

Planning Committee 7 November 2017  
Report of the Planning Manager Development Management

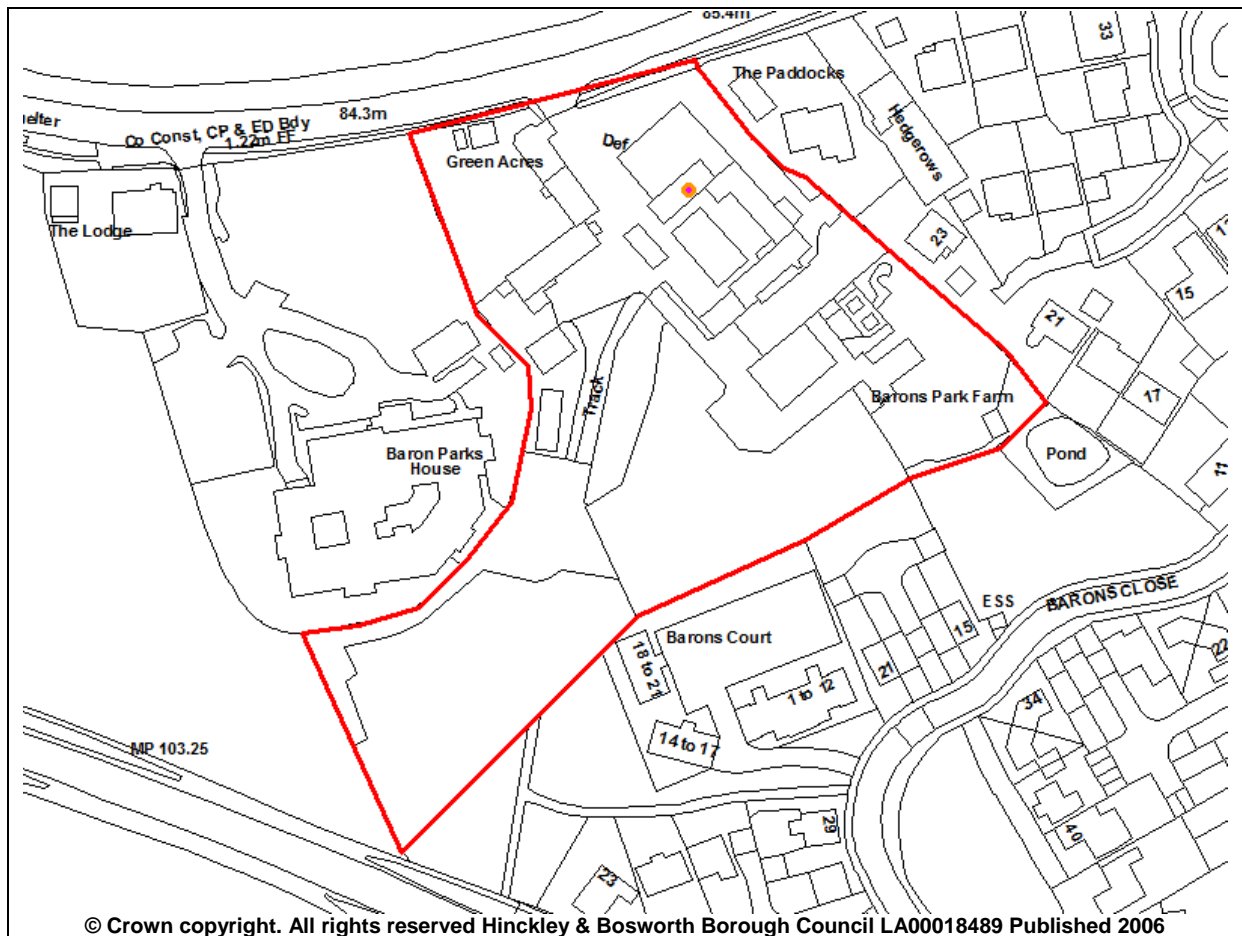


Hinckley & Bosworth  
Borough Council

Planning Ref: 15/01221/HYB  
Applicant: Mr & Mrs B&T Elgenia & Baxter  
Ward: Newbold Verdon With Desford & Peckleton

Site: Barons Park Farm Desford Lane Kirby Muxloe

Proposal: Hybrid application for the residential development of up to 17 new dwellings including the conversion of existing barns to include:- (1) Full application for conversion of barns to 3 dwellings and (2) Outline application for the erection of 14 dwellings (outline - access only)



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
  - High school education - £18,054.93
  - Upper school education - £18,538.71
  - Traffic regulation order for speed limit change – £7,500
  - Vehicular activated sign – £12,000
  - Affordable housing – 40% 72/25% social rented/intermediate tenure
- Planning conditions outlined at the end of this report.

- 1.2. That the Planning Manager Development Management be given powers to determine the final detail of planning conditions.
- 1.3. That the Planning Manager Development Management be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

## **2. Planning Application Description**

- 2.1. This Hybrid application for the residential development of up to 17 new dwellings. Full planning permission is sought for conversion of barns to 3 dwellings and an access, built to adoptable standards, to serve the wider site. Outline planning permission (Access only) is sought for the erection of up to 14 dwellings. As part of the outline permission, only access is for consideration although this also forms part of the full planning permission area.
- 2.2. This is a cross-boundary application with a small section of the northern side of the site falling within the jurisdiction of Blaby District Council.

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

- 3.1. The application site forms an L-shaped piece of land comprising an existing farmstead. There are several buildings across the site including old brick built and new steel portal framed agricultural buildings, a farmhouse, stables and paddocks. There are varying boundary treatments around the site including post and rail fencing, close boarded fencing, mature trees and mature hedgerow.
- 3.2. The application site is located adjacent to the settlement boundary of Kirby Muxloe which falls within Blaby District Council. The residential built form of Kirby Muxloe bounds the eastern side of the site comprising two storey houses and the southern side of the site comprising three storey blocks of flats. The north west corner of the site is bound by Barons Park Care and two cottages. The northern side of the site adjoins Desford Lane. There is a small section of the western boundary of the site which adjoins agricultural fields.
- 3.3. Public footpath S4 runs through the site from the south west corner adjoining Desford Road. .
- 3.4. The application site is located within flood zone 1.

## **4. Relevant Planning History**

05/01208/OUT	Residential development and new vehicular access	Refused	19.07.2006
01/00378/CONDIT	Removal of condition 3 of outline planning permission ref 98/00478/OUT	Permitted	26.04.2002
01/00379/REM	Erection of 84 dwellings and associated works	Approved	26.04.2002
98/00478/OUT	Residential development and associated public open space	Permitted	19.07.2000

## **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. Three representations of objection have been received; the comments are summarised as follows:
- 1) There are too many dwellings proposed on the site
  - 2) The access would be on a brow and bend and cause safety issues
  - 3) Loss of views of countryside from surrounding properties
  - 4) Overlooking, overshadowing and loss of privacy to neighbouring properties
  - 5) The existing trees on the site should not be impacted
  - 6) There are bats present on the site

## **6. Consultation**

- 6.1. No objection, some subject to conditions, has been received from:
- Leicestershire County Council (Highways)  
Leicestershire County Council (Public Rights of Way)  
Leicestershire County Council (Drainage)  
Leicestershire County Council (Ecology)  
Leicestershire County Council (Archaeology)  
Environment Agency  
Severn Trent Water  
Environmental Health (Drainage)  
Environmental Health (Pollution)  
Waste Services  
Blaby District Council
- 6.2. Affordable Housing Officer – 40% affordable housing with a 75/25% social rent/intermediate tenure.
- 6.3. As a result of the Developer Contribution consultation, the following planning obligations are sought:
- 6.4. Leicestershire County Council (Education):
- Primary education - £0
  - High school education - £18,054.93
  - Upper School education - £18,538.71
- Leicestershire County Council (Highways):
- Traffic Regulation Order for speed limit change – £7,500
  - Vehicular Activated Sign – £12,000

## **7. Policy**

- 7.1. Core Strategy (2009)
- Policy 15: Affordable Housing
  - Policy 16: Housing Density, Mix and Design
  - Policy 19: Green Space and Play Provision
- 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 DM13: Preserving the Borough's Archaeology
- Policy DM15: Redundant Rural Buildings
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

### 7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

## 8. Appraisal

### 8.1. Key Issues

- Assessment against strategic planning policies
- Affordable housing
- Housing density and mix
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Ecology and biodiversity
- Drainage
- Archaeology
- Contamination
- Planning obligations
- Planning balance

#### Assessment against strategic planning policies

8.2. The application site is located adjacent to the settlement of Kirby Muxloe but is on land which is designated as countryside. Policy DM4 of the SADMP states "*that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:*

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

- 8.3. Policy DM15 of the SADMP states that *Proposed development outside the settlement boundary for the re- use and/or adaptation of redundant or disused rural buildings will be supported where:*
- a) *The applicant demonstrates the building is no longer viable in its current use; and*
  - b) *The applicant has adequately demonstrated the building is in a structurally sound condition and is capable of conversion without significant rebuild or alteration; and*
  - c) *Any proposed extension(s) or alterations are proportionate to the size, scale, mass and footprint of the original building and situated within the original curtilage; and*
  - d) *The proposed development accords with Policy DM10: Development and Design and relevant design guidance, DM11: Protecting and Enhancing the Historic Environment and DM12: Heritage Assets.*

*All development proposals for the re-use of redundant rural buildings should result in the enhancement of the immediate setting.*

- 8.4. This development seeks planning permission for the conversion of three barns to three residential dwellings and the erection of up to 14 dwellings.
- 8.5. With regards to the barns for conversion, the barns are traditional brick built barns which are not considered suitable for use in modern agriculture due to their limited height. The barns have become redundant and are currently mostly unused. The barns are considered to be in a structurally sound condition and are capable of being sympathetically converted without any need for significant rebuild. The proposals do not include any extension to the existing buildings and would enhance the setting of traditional buildings of significance. The proposed conversions would accord with Policy DM15 of the SADMP and Policy DM4 of the SADMP.
- 8.6. With regards to the outline planning permission for up to 14 dwellings, this would constitute new unrestricted residential development in the countryside which is considered to be unsustainable development in the countryside in accordance with Policy DM4 of the SADMP.
- 8.7. The proposed development would result in the loss of an existing farmstead which would be harmful to the rural business associated with site. Chapter 3 of the NPPF seeks to support a prosperous rural economy and the proposed development in isolation would be contrary to this. However, application ref: 15/01198/FUL seeks planning permission for a farmhouse and two agricultural buildings to mitigate the impact of the proposed development. Application ref: 15/01198/FUL is recommended for approval subject to conditions. Therefore, should the associated application be approved, this development would not result in a harmful impact on the agricultural business and rural economy.
- 8.8. Whilst the conversion of the barns to residential development is considered to be in accordance with Policies DM4 and DM15 of the SADMP, the site must be considered as a whole. The conversions of the barns are the minority of the proposed development with the majority of the proposed development being considered unacceptable development in the countryside. Therefore, on balance, it is considered that the scheme, as a whole, would not accord with Policy DM4 of the SADMP.

### Affordable housing

- 8.9. Policy 15 of the Core Strategy states that to support the provision of mixed, sustainable communities, a minimum of 2090 affordable homes will be provided in the borough from 2006 to 2026. The starting point for the level and target for affordable housing in rural areas is 40% for developments of 4 or more dwellings. For all sites, the tenure split will be 75% social rented and 25% intermediate housing.
- 8.10. The above policy is applicable to all land within the Borough of Hinckley and Bosworth. As the proposal is for full permission for three dwellings and outline permission resulting in a total of up to 17 dwellings, to be provided, the exact number of affordable dwellings can not yet be specified. Therefore, an affordable housing scheme should be required in association with the reserved matters application to detail the number and type of dwellings as well as the tenure. The applicant has agreed to the provision as set out in the policy which shall be secured through a S106 agreement. As the development is cross-boundary, the housing will be allocated to those with a local connection to either Ratby or Kirby Muxloe in the first instance. The proposed development would be in accordance with Policy 15 of the Core Strategy.

### Housing density and mix

- 8.11. Policy 16 of the Core Strategy states that the Council requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings. Proposals for new residential development will be required to meet a minimum net density of at least 30 dwellings per hectare within and adjoining the Key Rural Centres, Rural Villages and Rural Hamlets. In exceptional circumstances, where individual site characteristics dictate and are justified, a lower density may be acceptable.
- 8.12. The proposed development would result in a density of approximately 17 dwellings per hectare which is lower than the minimum required by Policy 16. However, Policy 16 allows for lower densities where individual site characteristics dictate and are justified. In this instance, the site is an irregular shape, involves conversion of several buildings and there are valuable trees on site which prohibit maximisation of the layout for greater densities. An indicative plan has been submitted which illustrates how dwellings could be accommodated on the site. The plots would be generous and would not be uncharacteristic of the area. The illustrative plan identifies that the site could provide a mix of flats as well as medium and large dwellings. The proposed development is considered to be in accordance with Policy 16 of the Core Strategy.

### Design and impact upon the character of the area

- 8.13. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Policy DM4 of the SADMP seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside.
- 8.14. The application site is located on land designated as within the countryside. The area has a mixed character. Adjoining the site to the east is residential development comprising primarily two storey detached houses set in reasonably large plots with rear gardens. Adjoining the southern boundary of the site is further residential development comprising a relatively newly constructed development including three storey blocks of flats. Adjoining the north west of the site is Barons Park House, a large two storey care home set well back from the road within a large plot but abutting the boundary of the application site and two cottages which front Desford Lane. Land to the north of Desford Lane and beyond the west boundary of the

application site characterised by agricultural land. The application site is rural in nature with undeveloped paddocks on the south western side, a farmhouse in the south east corner and several traditional agricultural buildings in the centre of the site and a modern steel portal framed agricultural building fronting Desford Lane.

- 8.15. The proposed development is for residential development comprising a mix of house development including converted agricultural barns. The application is in outline form and therefore the housing mix has not been confirmed but an indicative plan has been submitted which illustrates several large detached dwellings and a block of flats to the front of the site.
- 8.16. It is considered that a development could be provided which complements the existing built form immediately adjacent to the east and south of the site with regards to layout, scale, density, mass, design, materials and architectural features in accordance with Policy DM10. However, it is also necessary to consider the impact on the countryside and the wider setting.
- 8.17. Fronting onto Desford Lane the site is narrow. There is residential development immediately adjacent to east, there are cottages immediately adjacent to the west of the proposed access and beyond the cottages is Barons Park House. Barons Park House is set back from the road with hedgerow screening along the frontage, although it is evident that the landscaped gardens are not characteristic of the wider countryside. Up to the point of access of the application site Desford Lane is bound by street lights on one side with a narrow footpath on the other. The southern side of Desford Lane including the application site does not make a significant contribution to the character of the countryside. Development of dwellings along the frontage, subject to their design is to be considered at reserved matters stage, however it would be characteristic of the frontage of the southern side of Desford Lane and would not extend the linear development in a ribbon form along Desford Lane due to the built form to the west. Residential development along this section of frontage would appear as a reasonable infill location and would not adversely impact on the intrinsic value, beauty, open character or landscape character of the countryside when viewed from Desford Lane.
- 8.18. There is a 50m section of the boundary of the application site which adjoins the agricultural land to the west. Beyond the western edge of the application site there are no footpaths or public rights of way from which the development would be seen. There may be glimpses of the western edge of the site viewed from Desford Lane although these would be partially screened by boundary vegetation on the site and surrounding land. The glimpses that would be available would be viewed with Barons Park House immediately adjacent to the north and Barons Court in close proximity the south east. The indicative plan illustrates that two dwellings would have their rear elevations fronting the countryside. This area is within the outline section of the site with layout and scale to be agreed. It would be possible to provide single storey dwellings in this location to further mitigate visibility of the development from the west. Having regard to the visibility of the site from the west and in the context of the surrounding built form, it is considered that the proposed development would not have an adverse impact on the intrinsic value, beauty, open character or landscape character of the countryside. Additionally, the western boundary of the site is bound by a railway line to the south and a large open field to the west. Therefore, the boundary of the application site creates a natural and appropriate boundary for the western edge of the settlement of Kirby Muxloe.
- 8.19. There is a footpath that runs through the application site. The introduction of built form on the site would impact on users of the footpath due to the nature of the development. However, the footpath accesses the site in the south west corner having passed the residential development to the south and runs through to the

north of the site adjoining Desford Lane which as noted above, the southern side does not contribute positively to the character of the countryside. The loss of the existing walk through the site comprising one paddock and the farmstead would not have a significant impact on the users' enjoyment of the countryside due to the proximity at either end of residential development.

- 8.20. Having regard to the above, whilst the application site is designated as forming part of the countryside, given the limited visibility from the surrounding area and proximity on most sides by residential development, it is considered that the proposed development would not have an adverse impact on the intrinsic value, beauty, open character and landscape character of the countryside.
- 8.21. There are several mature trees and some hedgerow across the site which contributes positively to the character of the area. Retention of the trees shall be considered and secured through a reserved matters application but it is considered those of value could be retained.
- 8.22. It is considered that the proposed development would accord with Policy DM10 of the SADMP. The proposed development cannot be in accordance with Policy DM4 of the SADMP as the principle of residential development in accordance with the first criteria of the policy is unacceptable. However, it is considered that the proposed development would not have an adverse impact on the intrinsic value, beauty, open character and landscape character of the countryside.

#### Impact upon neighbouring residential amenity

- 8.23. Policy DM10 of the SADMP seeks to ensure that development proposals do not harm the amenity of neighbouring residential properties. The application site is bound by detached dwellings to the east, Barons Court (three storey flats) to the south and Barons Park House (a care home) to the north west.
- 8.24. The barn conversion to the east of the site would be in close proximity to the dwellings to the east of the site. As these are conversions, there would be no increase in scale and therefore no additional overbearing or overshadowing impacts. There are existing boundary treatments which would prohibit overlooking from the ground floor windows and there is no development at first floor level on conversion 2 which is closest to the boundary. The indicative plan identifies a block of flats in the north east corner. The flats fall within the outline section of the site and therefore are indicative only. Any development sited here would be given consideration at the reserved matters stage.
- 8.25. An indicative plan has been submitted for the outline section of the site which covers the areas adjacent to Barons Court and Barons Park House. Whilst indicative only, the plan illustrates roughly how the number of dwellings could be accommodated within the site without adversely impacting on neighbouring properties. Additionally, it should be noted that within the outline area of the site the applicant is seeking permission for up to 14 dwellings and therefore numbers could be reduced should there be issues resulting from the number of dwellings. Full assessment of the impact on neighbouring amenity shall be assessed as part of a reserved matters application but it is considered a development could be provided without adversely impacting on neighbouring amenity.
- 8.26. To ensure appropriate protection of neighbouring amenity during the construction phases, Environmental Health (Pollution) has recommended conditions in relation to a scheme for noise attenuation during construction and a Construction Environmental Management Plan to be submitted.
- 8.27. Concern has been raised that the proposed development would lead to a loss of views of the countryside from surrounding properties. Loss of views are not material



planning considerations and the impact upon these is given no weight in the assessment of this application.

- 8.28. The proposed development would not have an adverse impact on neighbouring amenity and is therefore in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.29. Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.30. The proposed development would be accessed onto Desford Lane in the location of the existing access serving the farmstead. In the applicable access location, Desford Lane is currently subject to a 60mph speed limit. Whilst the existing access does serve a farmstead, it is considered that the proposed use for up to a total of 17 dwellings would lead to an intensification of use. Due to the intensification of use of the access and additional use by domestic traffic it is considered necessary to relocate the 40mph speed limit zone approaching Kirby Muxloe to include the road adjacent to the access. The cost of a Traffic Regulation Order is to be paid by the applicant and shall be secured through a S106 agreement. Additionally, a vehicle activated sign (VAS) shall be provided on approach to the 40mph zone at the expense of the applicant to be secured through a S106 agreement.
- 8.31. The proposed access would accord with the 6Cs Design Guide comprising a 4.8 metre carriageway width with minimum 6 metre kerbed radii, 2 metre footways either side of the bell mouth and the access would be capable of achieving the required visibility splays for a 40mph speed limit road. The internal layout of the road within the full application section of the site has been designed to ensure that it meets adoptable standards, subject to the road within the outline section providing a turning head to adoptable standards, At reserved matters stage it will be ensured that some of the internal road, at least, meets adoptable standards so that refuse vehicles collect waste and recycling bins clear of Desford Lane. Leicestershire County Council (Highways) have raised no objection to the proposal subject to conditions and a S106.
- 8.32. There is considered to be sufficient space surrounding the barn conversions to provide car parking for the future occupiers although the exact layout shall be secured through a planning condition in relation to landscaping. For the outline section of the site, layout and landscaping have not been established as part of this application but there is sufficient space on-site to provide appropriate car parking levels for each dwelling which shall be secured through the reserved matters application.
- 8.33. Presently there is a footpath running adjacent to Desford Lane which leads to Kirby Muxloe but this does not extend to the application site, with the proposed increase in pedestrian activity from the site it is considered necessary for pedestrian safety to ensure that the footpath is extended to the site access. The verge adjacent to Desford Lane is owned by the Local Highway Authority and therefore a Grampian condition can be imposed to secure the delivery of a footpath to the site access. Additionally, public footpath S4 runs through the site. The indicative plan identifies that the footpath could be maintained on its legal line without diversion and the surfacing upgraded to benefit the users. The footpath is within the outline section of the site and therefore the impact on the public right of way should be considered as part of the reserved matters application. Should the footpath require diversion it would be subject to a separate application. Leicestershire County Council (Public Rights of Way) has raised no objection subject to conditions.

- 8.34. It is considered that the proposed development, subject to conditions and a S106 agreement, would not have an adverse impact on pedestrian or vehicular highway movements and sufficient car parking provision could be provided within the site. The proposed development would be in accordance with Policies DM17 and DM18 of the SADMP.

#### Ecology and biodiversity

- 8.35. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation.
- 8.36. A Phase 1 habitat survey was undertaken to identify the presence of protected species and their habitats on the site. There was evidence of bats and badgers on the site and a pond in close proximity to the site which could be suitable for Great Crested Newts. Additional survey work was undertaken which discounted the presence of a badger sett on-site and the pond as being a suitable habitat for GCNs. Bat emergence surveys identified bats are present on the site in some of the buildings. The bat survey recommended mitigation measures to ensure no adverse impacts on the bats. Leicestershire County Council (Ecology) has raised no objection to the development subject to a condition to secure the mitigation measures as set out in the bat survey.
- 8.37. The proposed development would not have an adverse impact on features of nature conservation and would accord with Policy DM6 of the SADMP.

#### Drainage

- 8.38. Policy DM7 of the SADMP seeks to ensure that surface water and groundwater quality are not adversely impacted by new development and that it does not exacerbate flood risks.
- 8.39. The application site is located within flood zone 1. A flood risk assessment and outline drainage proposals including details of sustainable drainage systems have been provided with the application. It is considered that the proposed development could provide drainage ensuring there is no adverse impact on groundwater quality and that flood risk is not exacerbated or created. Leicestershire County Council (Drainage), Environment Agency, Environmental Health (Drainage) and Severn Trent Water have raised no objections to the development subject to the submission of a detailed drainage scheme to be secured through a planning condition.
- 8.40. The proposed development would be in accordance with Policy DM7 of the SADMP.

#### Archaeology

- 8.41. Policy DM11 of the SADMP seeks to preserve and enhance the historic environment. Policy DM13 of SADMP states that where a proposal has the potential to impact a site of archaeological interest, developers should set out in their application an appropriate desk-based assessment and, where applicable, the results of a field evaluation detailing the significance of any affected asset.
- 8.42. The Leicestershire and Rutland Historic Environment Record identifies that the site is located within an area of archaeological interest. Leicestershire County Council (Archaeology) has commented that if the development is granted planning permission then a written scheme of investigation including trial trenching should be secured through a planning condition.
- 8.43. Subject to the imposition of planning conditions for appropriate assessment, the proposed development would preserve any potential archaeological remains in accordance with Policies DM11 and DM13 of the SADMP.

### Contamination

- 8.44. Policy DM7 of the SADMP seeks to ensure remediation of contamination in accordance with national standards.
- 8.45. Due to the proximity of the site to railway lines, the size of the site and the existing and past uses for agriculture it is considered that a scheme for investigation of contamination is required. Environmental Health (Pollution) consider that this information can be appropriately secured through a planning condition.
- 8.46. The proposed development would ensure remediation of contamination in accordance with national standards to accord with Policy DM7 of the SADMP.

### Planning obligations

- 8.47. Policy DM3 of the SADMP states that where development creates a need to provide additional or improved infrastructure, amenities or facilities, developers will be expected to make such provisions directly or indirectly through the appropriate funding mechanism.

### High school education

- 8.48. The site falls within the catchment area of Brookvale High School, Groby. The School has a net capacity of 720 and 743 pupils are projected on roll should this development proceed; a deficit of 23 pupil places. A total of 11 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be deducted. This reduces the total deficit for this school to 12 pupil places (of which 10 are existing and 2 are created by this development). There is one other school within a three mile walking distance of the site which also has a deficit of 14 school places. The overall deficit including all schools within a three mile walking distance of the development is 26 pupil places. A claim for an education contribution in this sector is therefore justified.
- 8.49. In order to provide the additional high school places anticipated by the proposed development, the County Council requests a contribution for the high school sector of £18,054.93. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Brookvale High School or any other school within the locality of the development.

### Upper school education

- 8.50. The site falls within the catchment area of Groby Community College. The College has a net capacity of 911 and 901 pupils are projected on roll should this development proceed; a surplus of 10 pupil places. A total of 6 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be deducted. This increases the surplus at this school to 16 pupil places, after taking into account the 2 pupils generated by this development. There is one school within a three mile walking distance of the development which has a deficit of 122 school places. The overall deficit including all schools within a three mile walking distance of the development is 106 pupil places. A claim for an education contribution in this sector is therefore justified.
- 8.51. In order to provide the additional upper school places anticipated by the proposed development, the County Council requests a contribution for the upper school sector of £18,538.71. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Groby Community College or any school within the locality of the development.

### Play and open space

- 8.52. Policy 19 of the Core Strategy identifies requirements for access to green space and play provision for occupiers of residential development.
- 8.53. Given the scale of development on the site it is not considered reasonable to provide recreational facilities on-site. Additionally, there are no recreational facilities within a reasonable distance of the site in either the Borough of Hinckley and Bosworth or District of Blaby for which a contribution for off-site provision could be sought.

### Concluding remarks

- 8.54. The above contributions are considered to be CIL compliant and shall be secured through a S106 agreement. The applicant has raised no issues in relation to viability and therefore it is considered all of the above contributions can be secured.

### Planning balance

- 8.55. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 requires that developments must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Policy DM1 – Presumption in Favour of Sustainable Development of the Site Allocations and Development Management Policies DPD (SADMP) states that planning applications that accord with the policies in the Local Plan will be approved without delay, unless material considerations indicate otherwise.
- 8.56. The NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF states that it does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 8.57. The application site adjoins Kirby Muxloe and part of the application site falls within Blaby District Council (BDC). Kirby Muxloe is recognised within the Blaby District Core Strategy as part of the continuous extension of the Principal Urban Area of Leicester. Kirby Muxloe benefits from having the essential services, facilities, public transport and employment to be considered a sustainable area for residential development. Policy CS1 of BDC's Core Strategy encourages new development to take place within and adjoining the Principal Urban Area (PUA) of Leicester. Kirby Muxloe is located within the PUA and is therefore a sustainable location for new development. Should the entire site fall within the jurisdiction of BDC, it would be considered acceptable as it adjoins the principle urban area of Leicester. BDC are recommending approval of the application in accordance with their development plan as it accords with the spatial strategy for growth. The spatial strategy for growth of the adjoining District, in this instance, is considered to be a material planning consideration to be given weight in this assessment.
- 8.58. Paragraph 7 of the NPPF identifies that there are three dimensions to sustainable development: economic, social and environmental. These roles are mutually dependant and therefore to achieve sustainable development they should be considered together. The assessment of the three dimensions relative to this proposal is as follows:
- 8.59. Economic – The construction of up to seventeen dwellings would provide limited benefits to the local economy through the creation of jobs and demand for services and materials for the construction of the development itself and from the future occupation of the development supporting businesses in the wider rural area. The development could have an adverse impact on the existing agricultural business

currently associated with the site. However, this negative impact could be wholly mitigated through application ref: 15/01198/FUL which is recommended for approval of planning permission subject to conditions. It is considered there would be limited positive economical benefits of the scheme and no adverse economic impacts, subject to the approval of the associated application.

- 8.60. Social – The scheme would provide a small contribution to the overall housing supply within the Borough. The dwellings would be provided in a location with good access to facilities, services, employment and sustainable modes of transport in an area which is identified by BDC as being a sustainable location for growth adjacent to the principal urban area of Leicester. Given the scale of development, future occupiers would make a limited contribution to maintain the vitality and viability of services and facilities within the settlement of Kirby Muxloe. The development would extend the existing 40mph speed limit along Desford Lane and provide a vehicle activated sign which would provide betterment to highway safety. The public footpath through the site could be upgraded to provide better servicing and a footpath provided along Desford Lane to adjoin the settlement providing benefit to the users. The development would provide 40% affordable housing on-site to meet the identified needs of people living in Ratby and Kirby Muxloe. Additionally, development would facilitate investigation into archaeological remains of potential historic interest. There is considered to be moderate social benefits resulting from the proposed development.
- 8.61. Environmental – The proposed development is bound by residential development to the east, south and north west with limited visibility of the site available from the surrounding area outside of the site. Due to the proximity of surrounding built form it is considered that the proposed development would be characteristic of the area and would not have an adverse impact on the intrinsic value, beauty, open character and landscape character of the countryside. A development could be provided which complements the character and appearance of the surrounding residential development. The proposed development would mitigate against any adverse impacts on the habitats of protected species. There is considered to be neutral environmental impacts resulting from the proposed development.
- 8.62. It is considered that in the context of the three dimensions of sustainable development as set out in the NPPF, the proposed development would constitute sustainable development.
- 8.63. The proposed development, by virtue of its siting on land designated as countryside, would be contrary to Policy DM4 of the SADMP. Policy DM4 seeks to guide development consistent with the spatial strategy for growth as set out in the Core Strategy and protect the intrinsic value, beauty, open character and landscape character of the countryside. In this instance, having regard to the above, it is considered that the development would be located in a sustainable location with regards to facilities, services, employment and sustainable modes of transport and would not adversely impact on the characteristics of the countryside which Policy DM4 seeks to protect. The proposed development is sustainable development in accordance with the NPPF and would be considered sustainable development in accordance with the spatial strategy for growth as set out in the development plan for the District of Blaby to which the development is closely tied. In this instance, it is considered there are very specific and individual circumstances and material planning considerations which outweigh the harm caused by the not complying with Policy DM4 of the SADMP. In accordance with Policy DM1 of the SADMP, Paragraph 12 of the NPPF, Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, the proposed development should be approved, subject to conditions and a completed S106 agreement.

## **9. Equality Implications**

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-  
(1) A public authority must, in the exercise of its functions, have due regard to the need to:  
(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;  
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;  
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

## **10. Conclusion**

- 10.1. The proposed development seeks planning permission for residential development in the countryside. The proposed conversion of the barns on-site would be in accordance with Policy DM15 of the SADMP. However, as a whole, the proposed development would be contrary to Policy DM4 of the SADMP.
- 10.2. The proposed development would not have an adverse impact on the intrinsic value, beauty, open character and landscape character of the countryside and would complement the character of the surrounding built form. The proposed development would not have an adverse impact on neighbouring amenity nor would it adversely impact on highway safety. The proposal would mitigate against harm caused to the habitats of protected species and would ensure remediation of contaminated land. The development would ensure appropriate investigation of archaeological remains and would provide sufficient drainage including sustainable urban drainage features. The proposed development would offset additional impacts on infrastructure through planning obligations. The development would include 40% affordable housing on-site and provide a mix of dwellings types. The proposed development would be in accordance with Policies 15, 16 and 19 of the Core Strategy and Policies DM13, DM6, DM7, DM10, DM11, DM13, DM17 and DM18 of the SADMP.
- 10.3. When considering the development against the three dimensions of sustainable development as set out in the NPPF, in this instance, it is considered there are very specific and individual circumstances and material planning considerations which outweigh the harm caused by the not complying with Policy DM4 of the SADMP. Therefore, the proposed development should be approved, subject to conditions and a S106 agreement, in accordance with in accordance with Policy DM1 of the SADMP, Paragraph 12 of the NPPF, Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

## **11. Recommendation**

- 11.1. Grant planning permission subject to:
- The prior completion of a S106 agreement to secure the following obligations:
    - High school education - £18,054.93
    - Upper school education - £18,538.71
    - Traffic regulation order for speed limit change – £7,500
    - Vehicular activated sign – £12,000
    - Affordable housing – 40% 72/25% social rented/intermediate tenure

- Planning conditions outlined at the end of this report.
- 11.2. That the Planning Manager Development Management be given powers to determine the final detail of planning conditions.
- 11.3. That the Planning Manager Development Management be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

11.4. **Conditions and Reasons**

**Conditions in respect of Full application (F)**

- F1. 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 51 of the Planning and Compulsory Purchase Act 2004.

- F2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, details and materials:

Full Site Location Plan (received on 21 March 2016)

981-WH-05 - Conversion 1 Proposed Plans and Elevations (received on 14 March 2016)

981-WH-06 - Conversion 2 Proposed Plans and Elevations (received on 14 March 2016)

981-WH-07 - Conversion 3 Proposed Plans and Elevations (received on 14 March 2016)

981-WH-04 rev D - Access and Site Layout (received on 19 September 2017)

**Reason:** To ensure a satisfactory impact of the development to accord with Policy DM1 of the adopted Site Allocations and Development Management Policies DPD.

- F3. No development shall commence until representative samples of the types and colours of materials to be used on the exterior of the barn conversions have been deposited with and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved materials.

**Reason:** To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

- F4. No development shall commence until full details of all fenestration and roof lights to be used on the barn conversions have been submitted to and approved in writing by the Local Planning Authority. The roof lights must be conservation roof lights. The development shall be implemented in accordance with the approved details

**Reason:** To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

F5. No development shall commence until a programme of Historic Building Recording (Level 2), including a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions and:

- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme);
- The programme for post-investigation assessment;
- Provision to be made for analysis of the site investigation and recording;
- Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation;
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

All development shall be carried out until the Historic Building Recording has been completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

**Reason:** To ensure satisfactory archaeological investigation and recording to accord with Policies DM11 and DM13 of the Site Allocations and Development Management Policies DPD.

F6. No development shall commence until the 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 external appearance and in the interests of visual amenity to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

F7. Notwithstanding the details shown on drawing No. 981-WH-04 rev D, no development shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- a) Means of enclosure
- b) Car parking layouts
- c) Other vehicle and pedestrian access and circulation areas
- d) Hard surfacing materials
- e) Proposed and existing functional services above and below ground (e.g. drainage, pipelines, manholes, supports, etc.)
- f) Planting plans
- g) Written specifications



- h) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
- i) Implementation programme

**Reason:** To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

- F8. The soft landscaping scheme, in accordance with condition 6, 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 and in the interests of visual amenity to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

- F9. The car parking spaces, in accordance with condition 6, shall be laid out and made available for use prior to occupation of any dwelling hereby permitted. The car parking spaces shall be retained for such use in perpetuity.

**Reason:** To ensure an appropriate level of off-street parking to accord with DM18 of the Site Allocations and Development Management Policies DPD.

- F10. The proposed development shall be carried out wholly in accordance with the Recommendations and Mitigation as detailed in Section 6 of the submitted document entitled 'Bat Activity Survey of Barns at Barons Park Farm, Kirby Muxloe, Leicestershire' dated September 2016 and received by the Local Planning Authority on 09/11/2016

**Reason:** To ensure appropriate mitigation of the loss of habitat of a protected species to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.

- F11. If development has not commenced prior to May 2019, no development shall commence until updated bat surveys have been undertaken and submitted to and approved in writing by the Local Planning Authority. If updated bat surveys are submitted, the development shall be carried out wholly in accordance with the recommendations and mitigation measures as detailed in the updated bat surveys.

**Reason:** To ensure appropriate mitigation of the loss of habitat of a protected species to accord with Policy DM6 of the Site Allocations and Development Management Policies DPD.

- F12. Notwithstanding the provisions of Classes A-E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) the dwellings hereby approved shall not be extended or altered and no outbuildings, structure or other means of enclosure incidental to the

enjoyment the dwellinghouses shall erected or constructed without the grant of planning permission for such development by the Local Planning Authority.

**Reason:** To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

### **Conditions in respect of Outline application (O)**

- O1. An 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.

**Reason:** To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

- O2. 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 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.

**Reason:** To ensure a satisfactory appearance and impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

- O3. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

Outline Site Location Plan (received on 21 March 2016)

**Reason:** For the avoidance of doubt.

- O4. No development shall commence until representative samples of the types and colours of materials to be used on the exterior of the buildings have been deposited with and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved materials.

**Reason:** To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policies DM4

and DM10 of the Site Allocations and Development Management Policies DPD.

- O5. Prior to commencement of development a scheme for protecting the occupiers of the proposed dwellings from noise and vibration from the adjacent railway has been submitted to and approved by the Local Planning Authority. All works which form part of the scheme shall be completed prior to occupation of any dwelling hereby permitted.

**Reason:** To ensure the amenity of future occupiers to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

- O6. Prior to commencement of development a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, smoke, light and land contamination. The plan shall be 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 ensure the amenity of neighbouring occupiers is not adversely impacted by the proposed development to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

- O7. Prior to commencement of development a scheme for the protection of trees during construction shall be submitted to and agreed in writing by the Local Planning Authority. Development shall commence until such time as the approved protection measures have been implemented and they shall remain in place until construction works have been completed.

**Reason:** To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

- O8. Prior to commencement of development a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions and:

- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme);
- The programme for post-investigation assessment;
- Provision to be made for analysis of the site investigation and recording;
- Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation;
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

All development shall be carried out in accordance with the approved Written Scheme of Investigation

**Reason:** To ensure satisfactory archaeological investigation and recording to accord with Policies DM11 and DM13 of the Site Allocations and Development Management Policies DPD.

- O9. No development shall commence until the 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 external appearance and in the interests of visual amenity to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

### **Conditions in respect of Whole Scheme (WS)**

- WS1. No development shall commence until a scheme for the detailed of the design for off-site highway works comprising a 2 metre footway on the south side of Desford Lane from a point of the development access to a point opposite the vehicular access for Thorneyfields Livery, has been submitted and approved in writing by the Local Planning Authority. Prior to occupation of the 10th dwelling on the site, the approved scheme shall have been constructed and made ready for use.

**Reason:** To ensure safe pedestrian access to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

- WS2. No part of the development hereby permitted shall be occupied until such time as the access arrangements adjoining Desford Lane have been implemented in full in accordance with drawing number 981-WH-04-REV - D and hard surfaced in Tarmacadam for a distance of 7 metres behind the highway boundary. The access shall be so maintained at all times.

**Reason:** To ensure safe vehicular access to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

- WS3. Prior to occupation of any dwelling hereby permitted a scheme providing details of design and timescales for delivery of the relocation of the Kirby Muxloe village entry speed limit signs to a suitable point west of the development access on Desford Road has been submitted and approved in writing by the Local Planning Authority; The approved scheme shall be constructed in accordance with the approved details and timescale for delivery.

**Reason:** To ensure safe vehicular access to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

- WS4. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates,

barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

**Reason:** To ensure Desford Lane carriageway remains free of congestion to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

- WS5. Prior to commencement of development a construction traffic management plan, including as a minimum details of wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, shall be submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

**Reason:** To ensure no adverse impact on the highway to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

- WS6. Prior to commencement of development full details for the drainage proposal, incorporating sustainable drainage principles shall be submitted to and approved in writing by the Local Planning Authority. The proposed development shall be carried out wholly in accordance with approved details prior to occupation of any dwelling hereby permitted.

**Reason:** To ensure groundwater quality is not adversely impacted and to ensure flood risk is not created or exacerbate to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

- WS7. Prior to commencement of development a scheme for the investigation of any potential land contamination on the site shall be submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

**Reason:** To ensure appropriate remediation of contaminated land to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

- WS8. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

**Reason:** To ensure appropriate remediation of contaminated land to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

- WS9. Construction shall be limited to the following hours:  
Monday to Friday 08:00 - 18:00  
Saturday 09:00 - 13:00  
There shall be no construction working on Sundays or Bank Holidays

**Reason:** To ensure the amenity of neighbouring occupiers is not adversely impacted by the proposed development to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

WS10. Prior to commencement of development a scheme for the diversion or upgrading of public footpath S4 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with approved details prior to occupation of any dwelling hereby permitted.

**Reason:** To ensure safe pedestrian access through the site to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

WS11. Any new trees or shrubs which are proposed to be planted adjacent to the public rights of way shall be set back by a minimum of 1 metre from the edge of the footpath and be of a species which does not spread.

**Reason:** To ensure safe pedestrian access through the site to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

## 11.5 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](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.