

**Planning Committee 27th August 2024
Report of the Head of Planning**

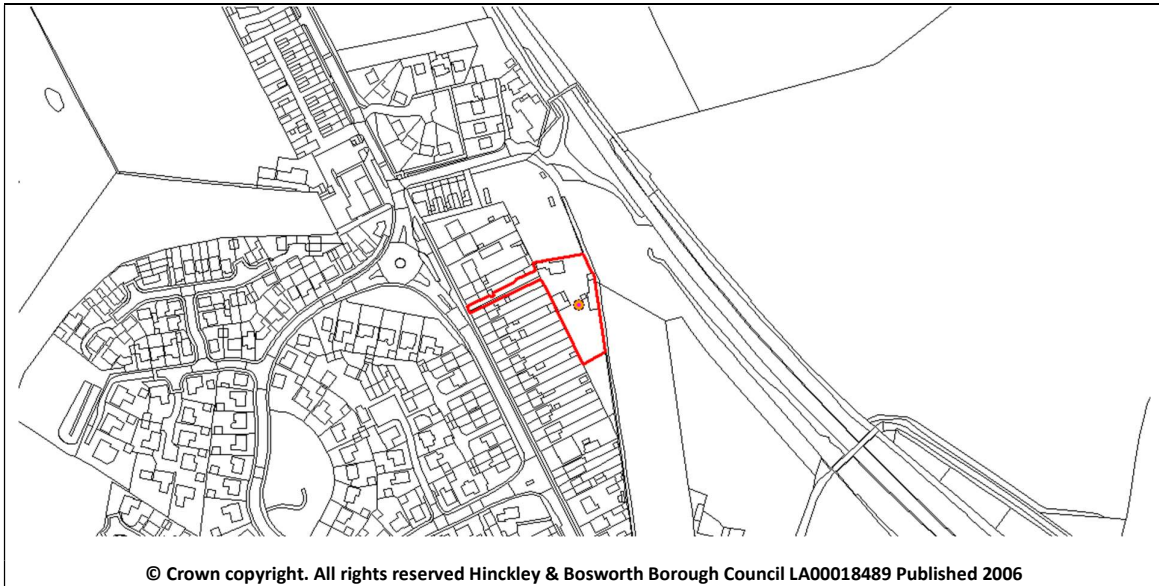
**Planning Ref: 24/00127/FUL
Applicant: Mr Tsen Wharton
Ward: Bagworth & Thornton**



Hinckley & Bosworth
Borough Council

Site: 314A Station Road Bagworth Coalville Leicestershire LE67 1BN

Proposal: Erection of 4 dwellings, alterations to existing dwelling and widening of access



1. Recommendations

- 1.1 Confirm the delegated decision to approve planning permission subject to the conditions at the end of this report and confirm that Council will not seek to revoke/quash planning permission.

2. Preamble

- 2.1 This application was previously approved on 20th July 2024 under delegated powers. However, a Ward Councillor had requested, in March 2024, that the application be determined by Planning Committee and the decision should therefore have been made by Planning Committee.
- 2.2 The Planning Committee is therefore requested to consider the delegated decision of approval as is set out in the report below.
- 2.3 Should Planning Committee resolve to confirm the delegated decision on the original application then the decision would stand.
- 2.4 Should Planning Committee resolve to refuse the application then the Council shall seek to revoke or quash planning permission.

- 2.5 Under section 97 of the Town and Country Planning Act 1990, local planning authorities ('LPA') have the power to revoke a planning permission where they consider it "expedient" to do so. The word "expedient" implies no more than that the action should be appropriate in all the circumstances: R (Health and Safety Executive) v Wolverhampton City Council [2012] UKSC 34 ('HSE').
- 2.6 A revocation order must also be confirmed by the Secretary of State in order to take effect, unless all of the parties likely to be affected have notified the LPA in writing that they do not object. Any party who does object is entitled to request an opportunity to appear before and be heard by a person appointed by the Secretary of State for that purpose. Should the order be confirmed, there is a further six-week period in which its validity may be challenged by planning statutory review.
- 2.7 In deciding whether to exercise the power, the Council needs to consider its local plan and any other relevant material considerations. However, it is now firmly established that the cost consequences of revocation is capable of being a material consideration for the purposes of section 97 TCPA. The cost consequences of revocation flow from section 107 TCPA, which entitles an applicant whose permission is revoked to claim compensation from the LPA for works already carried out and any other losses or damages attributable to the revocation. The latter includes any depreciation in the value of the applicant's interest in the land, for which it is assumed that planning permission would be granted for development.

3. Planning application description

- 3.1 The application seeks full planning permission for the Erection of 4 dwellings, alterations to existing dwelling and widening of access at No. 314A Station Road in Bagworth, Leicestershire.
- 3.2 This application is a follow up to application 22/00733/FUL which was refused by HBBC and dismissed at appeal. The application addresses the points raised by the refusal and subsequent comments made in the Appeal Decision Notice.
- 3.3 The proposals in this application vary from 22/00733/FUL on the following points:
- HMO has been removed and replaced with a 3 bed detached house with 2 parking spaces
 - Spacing between properties has been increased.
 - Proposals of a management plan to reduce amenity impact on 312 and 314 Station Road along the access road have been incorporated into the proposals (these were amendments made to the application during the previous determination period)
 - Introduction of a landscape buffer zone along the Western boundary (again this was proposed and agreed with officers during the previous determination period)
 - Addressed the negative comments raised by the appeal inspector
- 3.4 Application 22/00733/FUL was refused by HBBC on design grounds with the refusal reason being:

"The proposal, through the scale and density of development proposed, is considered to be over development of the site and is not considered to complement or enhance the character of the surrounding area. The proposal is therefore considered to be contrary to Policy DM10 of the Site Allocations and Development Management DPD."

- 3.5 The appeal inspector when dismissing the appeal, was supportive of:
- the principle of development of this site,
 - the general configuration,
 - access
 - the existing and 3 of the new homes (plots 1, 2, 3 & 4)
 - the architectural design.
- 3.5 In Section 7 of the appeal report, the inspector states that the configuration of the larger HMO unit was such that it was too close to the other boundaries and was cramped on its site. As such this was harmful to the character of the area. This proposal has removed the HMO and replaced it with a dwelling the same as the other properties. This has the following impacts on the proposals;
- reduces traffic movement
 - moves the property away from the boundary
 - ensures the footprint is similar to the other units (smaller than the HMO)
 - ensures the property is not cramped on its site.
 - maintains the character and appearance of the other areas of the site and surroundings.
- 3.6 The proposal is to retain the existing dwelling but add a single storey side extension and develop a further 4 properties on the remainder of the plot. All utilising the existing private road access. This would mean there are 5 properties utilising the widened private access road.
- 3.7 Proposed changes to the existing dwelling are generally in line with those that would normally be permitted under the various classifications of Permitted Development regulations. Proposed is a side extension, 4.5 metres wide for the full depth of the property. Also internal re-configuration and tidying up the external walls is proposed to create a modern 4 bedroom family home. This element has not been amended from the earlier scheme.
- 3.8 The proposed 4 no. 3 bedroom dwellings would be 2 storey detached dwellings with masonry cavity walls with pitched tile roofs. All new build properties are proposed to be a mixture of red brick and render with grey concrete tiles to reflect the materials palette of the existing local 1930's residential vernacular of the existing dwellings along this side of Station Road.
- 3.9 Plot 5, which is the closest property to the rear of the houses on Station Road, is orientated 90 degrees from the other properties with its main habitable room windows not directly facing the rear of dwellings on Station Road.
- 3.10 In terms of parking proposed for the development the existing 4 bed bungalow would have 3 on site spaces. Each of the four 3 bed dwellings would have 2 spaces per plot. 2 no. visitor spaces are also proposed.
- 3.11 The access road utilises the existing road serving 314a. It has been increased in width by 1m along its full-length to meet the requirements as set out in the Pre-App advice previously provided by LCC Highways. At the junction with Station Road a 4250mm width can be achieved for the first 5 metres back from the pavement, in addition to service zones. This is shown on the Drive Way plan dwg. No. PL01 Rev D. Vision splays as set out in the Pre-App advice from Highways can also be

achieved; namely 2 x 2 from the back edge of the pavement and 43 x 2.4 m for longer views. There is one piece of street furniture (a metal railing) which obscures this view, as it currently does for the existing driveway. The applicant will be responsible for the costs of this revision & for any TRO changes.

- 3.12 No. 314 already has 1.8m high closed boarded fencing along the driveway and enclosing its rear garden to the rear. As such it is already separated from the access road. No. 312 has a low fence and this will be replaced as part of the driveway width improvements to ensure adequate separation and to preserve the privacy and amenity currently enjoyed.
- 3.13 To reduce the impact on the occupiers of No. 314 and No. 312 Station Road, the applicant is proposing the following points which can be collated as a management plan to be maintained in perpetuity:
- 1500mm high acoustic fence to be installed on both sides of the driveway
 - Speed restricted to 10 MPH at all times
 - No main beam headlamps to be used at any time
 - Low level lighting to be provided to facilitate safe passage with restriction to fittings to ensure light spillage is restricted to 600mm above road surface
 - Speed bumps / chicanes to reduce speed of vehicles
 - Painted lines on surface to remark safe areas for pedestrian movement
 - Raised kerb at pedestrian access points onto the driveway.
- 3.14 Each dwelling would have a private amenity space provided with space between all boundaries. Existing boundaries would be softened with mixed native species hedging to improve biodiversity. A 1m zone is shown on plan for a new native species hedge that would run the length of the Western & Southern boundary, increasing in depth at the head of the access road. This is shown returning along the southern boundary of plot 5 to make a direct connection to the woodland area. This zone is to be maintained in perpetuity.

4. Description of the site and surrounding area

- 4.1 314A Station Road is a 1960's brick and tile built bungalow erected on the back land behind the row of 1930's 2 storey semi-detached houses on the Eastern side of Station Road. The land is sandwiched between the rear gardens of the houses and the former mine railway now an area of open woodland. The site is not within a Conservation Area and the existing property is not listed or locally listed. There are no heritage assets within a distance which will be affected by the development. The property occupies a site area of approximately 2000sqm which is mainly open space. As well as the bungalow, the site has a large garage and workshop and a number of abandoned kennels. The property has been empty for a couple of years.
- 4.2 314A is accessed from Station Road via a private access road between 312 and 314 Station Road. 314 has a garage space at the very end of their garden. There is no vehicular access to 312. The road is generally in excess of 3 metres wide (in excess of 4 metres north of the existing dwelling 314) but is restricted to 2.7 metres for a small distance where there is an existing building.
- 4.3 The existing dwelling at 314A has been extended from the original bungalow converting what appears to be the original garage into a bedroom and infilling the

space between the garage and original house. This has been further extended with an extension to the rear.

- 4.4 The plot is effectively level. To the north is an area of open space and to the south a further open space / garden. To the east is open woodland which previously formed part of the mine / mineral railway.

5. Relevant planning history

21/10105/PREHMP – Pre-app for Retention of existing dwelling with alterations and the erection of 4 new dwellings consisting of 3 no. 3 bedroom (2 storey) houses and 1 no. HMO with 6 bed spaces (2 storey).

22/00733/FUL- Erection of 3 no. 3 bedroom 2 storey dwellings, 1 no. 6 bedroom House of Multiple Occupation, extension to existing bungalow, widening of access driveway- Refused & Dismissed at appeal- 23/12/2022

6. Publicity

- 6.1 The application has been publicised by sending out letters to local residents and posting a site notice.

- 6.2 Two public comments have been received objecting to the proposal.

- 6.3 The main summarised points of objection are:

- The application is very similar to the previous apart from removal of the HMO
- Damage to the environment and local wildlife will be huge
- Access isn't wide enough
- Access for emergency vehicle won't be possible
- The proposed is just a cash grab for someone not living locally
- Extension of the bungalow would be supported.
- Concern about the density of the proposal
- Is the now widened access permanent and can lorries use it comfortably?
- More parking is needed
- Increased use will be a danger to pedestrians using the pedestrian crossing
- The bin lorry will block the roundabout on collection day

7. Consultation

- 7.1 No objection has been received from:

- LCC Ecology (subject to conditions)
- LCC Highways (Condition relating to access width, vehicular visibility splays, pedestrian visibility splay, parking & turning areas)
- HBBC Drainage (Condition relating to drainage report)
- HBBC ES Pollution 2

- 7.2 Bagworth & Thornton Parish Council comments were:

'The proximity of the access driveway to and from Station Road is too close to the existing roundabout. There is already on street parking too close to this roundabout making it dangerous for pedestrians, especially those with disabilities and prams, to cross safely at the existing designated area. The additional traffic accessing the new development will possibly result in the need to install no waiting/loading restrictions [enforceable double yellow lines, as it has been found necessary for the recently developed site adjacent to 121 Station Road. Displacing the vehicles that use this part of Station Road will make matters worse. The length of Station Road

from Beacon View to the roundabout is effectively a single file carriageway necessitating southbound traffic to yield to oncoming traffic.

There is no evidence that the proposal to widen the existing driveway between numbers 312 and 314 is permanent and forms a legal right of way. There is evidence that has already been reported by Ward Councillors, to substantiate claims that the driveway has already been widened making at least part of the application to be retrospective. Furthermore, it is questionable that the widening complies with statutory requirements given the close proximity to number 312. Additionally, there is evidence suggesting that other works have already commenced, perhaps necessitating the whole application to be re-submitted retrospectively and due process to begin from the start, providing consultees the opportunity to objectively comment. The layout is not sufficiently clear to demonstrate there is adequate manoeuvring areas within the site to facilitate vehicles driving in and out of the site, eliminating the need to either reverse in or out onto Station Road. It is difficult to appreciate how delivery and emergency vehicles will be accommodated'.

7.3 HBBC Waste- no response

8. Policy

8.1 Core Strategy (2009)

- Policy 1: Development in Hinckley
- Policy 5: Transport Infrastructure in the Sub-Regional Centre
- Policy 7: Key Rural Centres
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision

8.2 Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

8.3 National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

8.4 Other relevant guidance

- Good Design Guide (2020)
- Bagworth Neighbourhood Plan (Draft)

9. Appraisal

9.1 Key Issues

- Principle of development
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flood risk and drainage

- Ecology and biodiversity
- Archaeology
- Contamination
- Planning balance

9.1 The previous inspectors decision is a material consideration. The only matter that led to the dismissal of the appeal was the siting of the proposed HMO. The Inspector did not raise issue with the principle of development, the design and impact on the character of the area (with the exception of the previous HMO), the impact on neighbouring amenity, highways safety, flood risk and drainage, ecology and biodiversity, archaeology or contamination matters.

Principle of development

- 9.2 Paragraph 2 of the National Planning Policy Framework (NPPF) July 2023 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision a making.
- 9.3 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 9.4 The Emerging Local Plan for 2020-2041 is currently at Regulation 18 stage, with the public consultation running from Wednesday 31 July to Friday 27 September 2024. The latest Local Development Scheme (LDS), was published on 08 February 2024. The update revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including the Regulation 19 Consultation which is not scheduled until January-February 2025. Given the early stage of the Emerging Local Plan and outstanding evidence, the emerging policies are attributed very limited weight.
- 9.5 The Council has published an updated 5yr housing land supply calculation (Monday 29th July 2024). This updates the 5yr housing land supply position from March 2023 to March 2028 and demonstrates a 5.6yr supply of housing, with a surplus supply of 145 dwellings over the five year period.
- 9.6 For decision taking, a 5yr housing land supply is a material consideration in all relevant applications for dwellings in the Borough. Despite being able to demonstrate a housing land supply, due to the age of relevant housing policies in the Core Strategy, in accordance with paragraph 11d) of the NPPF, the Council should still grant permission for housing unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.

- 9.7 Paragraph 60 of the NPPF sets out that *“it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”*.
- 9.8 Paragraph 120 of the NPPF states that decisions should *“...(c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land*
- d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure); and*
- e) support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.”*
- 9.9 Policy 10 of the adopted Core Strategy seeks to support development within the Bagworth settlement boundary to deliver a minimum of 60 new dwellings. Policy DM1 of the SADMP which is in accordance with paragraph 11 of the NPPF, also seeks to support sustainable development. The site is in a sustainable location within the settlement boundary where there is generally a presumption in favour of residential development. In addition, the site has good access to services and facilities within Bagworth and to good public transport links between Leicester and Coalville.
- 9.10 As such, the principle of residential development on the site would be acceptable in terms of Policy 10 of the Core Strategy, Policy DM1 of the SADMP and guidance in the NPPF, subject to all other planning matters being satisfactorily addressed.

Design and impact upon the character of the area

- 9.11 Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 9.12 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.
- 9.13 Paragraph 139 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government

guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.

- 9.14 The proposed site plan, elevations and floor plans, illustrate that the scheme would be a suitable form of development that respects the existing character of the site, whilst ensuring that the resultant built form is appropriate for the needs of modern habitation.
- 9.15 The choices of materials, as illustrated on the plans submitted, would be appropriate for the semi-rural nature of the site and would match well with the existing structures to be retained & existing dwellings along Station Road. All new build properties are proposed to be a mixture of red brick and render with grey concrete tiles to match the local 1930's vernacular with all proposed dwellings being of a similar size.
- 9.16 In the dismissed appeal the Inspector was 'satisfied that Plots 1-4 would complement the character of the surrounding area regarding scale, layout, density, mass, design, materials and architectural features'.
- 9.17 This did not apply to the HMO in plot 5 however, which in the Inspector's opinion was too close to the boundaries of adjacent houses and would not sit well on the plot, would appear cramped and out of place. Specifically the Inspector stated:
- "However, the same cannot be said for plot 5. The west (rear) elevation, particularly at the southern end of the proposed building would be located very close to the rear boundaries of the adjacent houses. Although I accept that the overall height, architectural design, proposed materials, and garden areas would be suitable for this location, the proposed HMO would not sit harmoniously on its plot. Due to the inadequate set in from the western boundary, this part of the proposed development would appear unduly cramped on the site, would not sit comfortably in its surroundings, and would undermine the existing spacious character. As a result, the proposed HMO on plot 5 would appear as a discordant feature that would look harmfully out of place."*
- 9.18 This proposal has removed the HMO and replaced it with a dwelling the same as the other properties. This has the following impacts on the proposals;
- reduces traffic movement
 - moves the property away from the boundary by over 3m
 - provides a footprint similar to the other units (much smaller than the HMO)
 - ensures the property is not cramped on its site.
 - helps maintain the character and appearance of the other areas of the site and surroundings.
- 9.19 Overall the scheme is considered to have overcome the previous issues with regards to Plot 5. Plot 5 now sits harmoniously on its plot with appropriate separation from the site boundaries creating a uniform appearance across the site as a whole. The development would therefore be acceptable and in compliance with Policy DM10(c), (d) and (e) of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.

Impact upon neighbouring residential amenity

- 9.20 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.
- 9.21 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.
- 9.22 Paragraph 135 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.
- 9.23 Paragraph 191 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.
- 9.24 The scheme will have a suitable relationship with nearby residential units in terms of the inter-unit relationship within the site and the distance between the proposed and the existing dwellings along Station Road. The internal configurations and the orientation of the proposed dwellings also minimises opportunities for overlooking. No. 5 is set back 6m from the western boundary, 8m from the southern & eastern boundary. No. 5 has one 1st floor letter box window on the northern elevation which is for a bathroom and would be obscure glazed by condition. A bin store and porch is proposed for the ground floor of this northern elevation. For the western elevation 2 ground floor windows are proposed which would be for a kitchen and a dining room area along with one 1st floor bedroom window. These would be the more sensitive elevations of the proposed in terms of impact on neighbouring amenity. The 1st floor bedroom window on the western elevation would be 42m from the nearest dwelling on Station Road. The 1st floor western elevations of the dwellings in plot 4, 3, and 2 would be progressively further from the rear elevations of dwellings on Station Road & the relationship here is considered acceptable as a result of the distance between them and the proposed boundary conditions.
- 9.25 No 4 is set back 8m from the western boundary of the site & 43m from the rear elevation of dwellings along Station Road. No. 4 has no windows on its southern elevation and 2 windows on its northern elevation, which would be for a landing window on the 1st floor and a utility room on the ground floor.
- 9.26 No. 3 has no windows proposed for its southern elevation and a bathroom window proposed for its northern elevation which would be obscure glazed by condition.
- 9.27 No. 2 has no windows proposed for its northern elevation and 2 windows on its southern elevation which would be for a utility room and a landing window.

- 9.28 It is considered the proposed layout of the dwellings and window placement would maintain privacy between them and with the existing dwelling. Landscape enhancement is proposed for the western boundary to provide additional screening and improve biodiversity.
- 9.29 A 1.5m high acoustic timber fence is proposed to enclose the gardens of 312 & 314 Station Road. A driveway management plan is proposed here to help minimise any disturbance with a speed restriction of 5mph on a bound surface. No main beam lights are to be used here and low-level lighting along the drive will facilitate safe passage and security. Speed bumps are also proposed here with painted lines used to mark areas for safe pedestrian movement. It is not felt, due to the above, the amenity of these two neighbours would be significantly affected by the proposal.
- 9.30 It is material that the planning inspector in dismissing the earlier appeal stated that 'the proposal would not harm the living conditions of neighbours or future residents of the proposed benefit'. There is no change to this view other than the removal of the HMO from the scheme would reduce the number of occupants on the site and potential for disturbance through comings/goings so there is some additional amenity benefit through the removal of the HMO.
- 9.31 Subject to conditions this proposal is considered to be acceptable in amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.

Impact upon highway safety

- 9.32 Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 9.33 Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 9.34 Paragraph 115 of the NPPF (2023) 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 111(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.
- 9.35 The Highways Authority have no objection to the scheme, but requested a number of conditions be added. These conditions are in relation to access width, vehicular visibility splays, pedestrian visibility splay, parking & turning areas. These are considered to be appropriate and reasonable – meeting the tests for planning conditions.
- 9.36 It is material that no amendments have been made to the access arrangements from the previous appeal scheme, where the Inspector noted that 'I note that the highway authority has no objection to the proposal, and I accept that the proposed development would not have an adverse impact on highway safety'. Therefore whilst concerns have been raised by the parish council the Inspector has previously

advised that the same access arrangements are acceptable. Further the Council did not refuse the previous application on highway/access grounds.

- 9.37 The proposals will have a negligible impact on the highway network. As such, subject to the conditions recommended by the LHA, and an additional condition with respect to EV charging points, the proposal will satisfy policy DM17 and DM10(g) and the NPPF.

Flood Risk and Drainage

- 9.38 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.
- 9.39 Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 175 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 9.40 The HBBC Drainage Officer has no objection to the proposal but recommended a condition be added to any permission. This would ensure the proposal is carried out in the accordance with the submitted Sustainable Drainage system assessment report.
- 9.41 Subject to the suggested condition being appropriately discharged, the development will therefore satisfy policy DM7 and the NPPF.

Ecology and biodiversity

- 9.42 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.
- 9.43 The application includes a set of proposals designed to enhance the biodiversity of the site through a number of measures, as well as a calculation of the impact that these will have. A revised PEA & BNG Assessment were submitted on 13 June 2024 & 4 July 2024 respectively and LCC Ecology were re-consulted. Final comments received were:

'The Revised PEA (Dr S. Bodnar, June 2024) is acceptable. The existing bungalow was not included in the updated survey, as alterations or removal are not proposed in this application. I would normally expect this to be included, however, as no suitable bat roosting features were identified in the 2021 surveys, it is acceptable in this case. The precautionary measures recommended in section 4.3 (a and b) of the PEA should be adhered to at all times.

The bird box specification in section 4.4 of the PEA only recommends boxes for hole nesting species, despite a number of swallow nests being identified on-site. Bat and bird enhancements should include hole nesting bird boxes, bat boxes, and swallow nest cups. Swallows nest in open fronted sheds, carports or shelters - the cups cannot be fixed to eaves. Careful siting is therefore required'.

- 9.44 Conditions in relation to the approved PEA and an enhancement scheme & LEMP that need to be submitted and approved in writing by the LPA have been included. Boundary treatments to the site currently have a wire mesh with concrete / steel posts. The proposal would be to soften this with mixed native species hedging in appropriate locations to improve bio-diversity. Openings in the boundary and separating fences will also be provided to make the site permeable to small native mammals. It is considered appropriate precautionary measures are recommended.
- 9.45 Therefore, the proposal would not have an adverse impact on the natural environment or protected species and complies with Policy DM6 of the SADMP.

Other Issues

- 9.48 Regarding Parish Council concerns the enforcement officer was consulted regarding the widening of the access at certain points. If permission is refused for this application some remediation may be necessary. The Highways Officer was consulted with the proposal and has no objections subject to the imposition of a number of conditions which would need to be adhered to.

10. Equality implications

- 10.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

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

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

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

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

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).

11. Conclusion

- 11.1 The previous appeal decision is a material consideration, the previous application was dismissed at appeal solely owing to the siting/design of the HMO. This element of the proposal has been amended and overcomes the concerns raised by the Inspector and Council previously.

- 11.2 Policy DM1 supports sustainable development that accords with the policies of the development plan. The site lies within the settlement boundary of Bagworth where residential development is acceptable in principle. By virtue of the siting, scale, design and subject to the use of sympathetic external materials, the proposal would be compatible with, and would not result in any harm to, the character of the area. The proposal would not result in any significant adverse impacts on the privacy or amenity of any neighbouring properties, highway safety, ecology or drainage. The proposal would be in accordance with Policies 7 and 11 of the adopted Core Strategy, Policies DM1, DM6, DM10, DM17 and DM18 of the adopted SADMP, and is therefore recommended for approval subject to conditions.
- 11.3 The proposal is judged to comply with the relevant policies of the Development Plan. In the absence of identified harm, in accordance with paragraph 11 of the planning permission should be granted as no adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

12. Recommendation

- 12.1 Confirm the delegated decision to approve planning permission subject to the conditions at the end of this report and confirm that Council will not seek to revoke/quash planning permission.

13. Conditions and Reasons

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - i. Site Location Plan - Drg No. PL01 Rev C (Received on 14/02/2024)
 - ii. Plot 1 Plans and Elevations Drg No. P00 Rev B (Received on 07/02/2024)
 - iii. Plot 2 Plans and Elevations Drg No. PL02 Rev C (Received on 07/02/2024)
 - iv. Plot 3 Plans and Elevations Drg No. PL10 Rev A (Received on 07/02/2024)
 - v. Plot 4 Plans and Elevations Drg No. P11 Rev A (Received on 25/03/2024)
 - vi. Plot 5 Plans & Elevations - Drg No. PL12 Rev A (Received on 14/02/2024)
 - vii. Preliminary Ecological Appraisal received on 13/06/2022
 - viii. Biodiversity Net Gain Assessment received 4 July 2024
 - ix. Design and Access Statement received on 14/02/2024
 - x. Sustainable Drainage System Assessment Report received on 07/02/2024
 - xi. Site Plan Access Drive Drg No. PL05 received on 07/02/2024
 - xii. Proposed Site Plan Drg No. PL01 Rev D (Received on 07/02/2024)

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

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

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

4. The development hereby approved by this permission shall be carried out in accordance with the submitted Sustainable Drainage System Assessment Report by DWS Consultants dated July 2022, and should incorporate the recommended flood mitigation measures.

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

5. Prior to commencement of development a Construction Environmental Management Plan shall be submitted to and agreed in writing by the LPA. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. Details of construction hours shall be included.

The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development.

Reason: To help prevent and mitigate noise, odour and pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD (2016) and the requirements of the NPPF.

6. Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The Ecologists recommendations must be incorporated in any plan. The lighting shall be installed, maintained and operated in accordance with the approved details.

Reason: To help prevent and control light pollution in accordance with Policy DM6 & DM7 of the Site Allocations and Development Management Policies DPD (2016) and the NPPF.

7. Prior to the commencement of development a scheme for the installation of electric vehicle charging points will be submitted to and approved in writing by the local planning authority. The scheme shall identify the number of units to benefit from electric charging points, together with full detail of the location and fitting of the units. Thereafter the charging points shall be installed in accordance with the approved details prior to the first occupation of the dwelling to which they relate and they shall then be retained and maintained in perpetuity.

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

8. Notwithstanding the submitted plans, the proposed access shall have a width of a minimum of 5.3 metres for a distance of at least 5 metres behind the highway boundary and shall be surfaced in a bound material. The access once provided shall be so maintained at all times.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016) and the National Planning Policy Framework (December 2023).

9. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 43 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016) and the National Planning Policy Framework (December 2023).

10. No part of the development hereby permitted shall be occupied until such time as 2.0 metre by 2.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of pedestrian safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD (2016) and the National Planning Policy Framework (December 2023).

11. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Nicholas C Williams drawing number PL01 revision D. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in

a forward direction in the interests of highway safety and in accordance with Policy DM17 and DM18 of the Site Allocations and Development Management Policies DPD (2016) and the National Planning Policy Framework (December 2023).

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

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

13. Development shall not begin until a scheme for protecting No. 312 & No. 314 from noise from incoming & outgoing traffic; has been submitted to and approved by the Local Planning Authority; and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.

Reason: To ensure that the proposed use does not become a source of annoyance to nearby residents in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016)

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1; Classes A to E; shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.

Reason: To safeguard the privacy and amenity of the neighbouring residents in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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

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

16. The materials to be used on the external elevations of the proposed dwellings hereby permitted shall match the proposed materials as listed in the submitted application form & proposed drawings.

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

17. The development hereby approved shall be implemented in strict accordance with the measures stated in section 4.3 of the Preliminary Ecological Appraisal (PEA) produced by Dr S. Bodnar (July 2024).

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).

18. No development shall take place until a bat and bird enhancement scheme has been submitted to and approved in writing by the LPA. Enhancements shall include (but is not limited to) at least two woodcrete/integrated bat boxes, four woodcrete/integrated hole nesting bird boxes, and two double swallow nest cups, the make/model and their locations. Any enhancement measures need to be shown on all relevant submitted plans. All works are to proceed strictly in accordance with the approved scheme.

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).

19. 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 Local Planning Authority. The LEMP shall include the following details:

- description and evaluation of the features to be created/enhanced
- aims and objectives of management
- appropriate management options for achieving aims and objectives
- prescriptions for management actions
- work schedule
- species/seed mixes to be planted/sown
- 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 site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

20. All Bathroom windows shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and non-openable. Once so provided the windows shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

14. Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. 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.
3. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
4. 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>
5. Provision for waste and recycling storage of containers and collection across the site will be required and adequate space provided at the adopted highway boundary to store and service wheeled containers.
6. Application forms to discharge conditions and further information can be found on the planning portal website www.planningportal.gov.uk
7. 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.
8. Nesting birds are protected under the Wildlife & Countryside Act 1981 (as amended); therefore, building demolition and vegetation removal should take place outside the breeding season (March to August inclusive) unless carefully checked beforehand by a suitably qualified person