considered to result in a change of character to the site through the introduction of built form into an area of currently undeveloped agricultural land, and the changing of levels to accommodate the residential properties. This is confirmed by the Applicant's Landscape and Visual Appraisal, which asserts that the development results in a moderate adverse effect on the site's landscape and immediate surroundings. Notwithstanding this, it is important to note that the Desford Neighbourhood Plan Examiner's Report stated that the application



site was considered to be developable with only, *“Some limited localised landscape harm.”*

- 8.76 This can be seen by the fact that whilst a selection of hedgerow is removed from the northern site boundary to facilitate the widening of the site access, the existing boundary planting is retained and additional hedgerow and tree planting is provided throughout the site, which is secured via planning condition. The Applicant's Landscape and Visual Appraisal also states within Paragraph 5.5 that,

*“All of the landscape areas and public open space features will be managed and maintained. This would be achieved through the implementation of a comprehensive Landscape Management Plan.”*

This is secured via planning condition.

- 8.77 Furthermore, the residential development within the scheme is set back from the highway by 40m, which is considered to limit its visual impact from Hunts Lane. Therefore, it is considered that the scheme is unlikely to be visually prominent or have a significant adverse effect on the character of the Desford or the countryside from views within the settlement boundary of Desford along Hunts Lane heading westbound. In addition, the views of the site whilst departing westbound from Desford along Hunts Lane are likely to be experienced minimally whilst driving, and within the context of the existing relatively new residential development that has recently redefined the identified western settlement boundary of this Key Rural Centre. Given the above, it is considered that the slight extension to views of residential development and to the settlement boundary from this view do not result in significant adverse harm to the character of the surrounding area.

- 8.78 In spite of this, the development is also likely to be highly visible from the rear elevations and gardens of certain residential properties to the east and south such as Gables Close, and Shericles Way, which may result in adverse effects in terms of their private views. Nevertheless, the impacts of the development upon residential amenity are assessed further later within this report.

- 8.79 On the other side of the site, it is considered that the views of the application site are likely to be experienced fleetingly via vehicles heading in an eastbound direction. Given the location of the site, its screening, and the set back of the residential development, this is not considered to result in significant adverse harm to the character of the countryside. In addition, although Lockeymead Farm and the Hunts Lane Allotments are less isolated as a consequence of this development, they still remain characterised as separated and individual units that are on the edge of Desford's settlement boundary. Therefore, it is considered that their character is not adversely impacted by the development.

- 8.80 The Landscape and Visual Appraisal states that a 15m wide landscape buffer is created along the western boundary of the site. This ensures the retention of the Public Right of Way, the creation of a green habitat corridor along the western edge, and the softening of the proposed settlement through hedgerow and planting groups and individual trees. This buffer is secured via planning condition. It is also noted that no harm is caused to the Public Right of Way as a result of the development, but this is also secured via planning condition.

- 8.81 In spite of this, the existing views of the residential settlement edge of Desford from the Public Right of Way are at a distance of 103.9m. As this view of the residential properties decreases by almost 75m as a consequence of this development, the

scheme is likely to significantly alter the immediate views from this Public Right of Way. However, these impacts are likely to reduce the further one moves westwards upon the public footpath. Notwithstanding this, the views from the public footpath are already experienced in the context of the Key Rural Centre's settlement edge, which is considered to reduce the development's level of adverse harm to the views from the Public Right of Way.

8.82 In addition, this eastward view from the public footpath has already been significantly changed by the most recent residential development of the properties along Gables Close, Lockyeard Drive, Ashfield Road, Bluebell Green, and Fox Covert. It is noted that these residential properties were only approved via planning permission 12/001125/REM in 2013. Furthermore, the additional residential properties along Shericles Way and Tumblin Fields Close were approved in 2015 via planning permission 14/00816/FUL. As a result of these developments, the settlement boundary has extended over 167m closer towards this public footpath, which would have also resulted in harm to the views that are experienced from this Public Right of Way.

8.83 To summarise, the development results in a change of character to the application site due to the introduction of built form, which is considered to cause significant harm to the site itself. However, the development is well contained and experienced against the context of recent residential development and the Key Rural Centre's settlement edge. By virtue of the indicative layout and siting of the development, alongside additional soft landscaping, and boundary treatment, it is considered that the development is likely to create a limited impact on the wider character of the countryside. Therefore, whilst the development is likely to result in some limited localised harm to the countryside through the urbanisation of an existing arable field, the significance of the landscape effect is likely to be no greater than moderate adverse. Ultimately, this harm is weighed against the benefits of the scheme within the planning balance.

#### Design and Layout

8.84 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.

8.85 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.

8.86 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 100 dwellings with access into the site from Hunts Lane.

8.87 It is considered that the illustrative plans provide 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

- 8.88 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.
- 8.89 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.
- 8.90 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.
- 8.91 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.
- 8.92 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 a potential layout for the scheme.
- 8.93 Due to their separation distances from the site, the development is not considered to result in any significant harm to residential amenity to the west of the site. Furthermore, given the absence of residential properties to the north and southwest, the scheme is not considered to result in any material impact to residential amenity in these locations.
- 8.94 The eastern site boundary is separated from the majority of dwelling along Lockeymead Drive by over 35m. In addition, the rear elevation of the majority of dwellings to the northeast of the site, such as along Gables Close are separated by 21.9m from the eastern border of the site. However, the side elevation of one property on Lockeymead Drive is 6m east of the eastern side boundary and the side elevation of a further dwelling on Gables Close is separated from this boundary by only 7m. Nevertheless, given the siting of these two properties, and based on the Applicant's Illustrative Masterplan, it is considered that the development is capable of preventing any loss of privacy, overbearing or loss of light impacts to these adjacent dwellings.
- 8.95 Similarly, the rear elevation of the properties along Shericles Way are over 18m to the south of the application site, but there is also a side elevation of one dwelling along Shericles Way that is 8.6m south of the site. By virtue of the siting and location of these properties and the indicative layout of the development, it is considered that the scheme is capable of preventing any loss of privacy, overbearing or loss of light impacts to these adjacent dwellings.
- 8.96 Ultimately, it is considered that the provision of additional residential dwellings within this application site is not considered to result in significant noise or light pollution that

has a significant adverse impact on the residential amenity of neighbouring properties. However, to mitigate any adverse impacts to neighbouring residential amenity during the construction of the development, the construction hours on the site have been limited, and a construction environmental management plan has been secured via planning condition.

8.97 It is therefore considered that the scheme, subject to the detailed matters to come forward at Reserved Matters stage, could be designed such to have a suitable relationship with the nearby residential units. Although concerns raised by the neighbours to the scheme have been taken into account, but it is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, ensures that sufficient scrutiny and control is retained to ensure all concerns are appropriately addressed.

8.98 It is considered that the proposed development can be designed as such to be acceptable in amenity terms and in compliance with Policy DM10 of the SADMP, the Good Design Guide, and the requirements of the NPPF.

#### Flood Risk and Drainage

8.75 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.

8.76 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.

8.77 The site lies within Flood Zone 1 on the Environment Agency Flood Maps for Planning, which is at low risk of fluvial flooding and predominantly a very low risk of surface water flooding.

8.78 HBBC Drainage consider the development to be acceptable, subject to four planning conditions, which require: a surface water drainage scheme; details in relation to the management of surface water during construction of the development; details in relation to the long-term maintenance of the surface water drainage system; and infiltration testing to be carried out to confirm the suitability of the site for the use of infiltration as a drainage element.

8.79 To conclude, the application site is at low risk from flooding, and therefore it is considered that the flood risks within the site can be suitably mitigated by the planning conditions requested by HBBC Drainage, and therefore, subject to compliance with the requested planning conditions, the development complies with Policy DM7 of the SADMP.

#### Ecology and Biodiversity

8.80 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.

8.81 LCC Ecology has confirmed that the majority of the site consists of low ecological value habitats, such as arable field The rough grassland field margins and hedgerows are of higher value. But they are retained within the development. The Applicant has

provided a number of Phase 2 Protected Species Surveys that were carried out between 2019 and 2022, which identify the presence of common bat species, a disused outlier badger set, and a single great crested newt in a pond located approximately 150m from the application site. LCC Ecology considered the habitats of interest to be limited to the boundary hedgerows that met the definition of a Habitat of Principal Importance and LLRBAP Habitat Typology.

8.82 Nevertheless, to ensure the protection of protected species within the application site, the recommendations within the Applicant's Ecological Appraisal are secured via pre-commencement planning condition. In addition, at the request of LCC Ecology, a further pre-commencement condition is utilised to secure the provision of a Reasonable Avoidance Measures Method Statement (RAMMS), which sets out mitigation measures during the construction of the development that ensures that there is no impact upon the terrestrial newt, reptile, or badger populations.

8.83 The Applicants baseline habitats and illustrative on-site design proposals show a +42.02% biodiversity net gain for habitat units and a +4.55% increase in hedgerow units. LCC Ecology consider this demonstrates "no net loss," of biodiversity, which is acceptable in terms of local policy compliance and the principles of biodiversity net gain.

8.84 In line with the recommendations of LCC Ecology, the development is considered acceptable with Policy DM6 of the SADMP, subject to conditions.

#### Trees

8.85 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.

8.86 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 a section of hedgerow, identified as 'G6' within the Ecological Appraisal, is removed to facilitate the widening of the existing entrance to the site. This hedgerow is considered to be of low arboricultural value due to its overgrown form and limited contribution to the local landscape.

8.87 In addition, sections of the hedgerow along the eastern site boundary, which are identified as 'G1' and 'G2' within the Ecological Appraisal, are managed and cut back to facilitate the development of the residential dwellings. It is considered that this hedgerow included Category C trees of low arboricultural and landscape value.

8.88 In this instance, the County's Tree Officers has not commented on the proposals and has not expressed any significant concerns with the application.

8.89 Therefore, subject to further details at the Reserved Matters stage, it is considered that all trees of moderate to high value can be retained without being impacted upon. As a result, it is considered that, subject to further details at the Reserved Matters stage, the proposal is acceptable regarding the requirements of Policy DM6 of the SADMP.

#### Other Matters

8.90 Due to the size of the site, the loss of this agricultural land is not considered to be significant.

S106 Heads of Terms

- 8.91 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.
- 8.92 Policy 8 of the adopted Core Strategy asserts that the Council will address the existing deficiencies, quantity and accessibility of green space and play provision within Desford.
- 8.93 Policy 19 of the Core Strategy identifies standards for play and open space within the Borough. Developments should accord with this 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 identifies the costs for off-site and on-site contributions.
- 8.94 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.
- 8.95 The following contributions totalling £2,830,475.31 are sought as a result of this development. These contributions include:
- Early Years Education (Desford Community Primary School) (£75,709.50)
  - Libraries (Desford Library) (£3,019.77)
  - Highways Improvements to the A47 / B582 Desford Road (Desford Crossroads) Junction (£1,551,088.81)
  - On-Site Public Open Space Contribution (£100,246.80)
  - On-Site Public Open Space Maintenance Contribution (£171,184.00)
  - Primary Education (Desford Community Primary School) (£422,188.00)
  - Second Education (11 – 18) (Bosworth Academy) (£362,360.00)
  - Secondary SEND Education (Dorothy Goodman School Hinckley) (£56,448.43)
  - Six-Month Bus Passes, (two per dwelling) (£72,000 (£360 per pass))
  - Travel Packs (one per dwelling) (£5,285 (£52.85 per pack))
  - A Travel Plan Monitoring Fee (£6,000)
  - Waste (Barwell (RHWS)) (£4,953.00)

Monitoring fees will also be required in addition to these contributions.

- 8.96 To comply with National Guidance, such as the National Planning Policy Framework (NPPF), and the First Homes Initiative, the development should provide:
- 10 x First Homes
  - 21 x Affordable Rent
  - 09 x Shared Ownership

This provision is considered to satisfy the requirements of the NPPF that requires 25% of all affordable housing to be provided as First Homes, and 10% of all dwellings to be for the provision of affordable home ownership.

8.97 If public open space provision cannot be provided on-site, off-site provision contributions totalling £124,066.00 and maintenance contributions totalling £85,592.00 are required. These calculations are based upon the development's maximum provision for up to 100 dwellings and will be confirmed at Reserved Matters upon the confirmation of the total number of residential units has been provided. This public open space should be secured via S106 Agreement, and off-site contributions are welcomed where on-site provision cannot be fully provided.

8.98 All of the above contributions are considered to meet the tests for planning obligations and should therefore form part of the Section 106 legal agreement to be formulated should the application be approved. Therefore, subject to the above contributions, the development is considered to comply with Policy DM3 of the SADMP, and Policy 19 of the Core Strategy.

#### Conclusions and Planning Balance

8.99 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.

8.100 The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. The Desford Neighbourhood Plan is now more than two years old and so the provisions of paragraph 14 of the NPPF do not take effect. 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.

8.101 The provision of up to 100 dwellings, which includes the policy compliant number of affordable homes, is considered to be an important benefit of the proposal to which significant weight in favour of the scheme is attached.

8.102 Although the countryside is not considered a sustainable location for new residential development, the proposal is likely to support, and be supported by, local services within the Key Rural Centre. Other benefits of the scheme apart from the delivery of market and affordable homes include the likely economic and social benefits through the construction of the dwellings and from the subsequent activities of the future residents in the local area. These benefits are considered to attract moderate weight in the planning balance.

8.103 The sustainability of the site is also supported by the recommended financial contributions towards travel packs and bus passes for each dwelling. Moreover, the development's impact on the highway network is considered to be mitigated by the proposed financial contributions and planning conditions attached to the development. These considerations add weight to both sides of the argument and are considered to balance each other out.

8.104 Other benefits claimed by the Applicant are considered to simply mitigate the impact of the additional population – e.g. improvements to the pedestrian and cycle network, the provision of open space and equipped play space, S106 contributions. In the absence of evidence to the contrary, no weight in the planning balance is attributed to these factors.

- 8.105 Whilst the proposal is offered no support by Policy DM4(a, b, c, d and e) of the SADMP, the Council does not regard the development to have a significant adverse impact on the intrinsic value, beauty, open character, and landscape character of the countryside, in accordance with Policy DM4(i) of the SADMP. This is by virtue of the location of the application adjacent to the built form of Desford, which enables the development to be experienced as a natural continuation of the Key Rural Centre. This view is supported by the indicative layout and siting of the site, and the retention of the existing boundary landscaping. Nevertheless, the effect on the countryside attracts moderate weight against the development.
- 8.106 Furthermore, whilst the proposal does result in the loss of an area of agricultural land, the development envisages a biodiversity net gain 42.02% for the site through the provision of green infrastructure, and hedgerow and tree planting, which is secured via planning condition.
- 8.107 In relation to residential amenity, it is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, ensures that sufficient scrutiny and control is retained by the Council to ensure all concerns are appropriately addressed.
- 8.108 Whilst it is acknowledged that the development is likely to be highly visible from the rear elevations and gardens of adjoining properties to the east and south such as Gables Close, and Shericles Way, given the lack of harm to residential amenity in regard to outlook, light, and privacy, these effects are only given moderate weight.
- 8.109 The application site is at low risk from flooding, and it is considered that the flood risks within the site can be suitably mitigated by the planning conditions requested by HBBC Drainage.
- 8.110 The Applicant's Archaeological Desk-Based Assessment demonstrates that the application site has low/negligible archaeological potential for all periods. However, it is noted that if any remains do survive within the study, they would be of more than local importance. Given the above, and following the recommendations from LCC Archaeology, the development is acceptable subject to a planning condition that secures a programme of archaeological mitigation that is compliant with a Written Scheme of Investigation (WSI).
- 8.111 To summarise, the application must be assessed against the 'tilted' balance of Paragraph 11(d) of the NPPF. The proposed development provides up to 100 dwellings towards the Council's housing land supply, which incorporates 40% affordable housing units in accordance with the requirements of Policies 15 and 16 of the adopted Core Strategy.
- 8.112 By virtue of all these factors, it is considered that the impacts of granting planning permission do not significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the National Planning Policy Framework 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:-

1. A public authority must, in the exercise of its functions, have due regard to the need to:



- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

## 10. Recommendation

### 10.1 Grant planning permission subject to:

- Planning conditions outlined at the end of this report;
- The entering into of a S106 Agreement relating to affordable housing, highway improvements, open space provision and management and the financial contributions detailed above.
- That the Head of Planning be given powers to determine the final detail of planning conditions.

### 11.2 Conditions

1. Application for approval of reserved matters shall be made within two years of the date of this permission and the development shall be begun not later than 18 months from the date of approval of the last of the reserved matters to be approved.

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

2. No development shall commence until details of the layout, scale, appearance, landscaping, and access other than vehicular access (hereafter called the Reserved Matters) have been submitted 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, DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:
  - Site Location Plan – Drg No. 09129-FPCR-ZZ-XX-DR-A-0001 (submitted: 20.01.2023)

**Reason:** To ensure a satisfactory form of development in accordance with Policies DM1, DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

4. In accordance with the details on Page 16 of the Design & Access Statement (submitted: 20.01.2023), boundary planting will be retained, and all development will be set back by a minimum of 40m from Hunts Lane.

**Reason:** To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

5. In accordance with the details on Page 28 of the Landscape and Visual Appraisal (submitted: 20.01.2023), a landscape buffer at a minimum width of 15m shall be created on the western boundary of the site.

**Reason:** To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. The development shall be carried out in full accordance with the Retention Plan (9129-T-02 Rev C) at Page 18 and the recommendations at Section 7 within the Arboricultural Assessment (submitted: 20.01.2023).

**Reason:** To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2021).

7. The development shall be carried out in full accordance with the recommendations within Section 4.0 of the Ecology Appraisal (submitted: 20.01.2023).

**Reason:** In order to protect the protected wildlife species and their habitats that are known to exist on site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. The Travel Plan shall be carried out in accordance with the details contained within Tetra Tech document reference A114475 Revision 2 (dated 9th December 2022). A Travel Plan Co-ordinator shall be appointed from commencement of development until at least one year after the last dwelling is occupied, or a minimum of five years after the first dwelling is occupied, whichever is later. The Travel Plan Co-ordinator shall be responsible for the implementation of measures as well as monitoring and implementation of remedial measures.

**Reason:** To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework (2021).

9. No demolition/development shall take place/commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a Written

Scheme of Investigation (WSI), which has been submitted to, and approved by, the Local Planning Authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
- The programme for post-investigation assessment and subsequent analysis, publication & 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 set out in the WSI.

**Reason:** To advance the understanding of, and safeguard the significance of, the Borough's archaeological assets in a manner proportionate to their importance in accordance with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 205 and Section 16 of the National Planning Policy Framework.

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

**Reason:** To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area.

11. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Tetra Tech, drawing number PRJ01-TTE-00-ZZ-DR-O-0001 Revision P03 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 the National Planning Policy Framework (2021).

12. No part of the development shall be occupied until such time as the offsite works (footway improvements) shown on Tetra Tech, drawing number PRJ01-TTE-00-ZZ-DR-O-0001 Revision P03 have been implemented in full.

**Reason:** To mitigate the impact of the development, in the general interests of highway safety and in accordance with the National Planning Policy Framework (2021).

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

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

15. Prior to commencement of development, a Construction Environmental Management Plan shall be submitted 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.

**Reason:** To minimise disruption to the neighbouring residents in accordance with Policies DM7 and DM10 of the 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 scheme in accordance with the Flood Risk Assessment and Outline Drainage strategy dated December 2022 has been submitted to, and approved in writing by, the Local Planning Authority. The development must be carried out in accordance with these approved details and completed prior to first occupation.

**Reason:** To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016), and Section 14 of the National Planning Policy Framework (2021).

17. No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided 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 the National Planning Policy Framework (2021).

18. No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by, the Local Planning Authority. Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance, and protection. Details regarding the protection of any proposed infiltration areas should also be provided. The construction of the development must be carried out in accordance with these approved details.

**Reason:** To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016), and Section 14 of the National Planning Policy Framework (2021).

19. Prior to the commencement of the development, details in relation to the long-term maintenance of the surface water drainage system (SuDS) within the development have been submitted to, and approved in writing by, the Local Planning Authority. Details of the SuDS Maintenance Plan should include responsibilities and schedules for routine maintenance, remedial actions, and monitoring of the separate elements of the system and should also include procedures that must be implemented in the event of pollution incidents within the site. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.

**Reason:** To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016), and Section 14 of the National Planning Policy Framework (2021).

20. No development shall take place (including ground works or vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the LPA. The LEMP shall include the following details:
- a) Description and evaluation of the features to be created/managed.
  - b) Aims and objectives of management.
  - c) Appropriate management options for achieving aims and objectives.
  - d) Prescriptions for management actions.
  - e) Work schedule.
  - f) Species/seed mixes to be planted/sown.
  - g) Ongoing monitoring and remedial measures.

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

**Reason:** In order to protect the protected wildlife species and their habitats that are known to exist on the site in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016).

21. No development shall take place until a Reasonable Avoidance Measures Method Statement (RAMMS) is submitted to, and approved in writing by, the Local Planning Authority. The RAMMS should include details including the proposed mitigation measures during the construction of the development that ensures that there is no impact upon the terrestrial newt, reptile, or badger populations. The development shall be carried out as per the approved details.

**Reason:** In order to protect the protected wildlife species and their habitats that are known to exist on site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

22. Prior to the commencement of development, full details for the provision of electronic communications infrastructure to serve the development, including full fibre broadband connections, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be implemented in accordance with the approved details and the infrastructure must be fully available prior to the occupation of each dwelling/unit on the site.

**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).

23. During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted, or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted, destroyed, or dies during the construction period, a replacement shall be planted at the same place during the first planting season following the completion of the development. The size and species of the tree or hedge shall be agreed in writing by the Local Planning Authority prior to its planting.

**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).

24. Site preparation and construction shall be limited to the following hours:

Monday to Friday: 07:30 to 18:00  
Saturday: 08:00 to 13:00  
No working on Sundays and Bank Holidays

**Reason:** To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

25. A landscape 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 to, and approved in writing by, the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management 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).

26. The development hereby permitted shall not be first used until such time as the scheme makes adequate provision for waste and recycling storage of containers and collection across the site, which has been submitted to, and approved in writing by, the Local Planning Authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

**Reason:** To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

27. All landscape planting used within the informal/ semi-natural open space and adjacent to the boundaries of the site shall be native species only, unless otherwise agreed in writing by the Local Planning Authority.

**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).

**Notes to Applicant:**

1. In relation to Conditions 13 and 14, advice from Environmental Health should be sought via [esadmin@hinckley-bosworth.gov.uk](mailto:esadmin@hinckley-bosworth.gov.uk) to ensure that any investigation of land contamination is in accordance with their policy.
2. The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Local Planning Authority. To demonstrate that the implementation of this Written Scheme of Investigation has been secured, the Applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor. The Historic and Natural Environment Team, as advisors to the Local Planning Authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the Local Planning Authority.
3. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section

148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.

4. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you contact Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
5. Any works to highway trees will require separate consent from Leicestershire County Council as Local Highway Authority (telephone 0116 305 0001). Where trees are proposed to be removed, appropriate replacements will be sought at the cost of the Applicant.
6. To erect temporary directional signage, you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
7. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
8. If the Applicant wishes for the site's internal roads to be adopted by the Local Highway Authority, the Applicant should note that a commuted sum would be charged for the additional road width that is not required for the safe and satisfactory function of the highway. For further details, the Applicant may wish to consider to the guidance within Table DG1 (General Geometry of Residential Roads (Internal)) within the Leicestershire Highway Design Guide (LHDG).
9. The Applicant should note the following regarding the Section 278 stage:
  - The designer needs to consider contacting and liaising with utility companies and services providers to ascertain if any services require diverting. The proposed footway widening could impact upon existing statutory utilities equipment, and the developer will be required to ensure that liaison with all utilises is undertaken to confirm the details of these works as part of the Section 278 Agreement.
  - The designer needs to provide details of where they intend to drain the proposed development. In addition, the developer is required to survey the existing drainage, and a detailed drainage design and drainage assessment will be required for approval as part of the Section 278 Agreement. The development will also be required to survey the existing drainage, including CCTV, so as to identify suitable drainage to connect to.
  - Section 278 Agreements – Information Required at Preliminary Design Stage [PD1]



[https://resources.leicestershire.gov.uk/sites/resource/files/field/pdf/2017/2/28/PD1\\_Preliminary\\_Design\\_Submission\\_Checklist.pdf](https://resources.leicestershire.gov.uk/sites/resource/files/field/pdf/2017/2/28/PD1_Preliminary_Design_Submission_Checklist.pdf)

- Section 278 Agreements – Information Required at Detail Design Stage [DD1]  
[https://resources.leicestershire.gov.uk/sites/resource/files/field/pdf/2017/2/28/DD1\\_Detail\\_Design\\_Submission\\_Checklist.pdf](https://resources.leicestershire.gov.uk/sites/resource/files/field/pdf/2017/2/28/DD1_Detail_Design_Submission_Checklist.pdf)
  - LCC Standard Drawing: The LCC Standard Drawings should be used except where no appropriate detail covers the proposal. It is not necessary to import the drawings into consultants drawing frame, but as a reference.  
<https://resources.leicestershire.gov.uk/environment-and-planning/planning/the-6cs-design-guide>
10. Hinckley & Bosworth Borough Council's recycling and refuse collection services are from the boundary to the adopted highway. Further information and guidance regarding the adequate provision of waste and recycling containers and their storage and collection is available within the Council's Wheeled Bin and Container Policy (2018), which is available on the Council's website. It will be the responsibility of the occupiers to ensure that all containers/wheeled bins are brought to the collection point and returned to private properties after collection place. Please ensure occupiers are advised procedure and bin collection points.