

Planning Committee 10 April 2018  
Report of the Planning Manager, Development Management

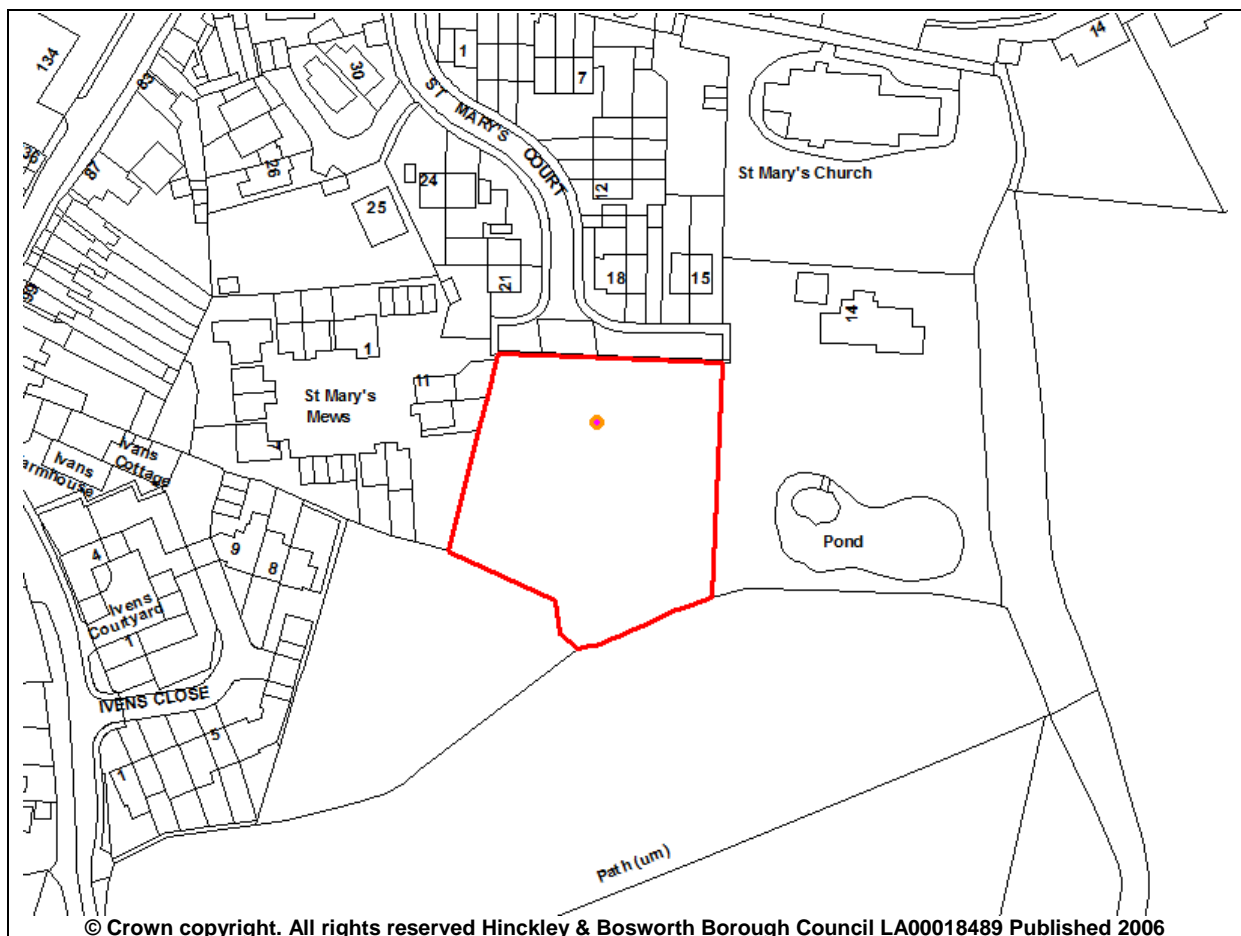


Hinckley & Bosworth  
Borough Council

Planning Ref: 18/00018/REM  
Applicant: Mr R Mahal  
Ward: Barwell

Site: Land off St Marys Court Barwell

Proposal: Approval of reserved matters (layout, scale, appearance and landscaping) of outline planning permission 16/00966/OUT for residential development of 9 dwellings



## 1. Recommendations

### 1.1. Grant approval of reserved matters subject to:

- 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.

## 2. Planning Application Description

### 2.1. This application seeks the approval of reserved matters (layout, scale, appearance and landscaping) following the approval of outline planning permission 16/00966/OUT for access only for the erection of nine dwellings on land off St Mary's Court, Barwell. The scheme proposes 2 x 2/3 bedroom detached bungalows

and 7 x 3 bedroom two storey detached houses. The layout includes two off-street parking spaces for each dwelling and a shared surface access road which is intended to be constructed to adoptable standards. Amended plans have been received to address access, layout and design issues identified. Re-consultation has been undertaken.

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

- 3.1. The application site measures approximately 0.3 hectares and is roughly square in shape. It is located outside of, but adjacent to, the settlement boundary of Barwell and within the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge. It comprises a paddock of land that has recently been cleared of heavily overgrown scrub and vegetation. The site is enclosed to the south and east by mature hedgerows and trees, to the west by a mix of hedgerow and fencing and is open to the north boundary with St Mary's Court. Ground levels fall from north to south.
- 3.2. There are residential properties to the north and west, to the east is a detached dwelling within a large garden plot and to the south there is agricultural land.

### **4. Relevant Planning History**

14/00124/OUT	Residential development of 9 dwellings (outline - access only)	Permitted	07.04.2014
16/00966/OUT	Residential development of up to 9 dwellings (outline - access only) (renewal of 14/00124/OUT)	Permitted	19.12.2016
17/00896/FUL	Erection of 14 dwellings	Refused	14.12.2017

### **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. Responses have been received from nine separate addresses objecting to the application on the following grounds:-
- 1) Outside development boundary in the Green Wedge
  - 2) 5 year housing land supply therefore no additional dwellings are required
  - 3) Highway safety – additional strain on street parking, access and egress within the close
  - 4) Lack of sustainability (location and design) of the development
  - 5) Contamination of the site by Japanese Knotweed and landfill/methane gas
  - 6) Poor design architecturally and land faces directly to the countryside and should be taken advantage of
  - 7) Levels not available
  - 8) Do the house types meet the needs of the village
  - 9) Noise and disruption to residents during construction
  - 10) Loss of wildlife habitat
  - 11) Depreciation of surrounding properties.

### **6. Consultation**

- 6.1. No objections, some subject to conditions, has been received from:-  
Leicestershire County Council (Ecology)  
Environmental Health (Pollution)  
Environmental Health (Drainage)
- 6.2. Leicestershire County Council (Highways) raises no objection in principle but advised that the originally proposed road layout did not conform to an adoptable

standard. Further comments are awaited on an amended plan submitted to seek to address the issues raised.

6.3. Leicestershire County Council (Drainage) refers to standing advice.

6.4. Barwell Parish Council raises no objections subject to the whole area of land being cleared of Japanese Knotweed by a licensed disposal company and a guarantee issued.

## **7. Policy**

7.1. Earl Shilton and Barwell Area Action Plan (ESBAAP) Development Plan Document (2014)

- No relevant policies.

7.2. Core Strategy (2009)

- Policy 3: Development in Barwell
- Policy 6: Hinckley/Barwell/Earl Shilton/Burbage Green Wedge

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.4. National Planning Policies and Guidance

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

7.5. Other relevant guidance

- Green Wedge Review (2011)

## **8. Appraisal**

8.1. Key Issues

- Assessment against strategic planning policies
- Design, layout and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Contamination
- Other issues

### Assessment against strategic planning policies

8.2. The development plan in this instance consists of the adopted Core Strategy (2009), the Earl Shilton and Barwell Area Action Plan Development Plan Document (2014) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).

8.3. Objections have been received on the grounds that the application site lies outside the development boundary in the Green Wedge and that the Council has a 5 year housing land supply.

8.4. The application site does lie outside the settlement boundary of Barwell and within the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge where acceptable land uses do not include new residential development. Therefore, residential

development would be in conflict with both Policy 6 of the adopted Core Strategy and Policy DM4 of the adopted SADMP.

- 8.5. However, this application seeks the approval of reserved matters to an extant outline planning permission for the erection of nine dwellings that was originally granted at a time when a 5 year housing land supply could not be demonstrated and the outline permission was subsequently renewed in 2014. Notwithstanding the location of the site, the extant outline planning permission must be afforded significant weight in favour of the proposal, along with the allowed appeal decision (reference APP/K2420/A/11/2167650) relating to the erection of new dwellings on land immediately to the west of the site on St Mary's Mews.
- 8.6. Accordingly, whilst the proposed scheme would be in conflict with adopted strategic development plan policies, it is considered that the acceptability of residential development of the site for nine dwellings has been established through the extant outline planning permission.

Design, layout and impact upon the character of the area

- 8.7. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.8. Objections have been received on the grounds of poor architectural design, a layout which does not take advantage of the countryside, housing mix, levels and sustainable location/design.
- 8.9. The immediate area within St Mary's Court is characterised predominantly by two storey semi-detached dwellings, which occupy linear front and rear building lines with plots of a similar size and similar footprints. Properties in the adjacent St Mary's Mews development are more modern and set out in a courtyard layout with projecting gables and detailing.
- 8.10. The proposed scheme includes four frontage properties to St Mary's Court and a small cul-de-sac serving five further dwellings arranged around and facing onto the shared surface access road. The layout, position and scale of the dwellings therefore respect the pattern of development on St Mary's Court and the adjacent St Mary's Mews. The set back of the properties from the southern boundary and the provision of rear gardens to the south of the dwellings adjacent to the open countryside provides a soft edge to the development where it meets the countryside and would therefore reduce any impact of built form on the Green Wedge. The inclusion of two bungalows adds to the housing mix within the village.
- 8.11. The proposed dwellings benefit from a number of architectural features that add interest to the design of the scheme including subordinate gables, brick plinths, canopy porches, brick eaves detailing and headers and sills to windows. Notwithstanding the objection received, it is considered that the designs would enhance the character of the area and are therefore acceptable.
- 8.12. A landscaping scheme has been submitted that includes the use of permeable paving for the shared surface access road and parking areas and the planting of new hedgerow and trees to enhance the appearance of the development along with a low level wall and new 1.8 metre high close boarded fencing to define plot boundaries.
- 8.13. Ground levels within the site fall to the south and therefore the proposed ground and finished floor levels of the development are subject to a condition requiring their submission for prior approval on the outline planning permission.

- 8.14. Barwell forms part of the urban area of the Borough and has a range of services and facilities. The site is within easy access of those facilities by sustainable transport means and therefore the location of the site is sustainable for additional housing. The dwellings would have to meet current Building Regulations standards in respect of their construction and design.
- 8.15. By virtue of the layout, scale, design, landscaping and subject to the use of sympathetic external materials which are controlled by condition on the outline planning permission, the proposed scheme would complement the character and appearance of the surrounding area in accordance with Policy DM10 of the adopted SADMP.

Impact upon neighbouring residential amenity

- 8.16. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings and that the amenity of the future occupiers of the site would not be adversely affected by activities in the vicinity.
- 8.17. The proposed scheme would have adequate separation distances of a minimum of 21 metres between habitable room windows across St Mary's Court. There would be a separation distance of at least 11 metres from the rear elevations of 11 and 10 St Mary's Mews to the proposed bungalow on Plot 9. The front elevation windows of the two storey house on Plot 8 would be offset from the rear garden of 10 St Mary's Mews.
- 8.18. By virtue of the proposed layout, scale and design the scheme would not result in any significant adverse overbearing/overshadowing impacts or result in any significant loss of privacy from overlooking to the occupiers of any neighbouring properties. The boundaries of the site and individual plots will be enclosed either by existing hedgerows or new 1.8 metre close boarded timber fencing to protect the privacy and amenity of neighbouring occupiers and future occupiers of the site. The scheme would therefore be in accordance with Policy DM10 of the adopted SADMP in this respect.
- 8.19. Objections have been received that the scheme would result in noise and disturbance to neighbouring residents during the construction phase of the development.
- 8.20. Noise and disturbance during the construction phase would be for a temporary period only and would not result in any long term adverse impacts on residential amenity of the occupiers of neighbouring properties. Conditions to control the construction phase were not recommended at the outline stage or included as conditions and cannot be included within a reserved matters application. The Environmental Health (Pollution) team have powers to address noise and air quality issues under separate legislation if these do arise.

Impact upon highway safety

- 8.21. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision to serve the development proposed.
- 8.22. Objections have been received on the grounds that there is an existing traffic congestion problem in St Mary's Court due to the nature of the road and on-street parking in the vicinity of the site. Objectors therefore consider that the scheme would exacerbate these issues, particularly during the construction phase of any development and that this would result in highway safety issues.

- 8.23. St Mary's Court is an adopted public highway that provides adequate and safe access to the application site. The proposal includes the formation of a new shared surface access road to serve plots 4 – 9 inclusive and this is intended to be constructed to an adoptable standard. The proposed scheme would also provide two-off street parking spaces to serve each of the three bedroom units in line with adopted highway design guidance.
- 8.24. Leicestershire County Council (Highways) has assessed the application and raises no objections in principle to the development as it could not be considered to result in severe adverse impacts on highway safety. An amended site access layout plan has been submitted to seek to address issues raised by the Highway Authority in respect of the adoptability of the new shared surface road. The re-consultation response from the Highway Authority on the acceptability of the amended access road layout has not been received at the time of writing this report and will be reported as a late item to this agenda. In the meantime standard highway conditions have been included in the recommendation.
- 8.25. By virtue of the constrained nature of St Mary's Court, a condition for the submission of a construction traffic/site traffic management plan for prior approval was imposed on the outline planning permission to control this aspect of the development.
- 8.26. By virtue of the small scale of development the proposal would not result in any significant adverse impacts on highway safety and, subject to there being no significant issues raised by the Highway Authority in respect of the layout of the new shared surface access road, the amended proposal is likely to be acceptable in respect of the requirements of Policies DM17 and DM18 of the adopted SADMP.

#### Contamination

- 8.27. Policy DM7 of the adopted SADMP seeks to prevent any adverse impacts from pollution by ensuring that development proposals demonstrate that appropriate remediation of contaminated land in line with minimum national standards will be undertaken.
- 8.28. Objections have been received that the site is contaminated by Japanese Knotweed and landfill.
- 8.29. In respect of potential contamination from landfill, conditions have been imposed on the outline planning permission to require a scheme for the investigation of any potential land contamination and necessary remediation works to be submitted for prior approval and also for the monitoring of landfill gas.
- 8.30. The applicant has submitted information in respect of the intended treatment of the Japanese Knotweed on the site by a specialist company including warranties, guarantees, and insurances etc. The depositing, treatment or disposal of waste is controlled under the Environmental Protection Act.
- 8.31. Subject to satisfactory investigation and necessary remediation of the site, the proposal would be in accordance with Policy DM7 of the adopted SADMP.

#### Other issues

- 8.32. Objections have been received that the proposal would result in the loss of wildlife on the site and was cleared without an ecologist being present. The site has recently been cleared of vegetation and a suitably qualified ecologist has confirmed that he was present on site to inspect each section prior to clearance being undertaken in accordance with condition 10 of the outline planning permission (reference 16/00966/OUT). There has been no loss of significant wildlife habitat from the site.

8.33. Depreciation of property values is not a material planning consideration.

## **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. Notwithstanding that the site lies outside the settlement boundary of Barwell and in the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge, there is an extant planning permission for development of the site for nine dwellings. The site is in a sustainable location to support additional residential development adjacent to the settlement boundary of Barwell which benefits from a range of services and facilities accessible by sustainable transport means.

10.2. By virtue of the proposed layout, scale, design, landscaping and subject to the use of sympathetic external materials and confirmation of levels details, the scheme would complement the character and appearance of the surrounding area and would not result in any significant adverse impacts on the amenity of any neighbouring properties or highway safety. Contamination issues are controlled by conditions on the outline planning permission and other legislation.

10.3. The scheme would be in accordance with Policy 3 of the adopted Core Strategy, Policies DM1, DM7, DM10, DM17 and DM18 of the adopted SADMP and is therefore recommended for approval subject to conditions.

## **11. Recommendation**

11.1. **Grant approval of reserved matters** subject to:

- 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. Conditions and Reasons**

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Existing and Proposed Site Layout Plan Drawing No. 2890-08 Rev D received by the local planning authority on 14 March 2018; Plot 1 Floor Plans and Elevations Drawing No. 2890-11 Rev B, Plots 2 and 3 Floor Plans and Elevations Drawing No. 2890-09 Rev B, Plot 4 Floor Plans and Elevations Drawing No. 2890-14 and Plot 9 Floor Plans and Elevations Drawing No. 2890-12 Rev C received by the local planning authority on 6 February 2018;

Plot 5 Floor Plans and Elevations Drawing No. 2890-15, Plots 6, 7 and 8 Floor Plans and Elevations Drawing No. 2890-10 Rev C and Landscaping Plan Drawing No. 2890-13 Rev D received by the local planning authority on 21 March 2018.

**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 Development Plan Document (2016).

2. Prior to the first occupation of any of the dwellings hereby permitted, the access road and turning areas shall be provided and surfaced in hard bound permeable materials in accordance with the approved Site Layout Plan Drawing No. 2890-08 Rev D received by the local planning authority on 14 March 2018 and Landscaping Plan Drawing No. 2890-13 Rev D received by the local planning authority on 21 March 2018.

**Reason:** To ensure that adequate access, turning and off-street parking provision is made in the interests of highway safety to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The soft landscaping scheme shall be implemented in accordance with the approved details submitted on Landscaping Plan Drawing No. 2890-13 Rev D received by the local planning authority on 21 March 2018 during the first planting season following the date when the dwellings hereby permitted are first ready for occupation. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.

**Reason:** In the interests of visual amenity and to enhance the appearance of the development in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. Prior to the first occupation of each dwelling hereby permitted, boundary fencing shall be erected around each plot in accordance with the details submitted on the approved Landscaping Plan Drawing No. 2890-13 Rev D received by the local planning authority on 21 March 2018.

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

#### 11.4. **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.
2. This planning permission must be read in conjunction with outline planning permission reference 16/00966/OUT and implemented in accordance with the specific details approved under the discharge of conditions imposed therein.
3. The applicant's attention is drawn to the standing advice provided by Leicestershire County Council (Lead Local Flood Authority) in their consultation response provided on 23 January 2018 and condition 6 of the outline planning permission 16/00966/OUT.



4. 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 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](http://www.leics.gov.uk/6csdg).
5. If the road within the proposed development is 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.
6. The recycling and waste collection service operates from the boundary with the public highway. If the proposed access road is to be adopted, the developer's attention is drawn to the need for the design and construction of the access road to be suitable for passage and turning of HGV waste and recycling collection vehicles. Waste and recycling bins are no longer provided free of charge and the developer, incoming residents or managing agents will need to place an order with the waste services department for their supply.