

Reference: 15/00402/OUT
Applicant: Mrs Sylvia Mainwaring
Location: Land To The Rear Of 122 Middlefield Lane Hinckley
Proposal: Erection of 9 dwellings (outline - access only)

RECOMMENDATION:- Permit subject to conditions.

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the application has attracted interest from the occupiers of more than five addresses, the views of which are contrary to the officer's recommendation.

Application Proposal

This application seeks outline planning permission, for access only with all other matters reserved, for the erection of nine new dwellings on land to the rear of 122 and 124 Middlefield Lane, Hinckley with access from Middlefield Place. The application is supported by an indicative layout that proposes a central access road and turning head with nine dwellings arranged on either side in three pairs of semi-detached dwellings and a terrace of three dwellings. Two off-street vehicle parking spaces are indicated to serve each plot.

An amended plan has been submitted to address officer comments in relation to remote parking provision and lack of access to rear gardens. Re-consultation has been undertaken.

The Site and Surrounding Area

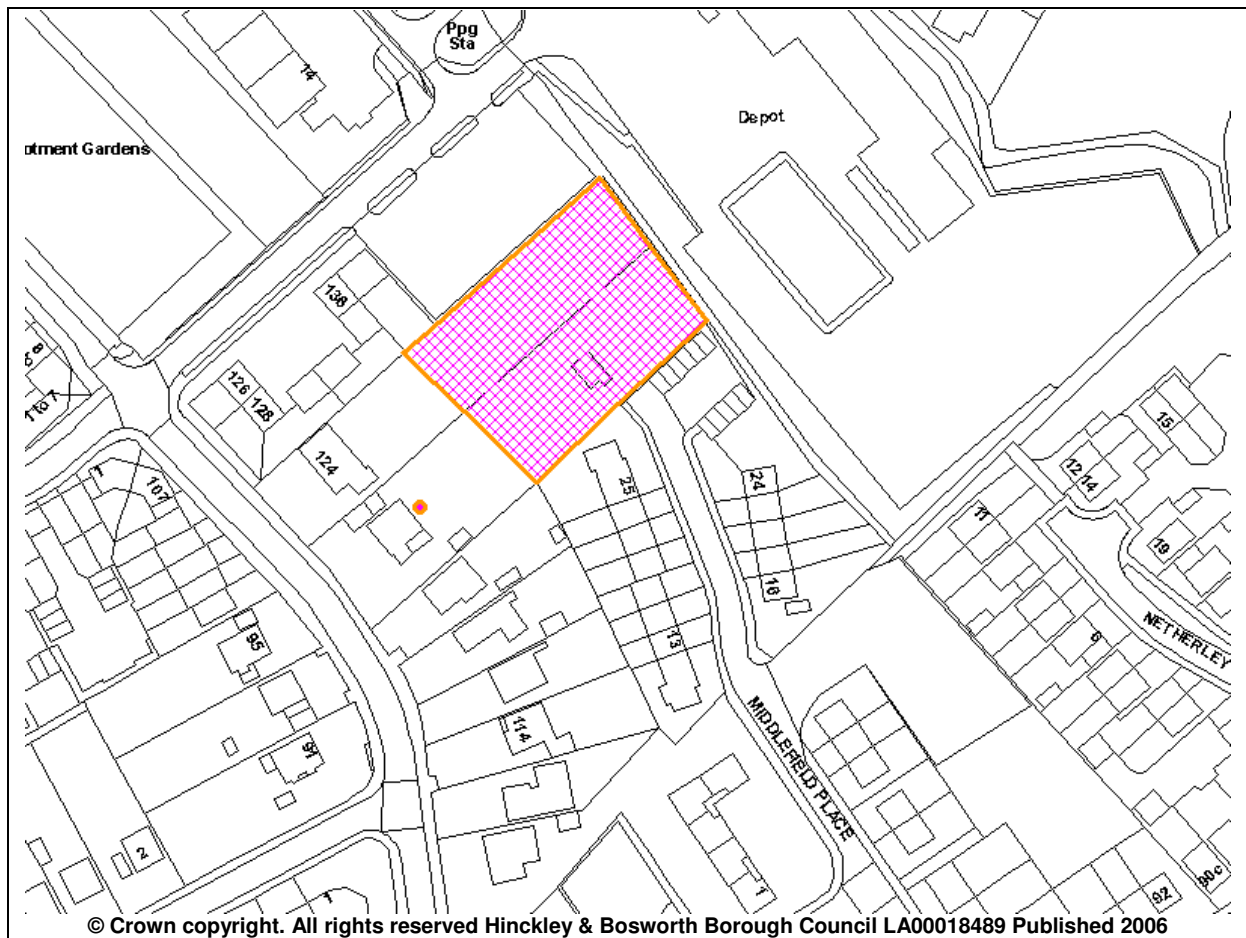
The rectangular application site measures approximately 0.22 hectares and is located within the settlement boundary of Hinckley. It currently comprises part of the rear gardens of 122 and 124 Middlefield Lane, two detached dwellings set within extensive plots. The site is predominantly laid to grass and each contains an outbuilding that would be demolished. The site is enclosed by a mix of hedgerows and a variety of fencing. To the west, south west and south east of the site there are dwellings with a mix of sizes, types, scale and styles. To the north and east lies a former Council highway maintenance depot (currently vacant) and associated vehicle parking and grounds.

Technical Documents submitted with the Application

Preliminary Ecological Appraisal

Relevant Planning History:-

97/00555/OUT	Erection of four dwellings	Refused	23.07.97
		Appeal Dismissed	23.04.98



Consultations:-

No objections have been received from Environmental Services (Pollution).

No objections subject to conditions have been received from:-

- Leicestershire County Council (Highways)
- Environmental Services (Land Drainage)
- Street Scene Services (Waste)

Site notice displayed and neighbours notified, objections have been received from 11 separate addresses and in a petition containing 57 signatures from 33 separate addresses raising the following issues and concerns:-

- a) highway safety - inadequate access through a cramped, narrow cul-de-sac road with constant on-street parking and congestion
- b) highway safety - increase in traffic to and from the development and on-street parking
- c) highway safety - lorries, refuse wagons and emergency vehicles have trouble with access
- d) access should be via Middlefield Lane and the access to the old Council yard
- e) garden grabbing - high density overdevelopment of the site that would be out of keeping with surrounding dwellings and would adversely affect the character of the surrounding area
- f) loss of mature trees
- g) contrary to Human Rights Act in respect of detrimental impacts on residential amenity including loss of privacy, loss of light, loss of open aspect and noise nuisance
- h) impact on sewage facilities

- i) adverse impact on existing residents from noise and disturbance during construction phase
- j) adverse impact on highway and pedestrian safety during construction phase
- k) loss of existing parking places and turning area at the point of the proposed access
- l) impact on bat colony
- m) de-valuation of existing dwellings.

No response has been received at the time of writing this report from Leicestershire County Council (Ecology).

Policy:-

National Policy Guidance

National Planning Policy Framework (NPPF) 2012
National Planning Policy Guidance (NPPG) 2014
Community Infrastructure Levy (CIL) Regulations 2010

Hinckley & Bosworth Core Strategy 2009

Policy 1: Development in Hinckley
Policy 16: Housing Density, Mix and Design
Policy 24: Sustainable Design and Technology

Hinckley & Bosworth Local Plan 2001

The site is within the settlement boundary of Hinckley as defined on the adopted Hinckley and Bosworth Local Plan Proposals Map.

Policy BE1: Design and Siting of Development
Policy RES5: Residential Proposals on Unallocated Sites
Policy NE12: Landscaping Schemes
Policy NE14: Protection of Surface Waters and Groundwater Quality
Policy T5: Highway Design and Vehicle Parking Standards
Policy IMP1: Contributions Towards the Provision of Infrastructure & Facilities
Policy REC3: New Residential Development - Outdoor Play Space for Children

Supplementary Planning Guidance/Documents

New Residential Development (SPG)
Play and Open Space (SPD)
Sustainable Design (SPD)

Appraisal:-

This is an outline application for the erection of nine dwellings with access being the only matter for consideration at this stage and all other matters reserved. The main issues for consideration in the determination of this application are:-

- Principle of development
- Impacts on the character of the area
- Impacts on neighbouring properties
- Impact on highway safety
- Other issues

Principle of Development

Paragraphs 11 - 13 of the National Planning Policy Framework (NPPF) state that the development plan is the starting point for decision taking and that it is a material consideration in determining applications. The development plan in this instance consists of the Core Strategy (2009) and the saved policies of the Local Plan (2001).

The application site is located within the settlement boundary of Hinckley as defined in the adopted Local Plan where there is a presumption in favour of residential development provided by Saved Policy RES5 of the adopted Local Plan, although this restrictive policy can now be given only very limited weight following the publication of the NPPF. In addition, Policy 1 of the adopted Core Strategy supports development in Hinckley to deliver a minimum of 1120 new homes. The minimum number of dwellings supported by Policy 1 has not yet been achieved (as at 1 October 2014) and notwithstanding that a number of alternative sites have been identified to address the shortfall in the emerging Site Allocations and Development Management Policies DPD (submission draft), this document has not yet been adopted and these sites have not yet come forward.

The National Planning Policy Framework (NPPF) in paragraph 14 provides a presumption in favour of sustainable development. Paragraph 7 of the NPPF states that sustainable development has three interacting dimensions:- the social, economic and environmental roles. The site is located within a sustainable location adjacent to existing residential development and within a reasonable distance of services and facilities. The proposal would contribute to the social role of sustainable development by providing additional housing towards meeting the current shortfall in housing land supply for Hinckley. The construction and sale of the development would contribute to the local economy. The site is a garden of predominantly regularly mown grass and outbuildings, one derelict therefore development of the site would not have any adverse impact on the environment.

Notwithstanding that the proposal may be considered to be a sustainable development and therefore acceptable in principle subject to all other planning matters being appropriately addressed, the NPPF in paragraph 53 suggests that local authorities should consider setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. As such the proposed development of these residential gardens should be considered against adopted Local Plan policies to determine if it would harm the character of the local area.

Layout and Impact on the Character of the Area

In conformity with the NPPF, Policy BE1 (criterion a) of the adopted Local Plan 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 with the intention of preventing development that is out of keeping with the character of the surrounding area. Policy 16 of the adopted Core Strategy requires new residential development to meet a minimum net density of 40 dwellings per hectare in Hinckley, although in exceptional circumstances, where individual site characteristics dictate and are justified, a lower density may be acceptable. The Council's adopted Supplementary Planning Guidance on New Residential Development aims to ensure that new development has regard to the character of the surrounding area and is well integrated into its surroundings.

The NPPF in paragraph 56 states that good design is a key aspect of sustainable design. Paragraph 58 seeks to ensure that development responds to local character and reflects the identity of local surroundings. Paragraph 60 states that planning decisions should not impose architectural styles or unsubstantiated requirements to conform to certain development forms or styles but that it is proper to seek to promote or reinforce local distinctiveness. Paragraph

64 states that permission should be refused for development of poor design that fails to improve the character of the area and the way it functions.

Objections have been received that the proposal is an example of 'garden grabbing' and would result in a high density, overdevelopment of the site that would be out of keeping with surrounding dwellings and would adversely affect the character of the surrounding area.

Notwithstanding the objections received, the development of the site for nine dwellings would provide a density of 41 dwellings per hectare in accordance with the minimum density of 40 dwellings per hectare required by Policy 16 of the adopted Core Strategy. The amended indicative layout demonstrates that the site is capable of accommodating nine new dwellings with a pattern of development and plot size that would complement the character of Middlefield Place from where access to the site is proposed. Middlefield Place comprises predominantly smaller terraced dwellings and the layout of the development would provide continuity of the street scene and relate to these dwellings rather than the larger detached dwellings/plots on Middlefield Lane to the south west. This was also the view of the Planning Inspector in a previous appeal relating to part of the site (reference T/APP/K2420/A/97/289216/P5) who stated in his decision that 'because the proposed access would be from Middlefield Place, I consider that the development would be seen in the context of this existing high density, terraced housing on this road.' There are no significant constraints or exceptional circumstances relating to the site to suggest that a lower density would be more appropriate in this case. The indicative garden sizes are generally in accordance with SPG standard or not significantly below SPG standard. Therefore the scheme would not adversely affect the character of the surrounding area and would be in accordance with saved Policy BE1 (criterion a) of the adopted Local Plan, the Council's adopted SPG on New Residential Development and the overarching design principles within paragraphs 56 and 58 of the NPPF.

Impact on Neighbours Amenities

Policy BE1 (criterion (i) of the adopted Local Plan and SPG require that development does not adversely affect the amenities or privacy of the occupiers of neighbouring properties.

Objections have been received that the proposal is contrary to the Human Rights Act in respect of detrimental impacts on residential amenity including loss of privacy, loss of light, loss of open aspect and would result in adverse impacts on existing residents from noise and disturbance during the construction phase.

By virtue of the indicative separation distances between the proposed dwellings and all neighbouring dwellings, the amended indicative layout would not result in any adverse overbearing or overshadowing impacts on any neighbouring properties. The smallest separation distance to an existing dwelling being approximately 6 metres to a north west facing side gable. Subject to the approval of final layout, detailed design and position of windows which would be considered at the reserved matters stage and controlled by a suitably worded planning condition, a scheme for nine dwellings would be capable of providing main and habitable room windows in elevations of each plot that would not result in any significant adverse impacts from loss of privacy from overlooking to any neighbouring occupiers.

Noise and disturbance during the construction phase would be temporary in nature and therefore would not have any long term impacts on the amenities of the occupiers of any neighbouring residential properties.

Notwithstanding the objections received, by virtue of the indicative separation distances and relationship of the development to neighbouring properties, subject to the consideration of

additional details at the reserved matters stage (including final layout, scale, design and landscaping) the scheme for nine new dwellings would be able to avoid any adverse overbearing/overshadowing impacts and together with satisfactory positioning of windows and boundary treatments would be able to protect the privacy and amenity of all neighbouring properties from any significant adverse impact from loss of privacy from overlooking. The proposed outline scheme is therefore considered to be in accordance with Policy BE1 (criterion i) of the adopted Local Plan and the Council's Supplementary Planning Guidance on New Residential Development in this respect.

Highway Safety

Policy BE1 (criterion g) seeks to ensure that there is adequate highway visibility for road users and adequate provision of parking and manoeuvring facilities. Policy T5 applies highway design and vehicle parking standards. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Objections to the scheme have been received on the grounds of highway and pedestrian safety, including children and elderly persons. Objectors raise concerns that the development would have inadequate access through a cramped, narrow cul-de-sac road with constant on-street parking and congestion, would result in an increase in traffic to and from the development and additional on-street parking on a road where lorries, refuse wagons and emergency vehicles already have trouble passing. Objectors also point out that existing parking spaces and turning space would be lost for existing residents at the point where the proposed access is to be formed.

The amended indicative layout suggests a continuation of Middlefield Place, an existing cul-de-sac road and the formation of a new turning head within the proposed development which would benefit both existing and proposed occupiers. The amended indicative layout demonstrates that adequate off-street vehicle parking of two spaces for each plot could be provided in accordance with highway authority parking provision standards therefore it cannot be demonstrated that the proposal would result in any additional on-street car parking within Middlefield Place. The scheme has been considered by Leicestershire County Council (Highways) who consider that the residual cumulative impacts of the development on the highway network can be mitigated and are not considered severe in accordance with paragraph 32 of the NPPF. They therefore raise no objection to the scheme subject to the imposition of a number of standard highway related conditions to ensure satisfactory access width, visibility, gradient, surfacing, drainage, parking and turning provision and in view of the nature of the access road a construction traffic management plan. The conditions are considered to be reasonable and necessary to ensure a satisfactory development and limit any adverse impacts on the highway during the construction phase.

Notwithstanding the objection received, subject to the imposition of standard highway related conditions, the amended scheme would not result in any adverse impacts on highway or pedestrian safety and is therefore considered to be in accordance with Policies BE1 (criterion g) and T5 of the adopted Hinckley and Bosworth Local Plan.

Other Issues

Policies IMP1 and REC3 of the adopted Local Plan and the Play and Open Space SPD require new residential development to contribute towards the provision and maintenance of public play and open space facilities for children. The request for any developer must be considered alongside the guidance contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in

scale and kind to the development proposed. However, on 28th November 2014 the Secretary of State announced revisions to s.106 and CIL contributions and the NPPG. Following the announcement of the Secretary of State, the Council's ability to request affordable housing and other tariff style s.106 contributions (which would include play and open space contributions) on smaller sites has been removed. Contributions can not now be sought on developments less than 10 dwellings and therefore no contribution has been pursued in this case.

An objection has been received in respect of potential impact on a bat colony close to the boundary of the site. The Preliminary Ecological Appraisal submitted to support the application is silent on this matter. The consultation response from Leicestershire County Council (Ecology) has not been received at the time of writing this report and will be reported as a late item.

Street Scene Services (Waste) recommend a condition to secure a scheme for the provision for waste and recycling storage at the highway boundary however, the indicative layout demonstrates that adequate highway frontage and storage space for each plot could be provided within the development therefore a condition is not considered to be reasonable or necessary in this case.

Objections have been received that the scheme would result in the loss of mature trees. There are mature trees located along the northern edges of the application site, however, the indicative layout demonstrates that adequate separation from the trees in respect of built form could be achieved. In addition, the Preliminary Ecological Appraisal submitted to support the scheme recommends that the mature trees around the site boundaries should be retained where possible to support ecology within the area.

The adjacent commercial site is currently vacant and it cannot be demonstrated that the future occupiers of the site would suffer harm to amenity through noise or disturbance from the site in the future. Environmental Health (Pollution) raises no objections to the scheme.

The applicant has no control over the land through which objectors suggest would provide an alternative access.

An objection to the scheme has been received relating to the capacity of the foul sewer system. There is no evidence to suggest that adequate foul drainage from the site could not be achieved and the development would be subject to separate future Building Regulations approval in this respect.

Impact on property values is not a material planning consideration.

Conclusion

The application site is in a sustainable urban location within the settlement boundary of Hinckley where residential development is generally acceptable in principle and where additional housing is required to meet the minimum requirement for Hinckley identified within Policy 1 of the adopted Core Strategy. The site has adequate access to the adopted highway network and subject to satisfactory final layout, scale, design, appearance and landscaping (which can be controlled by planning conditions), the scheme would provide an appropriate density, would complement the character and appearance of the surrounding area and would not give rise to any adverse impacts on the amenities of the occupiers of any neighbouring properties, highway safety or ecology. The scheme is therefore considered to be in accordance with Policies 1 and 16 of the adopted Core Strategy, Policies BE1 (criteria a, g and i), RES5 and T5 of the adopted Local Plan, the adopted SPG on New Residential

Development together with the overarching principles of the NPPF and is therefore recommended for outline approval for access only subject to conditions.

RECOMMENDATION:- Permit subject to conditions.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it is a sustainable development and would complement the character of the surrounding area and subject to conditions and further consideration of the reserved matters of layout, scale, design, appearance and landscaping would not give rise to any adverse impacts on the amenities of the occupiers of any neighbouring properties, highway safety or ecology.

Hinckley & Bosworth Core Strategy (2009):- Policies 1 and 16.

Hinckley & Bosworth Local Plan (2001):- Policies BE1 (criteria a, g and i), RES5 & T5.

In dealing with the application, through ongoing negotiation and the receipt of an amended plan, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Conditions:-

- 1 Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2 Approval of the following details (hereinafter called "reserved matters") shall be obtained from the local planning authority in writing before any development is commenced:-
 - a) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development.
 - b) The scale of each building proposed in relation to its surroundings.
 - c) The appearance of the development including the aspects of a building or place that determine the visual impression it makes.
 - d) The access arrangements within the site for vehicles, cycles and pedestrians.
 - e) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.

The development shall be implemented in accordance with the approved details.

- 3 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:- Site Location Plan at 1:1250 scale Drawing No. 101 received by the local planning authority on 2 April 2015.
- 4 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 development shall then be implemented in accordance with approved proposed ground levels and finished floor levels.

- 5 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.
- 6 No development shall commence until surface water drainage details, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the local planning authority and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- 7 All details of the proposed development shall comply with the highway design standards of the Leicestershire County Council as contained in its current design standards document the '6Cs Design Guide'. Such details must include parking and turning facilities, access widths, gradients, surfacing and visibility splays and be submitted for approval by the local planning authority before development commences.
- 8 No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reasons:-

- 1 To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 2 This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.
- 3 For the avoidance of doubt and in the interests of proper planning.
- 4 To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy BE1 (criterion a) of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 (criterion a) of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure that the development is provided with satisfactory surface water drainage in accordance with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 7 To ensure a satisfactory form of development and in the interests of highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 8 To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area in the interest of

highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website as follows: - see Part 6 of the '6Cs Design Guide' at www.leics.gov.uk/6csdg.
- 6 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

C.B.R. Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.

- 7 Please be aware that Leicestershire County Council as Lead Local Flood Authority (LLFA) are currently not a statutory consultee to the planning process for surface water management. A proposal to make the LLFA a statutory consultee is currently out to consultation. Please note that from 6 April 2015 the responsibility for approval of sustainable drainage systems will rest with Local Planning Authorities. More information, including options for future maintenance, can be found at: <https://www.gov.uk/government/consultations/sustainable-drainage-systems-changes-to-the-planning-system>.

Contact Officer:- Richard Wright Ext 5894