

**Planning Committee 7th May 2024
Report of the Head of Planning**

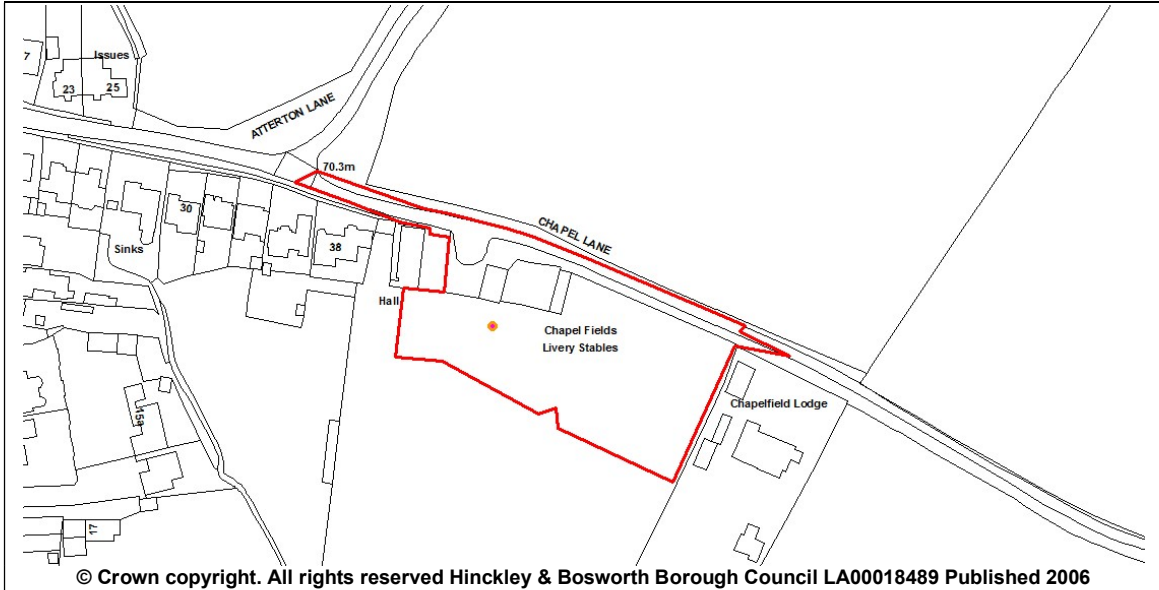


Hinckley & Bosworth
Borough Council

**Planning Ref: 23/00311/FUL
Applicant: Cartwright Homes
Ward: Twycross Sheepy & Witherley**

Site: Land Off Chapel Lane, Witherley

Proposal: Proposed construction of 5 detached dwellings with associated garages, parking provision, access, and landscaping



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.
- The Head of Planning be given powers to determine the final detail of planning conditions.

2. Planning Application Description

2.1. This planning application seeks full planning permission for the construction of five detached dwellings in a linear arrangement with associated garages, parking provision, access, and landscaping at land to the south of Chapel Lane, Witherley. This proposal is an amendment of the allowed appeal decision of full planning application, 21/01305/FUL for the provision of five detached dwellings on the site.

2.2. All five properties have a brick finish and pitched tiled roofs, and are sited in a linear arrangement, which gradually increases in scale in an easterly direction with approximate footprints from 80.3sqm to 286.4sqm respectively. Each dwelling is individually designed and they all feature a variety of architectural detailing such as brick string courses, brick corbelled eaves, and brick or sandstone window headers and sills. Four of the proposed properties feature chimneys. The rear gardens of all the properties extend to the south, with their perimeters defined by 1.8 metres high close boarded timber fencing.

- 2.3. Plot 1 has its upper floor within the roof space and has three bedrooms, a detached single garage and two additional parking spaces. The four other plots are two storey and Plot 2 has four bedrooms, a detached single garage and two additional parking spaces. Plot 3 has 5 bedrooms, a detached double garage and four additional parking spaces. Plot 4 also has 5 bedrooms but has an integral double garage with space for an additional four cars and Plot 5 has 6 bedrooms, an integral triple garage and space for an additional five cars.
- 2.4. The choice of materials for the dwellings is to be confirmed but at least two different red bricks are indicated and will be secured via planning condition when availability can be assured. However, the drives for Plots 1 and 2 are surfaced with red brick pavements, whereas Plot 3's drive is surfaced with brindle brick pavements, and Plots 4 and 5 utilise a gravel surfaced drive.
- 2.5. The existing lane in front of the dwellings is to be widened to 4.8 metres and a 2m wide footpath is provided
- 2.6. The scheme introduces native tree and hedgerow species, and wildflower plants within and along the boundaries of the parcel of pastoral land to the south of the development.
- 2.7. The Applicant is also offering a parcel of land directly behind Witherley Parish Hall to Witherley Parochial Church Council, should they request it, for seven additional car parking spaces for the village and the Parish Hall. However, it should be noted that this lies outside of the red line boundary of the application and cannot be secured via condition or legal agreement because the parking is not considered necessary to make the proposed development acceptable in planning terms. As such, it does not form fulfil any of the six tests for a valid condition, nor the CIL tests for requiring planning obligations.
- 2.8. Some minor amendments were made to the five plots on 20 September 2023 to ensure that they complied with Part O of the Building Regulations.

3. Description of the Site and the Surrounding Area

- 3.1. The 0.49 hectare application site comprises the northern part of a parcel of pastoral land, which is adjacent to, but outside of, the eastern settlement boundary of Witherley in the open countryside. Witherley is classified as a rural village within the adopted Core Strategy (2009).
- 3.2. The site lies within the Landscape Character Area G (Sence Lowlands) as classified by the Council's Landscape Character Assessment (LCA) (2017), which is characterised by hedged fields in flat-to-gently-undulating landscape with linear villages and scattered agricultural buildings.
- 3.3. The site is also identified within Landscape Sensitivity Area 3 (Witherley and Surroundings) within the Landscape Sensitivity Assessment (LSA) (2017). The LSA considers the area to have a medium sensitivity to development. However, the visual character of the area has a high sensitivity to development due to its low lying and relatively flat landform, which allows for long views across the rural landscape. The LSA states that the area between Fenny Drayton and Witherley is made up of large fields with an exposed and open character, which forms part of the wider rural landscape that is valued for walking and cycling, and therefore Public Rights of Way (PRoW) in this area are particularly sensitive.

- 3.4. Ultimately, the LSA advises that any new development should be sensitively sited, seeking to avoid significantly affecting areas of strong rurality or tranquillity and rural character, and ensure new development responds sensitively to the rural context.
- 3.5. Whilst the application site is not within, nor visible from, the Witherley Conservation Area, it is noted that common features within the Conservation Area include:
- “Gabled [roofs] with blue clay tiles or slate coverings, brick dentil courses, plain ridge chimneys, over-sailing eaves or sometimes decorative bargeboards. Brick elevations are plain with occasional ground floor bay window or modern porch... Frequent architectural details include vertically proportioned windows beneath segmented arches or stone lintels and blue canted brick cills.”*
- 3.6. The application site is located between Witherley Parish Hall to the west, and a single residential dwelling, Chapelfield Lodge, to the east. To the north and south of the application site are long views of open agricultural land. However, outline planning permission with access has been permitted by members at Planning Committee in December 2023 for a development on Kennel Lane, approximately 200 metres southwest of the application site, for up to 50 residential dwellings via planning application 22/01190/OUT.
- 3.7. The two buildings that flank the application site bear little connection to each other and do not in themselves create a sense of place. Witherley Parish Hall is a gable-fronted, single-storey brick and tile building, whereas Chapelfield Lodge is a substantial, extended, detached, two-and-a-half-storey dwelling that is set within extensive grounds. The plot is also host to a range of outbuildings that are situated along its eastern and western boundaries. The properties along Chapel Lane comprise bungalows and two-storey properties of varying design and age.
- 3.8. The site is situated along Chapel Lane, approximately 56 metres to the east of the junction of Chapel Lane and Atterton Lane. Only 37 metres of Chapel Lane is adopted and publicly maintained highway, which terminates at the Parish Hall. Therefore, the application site is accessed via a private road. Although Chapel Lane is a no-through, road that provides access to Drayton Farm Barn, the lane is well used by those who use the Parish Room, farm vehicles, and customers of the farm's boarding kennels.
- 3.9. PRoW Footpath T28 cuts southward across the western side of the application site, before proceeding southeast 124.5 metres south of the highway. The application site is considered to form part of the open countryside around Witherley, and its verdant rural landscape is experienced by those who make use of Chapel Lane, and the public footpath. As a result, it contributes to the scenery of the village, which emphasises its rural character and appearance and therefore, the site is of moderate value to the character of the surrounding area.
- 3.10. Internally, the application site is relatively flat with a small fall to the south and from Chapel Lane. The site's frontage is relatively open, with native hedgerow and trees enclosing the majority of the remaining field boundary, and there are distant views in all directions, particularly to the south.
- 3.11. There is a small area in the north-western corner of the site contains a small block of disused stables and a redundant open fronted corrugated steel barn. These structures are very overgrown by vegetation to the extent that the majority of the previous development on the site has merged into the landscape. The rest of the application site consists of paddock land.

- 3.12. There is one Category B tree that is set slightly back from the road frontage, close to the Parish Hall. There is one large and also a few smaller category C trees. Trees fall within four categories, the highest category, A, being trees of high value and highway quality, with Category U being trees that are unsuitable for retention.

4. Relevant Planning History

4.1 21/01305/FUL

- The construction of five detached dwellings, with associated garages, parking provision, access and landscaping
- Refused and subsequent appeal allowed
- 22.12.2022 and 27.03.2024

4.2 18/00034/PP

- Erection of 10 dwellings and associated access
- Appeal dismissed.
- 16.11.2018

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.

- 5.2 One letter of support was received for the application for the following reasons:

- A small number of houses does not have a significant adverse impact on the countryside.
- The development's proximity to Witherley Parish Hall will not adversely impact the future occupiers of the proposed dwellings.
- Hinckley and Bosworth Borough Council do not have a five-year housing land supply.
- Hinckley and Bosworth Council do not have an up-to-date local plan.
- Witherley needs more housing to support its existing infrastructure.
- Witherley Parish Council's response to the development does not represent the opinions of the residents of Witherley.

- 5.3 Eight members of the public have objected to the scheme on the following grounds:

- Dependence on private motorised vehicles.
- Drainage concerns.
- Ecological harm.
- Exacerbating ribbon development.
- Flooding concerns.
- Harm to the countryside by virtue of widening Chapel Lane.
- Harm to the residential amenity of the future occupants due to Witherley Parish Hall.
- Highway safety concerns.
- Increasing pressure on existing infrastructure.
- Lack of infrastructure within Witherley to support further residential development.
- Pedestrian safety concerns.
- Significant adverse harm to the countryside.
- The development does not reflect the housing needs of Witherley.
- There are no turning facilities or passing points along Chapel Lane for vehicles.

- There is no change within this proposal in comparison to the previously refused scheme in 2022.
- Unsustainable location for development.
- Urbanising impact on the character of the street scene.

5.4 Members of the public have also highlighted that the development is outside of the Witherley settlement boundary in the open countryside, and the application site is not included within Hinckley and Bosworth Borough Council's Local Plan Site Allocations, nor the Witherley Neighbourhood Plan (WNP)'s site allocations. It is also noted that an important viewpoint is near the site within Policy ENV10 of the WPCNDP.

Important View 10 of the WNP is the view south towards Witherley from Footpath T34 with the spire of St. Peter's Church in the distance. It is noted by the Planning Officer that Figure 14 of the WDP demonstrates that the application site is not within this important view.

5.5 Several members of the public have also expressed highway safety concerns in relation to the current access and egress into Witherley via Kennel Lane to and from the A5, which they consider the development to exacerbate. Another member of the public has questioned the ownership of Chapel Lane.

It is noted by the Planning Officer that issues relating to ownership are not considered to be a material planning consideration.

5.6 One member of the public raised concerns about the legality of the existing buildings on site and suggested that the structures on site were only granted a five-year temporary planning permission in the early 1990s.

The Planning Officer can confirm that the planning application, 88/00813/4, for the retention of 13 stables within the application site was granted planning permission. Condition 01 of that the planning permission was limited to the period expiring on 24 June 1993. However, the Planning Officer notes that there are no temporary planning conditions on the planning permission for the development of the general-purpose agricultural building, 97/00027/FUL.

5.7 In addition, another member of the public suggested that National Highways did not currently support any additional housing development in Witherley. The Planning Officer notes that National Highways responded to the Regulation 16 consultation for the WNP in November 2022 and stated,

"We have already identified capacity issues with the A5/ Kennel Lane junction. Our stance has been not to encourage developments that will increase traffic volume using the junction without more substantial improvements works to be done. However, we understand there is a local need for dwellings and affordable housing, especially over the period up to 2039. Although there is currently no committed improvement work to the concerned junction, we anticipate working with the Council and stakeholders on improvement schemes in the future, which would enable growth in this area."

5.8 No further responses have been received.

6. Consultation

- 6.1 One response from a Councillor supports the application because the rural village needs further development to support its existing facilities such as its primary school.
- 6.2 Witherley Parochial Church Council objects to the planning application on the following grounds:
- Adverse impacts to the users of Witherley Parish Hall in relation to parking issues.
 - Highway safety concerns.
 - Noise pollution concerns due to the regular events at Witherley Parish Hall.
- 6.3 Witherley Parochial Church Council also express concerns over the Applicant's ability to widen Chapel Lane because the Applicant does not own the road or the adjacent grass verges.
- 6.4 Witherley Parochial Church Council request that, should planning permission be granted, that the Applicant's offer to transfer land to Witherley Council shown as, "Parish Hall car park," on the Proposed Site Layout Plan 22.124.P02, is secured by way of planning condition or Section 106 (S106) obligation.
- 6.5 Witherley Parish Council also objected to the planning application on the following grounds:
- The access road into the site is private and does not belong to the Applicant.
 - The application site is not included within the Hinckley and Bosworth Borough Council's Local Plan Site Allocations, nor the site allocations of Witherley Neighbourhood Development Plan.
 - The application site is identified within Policy ENV10 of the Witherley Neighbourhood Development Plan as providing an important view.
 - The development does not provide the types of housing that Witherley requires.
 - The development exacerbates ribbon development in the area.
 - Development within the designated countryside, contrary Policy 12 of the Core Strategy.
 - Ecological concerns with the loss of hedgerow and habitat.
 - Harm to the intrinsic value, beauty, undeveloped rural character of the countryside and the rural setting of Witherley.
 - Highway safety concerns onto Atterton Lane.
 - Highway safety concerns in relation to the identified problems with the Kennel Lane/ A5 Junction.
 - Increasing existing flooding issues in Witherley Brook.
 - Loss of green fields and pastoral land.
 - The proposal to widen Chapel Lane to facilitate the development fundamentally and unsympathetically alters the character of the rural lane, thus having an urbanising effect on the area.
- 6.6 Witherley Parish Council request that the Applicant specified individual septic tanks for each dwelling so as not to increase the burden upon the existing foul drainage system in the village.

It is noted by the Planning Officer that discussions of legal ownership of land are not considered to be material planning considerations within the determination of planning applications.

- 6.7 There have been no objections from the following consultants:
- Environment Agency
 - Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer (subject to conditions)
 - HBBC's Environmental Services' Pollution Officer (subject to conditions)
 - HBBC's Waste Management Officer
 - Leicestershire County Council (LCC)'s Archaeological Team (subject to conditions)
 - LCC's Ecology (subject to conditions)
 - LCC's Tree Officer
 - Local Highway Authority (LHA) (subject to conditions)

6.8 No responses have been received from: the Environment Agency, LCC Ecology, LCC Public Rights of Way, Severn Trent, HBBC's S106 Monitoring Officer, nor Western Power Distribution.

Archaeology

6.9 In accordance with Paragraph 194 within Section 16 of the National Planning Policy Framework (NPPF), the development area is of archaeological interest and also has the potential for further unidentified archaeological deposits. Based upon the available information, it is anticipated by LCC Archaeology that these remains, whilst significant and warranting further archaeological mitigation prior to the impact of the development, are not of such importance to represent an obstacle to the determination of the application.

6.10 Therefore, LCC Archaeology have recommended a post-determination programme of archaeological assessment to be secured via planning condition. This archaeology assessment should include an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary, by intrusive and non-intrusive investigation and recording. Furthermore, the Applicant must obtain a suitable Written Scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the Local Planning Authority.

Drainage (Local Lead Flood Authority (LLFA) and HBBC Drainage)

6.11 The Local Lead Flood Authority (LLFA) notes that the application site is located within Flood Zones 1, 2, and 3, which is considered to be at a low to high risk of fluvial flooding, and a low to high risk of surface water flooding.

6.12 In spite of this, the LLFA offers no comment on the application. In addition, the Environment Agency accepts the findings of the Applicant's flood risk assessment and have no objections to the scheme.

6.13 The Council's Drainage Officer has no objection to the scheme, subject to the three pre-commencement planning conditions that: ensure a scheme to provide a sustainable drainage system in accordance with the Flood Risk Assessment (including proposed flood mitigation dated October 2021; provide details in relation to the management of surface water on during construction of the development; and details in relation to the long term maintenance of the sustainable surface water drainage system on the development.

Ecology

6.14 The Applicant has not submitted a biodiversity net gain metric spreadsheet for the development, but the Updated Biodiversity Impact Assessment states that the

development does not achieve on site biodiversity net gain (BNG). In spite of this, current DEFRA guidance (February 2023) states that residential developments under 1 hectare and less than ten residential plots are exempt from BNG metric calculations until April 2024. Consequently, there is no requirement for this site to provide on-site BNG in the context of achieving +10% BNG within a 30-year period.

- 6.15 After reviewing the Applicant's Ecology eDNA assessment, LCC Ecology have no further requirements in relation to the protection of bats and Great Crested Newts, subject to four planning conditions. The four planning conditions include: a detailed landscape scheme, which sets out the proposed plant species establishment; proposals for the bat box and on-site enhancements on buildings such as the installation of bat and bird boxes with the specification, orientation, and location shown; a condition regarding the removal of vegetation or the demolition of structures in relation to breeding birds; and a condition regarding the use of external lighting within the site in relation to foraging and commuting bats.

Highways

- 6.16 On 24 April 2023, the Local Highway Authority (LHA) requested revised, consistent drawings and information in order for the LHA to be able to accurately assess the proposals, and to ensure any conditions required do not show different details to protect the integrity of the decision.

- 6.17 Additional information was provided by the Applicant on 20 July 2023. Following this information, the LHA requested a revised plan demonstrating the boundary treatment around the proposed car park for the Parish Hall to ensure that nothing is planted or erected within 1 metre of the definitive line of the Public Right of Way.

- 6.18 A revised plan was received on 01 August 2023, and the LHA confirmed that the location of the proposed fence does not impede the use and enjoyment of the Public Right of Way. However, the LPA has requested a planning permission to ensure that the 1.2-metre-high post and rail fence at the Parish Hall is implemented and retained in perpetuity.

Pollution

- 6.19 The Council's Pollution Officer requested four planning conditions in relation to a scheme for protecting the proposed dwellings from music noise levels from the adjacent Witherley Parish Hall; a scheme for investigation of any potential land contamination on the site prior to the commencement of development on site, as well as an addendum to this scheme if during development previously unidentified contamination is found; and the limiting of site preparation and construction hours.

Waste

- 6.20 The Council's Waste Management Officer requested that adequate space at the properties is provided to store various containers (up to three bins per dwelling) and space at the kerbside (where the properties meet the public highway) for the placement of the containers on collection day. If the access road is not constructed to a suitable standard, then consideration will be needed to provide adequate and safe collection point space at the adopted highway boundary for the placement of all the containers on collection day (up to two bins per property at one time).

- 6.21 No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):

- Policy 12: Rural Villages

- Policy 16: Housing Density, Mix and Design
- 7.2 Site Allocations and Development Management Policies (SADMP) DPD (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
 - 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 DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
 - Policy DM25: Community Facilities
- 7.3 National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (2021)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.4 Other Relevant Guidance:
- Good Design Guide (2020)
 - Landscape Character Assessment (2017)
 - Leicestershire Highway Design Guide (LHDG) (2022)
 - Technical Housing Standards – Nationally Described Space Standards (2015)
- 7.5 On 25 January 2023, the Witherley Neighbourhood Plan (WNP) proceeded to local referendum, which took place on 04 May 2023. On 04 May 2023, the result of the referendum was a vote against the Neighbourhood Plan, and therefore the plan is not made and does not form part of Hinckley and Bosworth Borough Council's Development Plan. Given the above, the WNP carries no weight in the decision-making process.
- 7.6 Whilst the adopted Core Strategy sets a housing requirement of 10 dwellings for Witherley, the Site Allocations and Development Management Policies Development Plan Document did not allocate any housing sites to the rural village due to the development constraints in Witherley itself, and because other settlements were categorised as at the lower end of the settlement hierarchy, which were not considered to be sustainable settlements for the purpose of allocating housing sites.
- 8. Appraisal**
- 8.1. The key issues in respect of this application are therefore:
- Principle of Development
 - Housing Land Supply
 - Impact upon Parking Provision and Highway Safety
 - Design and Impact upon the Character of the Area
 - Impact upon Residential Amenity
 - Flood Risk and Drainage
 - Ecology, Biodiversity, and Trees
 - Planning Balance

Principle of Development

- 8.2. The development of five dwellings in this location was approved by the Inspector within the allowed appeal decision of full planning application 21/01305/FUL. Therefore, the principal of the provision of five dwellings in this location has been established. As such the application is acceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Housing Land Supply

- 8.3. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.4. Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.5. Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), the Council are able to demonstrate 4.89 years of deliverable housing as of 01 April 2022.
- 8.6. In addition, both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.7. Given the above and the change in the housing figures required for the Borough, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered.
- 8.8. Paragraph 11 (d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.9. Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay.
- 8.10. Paragraph 78 of the NPPF states that planning policies should be responsive to local circumstances and support housing developments that reflect local needs, and Paragraph 69 of the NPPF states that small and medium sized sites, such as windfall sites, can make an important contribution to meeting the housing requirements of an area. Paragraph 79 of the NPPF states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

- 8.11. Within the 2020 Strategic Housing and Employment Land Availability Assessment (SHELAA) report, the application site was described as, “*Developable.*” However, Paragraph 2.3 of this report states that.

“The SHELAA is an evidence base document to inform plan making. It is not a decision-making document, and it does not in itself determine whether or not a site should be granted planning permission or allocated for development.”

With this in mind, classification of the site within the SHELAA report is not considered to be a material planning consideration because it is not a land that has been formally allocated by the Council for housing.

- 8.12. The development is for five residential properties in a rural area, and therefore, in accordance with Policy 15 of the adopted Core Strategy, two (40%) of these dwellings should be provided as affordable housing. In spite of this, the application does not suggest any contribution to the provision of affordable housing within the Borough.
- 8.13. As the scheme does not provide ten or more dwellings, Policy 16 is not applicable for this proposal.
- 8.14. In summary, whilst the Council is currently unable to demonstrate a five-year supply of housing, it is unlikely that the provision of five dwellings within this application site will provide any significant benefits to the housing land supply within the Borough. Given the above, it is considered that limited weight should be given to the provision of five dwellings.

Impact upon Parking Provision and Highway Safety

- 8.15. Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.16. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible, and convenient locations. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.17. Policy 14 of the adopted Core Strategy requires developments to support accessibility within rural areas by:
- Supporting the delivery of a viable, high quality public transport network between the Key Rural Centres and their nearest urban centre and between the Rural Villages and their nearest Key Rural Centre or urban centre.
 - Supporting the provision of accessible transport services for mobility impaired and rurally isolated residents.
 - Delivering safe cycle paths as detailed in the Hinckley & Bosworth Council's Rural Parishes Cycling Network Plan. This will deliver safe routes to school, to residential and employment areas, Key Rural Centres/urban areas, community, and leisure facilities and into the countryside.

Developers will be required to contribute towards these initiatives through developer contributions and/or land where they meet the tests set out in National Guidance. New development that would prejudice their implementation will not be permitted.

- 8.18. Section 9 of the NPPF promotes sustainable transport. Paragraph 124(c) of the NPPF states that planning decisions should support development that makes efficient use of land, when taking into account, *“The availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use.”*
- 8.19. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).

Site Access

- 8.20. Following revised plans, the Local Highway Authority (LHA) are satisfied that all plots accord with Figure DG17 of Part 3 of the LHDG in terms of access width and pedestrian visibility. In addition, the LHA consider all plots to accord with Table DG4 of Part 3 of the LHDG in terms of vehicular splays. The Applicant is also proposing a 2m wide footway to the front of the site, which is welcomed by the LHA.
- 8.21. The Parish Hall has an access width of 3.365 metres, which is less than the 6 metres access width that the LHA would normally request to ensure that vehicles can pass within the access in accordance with Figure DG20 of Part 3 of the LHDG. However, given the access is onto a private road, adjacent to a 3.7 metres pinch point, which is likely to act as a speed reducing feature, the LHA are not seeking amendments in this instance.
- 8.22. Whilst the vehicular visibility splays to the west are lower than the requirements of the LHA, the Applicant has stated that 43 metres visibility splay is not possible due to the pinch point of the Parish Hall. The Applicant considers this visibility splay sufficient because the proposed narrowing feature is likely to reduce drivers speeds as they will need to drive more cautiously in case of oncoming traffic. In addition, due to the proximity of the junction with Atterton Lane, drivers would have to reduce their speeds before turning onto Chapel Lane. The LHA consider the Applicant’s methodology acceptable and accept that vehicular visibility splays of 2.4 metres by 43 metres to the east and 2.4 metres by 32 metres to the west of the access is acceptable in these site-specific circumstances.

Internal Layout

- 8.23. The LHA consider Plots 3, 4, and 5 to be in accordance with Paragraphs 3.151 (Quantum), 3.165 (Dimensions), and 3.200 (Garages) of part 3 of the LHDG. Whilst the LHA would normally seek to resist garages being built parallel to the highway, as they access onto a private road, the LHA are not seeking any amendments in these site-specific circumstances.
- 8.24. Although Plots 1 and 2 accord with Paragraphs 3.151 and 3.200 of Part 3 of the LHDG, it is noted that the off-street vehicle parking spaces are only 3.365 metres wide. In accordance with Paragraph 3.165 of Part 3 of the LHDG, these parking spaces should be 3.4 metres wide. However, given the minimal difference in size,

and the spaces access onto a private road, the LHA are not seeking any amendments in these site-specific circumstances.

- 8.25. Within this development, the Applicant has provided land for the Parish Hall for additional car parking. However, the final use of this area of land is at the discretion of the Parish. Nevertheless, given the small scale of the area, if it was utilised as a car park, the LHA are not able to demonstrate that the increase in vehicles leads to highway capacity issues within the area. Moreover, any additional off-street parking is likely to lead to less inconsiderate parking within the area.
- 8.26. The Applicant has provided 1.2-metre-post-and-rail fencing around the gifted land to the Parish Hall, which the LHA have confirmed does not impede the use and enjoyment of the Public Right of Way, T28.

Summary

- 8.27. To conclude, the scheme provides adequate off-street vehicle parking provision in accordance with Policy DM18 of the SADMP. Due to this and the compliance of the site access with the LHDG, in these site-specific circumstances, the development is not considered to create an unacceptable impact on highway safety or the road network. Therefore, the scheme is considered to be compliant with aspects of Policy DM17 of the SADMP, and in accordance with Policy DM18 of the SADMP, and the LHDG.

Design and Impact upon the Character of the Area

- 8.28. Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.29. Policy DM4 of the SADMP states that development in the countryside will be considered sustainable where:
- i.) It does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside; and
 - ii.) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii.) It does not create or exacerbate ribbon development.
 - iv.) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
 - v.) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21.
- 8.30. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features.
- 8.31. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment.
- 8.32. In accordance with the LSA, any new development should be sensitively sited, seeking to avoid significantly affecting areas of strong rurality or tranquillity and rural character, and ensure new development responds sensitively to the rural context.

- 8.33. The site is located within the open countryside, outside of the settlement boundary and is therefore considered in conflict with Policy DM4 of the SADMP in principle.
- 8.34. In comparison to the design of the allowed appeal decision of full planning application 21/01305/REM, several amendments have been made including the redesign of all five properties, and their relocation further back from the public from the highway.
- 8.35. Whilst Plot 1 has experienced some reductions in scale and size, Plots 2 and 3 are considered to have minimal decreases in scale and size, and Plots 4 and 5 have significantly increased in scale and size.
- 8.36. Subsequently, all five dwellings range between 7.2 metres and 9.3 metres in height, which is up to a metre larger in height than the previously approved design, and between 80.3 square metres and 286.4 square metres in their external footprint. These dwellings are significantly larger than the Parish Hall, and the residential bungalows to the west.
- 8.37. Whilst the scheme is more modern in design in comparison to the previously allowed development, the proposal still utilises features such as gabled roofs, brick detail courses, plain ridge chimneys, brick elevations, and occasional bay windows on the ground floor, which are all common features within the Witherley Conservation Area and the character of the surrounding area.
- 8.38. Although the exact materials have not been confirmed at this stage, this can be secured via condition to ensure that the appropriate materials such as blue clay tiles or slate roof coverings are utilised alongside an acceptable brick finish to preserve and enhance the character of the surrounding area.
- 8.39. Ultimately, the scheme infills the gap in development at the edge of the village, which reduces the site's positive contribution to its rural setting. However, the scheme's effect on medium and longer distance views is considered to be limited or minimal due to the screening effect of surrounding built or natural form and to the limiting effect of the relatively flat topography on visibility from greater distances. It is therefore considered that landscape harm arises, in the main, from the loss of the site's spacious and rural character to development. Once built, a somewhat urbanised appearance is likely to arise from the development's closely spaced buildings. Nevertheless, the site's context includes dwellings within Witherley that are relatively closely spaced, so the scheme is not considered to appear so incongruous within its setting as to be unacceptable in this regard.
- 8.40. In addition, the development is likely to be highly visible to users of Public Right of Way T28 where it passes through the field behind the site and from the corner of the adjacent field. However, these views are considered to be partially screened behind Chapelfield House and vegetation within more distant views from the Public Right of Way where it crosses fields to the south-east of the site. Whilst hedgerow planting is proposed and is likely to offer some softening to the development's visual effect, it is not considered that such planting is likely to overcome the effect of the loss of the site's spacious and rural appearance. Consequently, the development is not considered to contribute to, nor enhance the natural or local environment.
- 8.41. Nevertheless, the scheme utilises a linear layout, which accords with the characteristic settlement patterns of linear villages identified in the LCA. Therefore,

although the scheme does result in the loss of the spaciousness and rural character of the site, the extent of this harm is reduced by its limited scale and linear pattern.

- 8.42. The development is not within the identified settlement boundary of Witherley, in the open countryside, which is likely to result in harm to the character of the area in principle. Moreover, the design of this scheme is considerably larger than the design of the properties within the allowed appeal decision of 21/01305/FUL, which is likely to result in harm to the spacious and rural character of the site.
- 8.43. However, given existing urbanised and closely spaced residential development is within the site's context to the west, and due to the scheme's linear layout, the harm caused by the proposal is not considered to be unacceptable. Moreover, the extent of the harm to the character of the area is considered to be largely limited from medium-to-long distance views of the site due to the screening effect of surrounding built or natural form and to the limiting effect of the relatively flat topography on visibility from greater distances. Therefore, the limited localised harm of the development must be weighed against the benefits of the scheme in the planning balance.

Impact upon Residential Amenity

- 8.44. Section 8 of the NPPF requires planning policies and decisions to promote healthy, inclusive and safe places. Paragraph 130(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.45. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.46. In accordance with National Policy, Policy DM10 of the SADMP requires that proposals do not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.47. Paragraph 187 of the NPPF states that planning decisions should ensure that new development can be integrated effectively with existing community facilities and that existing facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. This is supported within Policy DM25 of the SADMP, which states that the Council will resist the loss of community facilities.
- 8.48. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable, and safe internal and external environment.
- 8.49. It is not considered that the provision of five dwellings in this location results in a significant adverse impact on neighbouring properties in relation to noise pollution.

- 8.50. There is thick vegetation between the development and the residential property to the east. Existing outbuildings are also present within the neighbouring residential dwelling's occupancy that are between the property and the application site. There is only one window on the western side elevation of the existing residential property, which is not considered to be a principal habitable window. Given the above, it is not considered that the development results in significant adverse harm to the residential amenity of the existing residential dwelling to the east of the site.
- 8.51. To the west of the application site is Witherley Parish Hall. As this is a community building, this is not considered to be impacted by significant adverse harm in relation to residential amenity. There are no windows on the western side elevation of Plot 1, and therefore the development is not considered to result in any loss of privacy to either the occupants of Plot 1, or the Parish Hall.
- 8.52. Within the current planning application, Plot 1 has been relocated so it is now 14.3 metres east of the Parish Hall. It has been highlighted by the Applicant that this distance is further than the separation distance between 38 Chapel Lane and the Parish Hall, which is only 9.3 metres at the front of the property, and 13.6 metres towards the rear of the property.
- 8.53. As per the recent Appeal Decision of 21/01305/FUL, the Parish Hall's schedule of events indicated that it is booked to host a limited number of regular classes per week during March 2024 including craft and exercises classes. Notwithstanding this, the hall is available for hire and has no restrictions on its hours of use, so that it could hold functions which include amplified music late into the night.
- 8.54. The Applicant's Noise Impact Assessment (NIA) sets out guidance from the relevant British Standard (BS) for acoustic requirements within buildings. The assessment records the results of a survey carried out at the development site for five days in June 2021. No large events took place at the Parish Room over that period, and COVID-19 restrictions in force at that time would have prevented these. Measured sound levels over the period at the proposed location of the garden to Plot 1 achieved the BS criteria without further mitigation, in typical conditions.
- 8.55. The assessment anticipates some noise break-out from the Parish Room during live music events, particularly when windows are open on its eastern and southern elevations. As the property at Plot 1 would lie closest to the parish room, it would be most affected by such noise. Archive data on the levels of noise from venues during a live pop/rock band performance and a disco was used, as no such events occurred at the hall over the measurement period.
- 8.56. The assessment recommends that all habitable rooms which directly overlook the Hall should have an appropriate acoustic rated glazing system and alternative means of ventilation to control external noise break-in during occasional music events at the venue. The assessment does not discuss whether the sound levels in the garden to Plot 1 would be acceptable during such events, or whether mitigation would consequently be required, in any detail.
- 8.57. Consequently, it is likely that noise levels in the garden to Plot 1 would exceed the British Standard limits if windows at the Hall are open and amplified music is being played at an event. In spite of this, based on the current use of the Parish Hall and given the small size of the Parish Hall and its modest off-street parking provision, the frequency of social functions with amplified music being hosted at the Parish Hall is likely to be limited. In addition, the Applicant's Freedom of Information request has confirmed that no noise related complaints have ever been received in

relation to activities being undertaken from the Parish Hall. It is also noted that the Council's Pollution Officer has requested a planning condition to secure a scheme for protecting the proposed dwellings from noise levels from the adjacent Parish Hall prior to the commencement of the development.

- 8.58. In light of the above, it is not considered that events with amplified music of a sufficient volume and duration to cause disturbance to Plot 1 are likely to place frequently enough to have more than a minimal adverse effect on the residential amenity of the future occupiers of the scheme. Furthermore, the planning condition to secure a scheme for protecting the proposed dwellings from noise levels from the adjacent Parish Hall is likely to further reduce this impact.
- 8.59. Nevertheless, this minimal harm to the residential amenity of the future occupiers of Plot 1 should be weighed against the benefits of the scheme in the planning balance.

Flood Risk and Drainage

- 8.60. Paragraph 167 of the NPPF states that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. This is supported by Policy DM7 of the SADMP, which seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.61. The application site lies within Flood Zone 1 of the Environment Agency Flood Maps and is not shown to be at risk from surface water flooding, although the field beyond the rear boundary of the proposed gardens is liable to flooding from both rivers and surface water, as is the highway to the west of the site.
- 8.62. Severn Trent have not responded to this application; however, they raised no objections to the previous planning application, 21/01305/FUL. It is also acknowledged that the Lead Local Flood Authority and the Council's Drainage Officer did not have objections to the scheme, subject to pre-commencement planning conditions.
- 8.63. Therefore, it is considered that, surface water drainage can be adequately dealt with via planning conditions in these site-specific circumstances. Subject to these planning conditions, the development is considered to be acceptable with respect to flooding and surface water issues, and therefore complies with Policy DM7 of the SADMP, and the NPPF.

Ecology, Biodiversity and Trees

- 8.64. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management.
- 8.65. LCC Ecology have not responded to this planning application, but it was acknowledged within the previous planning application that, whilst there is a net loss in biodiversity on the site itself, the remainder of the field is in the ownership of the Applicant, and additional habitat creation can be secured via planning condition in order to achieve a biodiversity net gain.

- 8.66. The scheme is considered to comply with Policy DM6 of the SADMP, and the requirements of the NPPF, subject to planning conditions in relation to biodiversity net gain.

Planning Balance

- 8.67. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.68. The Council cannot demonstrate a five-year supply of housing land and the housing policies most important for determining the application are out of date. Therefore, it is necessary to consider the 'tilted' balance in accordance with Paragraph 11(d) of the NPPF, where planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 8.69. Ultimately, a development of five dwellings has been approved on the site via the allowed appeal decision of full planning application 21/01305/FUL, which is a significant material consideration within this development.
- 8.70. In summary, the development is likely to result in harm to the spaciousness and rural character of the application site. However, this harm is likely to be restricted to short views of the site due to the screening effect of surrounding built or natural form and to the limiting effect of the relatively flat topography on visibility from greater distances. Therefore, and with regard to the allowed appeal decision, this harm is considered to attract limited weight in the planning balance.
- 8.71. In addition, it is not considered that events at the Parish Hall with amplified music of a sufficient volume and duration to cause disturbance to Plot 1 are likely to take place frequently enough to have more than a minimal adverse effect on the residential amenity of the future occupiers of the scheme. Therefore, this harm is also considered to attract limited weight in the planning balance.
- 8.72. On the other hand, it is acknowledged that there are potential social benefits from the scheme such as providing housing for a range of occupants including families, which would support the Borough in providing more housing to achieve a five-year supply of land for housing. Moreover, there are economic benefits associated with the construction of the dwellings and the future occupant's opportunity to act as new customers and employees for local businesses and services. It is considered that these benefits are offered moderate weight within the planning balance. Nevertheless, these benefits when associated with five dwellings are limited, and are not considered to maintain or enhance the local community.
- 8.73. To conclude, the development results in limited harm to the character of the surrounding area and minimal harm to the future occupants of Plot 1 due to the infrequent potential for events with amplified music to be take place within the Parish Hall. However, the scheme also results in limited social and economic benefits. In light of the 'tilted' balance in accordance with Paragraph 11(d) of the NPPF and the significant material consideration of the allowed appeal decision of full planning application 21/01305/FUL, it is not considered that the adverse impacts of granting permission significant and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

8.74. Therefore, as the proposal benefits from the presumption in favour of sustainable development, the scheme is considered to be acceptable in these site-specific circumstances.

9. Equality Implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1 Taking National and Local Planning Policies into account, and regarding all relevant material considerations, it is recommended that planning permission is granted, subject to the imposition of appropriate conditions.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

11.2 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 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:
 - Block Plan 22-124-PL02 (submitted: 29.03.2023)
 - Landscaping Strategy 7642-ASP3-LSP-A (submitted: 29.03.2023)
 - Plot 1 Proposed Floor Plans and Elevations 22-124-PL05-A (submitted: 20.09.2023)

- Plot 2 Proposed Floor Plans and Elevations 22-124-PL06-A (submitted: 20.09.2023)
- Plot 3 Proposed Floor Plans and Elevations 22-124-PL07-A (submitted: 20.09.2023)
- Plot 4 Proposed Floor Plans and Elevations 22-124-PL08-A (submitted: 20.09.2023)
- Plot 5 Proposed Floor Plans and Elevations 22-124-PL09-A (submitted: 20.09.2023)
- Proposed Double Garage 22-124-PL11 (submitted: 29.03.2023)
- Proposed Hard Landscaping Plan PL-03-B (submitted: 01.08.2023)
- Proposed Single Garage 22-124-PL12 (submitted: 29.03.2023)
- Site Location Plan 22-124-PL01 (submitted: 29.03.2023)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No demolition/development shall take place/commence until a Written Scheme of Investigation (WSI) has been submitted in writing to and approved in writing by the Local Planning Authority. For the land and structures that are included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:
 - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination, and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason: To ensure satisfactory archaeological investigation, recording, dissemination, and archiving in accordance with Policy DM13 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Section 16 of the National Planning Policy Framework (2023).

4. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted in writing to, and approved 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 that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. 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 in writing 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 that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- Measures to control the emission of dust, odour, noise, smoke, light, land contamination and dirt during construction; and
 - A procedure for the investigation of complaints.

The approved Construction Method Statement shall state how such controls shall be monitored. The Statement shall be adhered to throughout the construction period for the development.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. Development shall not commence until details of a surface water disposal scheme shall have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details, which shall ensure that surface water shall not drain onto the highway at any time after the drainage scheme has been implemented.

Reason: To prevent flooding by ensuring satisfactory storage and disposal of surface water from the site, and to reduce the possibility of surface water from the site being deposited into the highway causing danger to road users in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 14 of the National Planning Policy Framework (December 2023).

8. Development shall not commence until drainage works for the management of surface water on site during construction of the development shall have been carried out in accordance with details which shall have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 14 of the National Planning Policy Framework (December 2023).

9. Site preparation and construction shall be limited to the following hours:

Monday – Friday 07:30 – 18:00

Saturday 09:00 – 14:00

No working on Sundays and Bank Holidays

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. During the construction period, none of the trees or hedges indicated to be retained within Section 4.1 of the Tree Survey (submitted: 29.03.2023) shall be cut down, uprooted, or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the local planning authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. Development above floor plate level shall not take place until a scheme for protecting the proposed dwellings from noise from music at the adjacent Parish Room shall have been submitted to, and approved in writing by, the Local Planning Authority. All works which form part of the scheme shall be completed before any part of the dwellings is occupied, and those works shall be retained thereafter.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. Further to the conclusions and recommendations of the Griffin Ecology Ltd. Botanical Survey and updated Biodiversity Impact Assessment (submitted: 29.03.2023), development above floor plate level shall not take place until details of how a Biodiversity Net Gain on baseline conditions shall be achieved and maintained on the site shall be submitted to, and approved in writing by, the Local Planning Authority. The site shall be maintained and managed in accordance with the approved details thereafter.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

13. The development hereby permitted shall not be occupied until a Landscape and Ecological Management Plan, including long-term objectives, management responsibilities and maintenance schedules for the development site, shall have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved plan.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

14. The development hereby permitted shall not be brought into use until a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. 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 at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

15. The development hereby permitted shall not be occupied until details of the long-term maintenance of the surface water drainage system within the development shall have been submitted to, and approved in writing by, the Local Planning Authority. The system shall be maintained in accordance with the approved details.

Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016), and Section 14 of the National Planning Policy Framework (December 2023).

16. No development above floor plate level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited with, and approved in writing by, the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

17. The development hereby permitted shall not be first used until such time as the scheme makes adequate provision for the storage and collection of waste and recycling containers across the site which has been submitted to, and approved in writing by, the Local Planning Authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed

development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

18. The development hereby permitted shall not be occupied until such time as the highway works, access arrangements, visibility splays, parking and turning facilities as shown within the Proposed Highway Works drawing number ADC1306/008 Rev G contained within the Transport Statement (submitted; 20.07.2023) have been implemented in full. Thereafter, these works shall be retained in perpetuity.

Reason: To ensure that vehicles may pass, enter, and leave the site in a slow and controlled manner; to afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network' and that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

19. Prior to installation, the details of any external lighting to be provided in association with the development hereby permitted shall be submitted to, and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation, a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles), and shall be demonstrate that the lighting will not cause harm to bat or their habitats. The details shall be installed, maintained, and operated as approved.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

20. 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 vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres from the boundary of Chapel Lane.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (December 2023).