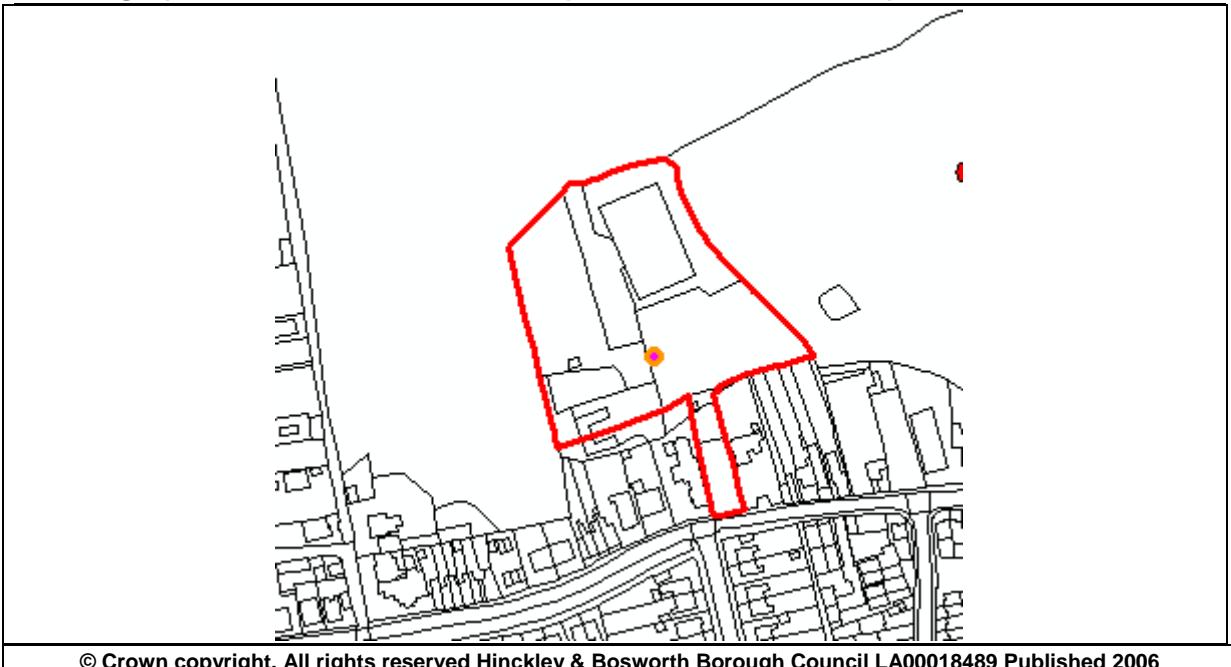




Planning Ref: 23/00982/OUT  
Applicant: Mr Paul Batson  
Ward: Earl Shilton

Site: Land To The Rear Of The Cottage 34 Keats Lane Earl Shilton Leicestershire

Proposal: Outline Planning permission for residential development of up to 10 dwellings (some matters reserved except for scale and access)



## 1. Recommendations

### 1.1. Refuse Outline Permission for the following reason:

The outline application proposes two storey dwellings on site. Scale is a detailed consideration at the outline stage and the proposal is considered to be incompatible when taking account of land levels/topographical constraints across the site. Two storey residential development would have a detrimental impact on the amenity of future occupiers in respect of overlooking, loss of privacy and the creation of an overbearing effect. The application is therefore unacceptable and contrary to Policy DM10 of the Site Allocations and Development Management Policies DPD 2016, the requirements of the NPPF and Hinckley Bosworth Borough Council Good Design Guide.

## 2. Planning application description

- 2.1. This application seeks outline planning permission for the erection of up to 10, two storey dwellings, with some matters reserved except for scale and access.
- 2.2. This is a revised report following a previous resolution by the Planning Committee to grant planning permission for 10 bungalows in September 2024. The Section 106 was not signed and so the application remained outstanding/undetermined.
- 2.3. The following reports, surveys and documents have been submitted in support of the revised planning application:

- Amended Application Form
- Amended Design and Access Statement
- Amended Site Plan
- BNG details / Metric
- Amended Landscape and Visual Impact Appraisal

(All other documents are as per the existing submission)

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

- 3.1. The application site lies to the north of Earl Shilton, on the edge of the settlement boundary with access from Keats Lane to the south. The site is currently vacant, with a former dwelling having been demolished as part of a smaller scheme previously granted permission.
- 3.2. The land is in two sections – the southern part of the site where a dwelling once stood, and the northern part of the site which is outside of the settlement boundary and comprises a paddock area.
- 3.3. The surrounding land to the north, west and east of the site has historical agricultural use with approval for residential development which is being built out. Once complete, the site will be surrounded on all sides by residential land uses.
- 3.4. The surrounding area to the south is characterised by residential dwellings with a number of different designs, types and scales on show – including bungalows. The site is a short walk from the town centre, which benefits from a number of amenities and public transport links.
- 3.5. There is considerable level change across the site (approximately 12m) from south to north.
- 3.6. Public Footpath U28 runs through the proposed development site.

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

- **13/00460/FUL** – Demolition of existing dwelling (No. 32 Keats Lane) and outbuildings and the construction of a new dormer bungalow with detached single garage – Approved
- **19/00403/FUL** – Erection of a dormer bungalow with detached single garage – Approved
- **20/00916/FUL** – 50 detached dwellings (Land adjacent to the east) – Approved
- **21/00135/OUT** – Up to 140 dwellings (Land adjacent to the north and west) - Approved

### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to 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. As the previous proposal was determined by the Planning Committee, this revised scheme is also considered to be a Committee determination in this instance.
- 5.3. 1 letter of objection has been received from a local resident, in response to the revised plans their concerns are summarised below:
  - *Loss of a view*
  - *Loss of wildlife*
  - *Impact on mental health*
  - *Our home/local area has become one big building site*

- *Noise and dust pollution*
- *Light pollution*
- *Loss of privacy*
- *Overlooking concerns*
- *Traffic concerns*
- *Dwellings on this site would be disrespectful and unfair*

5.4. No letters of support or neutral comments have been received.

## 6. Consultation

6.1. No objection, some subject to conditions/contributions has been received from:

Local Highway Authority – subject to conditions  
 Lead Local Flood Authority – subject to conditions  
 LCC Archaeology – subject to conditions  
 LCC Ecology – subject to conditions  
 HBBC Drainage – subject to a condition  
 HBBC Waste – subject to a condition  
 HBBC Conservation Officer  
 HBBC Environmental Health – subject to conditions  
 Leicestershire Police  
 NHS England – financial contribution sought

6.2. HBBC Housing Officer - The preference on this site would be for 2 dwellings on site to be provided for affordable rent, should a willing Registered Provider partner be available. Otherwise, a commuted sum would be accepted in lieu of on-site provision.

## 7. Policy

7.1. Core Strategy (2009)

- Policy 2: Development in Earl Shilton
- Policy 5: Transport Infrastructure in the Sub-regional Centre
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. Earl Shilton and Barwell Area Action Plan (2006-2026)

- Policy 2: Provision of Community Facilities
- Policy 3: Primary, Secondary and Upper Education Provision
- Policy 4: Provision of Indoor Sports and Leisure Facilities
- Policy 5: Waste Management Provision
- Policy 20: Skills Development
- Policy 21: Infrastructure and Delivery
- Policy 22: Development and Design

#### 7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Community Infrastructure Levy (CIL) Regulations (2010)

#### 7.5. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Leicestershire Highways Design Guide
- Leicestershire County Council's Public Rights of Way Guidance (PRoW)
- Affordable Housing SPD (2011)
- Hinckley and Bosworth Borough Landscape Character Assessment (2017)
- Hinckley and Bosworth Open Space Needs Assessment (2025)
- Housing Needs Study
- Hinckley and Bosworth Outdoor Sports and Playing Pitch Strategy (2025)

\* It is to be noted that since the original application was submitted in 2023, there have been changes to the NPPF, Biodiversity Net Gain requirements and also the Council has published the Open Space Needs Assessment (2025) and the Outdoor Sports and Playing Pitch Strategy (2025).

## 8. Appraisal

### 8.1. Key Issues

- Principle of Development
- Housing Mix and Affordable Housing
- Landscape and Visual Impact
- Scale/Impact upon Residential Amenity
- Access and Highway Safety
- Drainage
- Ecology
- Heritage and Archaeology
- Planning Obligations
- Other matters
- 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. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. 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.

8.3 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) and the Site Allocations and Development Management Policies DPD (2016) (SADMP).

8.4 The Emerging Local Plan for 2024-45 previously reached Regulation 18 stage in July-September 2024. Since that consultation, revised affordability ratios have been published, the Standard Housing Method housing figure for the Borough has changed, and the plan period has been extended. As set out in the Local Development Scheme, the Borough Council has conducted a further Regulation 18 consultation in October and November 2025, with Regulation 19 Consultation taking place March/April 2026 with submission to the Secretary of State being November 2026. Given the previous two Regulation 18 plans have not been tested through examination in public, little weight can be attached to them.

8.5 The Council will soon publish an updated 5-year housing land supply calculation. It is estimated to have up to 3.95 years supply as of April 2025 and therefore the Council cannot demonstrate a 5 year housing land supply.

8.6 For decision taking, a 5yr housing land supply is a material consideration in all relevant applications for dwellings in the Borough. In accordance with paragraph 11d) of the NPPF, the Council should 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.

8.7 Under these circumstances, the NPPF sets out, in paragraph 11d) that, for decision makers:

*“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

8.8 Paragraph 61 of the NPPF sets out that *“it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”*.

8.9 Paragraph 73 of the NPPF states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for small and medium enterprises housebuilders to deliver new homes and are often built out relatively quickly.

8.10 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.

8.11 The application site is located outside of the adopted settlement boundary of Earl Shilton. The site is therefore designated as ‘open countryside’. As such, the principle of the location of the proposed residential development conflicts with Policy DM4 of the Development Plan.

8.12 Policy DM4 of the adopted SADMP states that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. The proposal for new build residential development is not a form of development supported by Policy DM4 of the SADMP in this location which states that:

“Development in the countryside will be considered sustainable where;

- It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
- The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
- It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
- It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
- It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation.

And

- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
- It does not undermine the physical and perceived separation and open character between settlements; and
- It does not create or exacerbate ribbon development;”

8.13 The site does not fall under any of the categories identified in DM4 as sustainable development and so there is a conflict between the proposed development and the policy. This proposal will need to be carefully weighed in the planning balance along with the detailed assessment of the other relevant planning considerations in this case.

8.14 However, it is to be noted that the previous proposal was given a resolution to grant permission subject to conditions and a S106 legal agreement and so this is also a material consideration for this latest proposal. Moreover, residential development has been approved on the west, north and eastern boundaries of the site, surrounding the site on all sides with proposed or existing residential development and isolating it from the countryside.

### **Housing Mix and Affordable Housing**

8.15 Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data. All developments of 10 or more dwellings are also required to

meet a 'very good' rating against Building for Life, unless unviable. A minimum density of 30 dwellings per hectare is required in rural areas, a lower density may be required where individual site circumstances dictate and are justified.

- 8.16 The Good Design Guide SPD advocates the use of the Building for Life assessment.
- 8.17 The proposed development is for up to 10, 2 storey dwellings and the site area comprises approximately 0.89 hectares.
- 8.18 Policy 15 of the CS sets out that a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026. At least 480 dwellings will be in the rural areas, at a rate of 40%. The Borough has an unmet affordable housing need and this is given significant weight in the planning balance.
- 8.19 The Affordable Housing Officer has made the following comments:

*"This is an outline planning application for 10 dwellings at Keats Lane in Earl Shilton. Policy set out in the Core Strategy, policy 15, states that sites of 15 dwellings or more, or 0.5 hectares or more in urban settlements, require 20% of the housing to be offered for affordable housing. There is a need for affordable housing in the Borough, and in Earl Shilton. The evidence for rented accommodation is contained within the Council's housing register, which on 20 October 2025 had the following number of live applications for Earl Shilton:*

Bedroom size	Number of applicants
1 bed	336
2 bed	146
3 beds	82
4 or more beds	32
Total	596

*Confirmation has been received that the size of this site is 0.89 hectares. It therefore crosses the threshold where a contribution to affordable housing will be required.*

*The preference on this site would be for 2 dwellings on site to be provided for affordable rent, should a willing Registered Provider partner be available. Otherwise, a commuted sum would be accepted in lieu of on-site provision. The calculation for a commuted sum is set out in paragraph 7.16 of the Affordable Housing Supplementary Planning Documents and is as follows:*

*RV 100% MH = Residual value with 100% market housing  
RV AH = Residual value with x% affordable housing (% as set out in Policy 15 of the Core Strategy)  
Equivalent commuted sum = RV 100% MH minus RV AH*

*The section 106 agreement should include a clause regarding the affordable rented properties that allocation would be to people with a connection to the borough of Hinckley and Bosworth, as defined in the council's Housing Allocations Policy. It is also acceptable that a cascade agreement be inserted into the section 106 to default to a commuted sum if it is evidenced that no RP provider can be found to take on site provision."*

- 8.20 To maximise the flexibility of the housing, properties should meet Nationally Described Space Standards for the unit type. Developments in Earl Shilton meet the needs of housing applicants for the whole Borough and therefore the section

106 agreement should require a connection to the Borough of Hinckley and Bosworth as set out in the council's Housing Allocations Policy. 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 provision.

### **Landscape and Visual Impact**

8.21 Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and it does not undermine the physical and perceived separation and open character between settlements; and it does not create or exacerbate ribbon development. The site is located within open countryside, outside of the settlement boundary and is therefore considered against this policy.

8.22 The Council's Landscape Character Assessment (2017) makes assessment of Urban Character, it describes how the north of the settlement of Earl Shilton provides a rural setting to part of the historic settlement by the church and castle site, and at Hill Top Road in the north of the settlement, the location of application site. The key characteristics of this urban character include:

- Ridgetop settlement with views over the open landscape to the north and south, visible on the skyline in views from the countryside to the north.
- Defined, wide, high street with a range of retail and non-retail services.
- Residential development in the outskirts of the town is of mixed character.
- Workers terraces and factory buildings of red brick are a reminder of the industrial heritage of the town from the boot and shoe industry in the 19th and 20th centuries.
- Modest scale of predominantly two storey buildings fronting directly onto the street.
- Some interesting and architecturally distinctive buildings.
- Red brick and white or off-white cement render are common building materials/finishes, with slates or plain tile roofs.
- The Church of St Simon and St Jude, is a landmark feature.
- The historic site of a former motte and bailey castle and adjacent Hall Field open space The key sensitivities and values of the urban character area are;
- Views to the surrounding rural landscape (to the north and south) provide a sense of place and suburban character.
- The northern settlement edge which is modest in the scale of buildings, with the church spire creating a generally well-integrated visual balance with the surrounding landscape and is vulnerable to change.
- The legacy left by the boot and shoe industry in the remnant factory buildings and terraced workers' cottages provides a sense of local identity.
- Interesting buildings and historic features including the Red Lion pub add local distinctiveness.
- The area of the church, castle site and Hall Field provides a sense of history and green open space, enhanced by views to the open landscape beyond the town to the north.
- The Church of St Simon and St Jude is a local landmark with historic and architectural interest, forming a visible skyline feature in views from the surrounding rural area to the north.
- Public footpaths and bridleways connecting the settlement with the surrounding countryside which are tied into the local history of the area (e.g. Oak and Ash tree footpath to Peckleton).

- The rural gateways to the town from the south and north are provide links with the surrounding countryside.

8.23 The Council's Landscape Sensitivity Assessment (2017) is a detailed assessment of the sensitivity to development of various part of the landscape around the Borough's settlements. The site falls within Assessment Area 10, which wraps around the northern fringes of Barwell and Earl Shilton. The size of Area 10 means the proposal site is a small fraction of it and the assessment does not describe any specific aspect of the application site. However, it does suggest that new development should:

- Seek opportunities to maintain the rural character of the landscape and, where possible, conserve rural views and the setting of settlement.
- Plan for successful integration of potential new development in the landscape through sensitive design and siting, including use of sensitive materials and use of landscape mitigation to enhance sense of place.
- Seek to retain the pattern of hedgerows and hedgerow trees where possible.
- Protect localised areas that retain a natural character and encourage tree planting to replace mature/veteran trees as they begin to deplete.
- Seek to conserve rural views and maintain views to church spires and towers on the wooded skyline.
- Aim to maintain and enhance historic assets and their surrounding environment.
- Seek to maintain and enhance the recreational assets including rights of way network.
- Consider opportunities to create and promote an integrated green infrastructure network linking with the waterways with the urban area.

8.24. A Landscape and Visual Impact Assessment was requested by the local planning authority and has subsequently been revised and submitted as part of the outline planning application. The assessment includes 12 viewpoints which were identified at locations where visual effects are thought to be likely, or, to demonstrate that visual effects are considered to be unlikely. Five of the viewpoints selected are within 200m of the site and demonstrate the nature of views of the key visual receptors in close proximity from publicly accessible areas.

8.25. The site comprises paddock land on the northern edge of Earl Shilton. All of the landscape generally comprises hedgerows with occasional hedgerow trees and small tree groups.

8.26. The LVIA submitted with the application concludes that a slight adverse effect is predicted on the landscape character on this area during construction, reducing to negligible post construction. The site contains very few notable features that would be adversely affected by the proposed development. The boundary hedges, one of the key features of the site, are to be protected and enhanced. The recommendations of the LVIA suggest that a landscape management plan, with a requirement for active monitoring and reporting, be produced, to help guide future work to sustain the landscape over the longer term. It should include a landscape strategy that reflects both the need to conserve local landscape character and reinforce the existing features of the landscape.

8.27. The character of the site exhibits some qualities that are typical of the Stoke Golding Rolling Farmland LCA within which it lies, including a public right of way which crosses it, the hedgerow field boundaries and the opportunity for long

distance views northwards from the upper parts of the site. However, the site is in part used for equestrian land uses, which together with its proximity to the existing built up area, exert urban fringe influences over the site and make it less typical of the wider rural landscape which makes up the Stoke Golding Rolling Farmland LCA. Accordingly, the site is assessed as being of Medium landscape quality.

- 8.28. It is to be noted that the area is not a 'valued landscape' for NPPF purposes. There are no landscape or environmental designations or sensitivities of note for the site and its immediate surroundings. The Natural England Agricultural Land Classification Maps show it as Grade 3.
- 8.29. It is also worth noting, as per above, that the fields surrounding the site to the west, north and east have each been granted planning permission for residential development in the last 5 years and are under construction (20/00916/FUL and 21/00135/OUT). As such, it is reasonable to conclude that the prevailing landscape character has now been altered in recent times. The result of which will be that the site itself goes from being an edge of settlement location, to one very much contained within a built-up area. This is a significant material consideration when assessing this site for the purposes of residential development.
- 8.30. Subject to the recommendations within the LVIA i.e. provision of a landscape management plan, the scheme is considered to be acceptable with respect to landscape character. The scheme is not considered to have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; it will not undermine the physical and perceived separation and open character between settlements; and it will not create or exacerbate ribbon development. It could reasonably be described as representing a form of infill development when taking account of the planning history/extant permissions set out above.

### **Scale**

- 8.31. Policy DM10 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 that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.32. Scale is a detailed consideration at this outline stage. The local planning authority has concerns regarding two storey development on this site given the difference in land levels. The topography of the site changes by approximately 12 metres (decreases from south to north) and as a result, development on this site would necessitate a large degree of structural work to be completed.
- 8.33. Whilst bungalows were previously considered to be acceptable, the topographical constraints result in considerable height differences across the site, when coupled with two storey development, would pose issues for future occupiers of the site with respect to residential amenity. Where it was previously considered that the development of bungalows could be satisfactorily mitigated through landscaping and boundary treatment measures, the additional height of two storey dwellings in this location would compromise overlooking and create privacy and overbearing issues for occupiers of the dwellings. This is also further accentuated by the number of dwellings shown with limited rear garden depths. Bungalows do not create amenity issues to the extent that two storey development can. It is clear from the illustrative plans provided that separation distances for a number of the proposed plots do not adhere to Council's design guidance particularly with respect to side to

back distances. Where there are also land level changes to account for on site, the need to ensure suitable separation between properties becomes even more important. Therefore, the proposal for two storey residential development is not considered to be acceptable in terms of scale and would have a detrimental impact on the residential amenity of future occupiers and is contrary to Policy DM10 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 8.34. The application site is bordered to the south by existing residential dwellings on Keats Lane. An objection letter has been received from a local resident which raises residential amenity issues as a key concern. The indicative plans provided show that residential amenity and 'back-to-back' to distances between existing properties and proposed dwellings exceed the requirements set out within the Council's Design Guidance and existing dwellings would be set on higher ground than the proposed dwellings. Therefore, it is considered that the amenity relationship between existing and proposed dwellings would be acceptable in this instance.
- 8.35. Given the above, on balance, the scale of the development coupled with the topographical constraints on site results in residential amenity concerns for future occupiers of the site and does not accord with Policy DM10 of the Site Allocations and Development Management Policies DPD, the requirements of the NPPF and the Council's Good Design Guide.

#### **Access and Highway Safety**

- 8.36. Policy DM17 of the SADMP states that all new development should be in accordance with the highway design standards. Policy DM18 ensures that development provides appropriate parking provision.
- 8.37. The application proposes a vehicular access from Keats Lane, where there is an existing access that previously served No. 34 Keats Lane (now demolished). The application sets out how the scheme has been designed to meet the requirements of the Highways Authority in terms of width (5.0m + 2.0m footpaths), visibility splays and so forth.
- 8.38. It proposes the provision of 20 parking spaces to serve the 10 dwellings, which is in line with the Leicestershire Design Guide for dwellings of up to 3 bedrooms. Dedicated refuse storage and collection points are also proposed. Whilst layout is not a consideration at this outline stage, it is noted that the applicant should consider the type of parking proposed on site (avoid tandem parking) and ensure that bin collection points are within a suitable distance of each proposed dwelling at the reserved matters stage.
- 8.39. The Local Highway Authority Advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 116 of the National Planning Policy Framework (December 2023), subject to the conditions outlined in this report.

#### **Drainage and Flood Risk**

- 8.40. Policy DM7 of the SADMP requires that development does not create or exacerbate flooding and drainage. The site is situated within flood zone 1 indicating a low risk of flooding.
- 8.41. The proposals seek to discharge at 2.8 l/s via pervious paving and underground cellular storage to the watercourse located to the north of the site. Although outside

of the development boundary, this watercourse is on land under developer control. British Geological Survey (BGS) data suggests that infiltration would not be a feasible method of draining the site. Site investigations should be carried out to confirm this.

8.42. HBBC Drainage have been consulted on the application and they raise no objection, subject to pre-commencement conditions. Similarly, the Lead Local Flood Authority (LLFA) were consulted, and they have stated that the proposals are considered acceptable, subject to pre-commencement conditions requiring the separate submission and approval of a surface water drainage scheme, details of the management of surface water on site during construction and an infiltration testing condition (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element . A pre-occupation condition has also been requested requiring the separate submission and approval of details of the long-term maintenance of the surface water drainage system.

8.43. Subject to the imposition of the specified conditions, the proposal is considered to have a minimal impact on flooding and drainage in compliance with policy DM7 of the SADMP and in accordance with the requirements of the NPPF.

### **Ecology**

8.44. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation.

8.45. The Ecology Team at LCC have been consulted on this application. They initially responded to say that the landscape plan achieves a significant net loss of -1.46 (-60.64%) habitat units and -0.14 (-18.51%) hedgerow units. The landscape plan should be revised to achieve meaningful net gain on site and, if this is not possible, through off-Site solutions.

8.46. As this application is pre-statutory BNG with no Biodiversity Gain plan condition (as the application was originally submitted in 2023), it needs to be demonstrated how net gain will be achieved at this stage as per the NPPF, CH. 15 para 187 part d) – “minimising impacts on and providing net gains for biodiversity”. Therefore, an updated metric must show how net gain will be achieved or information on any off-site compensation which will need to be secured”.

8.47. The applicant subsequently submitted updated ecological information and the Ecology Team were re-consulted. They have since responded to say that further information is still required. The applicant has subsequently requested whether the BNG requirement for this site can be secured by means of off-site Biodiversity Net Gain through the purchase of biodiversity units from habitat banks. The Ecology Team have advised that they are agreeable to this, subject to a suitably worded condition to secure the details of this.

8.48. Subject to a condition to secure Biodiversity Net Gain off-site, the proposal is considered to be in compliance with Policy DM6 of the SADMP and requirements of the NPPF with respect to ecological requirements.

### **Heritage and Archaeology**

8.49. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. In determining planning applications, local planning authorities should take account of paragraph 197 of the NPPF:

a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

- b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) The desirability of new development making a positive contribution to local character and distinctiveness.

8.50. Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) Development Plan Document seek to protect and enhance the historic environment and heritage assets. Policy DM11 states that the Borough Council will protect, conserve and enhance the historic environment throughout the borough.

8.51. The Conservation Officer was consulted on the proposal and has stated that there are no designated heritage assets or non-designated heritage assets within the site or its setting. As such the application will not impact on heritage assets and is compliant with Development Plan Policy.

8.52. The preservation of archaeological remains is a material consideration in the determination of planning applications. Policy DM13 of the SADMP states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate desk based assessment and where applicable a field evaluation. The NPPF also reiterates this advice.

8.53. In line with the National Planning Policy Framework, Section 16, the planning authority is required to consider the impact of the development upon any heritage assets, taking into account their particular archaeological and historic significance.

8.54. The Leicestershire and Rutland Historic Environment Record (HER) notes that the site is located on a ridge immediately north of the anticipated former extent of the historic medieval and post-medieval settlement core of Earl Shilton (HER Ref. MLE9535). Trial trenching in 2021 within the field immediately west of the site identified a number of levelling layers, a possible surface, and several steep sided features, possibly indicating the presence of a medieval structure connected to the historic settlement core. Additionally, there are a number of archaeological sites and find spots relating to prehistoric and Roman activity within the wider landscape. The site has been subject to previous development, however there may be areas where the disturbance is limited. There is therefore a potential for buried archaeological remains relating to the medieval and post-medieval periods, with an additional potential for prehistoric and Roman activity within the application area, which may be impacted by the development proposals.

8.55. LCC Archaeology were consulted on the application and requested that an Archaeological Impact Assessment of the proposals should be submitted for consideration by the Archaeology Team. The applicant subsequently submitted the required details. The assessment identified a medium potential for buried remains from the prehistoric to medieval periods, with a medium-high potential for post-medieval and modern remains. The DBA has indicated that the preservation of any buried remains present may have been impacted by levelling works for the construction of stables and a horse schooling arena within the northeast/south-west corners of the Site, in addition to further likely disturbance resulting from 19th/20th century housing construction at the southern end of the application area.

8.56. Whilst the LCC Archaeology Team notes that the current results are sufficient to support the planning decision, they state that further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme.

8.57. Subject to suitably worded conditions, it is considered that the proposal accords with archaeological requirements and is in compliance with Development Plan Policy specifically Policy DM13 of the SADMP and Section 16 of the NPPF.

### **Planning Obligations**

8.58. 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. To support the provision of mixed, sustainable communities Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements. Indicative locations for the provision of new green spaces and green infrastructure are also set out by the Earl Shilton Sustainable Urban Extension Development Framework.

8.59. 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 confirm that where developer contributions are requested, they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.

8.60. Policy 19 of the Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space Needs Assessment was published in October 2025 and comprises new standards and requirements for off-site and on-site contributions.

8.61. For this proposal, due to limited size and nature of the development proposed, off site open space contributions are being sought as provision cannot be made on site. **Off-site open space contributions are therefore proposed for Wood Street Park totalling £24,503.12 and total maintenance contribution of £18,797.40 (over 10 years)** and are broken down into the typologies as set out below:

- Allotments = £622.44.00 (84 sq metres)
- Amenity Green Space = £2,131.20 (320 sq metres)
- Equipped Play Provision = £9,033.60 (60 sq metres)
- Natural and Semi Natural Space = £2558.40 (480 sq metres)
- Parks and Gardens = £2,229.98 (86 sq metres)
- Provision for Young People = £7,927.50 (70 sq metres)

8.62. The extent of the Open Space and Recreation contribution and provision is directly related in scale and kind to the development and its impacts upon surrounding publicly accessible open spaces. The delivery of these obligations is policy compliant and has been applied fairly.

8.63. The outdoor sports requirements have been assessed against the Council's recently published Playing Pitch and Outdoor Sport Strategy. There are 4 analysis areas for Hinckley and Bosworth and Earl Shilton falls within the Urban South Analysis Area. For clarification, at the time of writing this report, the Council is not seeking contributions for indoor sports requests – so the only requests being considered for this application are for outdoor sports only using the Playing Pitch Strategy and not the sport facility calculator.

8.64. Looking over the Urban South Analysis area, the following outdoor sports contributions are applicable for this site based on a predicted population of 24 persons arising from a development of 10 dwellings:

- Adult Football – spare capacity – no contribution sought
- Mini Football – spare capacity – no contribution sought
- Youth Football – shortfall – **contribution sought**
- 3G Pitch – shortfall – **contribution sought**
- Rugby – at capacity – **contribution sought**
- Cricket – shortfall – **contribution sought**

Capital Costs (where there are shortfalls/at capacity as above)

- Youth Football £1,271.00
- 3G Pitch £1,744.00
- Rugby £434.00
- Cricket £616.00

Total Capital Costs = £4,065.00

Lifespan/Maintenance costs (for 10 years)

- Youth Football £257.00 per annum
- 3G Pitch £51.00 per annum
- Rugby £80.00 per annum
- Cricket £113.00 per annum

Total Maintenance costs = £501.00 (per year for 10 years)

Changing room costs = £6988.00 (cost applicable to all outdoor sports whether or not there is a shortfall)

**Total Outdoor Sport Contribution = £4,065.00 + £5010.00 + £6988.00 = £16,063.00**

- 8.65. The LCC planning Obligations Officer responded to the original application to say that due to the nature of this development, and the available capacity at the schools, civic amenity sites and libraries nearest to the development, no S106 contributions are being sought for this development in respect of these matters. They have not responded to the latest proposals.
- 8.66. The NHS (Leicester, Leicestershire and Rutland integrated care board (ICB) requests a contribution of £7,744.00 towards the gap in the funding created by each potential patient from this development. Based on a population of 24.2 the development will generate.
- 8.67. With respect to affordable housing, the preference on this site would be for 2 dwellings on site to be provided for affordable rent, should a willing Registered Provider partner be available. Otherwise, a commuted sum would be accepted in lieu of on-site provision.
- 8.68. The infrastructure contributions identified above are considered to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed and therefore CIL compliant.

Other matters

- 8.69. Public Footpath U28 runs through the proposed development site. The proposed Site Plan envisages diverting the footpath and the local highway authority have indicated that the proposed route on this plan is broadly in line with the Leicestershire County Council's Public Rights of Way Guidance (PRoW). The applicant/developer would need to apply for a permanent footpath diversion order under Section 257 of the Town and Country Planning Act. The grant of planning permission does not entitle developers to obstruct a public right of way. The

diversion or stopping up of footpaths, bridleways and restricted byways is a separate process which must be carried out before the paths are affected by the development. It cannot be assumed that because planning permission has been granted that an Order under section 257 will invariably be made or confirmed. Development, in so far as it affects a right of way, must not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect.

### **Planning balance**

- 8.70. 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.
- 8.71. The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date as they focused on delivery of a lower housing requirement than required by the up-to-date figure. The Council also cannot demonstrate a 5 year housing land supply as of April 2025. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Paragraph 11 of the NPPF states that any harm identified should be significant and demonstrably outweigh the benefits of the scheme. It is therefore important to identify any benefits. The three strands of sustainability the benefits are broken down into are economic, social and environmental contributions.
- 8.72. Economic - The scheme is for 10 dwellings which would provide benefits to the local economy through the creation of jobs and demand for services and materials for the construction of the development itself. Residential development in general can bring economic benefits through increases in the local population which in turn use local services. The development is located in close proximity of Earl Shilton and the services available there would no doubt receive some economic benefits from this development.
- 8.73. Social - The scheme would provide a moderate contribution to the overall housing supply within the Borough through the provision of 10 dwellings. In addition to this, the proposal would bring benefits through the provision of policy compliant affordable housing where there is an identified need.
- 8.74. Environmental - The proposal is situated on the edge of Earl Shilton and will be surrounded by residential development once approved schemes adjacent to it have been brought forward. As such the impacts upon the character and appearance of the area would not result in significant or demonstrable environmental harm. The scheme also seeks to provide off-site biodiversity net gain locally from an ecological perspective which is an environmental benefit that weighs in favour of the proposed development.
- 8.75. However, as set out above, there are residential amenity concerns for future occupiers of the as a result of the scale of the proposed two storey development and topographical constraints on site. On balance therefore, the detrimental impact on residential amenity caused by the scale of development in this case would outweigh the positive benefits of the scheme as set out above. The scheme is therefore recommended to Members for refusal on this basis.

### **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, and the matters specified in Section 149 of the Equality Act 2010 in the determination 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. Refuse Outline Planning Permission for the following reason:**

The outline application proposes two storey dwellings on site. Scale is a detailed consideration at the outline stage and the proposal is considered to be incompatible when taking account of land levels/topographical constraints across the site. Two storey residential development would have a detrimental impact on the amenity of future occupiers in respect of overlooking, loss of privacy and the creation of an overbearing effect. The application is therefore unacceptable and contrary to Policy DM10 of the Site Allocations and Development Management Policies DPD 2016, the requirements of the NPPF and Hinckley Bosworth Borough Council The Good Design Guide.