

Planning Committee 3 July 2018
Report of the Interim Head of Planning

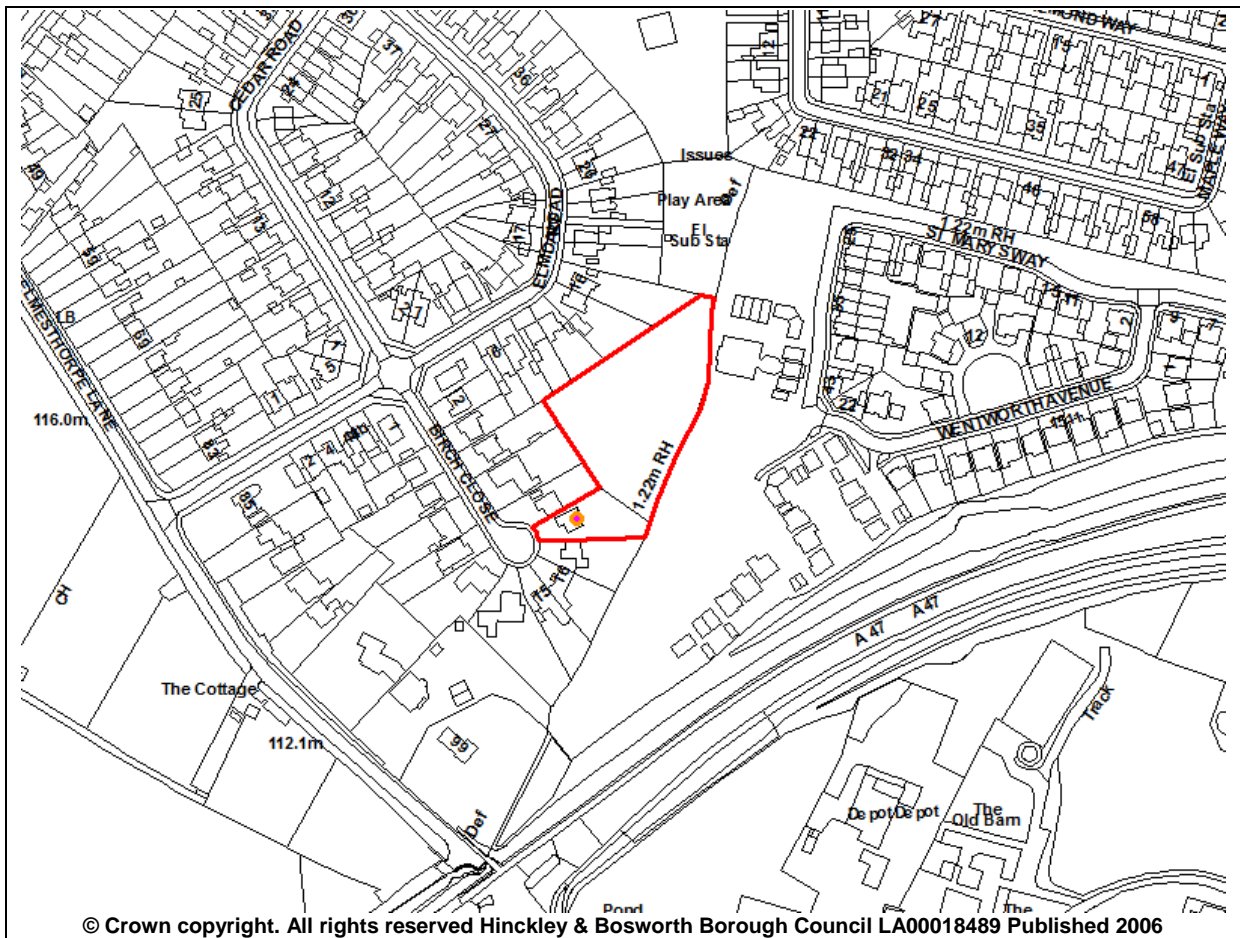


Hinckley & Bosworth
Borough Council

Planning Ref: 17/01330/FUL
Applicant: Kaplan Property Group
Ward: Earl Shilton

Site: 12 Birch Close Earl Shilton

Proposal: Demolition of existing dwelling and erection of 16 dwellings with associated vehicular access, parking and landscaping



1. Recommendations

1.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
 - 100% affordable housing provision
- Planning conditions outlined at the end of this report.

1.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.

1.3. That the Interim Head of Planning 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. The application seeks full planning permission for the demolition of an existing dwelling and the erection of 16 dwellings with access proposed from Birch Close. The internal road for the site is proposed to be accessed via Birch Close and would be facilitated by the demolition of No.12 Birch Close, which is an existing detached bungalow. The proposed dwellings are to provide affordable housing, and include no market dwellings.
- 2.2. The layout of the proposed development has been amended during the course of the application, to provide improved relationships within the site to create more activate frontage within the proposed street scene, as well as amenity spaces and parking layout. A full 10 day re-consultation has taken place.

3. Description of the Site and Surrounding Area

- 3.1. The site is approximately 0.46 hectares in size, has a triangular shape and is located on land to the rear of Birch Close and Elmdale Road. The site is within the settlement boundary as defined by the Site Allocations and Development Management Policies DPD and reiterated in the Earl Shilton and Barwell Area Action Plan.
- 3.2. The majority of the site comprises overgrown grassland. The southern section of the site comprises No.12 Birch Close, a detached bungalow, and its residential curtilage. The topography of the site slopes from the south west down to the north east. There are established shrubs, hedgerows and trees along the south western, north western and eastern boundaries in addition to several mature trees adjacent to the site.
- 3.3. The application site is located within a residential area. To the west of the application site are dwellings fronting onto Elmdale Road and Birch Close. Maple Park recreation ground is located adjacent to the north of the site. The land to the east of the application site is currently undergoing construction works for a housing development that is located within the district of Blaby.

4. Relevant Planning History

15/00650/OUT	Demolition of dwelling and erection of 14 dwellings (outline - access and layout)	Outline permission	10.05.2016
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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 and five letters of objection have been received from 5 separate addresses; the comments are summarised below:-

- 1) The road is not suitable for additional traffic
- 2) The turning circle would be lost
- 3) The access would be extremely tight making it difficult for refuse lorries to access
- 4) Where the bins would be stored for collection is a concern
- 5) Parking provision is already an issue on Birch Close and surrounding roads
- 6) There is no need for the properties due to the adjacent Morris Homes development
- 7) Loss of character to a quiet cul-de-sac
- 8) Loss of privacy to neighbouring properties

- 9) Construction will cause noise and disturbance
 - 10) Access to the site would be better through the adjacent site currently under construction
 - 11) The proposed footpath from the park is a security concern
 - 12) The proposed properties would be higher than surrounding neighbouring dwellings, which will cause privacy issues
 - 13) The layout of the proposed development is contrived and cramped and is overdeveloped
- 5.2. One letter has been received which states, they have no objection to the proposed development, however are concerned over the proposed the footpath link into the park, due to the poor drainage which exists in that area.

6. Consultation

- 6.1. No objections, some subject to conditions, have been received from:-

Environmental Health (Pollution)
Leicestershire County Council (Ecology)
Leicestershire County Council (Archaeology)
Environmental Health (Drainage)
Severn Trent
Waste Services

- 6.2. Initial comments have been received from Leicestershire County Council (Highways) but currently awaiting final comments from re-consultation.

- 6.3. Comments have been received from the Lead Local Flood Authority, who has requested further information. The applicant has provided further information and their comments are awaited

- 6.4. No comments have been received from:-

Western Power Distribution
Blaby District Council

- 6.5. Earl Shilton Town Council supports the development of the site for dwellings, as it would provide a benefit to water drainage. The site would also provide a footpath link.

7. Policy

- 7.1. Core Strategy (2009)

- Policy 2: Development in Earl Shilton
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- 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
- Design and impact upon the character of the area
- Affordable Housing
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Impact upon Ecology
- Infrastructure Contributions

Assessment against strategic planning policies

8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that the development plan is the starting point for decision making and that 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. Paragraph 13 of the NPPF states that the NPPF is a material consideration in determining applications.

8.3. The current development plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016) and the Barwell and Earl Shilton Area Action Plan.

8.4. Policy DM1 of the adopted SADMP provides a presumption in favour of sustainable development that is in accordance with the adopted development plan. Policy 2 of the adopted Core Strategy supports residential development within the settlement boundary of Earl Shilton, in a sustainable urban location. The application site also benefits from an extant outline planning permission for the erection of 14 dwellings (reference number 15/00650/OUT) which must be afforded significant weight in favour of the proposal.

8.5. Therefore, residential development would be acceptable in terms of strategic planning principles and Policy 2 of the adopted Core Strategy, subject to satisfying all other relevant policies and material planning consideration.

Design and impact upon the character of the area

8.6. Policy DM10 of the SADMP and Policy 22 of the ESBAAP seek to ensure that new development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

8.7. Birch Close is characterised by primarily detached bungalows although there are two houses to the northern end of the close. The dwellings are set back from the front boundary within wide and deep plots providing ample rear gardens. At the southern end of Birch Close where the dwellings front onto the turning circle, the plot frontages are narrower and the dwellings set further back in the plots. Elmdale Road is characterised by a mix of detached and semi-detached bungalows on narrower plots than Birch Close. Due to the topography of the area, the dwellings

along the northern side of the road are situated on higher ground than those to the south. Additionally, there are some one and half storey dwellings on lower ground to the south of Elmdale Road. To the east of the application site, a residential development is under construction comprising detached houses on relatively narrow and shallow plots.

- 8.8. The proposed development comprises a mix of detached, semi-detached and terraced houses and bungalows which is consistent with Policy 16 of the Core Strategy that requires a mix of housing types. The dwellings would be set on narrower and shallower plots than the development fronting Birch Close and Elmdale Road and would be closer related to the dwelling-to-plot size proportions of the residential development to the east of the application site. The development comprises a cul-de-sac which would create its own unique character, separate to that of the surrounding properties.
- 8.9. To the south of the site where the proposed access adjoins Birch Close the proposal seeks to erect 2 detached bungalows which would be set back from Birch Close and would allow the existing character of Birch Close to be retained, and reflect the character of the Cul-de-sac, beyond this the dwellings would be two storey in scale. Given the scale of the proposed dwellings which would reside within the application site, glimpses of the development would be partially visible from Elmdale Road. However given the varied nature of the surrounding property types this would have a limited impact upon the character of the area.
- 8.10. The proposal includes a mixture of dwellings, offering single and two storey dwellings, and would provide detached and semi detached properties. The proposed dwellings have been orientated to provide a strong street frontage and afford natural surveillance within the proposed street scene and access. The proposed development would also provide a high quality landscaping scheme, with a mix of hard surfacing to denote the public and private areas. To the rear of plot 13 and 14 is a mature sycamore tree on the adjacent land. The Sycamore tree is one of a number of trees identified within the arboriculture assessment, surrounding the site which provide a valuable contribution to the character of the area. The proposed dwellings have been positioned with sufficient separation distances to ensure the proposed development would not have an adverse impact on the longevity of important trees on the adjacent site to the north.
- 8.11. It is therefore considered that the proposed residential development would be in keeping with the character of the surrounding area and would therefore be in accordance with Policy DM10 of the SADMP and Policy 16 of the adopted Core Strategy.

Affordable Housing

- 8.12. 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. At least 480 dwellings will contribute to this target in rural areas. Policy 15 requires that for all sites, the tenure split will be 75% social rented and 25% intermediate housing. These figures may be negotiated on a site by site basis.
- 8.13. It has been identified that there are currently 996 applicants on the register for affordable dwellings for Earl Shilton. The Residential Land Availability Monitoring Statement for 1 April 2017 – 31 March 2018 identifies that since the start of the plan period to 31st March 2018, 1056 affordable dwellings have been provided. The requirement therefore to provide 2090 affordable dwellings by 2026 is not on track to being met and the proposed development of 16 dwellings with no market dwelling

provision should be given significant weight, as it would make a contribution towards meeting this identified need.

- 8.14. The application offers a mix of 10, 2 bedroomed 4 persons properties, including 2 bungalows and 6, 3 bedroomed 5 persons dwellings. The proposed scheme seeks to provide 8 dwellings for affordable rent and 8 dwellings of shared ownership.
- 8.15. Policy 15 of the Core Strategy seeks that the tenure split on site is 75% social rented and 25% intermediate housing. The application proposes to provide a 50% split on site. Whilst this is not the split as required by Policy 15, the proposed development would provide 100% affordable housing scheme, which is over and above the 20% affordable housing target on a development. The proposed development is therefore considered to be in accordance with Core Strategy Policy 15.

Impact upon neighbouring residential amenity

- 8.16. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.17. The proposed development is bound by residential dwellings, and is positioned to the east of Birch Close, to the south of Elmdale Road, and to the north of St Marys Way, Earl Shilton.
- 8.18. The proposed development would result in the demolition of an existing dwelling No.12 Birch Close, and the creation of a vehicular access to serve the development of 16 proposed dwellings. The proposed access would be situated at the end of the existing cul-de-sac, and the proposed vehicular access would extend along the rear garden of No.10 Birch Close, Earl Shilton. The proposed development would lead to an increase level of vehicular movements, creating additional noise and disturbance however this is not considered to be at a level which would have an adverse affect on residential amenity. The outline permission (reference 15/00650/OUT) granted permission for the development of 14 dwellings also did not consider the noise and disturbance to be adverse. This proposal seeks an increase the number of dwellings from 14 to 16, the increase of 2 dwellings as proposed by this scheme, would not result in any material harm in terms of additional noise and disturbance to this dwelling, over and above that which has already been approved. A condition however is necessary to ensure appropriate boundary treatment along the boundary is secured to ensure adequate private amenity space to the rear of this dwelling.
- 8.19. On the entrance into the site, the nearest residential properties, would be plots 1 and 2 situated to the south of the proposed access into the site. Plots 1 and 2 are single storey bungalows, the rear elevations would face towards the rear amenity space serving No.14 Birch Close, and proposed side elevation would be situated approximately 7.5 metres beyond the rear wall of No.14. Given the distance of the proposed dwellings from No.14 and the single storey nature of the proposed dwellings, there would be no impact upon this property in terms of overbearing impact or overshadowing to this proposal.
- 8.20. The side elevation of Plot 4, would face towards the rear garden of No.10 Birch Close, set away from the rear boundary by approximately 6 metres. Plot 4 would have a first floor window within the west facing side elevation which would face towards No.10, however this would serve a bathroom, and would therefore be obscured, and would not result in any overlooking. The rear garden to No.10 is in excess of 18 metres, and therefore given the proposed dwelling would be set away from the rear boundary, and the rear garden is of considerable length, there would

be no impact in terms of overbearing development or overlooking from Plot 4 to No.10 Birch Close.

- 8.21. Plots 5 – 8 would have rear facing elevations facing the rear elevations of No.6 and No.8 Birch Close. The rear gardens of these properties along Birch Close, are in excess of 20 metres, and would have a window to window distance of approximately 30 metres, which is in excess of the separation distances identified within the Good practice guidance, such as the Urban Design Compendium, and would therefore avoid any overlooking or overbearing impact. The side elevation of Plot 8, would face towards the rear elevations of No.10 and No.12 Elmdale Road, there would be a first floor window serving the bathroom, which would face towards the dwellings on Elmdale Road, which would be obscured and therefore avoid any direct overlooking. The garden length is in excess of 20 metres and therefore would not have adverse impact in terms of overbearing impact to these dwellings.
- 8.22. Plots 9 – 14 would have rear elevations facing neighbouring rear gardens of No.14 and No.16 Elmdale Road. The rear gardens are in excess of 20 metres in length, and the rear gardens serving Plots 9-14 would be at least 10 metres in length. Given the significant distance of it is not considered that this development would result in any overbearing impact or result in any overlooking.
- 8.23. Plot 16 is situated to the west of a newly constructed development, St Marys Way, a development comprising of 2 storey dwellings. Plot 16 is set approximately 2 metres away from the boundary and its side elevation would face the rear gardens and elevations of the dwellings along St Marys Way. A first floor window is proposed within the east facing side elevation which would face towards these dwellings, however it would serve a bathroom, and would therefore not result in any overlooking. The dwelling would be situated approximately 13 metres from the nearest dwelling on St Marys Way and therefore given the distance would not result in any overbearing impact or loss of light.
- 8.24. The proposed dwellings would be served by reasonable sized gardens to provide adequate amenity space of future occupiers. The dwellings would be sufficiently separated from one another to avoid overlooking or indivisibility of windows. Where dwellings are positioned on opposite sides of the proposed road serving the development, dwellings are set back from the road and have been positioned and designed that dwellings do not directly face into similar opposing habitable rooms, further reducing overlooking across the development. Therefore the proposed layout would afford future occupiers a reasonable level of amenity.
- 8.25. To ensure there is no detrimental impact upon neighbouring amenity during construction, Environmental Health (Pollution) have recommended a condition is attached to any planning permission to restrict the hours of construction operation.
- 8.26. The development has been designed to ensure there would be no adverse impact upon the amenity of existing and future occupiers and is therefore in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.27. 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.
- 8.28. The proposed development would incorporate the demolition of No.12 Birch Close to facilitate an access onto Birch Close. No.12 is located with access onto an existing turning circle at the end of the cul-de-sac. The proposed access would be built to a width of 4.8 metres with a 2 metre wide footpath adjoining one side of the road and a 0.5 metre service strip to the other. The Leicestershire County Council

Highways Design Guide requires accesses serving between 5 and 25 dwellings to be a minimum of 4.8 metres wide, plus 0.5 metres if bounded by a wall, fence or other structure.

- 8.29. The submitted layout plan has provision for a minimum of two spaces per dwelling which is considered the minimum provision that would be acceptable for dwellings of the proposed sizes in this location. A condition has been imposed to ensure the provision of car parking is delivered.
- 8.30. A footpath is proposed to create a pedestrian access from the site to adjoin the recreation ground to the north of the site. The proposed footpath would help to create a strong link between the proposed buildings and the existing facilities in the area.
- 8.31. The principal of an access to serve a development for 14 dwellings has already been accepted through the grant of a previous approval, however formal and final comments from Leicestershire County Council (Highways) in respect of the final detail of the proposed development will be reported by way of a late item, following their receipt.

Drainage

- 8.32. Policy DM7 of the SADMP requires adverse impacts from flooding to be prevented and that development should not create or exacerbate flooding by being located away from area of flood risk unless adequately mitigated.
- 8.33. The application site is located within Flood Zone 1 as defined on the Environment Agency flood map and therefore is at a low risk of flooding. As the existing site is greenfield land, the development is likely to lead to increased levels of surface water runoff. The application has been accompanied by a drainage strategy report and proposed mitigation measures. The Lead Local Flood Authority have advised that the documents which were initially submitted with the application were insufficient to allow a detail response. Further information has been submitted by the applicant and a further consultation has been carried out, and will be reported to committee as a late item.
- 8.34. Environmental Health (Drainage) has also assessed the submitted strategy and has no objections to the proposed scheme subject to the imposition of condition that the proposed surface water drainage scheme which accords with the submitted strategy is submitted to and agreed prior to commencement.
- 8.35. Severn Trent has no objection to the proposed development, and has provided 2 informatives to be included for the applicants information.

Impact upon Ecology

- 8.36. Policy DM6 of the SADMP states that major developments must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. On-site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term.
- 8.37. The application has been accompanied by an Ecology Report. The content of this has been considered by Leicestershire County Council (Ecology) who raise no objection to the proposed development subject to conditions. The survey identifies that the majority of the site was recently colonised scrub, with some areas of species poor grassland and tall ruderal vegetation. The proposed development would not result in any loss of habitat that would meet the Local Wildlife Site Criteria. No evidence of protected species was recorded on site, however the report does acknowledge that the site did have potential to support reptiles and badgers

and therefore the recommendations as set out in the submitted report should be conditioned.

- 8.38. Accordingly, subject to conditions the development would be in accordance with Policy DM6 of the adopted SADMP by securing biodiversity enhancements.

Infrastructure contributions

- 8.39. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities.

- 8.40. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.

1) Public play and open space

- 8.41. Core Strategy Policy 2 states that new development should address the existing deficiencies in the quality, quantity and accessibility of green space and play provision in Hinckley. New green space should meet the standards in Policy 19 of the Core Strategy. Policy 19 sets out standards to be used to determine what improvements are required to existing facilities, and what new provision is required for new development.

- 8.42. The proposal will need to provide green space and play provision using the quantity standards outlined in Core Strategy 19. The overall provision is dependant upon the number of dwellings to be provided on site. In the first instance, the green space and play provision should be provided on site. However this is not always practical due to other factors, such as minimum sizes of types of green space/play provision, levels issues, awkward site shapes. To ensure that the development is in accordance with Policy 19 of the Core Strategy if the full on-site green space and play provision is not provided contributions towards the off-site provision and maintenance of open space will be requested through a Section 106 legal agreement. For clarity, the quantity required is broken down per dwelling and the provision and maintenance figures per square metre. The contributions sought will therefore be based upon the table below:

	Provision per dwelling (2.4 people per dwelling)	Number of dwellings	Sqm to be provided	Off site provision per square metre	provision contribution	Maintenance contribution per square metre	Maintenance contribution
Equipped Children's Play Space	3.6	16	57.6	£181.93	£10,479.17	£87.80	£5,057.28
Casual/Informal Play Spaces	16.8	16	268.8	£4.44	£1,193.47	£5.40	£1,451.52
Outdoor Sports Provision	38.4	16	614.4	£9.05	£5,560.32	£4.30	£2,641.92
Accessibility Natural Green Space	40	16	640	£4.09	£2,617.60	£7.10	£4,544.00
				Provision total	£19,850.56	Maintenance total	£13,694.72

8.43. The application site is located adjacent to Maple Park, which is situated to the north of the site. Maple Park provides Equipped Children's Play Space, Casual play space, sports provision and natural green space. Maple Park has a quality score of 74% within the Open Space and Recreation Study 2016, which is below the 80% quality target score. Given the size of the units proposed it is considered that these would appeal to families and given the proximity of the application site to Maple Park, it is considered that the future occupiers would use the facilities on this site.

8.44. These contributions are considered reasonable in mitigating the impact of the proposed development upon the existing facilities and/or maintaining the green space and play provision provided on site. Subject to the signing of a Section 106 legal agreement which includes the prevailing contributions, as currently indicated above, the application is considered in accordance with Policy 19 of the Core Strategy.

Education

8.45. An assessment of the development's impact upon the local education provisions have been provided by Leicestershire County Council. These have been broken down into Primary, Secondary and Special School Requirements.

Primary

8.46. With regards to Primary School requirements the site falls within the catchment area of Townlands C of E Primary School and there are 2 other primary schools within a two mile walking distance of the development. Overall there is a surplus in this sector after taking into consideration all primary schools within the two mile walking distance of the development of 22 pupil spaces. A contribution towards primary schools is therefore not requested.

Secondary

- 8.47. The site falls within the catchment area of Heath Lane Academy, a secondary school (11-18). The school has a net capacity of 784 and 1316 pupils are projected on roll should this development is granted; a deficit of 532 pupil places after taking into account the 3 pupil places this development would generate. A total of 455 pupil places are being funded at this college from S106 agreements for other developments in this area which have to be deducted. This reduces the total deficit for this college to 77 (of which 74 are existing and 3 are created by this development). There are no other upper schools within a three mile walking distance of the site. A claim for an education contribution in this sector is therefore justified.
- 8.48. In order to provide the additional 11-18 school places anticipated by the proposed development, Leicestershire County Council requests a contribution for the 11-18 school sector of £54,354.38. This has been calculated using the deficit multiplied by the DFE cost multiplier. No contributions are requested for Special Schools Sector.

Health

- 8.49. Assessment of the impact of the development upon the health service in the area has been assessed by the NHS. It is identified that the development could have an estimated population of 39 residents (using the Census average household size of 2.4 people per dwelling). This would result in the need for 1 hour additional patient appointment per week for a consulting room and 0.30 hours additional patient appointment hours per week for a treatment room. The closest GP Practice is located at Heath Lane Surgery.
- 8.50. This centre has experienced continual growth of patient numbers which is currently impacting upon the capacity within the existing premises. To provide a comprehensive medical service to the proposed residents of this scheme an extension to Heath Lane Medical Centre would be needed to provide increased clinical space and access at the surgery. The indicative size of the premises requirements has been calculated based on current typical sizes of new surgery projects factoring in a range of list sizes recognising economies of scale in larger practices. The cost per sqm has been identified by a quantity surveyor experienced in health care projects. The cost of providing additional accommodation for 39 patients and requested contribution is £6,490.58

Libraries

- 8.51. The impact of the development upon libraries has been assessed by Leicestershire County Council. A contribution request has been made from Leicestershire County Council Library Services for £450 for use of provision and enhancement of library facilities at Earl Shilton Library on Wood Street, and to provide additional lending stock plus audio visual and reference materials to mitigate the impact of the increase in additional users of the library on the local library service arising from the development. The formula is based on £15.09 per 1 bed property, £30.18 per 2+ bed roomed properties. It is considered that the library request has not demonstrated whether the contribution is necessary and how increasing lending stock would mitigate the impact of the development on the library facility.

Viability

- 8.52. Policy DM3 of the SADMP states that where, because of the physical circumstances of the site and/or prevailing and anticipated market conditions, a developer can demonstrate that the viability of a development proposal affects the provision of affordable housing and/or infrastructure provision, the Borough Council

will balance the adverse impact of permitting the scheme on the delivery of such provision, with any appropriate evidence to support this justification.

- 8.53. A viability statement has been independently assessed by a third party instructed by the Local planning Authority. The development is for 100% affordable housing which is funded Social Housing Grant, Recycled Capital Grants programme and a further subsidy from applicants own resources. Due to the development being 100% affordable housing, lower than market rents would be achieved. The viability study identifies that the development even with internal and external grant funding, demonstrates that the development would require further subsidy from the applicants own resources to fund the development. Therefore the scheme could not sustain the requirement of Section 106 contributions and remain a viable scheme.
- 8.54. Paragraph 173 of the NPPF requires careful attention to viability and costs in plan making and decision making. Given the particular circumstances of this case and the evidence presented the proposed development would not be able to pay any contributions and remain viable and deliverable in accordance with paragraph 173 of the NPPF.

Planning Balance

- 8.55. 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. Paragraphs 8-9 confirm that the planning system should play an active role in guiding development to sustainable solutions and that pursuing sustainable development involves seeking positive improvements.
- 8.56. In accordance with Paragraph 7 of the NPPF, 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.
- 8.57. In respect of the economic role, the scheme proposed 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.
- 8.58. In respect of the social role, the scheme would provide a contribution to the overall housing supply within the Borough, however the scheme would not be capable to provide Section 106 contributions and remain viable. The proposal would provide and deliver social a 100% affordable housing, as previously discussed, the Residential Land Availability Monitoring Statement for 1 April 2017 – 31 March 2018 identifies that since the start of the plan period to 31st March 2018, 1056 affordable dwellings have been provided. The requirement therefore to provide 2090 affordable dwellings by 2026 is not on track to being met and the proposed development of 16 dwellings with no market dwelling provision should be given significant weight, as it would make a contribution towards meeting the identified need and the loss of contributions would not render the application unacceptable due to the significant weight given to delivery of 16 affordable houses.
- 8.59. In respect of the environmental role, the application site comprises predominately of overgrown grass land, which is enclosed on three sides by residential development. The site is not identified as having any high environmental value and the proposal would not result in the loss of any wildlife habitats or any other demonstrable adverse impacts on the environment. The proposed residential development would be sympathetic and significant improve the aesthetics of the site, as well as

delivering biodiversity enhancements, and would be well contained visually with appropriate landscaping proposed, links into the neighbouring play and open would be provided to the north, improving links to areas of quality public open space.

- 8.60. It is therefore considered that the benefits of the scheme, outlined above, outweigh the harm caused by the development not contributing towards loss of contributions to health, education and off site play and open space. The development is therefore considered to be acceptable.

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 application site is in a sustainable location within the settlement boundary of Earl Shilton where residential development is acceptable in principle in accordance with national and local policy. By virtue of the proposed layout the scheme would complement the character and appearance of the surrounding area and would not give rise to any material adverse impacts on the amenities of the occupiers of any neighbouring properties. Technical reports have been submitted to demonstrate that the proposal would not result in any significant environmental impacts on biodiversity, important trees, flooding or pollution. During the course of the application the applicant submitted a viability report was submitted and independently assessed, which demonstrates that the scheme could not deliver Section 106 contributions and remain viable.

- 10.2. The scheme would contribute towards affordable housing, which is considered to be a significant benefit of the scheme which would outweigh the harm caused by the absence of contributions. The proposed scheme is considered to be in accordance with Policy 2 and 16 of the adopted Core Strategy and Policies DM1, DM6, DM7, DM10 DM18 and DM17 of the Site Allocations and Development Management Policies DPD together with the overarching principles of the NPPF.

11. Recommendation

- 11.1. **Grant planning permission** subject to:

- The prior completion of a S106 agreement to secure the following obligations:
 - 100% affordable housing provision
- Planning conditions outlined at the end of this report.

11.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.

11.3. That the Interim Head of Planning be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

11.4. **Conditions and Reasons**

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

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Site Location Plan Dwg No. 4391/KP/17/001, Proposed elevations and floor plans, 2 Bed 4 Persons House Dwg No.4391/KP/17/010, proposed elevations and floor plans 3 Bed 5 Persons house Dwg No.4391/KP/17/011 received 22 December 2017, Proposed site plan Dwg No. 4391/KP/17/003 Rev J, Proposed floorplan and elevations 2 bed, 4 persons bungalow Dwg No.4391/KP/17/012 Rev A, received by the Local Planning Authority on the 13 April 2018.

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

3. Before any development commences above damp course level, 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. The development shall be implemented in accordance with those approved materials.

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

4. No development, excluding demolition, shall take place 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:

- i. Means of enclosure
- ii. Car parking layouts
- iii. Other vehicle and pedestrian access and circulation areas
- iv. Hard surfacing materials
- v. Minor artefacts and structures (e.g. furniture, play equipment, refuse
- vi. or other storage units, signs, lighting, etc.)
- vii. Planting plans
- viii. Written specifications
- ix. Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
- x. Implementation programme

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

5. The approved Landscape scheme, required by condition 4, shall be carried out in accordance with the approved details, in the next available planting period following the completion of the development hereby approved. The soft landscaping 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 works are carried out within a reasonable time period and thereafter maintained to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority details of the landscaping, boundary treatment and measures to maintain security at the dwellings adjacent to the new access (Nos.10 and 14 Birch Close). The approved details shall be completed in accordance with a timetable to be agreed in writing with the Local Planning Authority before construction of the access commences.

Reason: To ensure adequate boundary treatments to Nos. 10 and 14 Birch Close to protect the amenity of the residents in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

7. No development shall commence, excluding demolition, until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have first been submitted to and approved 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 Policy DM10 of the Site Allocations and Development Management Policies DPD.

8. Development shall not begin until surface water drainage details and calculations, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the full details prior to the completion of development.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD.

9. Construction shall be limited to 08:00 - 18.00 hrs Monday to Friday and 09:00 - 13:00hrs Saturdays with no working on Sundays or Bank Holidays.

Reason: To ensure no harm to occupiers of nearby dwellings or the environment surrounding the application site to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD.

10. Development shall not begin until a full Tree Survey to BS5837:2012 has been submitted to and approved in writing by the local planning authority. This report shall include details upon the retention and removal of trees and mitigation measures to protect retained trees during construction, including those outside the application site but adjoining the access. The development

shall be implemented in accordance with the full details of the approved survey.

Reason: To ensure that trees are not damaged during construction and that soil bulk density will not be increased and be detrimental to long-term health of the tree. In accordance with Policies DM10 and DM6 of the adopted Site Allocations and Development Management Policies Plan.

11. Prior to first occupation of any dwelling hereby permitted, a footpath shall be provided from the site to the adjacent recreation ground to the north, as shown on drawing no.4391/KP/17/003 Rev J. Details of the footpath including surface material and boundary treatment shall be submitted to and approved by the local planning authority. The footpath shall be constructed and maintained in accordance with the submitted details.

Reason: To mitigate the impact of the development and providing and promoting sustainable form of development to accord with DM17 of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 32 of the National Planning Policy Framework 2012.

12. The development shall be carried out in accordance with the recommendations found within Preliminary Ecological Appraisal December 2017 received by the Local Planning Authority 9 January 2018.

Reason: To ensure that satisfactory measures are in place to safeguard protected species in accordance with Policy DM6 of the adopted Hinckley and Bosworth Site Allocations and Development Management Policies DPD.

13. The access drive shall be a minimum of 4.8 metres wide for at least 5 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6CsDG at its junction with the adopted road carriageway. The access drive shall be provided before any dwelling hereby permitted is first occupied and shall thereafter be permanently so maintained.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD.

14. Prior to occupation of the development hereby approved, areas of parking as indicated on dwg no. 4391/KP/17/003 Rev J shall be provided, hard surfaced and marked out. The parking areas shall be retained and maintained thereafter.

Reason: To ensure that there is adequate parking provision to serve the development, and avoid on street parking to accord with Policies DM17 and DM18 of the Site Allocations and Development Management Policies DPD.

15. Before first occupation of the dwellings hereby approved, the first floor windows positioned within the side elevations, which serve proposed bathrooms of plots, 4 8 and 16 as identified within layout plan dwg no. 4391/KP/17/003 Rev J shall be fitted with obscured glazing and shall be permanently retained in that condition thereafter.

Reason: To protect the privacy and amenities of occupiers of neighbouring properties with Policy DM10 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 or call 01455 238141.
2. Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our New Connections Team (Tel: 0800 707 6600).
3. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.