

## Planning Committee Report

**Applicant:** Telford Five Ltd

**Application Ref:** 24/00528/OUT

**Location:** Land North of Broughton Way, Broughton Astley

**Proposal:** Outline application for the development of up to 17 self-build residential dwellings (access only to be considered)

**Parish/Ward:** Broughton Astley (Primethorpe and Sutton)

**Application Validated:** 16/07/2024

**Application Target date:** 15/10/2024 (extension of time agreed to 05/12/2024)

**Reason for Committee consideration:** call in from Cllrs Dann and Grafton-Reed (see paragraph 4.4 of the report)

## Recommendation

Planning Permission is **REFUSED** for the following reasons:

The site adjoins the existing and committed built up area of a sustainable settlement (Broughton Astley); will help to meet an identified District-wide housing need for self- and custom-build housing; has a scale which cumulatively does not disproportionately exceed the size of Broughton Astley and its service provision; and subject to condition, could retain natural boundaries. However, it is not in a location suitable for housing as it is located within a defined Area of Separation and would result in loss of the visual separation of Broughton Astley and Sutton in the Elms and therefore detract from the open character of the Area of Separation, including when viewed from the public Right of Way through the site. Furthermore, the site is not allocated for housing and is for an amount of development that cannot be considered as windfall under the Broughton Astley Neighbourhood Plan. For these reasons, the proposal conflicts with policies H3 and EH2 of the Broughton Astley Neighbourhood Plan, policy H5 of the Harborough District Local Plan and paragraph 104 of the NPPF, and there are no material considerations (including the provision of self-built plots) which outweigh the conflict with the development plan.

The proposal does not reflect the form and character of the existing settlement or respect and enhance the local character and distinctiveness of the settlement, causes loss of countryside and landscape harm to the site itself and fails to protect and enhance the public right of way and access to the countryside. The proposal is therefore contrary to Local Plan Policies GD2.2.e, GD8.1.a, d and j and GD5 and paragraph 104 of the NPPF.

### 1. Site & Surroundings

- 1.1 The application site consists of approximately 1.4ha (3.5 acres) of scrub grassland beyond the northern built-up area of Broughton Astley, between the B581 (Coventry Road) and the southern boundaries of dwellings on Leicester Lane, Sutton in the Elms to the north. The site is generally flat, with a short steep drop to the highway to the south, with a public right of way (W48) traversing the site from the southeast corner of the site to the middle of the western boundary. Established hedgerows and trees delineate all boundaries.



**Figure 1: Site Location Plan**



**Figure 2: Aerial photograph (2018) showing site and Rights of Ways (dashed red)**

- 1.2 The land to the east is equestrian/paddock land and includes stables. The neighbouring land to the west has planning permission for four industrial/warehouse

buildings with ancillary offices (19/00856/OUT and 22/01803/REM). There are pending applications to discharge conditions.



**Figure 3: approved site layout 22/01803/REM**

- 1.3 There are no Listed Buildings or designated heritage assets which lie within close proximity to the site such that their setting would be affected by the proposed development. Neither Broughton Astley nor Sutton in the Elms have designated Conservation Areas.
- 1.4 The site falls within a designated Area of Separation (Broughton Astley Neighbourhood Plan), between Broughton Astley and Sutton-in-the-Elms.



**Figure 4: site notice photographs, also showing existing right of way to the site**

## 2. Site History



2.1 67/00005P/LRDC – Erection of dwellings with garages and formation of accesses – refused March 1967

80/01916/3O – Erection of dwellings on approximately 1.35 acres of land – refused December 1980.

21/01975/OUT – Outline application for the erection of up to 34 dwellings (including 10 self build dwellings) (access to be considered) (revised description) – refused 1 March 2023. Dismissed at appeal (reference APP/F2415/W/23/3328703)

23/00756/OUT – Outline application for the development of up to 17 self-build residential dwellings (access only to be considered with all other matters reserved) (Resubmission of 21/01975/OUT) – refused 11 July 2023. Dismissed at appeal (reference APP/F2415/W/23/3328656) 26<sup>th</sup> March 2024. Full appeal decision at Appendix B.

Refusal reasons:

*The proposal is for major development on an unallocated site which is not previously developed land when the Council has a five-year supply of housing and the minimum housing requirement for the settlement has been met. It is located within a defined Area of Separation and would result in loss of the visual separation of Broughton Astley and Sutton in the Elms, and detract from the open character of the Area of Separation, including when viewed from the Public Right of Way through the site. The proposal is therefore contrary to Local Plan Policies GD2 and H5, and Broughton Astley Neighbourhood Plan Policies H3 and EH2 and there are no material considerations (including the provision of self-built plots) which outweigh the conflict with the development plan.*

*The proposal does not reflect the character and appearance of the area, causes loss of countryside and landscape harm to the site itself and fails to protect and enhance the public right of way and access to the countryside. The proposal is therefore contrary to Local Plan Policies GD2, GD8 and GD5.*



**Figure 5: Refused indicative layout (not to scale)**

### 3. The Application Submission

#### a) Summary of Proposals

- 3.1 The proposal is in outline with only access to be considered, for the erection of up to 17 self-build dwellings, with access from the B8581 to the south. Except for access, all other matters are reserved for future consideration as Reserved Matters. This includes appearance, landscaping, layout and scale.
- 3.2 Vehicular access to the development site would be via a two-way T-Junction on to the B581, as shown in Figure 12 below. It is intended that internal roads would be built to adoptable standards, although this is a detailed matter for consideration at Reserved Matters stage.
- 3.3 A draft site plan has been provided, showing a suggested layout for the development. The dwellings are shown scattered throughout the site, served by a central spine road with a loop at the northern end, enclosing a balancing pond for surface water drainage. There is one short road off the central spine, towards the south of the site.



**Figure 6: Site Plan/Illustrative layout (no scale) (submitted 30 April 2024)**

- 3.4 The proposed plans do not differ from the previous application (23/00756/OUT) however additional supporting information has been submitted (including Heads of Terms), and the applicant has been working with HDC Legal Team towards a signed and sealed (executed) S106 legal agreement. This is currently in draft form for consideration by all parties.

#### b) Pre-application discussion

- 3.5 No pre-application advice was sought or given for the proposal.

### 4. Consultations and Representations

- 4.1 A summary of the technical consultees and representations received is set out below. Where appropriate the responses will be discussed in more detail within the main body

of the report. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

- 4.2 A summary of the technical consultee responses received is set out below. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning).

#### a) Statutory & Non-Statutory Consultees

Consultee	Date	Summary
<u>National Bodies</u>		
NHS (CCG)	08/08/2024	S106 contribution requested to mitigate the impact of the development on Orchard Medical Practice.
Severn Trent	-	No comments received
Fire Service	24/07/2024	No comments to make
<u>LCC</u>		
Archaeology	01/08/2024	Full archaeological investigation to be carried out prior to commencement of development, with a programme of mitigation (full recording, analysis, dissemination of results and deposition within the archive) to be carried out. To be controlled by a Written Scheme of Investigation by way of pre-commencement condition
Ecology	Final response to be included on Supplementary Information	Initial concerns regarding Preliminary Ecological Assessment and BNG baseline metric assessment; lack of detailed surveys regarding reptiles; countersigned District Level Licensing for Great Crested newts should be provided.
Lead Local Flood Authority (hereafter 'LLFA')	Final response 08/11/2024	Initial objection; following receipt of additional/amended information state: Site is within flood zone 1 being at low risk of fluvial flooding and a low risk of surface water flooding. The proposals seek to discharge via an infiltration basis. On the basis that the proposals are for outline approval and that evidence has been provided which suggests infiltration is likely to be viable at this location, the LLFA has chosen to condition further infiltration testing to be undertaken prior to approval of Reserved matters. 4 conditions requested.
Highways & Public Rights of Way	23/08/2024	Impacts on highway safety would not be unacceptable and, when considered cumulatively with other development, the impacts on the road network would not be severe. A Stage 1 Road Safety Audit should be submitted to support the new access, can be secured by condition bearing in mind that the design is very similar to that accepted by the LHA under 21/01975/OUT and 23/00756/OUT. No existing patterns/trends in most recent personal Injury Collision data which could be exacerbated by the proposed development subject to the delivery of a safe and suitable access. Various concerns/points regarding internal layout which would need to be addressed at Reserved matters stage. Site is generally well-connected in terms of transport sustainability. Provision for diversion of the Public Right of Way should be conditioned as a reserved matter. 8 conditions requested. S106 contributions requested for Travel Packs (one per dwelling) and six-month bus passes (two per dwelling)
Local Education Authority	22/08/2024	Request S106 contribution to mitigate the impact of the development on Thomas Estley Secondary School (11-16).

Waste	22/08/2024	S106 contribution requested to mitigate the impact of the development on Whetstone Household waste and recycling centre.
Libraries	22/08/2024	S106 contribution requested to mitigate the impact of the development on Broughton Astley Library.
<i>HDC</i>		
Environmental Health	07/08/2024	Contaminated Land Officer requests pre-commencement conditions requiring Risk Based CL surveys, due to “potential for nearby made ground and the self build nature of the site”
Community Facilities	12/08/2024	Request S106 contributions to mitigate the impact of the development on community facilities and indoor sports in the locality
Waste Management	06/08/2024	Request contribution of £2042.72 towards provision of waste bins for the occupiers of each dwelling
Environment Co-ordinator	24/07/2024	Further information required in the Design and Access Statement in order to comply with CC1; developer to ensure that the purchasers include high energy efficiency requirements, alternatively request a condition for each property to submit evidence of their approach to achieving net zero
Strategic Housing and Enabling Manager	-	No response received for this proposal.  Previous response to 23/00756/OUT is relevant however: “Given the very specialist nature of any self-build proposal we would not seek an affordable housing requirement. However we would normally only support such proposals so long as they are in sustainable locations. I suspect in this regard as the proposal falls within the confines of an area of separation it would not be sustainable. This is a matter for the Planning team to determine”
Neighbourhood and Green Spaces officer	14/08/2024	Request S106 contributions to mitigate the impact of the development on outdoor space in the locality.
<i>Parish Council / Cllrs / MP</i>		
Broughton Astley	05/08/2024	The committee objects to the application and has grave concerns about the proposed access on to the extremely busy B581. The entrance indicated is opposite existing access to a busy residential estate, where residents already struggle to exit across the traffic.
Ward Members	-	No comments received other than call-in requests. One Ward member has made an objection as a private individual and this is included below.

**Figure 7: Consultee response summary**

#### **b) Local Community**

4.3 10 letters of objection received from 9 addresses, raising the following material planning concerns:

<b>Matters of principle</b>	Unallocated site; contrary to policy including Neighbourhood Plan; not needed especially as the Sutton in the Elms self-build permission (granted at appeal) most plots sold not to people on the self-building register – no demand for self-build plots in Broughton Astley; in Area of Separation; not windfall, infill or on previously developed land; urbanisation of greenfield countryside land; Angela Rayner’s Written ministerial Statement 30/07-24 specifically supports local plans and
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	this proposal is contrary to those – the Neighbourhood Plan should be upheld.
<b>Heritage matters</b>	Loss of archaeological features
<b>Ecology matters</b>	Ecological buffer not shown, surveys out of date, hedgerows removed, harm to habitat
<b>Design/landscaping matters</b>	Area of Separation and would result in loss of visual separation between Broughton Astley and Sutton in the Elms. Doesn't address National Design Guide or relevant NPPF paragraphs regarding design.
<b>Highway matters</b>	Unsafe access onto busy road; highway safety
<b>Drainage &amp; flooding matters</b>	No details shown, due to change in levels might flood nearby houses
<b>Residential amenity matters</b>	Overlooking, loss of light, construction impacts harmful, compromises enjoyment of public Right of Way and health benefits of this,
<b>Other matters</b>	Greenfield land used by residents for leisure (right of way access). Doesn't address reasons for dismissal of the appeal. Harmful impact on local services (schools, GP etc). Self-build must be enforced by HDC if permission is granted.

**Figure 8: Summarised neighbour consultation responses**

### **c) Call in requests**

4.4 On 16/08/2024 two requests for call-in of the application to Planning Committee were received.

Cllr Dann's request was:

- Impact on the Area of Separation
- Impact on the character and appearance of the area
- Does not conform to the current Local Plan
- Does not conform to the current Neighbourhood Plan

Cllr Grafton-Reed's request was:

- contravenes Broughton Astley Neighbourhood Plan and Harborough District Local Plan. The Neighbourhood Plan is still valid and carries significant (sic) particularly in maintaining the area of separation.
- traffic – the proposed access is dangerous and will significantly impact the congested flow on Broughton Way
- the development would be an urban intrusion into an otherwise rural landscape
- development of the site would significantly impact the amenity value of the area with the loss of green and open views
- development of the site would inevitably lead to pedestrians trying to cross the very busy Broughton Way which is not considered or mitigated in the plan.

## **5. Planning Policy Considerations**

5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the provisions of the development plan (this is the statutory presumption), unless material considerations indicate otherwise.

### **a) Development Plan**

5.2 The Development Plan for Harborough District comprises the Harborough District Local Plan (adopted April 2019) and the Broughton Astley Neighbourhood Plan



(adopted 2014). This latter is currently under review although has not reached the Regulation 14 (pre-submission consultation) stage. The most relevant policies from the development for consideration of this proposal are as follows:

- *The Harborough District Local Plan*
  - SS1 – The Spatial Strategy
  - GD1 – Achieving Sustainable Development
  - GD2 – Settlement Development
  - GD5 – Landscape character
  - GD8 – Good design in development
  - H1 – Provision of new housing
  - H2 – Affordable housing
  - H5 – Housing density, mix and standards
  - HC1 – Built heritage
  - GI5 – Biodiversity and geodiversity
  - CC1 – Mitigating climate change
  - CC3 – Managing floodrisk
  - CC4 – Sustainable drainage
  - IN1 – Infrastructure provision
  - IN2 – Sustainable transport
  - IN4 – Water resources and services
- *Broughton Astley Neighbourhood Plan*
  - SD1 – Presumption in favour of Sustainable development
  - H1 – Housing allocations policy
  - H2 – Provision of affordable housing
  - H3 – Windfall and backland development
  - T1 – Transport and traffic management
  - EH2 – Area of Separation
  - CI1 – Contributions to new infrastructure and facilities

<b>b) Statutory Duties, Material Planning Considerations and other relevant documents</b>
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5.3 Material considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land.

- The National Planning Policy Framework 2023 ('the Framework'/NPPF)
- Written Ministerial Statement *Playing your part in building the homes we need* (Angela Raynor, 30<sup>th</sup> July 2024)
- The National Planning Policy Framework consultation document (July 2024) [consultation closed 24<sup>th</sup> September 2024]
- National Planning Practice Guidance
- The Leicestershire Highways Design Guide (2018)
- Harborough District Landscape Character Assessment and Landscape Capacity Study (2007)
- Lutterworth and Broughton Astley Landscape Character Assessment and Capacity Study (2011)
- Planning Obligations Developer Guidance Note
- Development Management Supplementary Planning Document (December 2021)
- The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
- The Self-build and Custom Housebuilding Act 2015 (as amended)

- Appeal ref APP/F2415/W/22/3303898 Land at Sutton Lane, Sutton in the Elms, Broughton Astley, for the erection of 9 dwellings (all matters reserved except for access) – appeal allowed 2 February 2023 (hereafter ‘the recent appeal’). The appeal decision is provided in full at Appendix A.
- **Appeal ref APP/F2415/W/23/3328656 Land north of Broughton Way, Broughton Astley**, for the erection of up to 17 self-build residential dwellings (access, landscaping, layout and scale to be considered) – appeal dismissed 26 March 2024 (hereafter ‘the appeal’). The appeal decision is provided in full at **Appendix B**.
- Harborough District Council Self-Build and Custom Housebuilding Corporate Policy

## 6. Officer Assessment

### a) Principle of Development

- *Harborough District Local Plan*
- 6.1 The Council has an up-to-date Local Plan which makes provision for sufficient land for housing to 2031 and full weight should be afforded to its policies.
- 6.2 Policy SS1 of the Local Plan is the Spatial Strategy for the District. It sets the settlement hierarchy for the District and identifies Broughton Astley as a Key Centre. The policy does not allocate a specific number of dwellings to Broughton Astley, but does seek to develop the settlement, “providing housing, business, retail, leisure and community facilities” (SS1.6). (Sutton in the Elms is left out of the list of sustainable locations, falling under 1.f as “other villages, rural settlements and the countryside where development will be strictly controlled”.)
- 6.3 As the site is adjoining the existing or committed built-up area of Broughton Astley, Policy GD2.2 is most relevant of the general development policies. This supports development in such areas, providing that a number of criteria (a-g) are met. The first three criteria are either/or (a or b or c); the remaining must all be complied with.
- 6.4 Taking these in turn, Part 2.a. of the policy states that where there is no residual minimum housing requirement due to allocations, completions and commitments, only minor additional residential development will be supported. Policy H1 does not include a minimum housing requirement for Broughton Astley due to the substantial number of completions and commitments. Most of these commitments were because of substantial Neighbourhood Plan allocations which future-proofed the plan and thus there is no residual minimum housing requirement for Broughton Astley. As this proposed development is for up to 17 dwellings and as under the NPPF definition this represents major development, the proposal is not compliant with this criterion.
- 6.5 Part 2.b of GD2 supports development where it meets an identified district-wide housing need or a local housing need. The Council has a published 7.43 year housing supply and thus there is no residual district-wide need: the Council is delivering sufficient homes to meet its identified district-wide need. However, under the Self-Build and Custom Building Act 2015 (as amended), the Council is required to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and also to grant enough suitable development permissions for serviced plots to meet this demand. The demand registered in each 12 month base period from the end of October 2015 onwards must be met by 30 October 3 years after the end of each period. The current shortfall to meet the demand is 172 plots (as of 30/10/2024). The proposal would help to meet this need by delivering 17 self-build plots and thus finds support from GD2.2.b

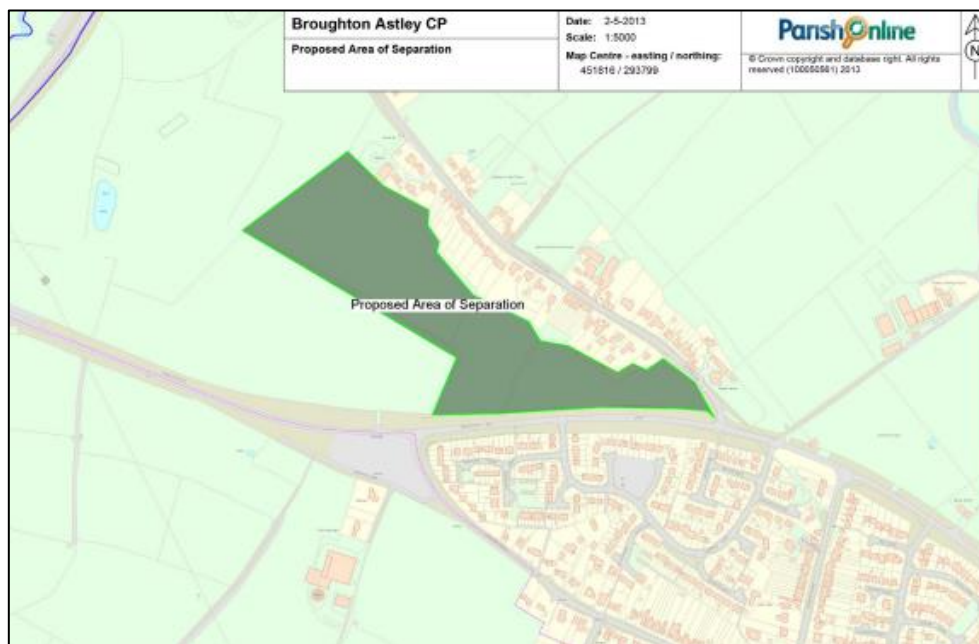
- 6.6 Part 2.c of GD2 allows proposals which develop previously-developed land, or comprise the redevelopment or conversion of redundant or disused buildings. As the site has not been developed and conversion is not proposed, part 2.c of GD2 does not apply to this proposal.
- 6.7 The proposed development is on a site which adjoins the existing or committed built up area of Broughton Astley, a Key Centre and meets an identified District-wide housing need for self-build housing plots, in accordance with GD2.2.b. Criteria d-g are addressed elsewhere in this report however in principle, the proposal finds support from this policy of the Local Plan.
- 6.8 Policy H2 of the Local Plan requires provision of 40% affordable housing on the site, as it is for Major development of more than 10 dwellings. However, due to the specialist nature of the proposal (for self-build dwellings) in this instance affordable housing is not required at present. The consultation version of the NPPF published summer 2024 suggests that affordable housing will be a requirement on self-build sites (paragraph 66) and it is possible that this may be a requirement in the future.
- 6.9 The proposal is for 17 self-build plots. Policy H5 of the Local Plan supports this type of development “in any location suitable for housing, including allocated sites, committed sites, windfall sites and sites which are in accordance with Policy GD2.”, with the supporting text indicating that this means “suitable for housing in accordance with the spatial strategy and the criteria set out in Policy GD2.” Because the site adjoins the existing/committed area of a sustainable settlement, it is a location which finds support from the spatial strategy and GD2. This list within the wording of the policy is not exhaustive or exclusive however: there are other reasons why the site is not considered suitable for housing and thus the proposal is considered to be contrary to H5.
- *Broughton Astley Neighbourhood Plan*
- 6.10 The Neighbourhood Plan was one of the first to be adopted in England, in 2014. It has delivered housing, commercial, leisure and other development in the Neighbourhood Plan Area. It is currently under review however it is understood by officers that the Area of Separation in which the application site sits will be retained as this policy (EH2) is up to date and does not require modification, amendment or deletion. Other relevant policies from the Neighbourhood Plan are H1 and H3. The Inspector in the appeal finds that these are not out of date as they are consistent with the NPPF<sup>1</sup>. Officers consider that the policies of the Neighbourhood Plan which are most important for the determination of this application (H1, H3 and EH2) are up to date and should be afforded full weight.
- 6.11 The Broughton Astley Neighbourhood Plan allocated three housing sites for development in policy H1 and these have been delivered and built out. The application site is not included in this policy. Policy H3 Windfall and Back Land Development accepts that some windfall sites may come forward but part (i) states that ‘*small, well designed residential sites which do not have a detrimental effect on the surrounding area and neighbouring properties will be supported*’. As the Inspector notes in the recent appeal (paragraph 13) ‘small’ is considered less than 5 dwellings. As the proposal is for major development of up to 17 dwellings it is not judged to be ‘small’ and thus is considered contrary to Broughton Astley Neighbourhood Plan policy H3.

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<sup>1</sup> Appeal reference APP/F2415/W/23/3328656 paragraph 24

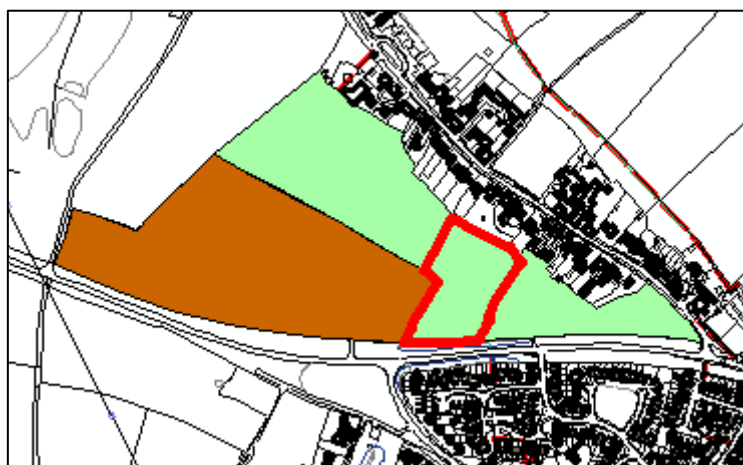
- 6.12 The site is located entirely within the Area of Separation between Broughton Astley and Sutton in the Elms, as outlined in Broughton Astley Neighbourhood Plan Policy EH2. This states:

*An area of separation lying to the north of Broughton Way and east of Sutton Lane, and amounting to approximately 7 ha of agricultural grazing land will be maintained between the two settlements of Broughton Astley and Sutton in the Elms. Development which would detract from the open character of this area or reduce the visual separation of Broughton Astley and Sutton in the Elms should not be permitted.*



**Figure 9: Area of Separation (Broughton Astley Neighbourhood Plan Policy EH2)**

- 6.13 Not all the land between Broughton Astley and Sutton in the Elms is within the separation area. A part of the land is allocated in the Neighbourhood Plan for commercial development and planning permission has been granted for this. Nonetheless, there remains countryside between the two settlements, as Figure 8 demonstrates:



**Figure 10: Area of Separation (green), commercial development (russet), site of proposal outlined in red**

- 6.14 Due to the extent of the site of the proposal, the visual separation between Broughton Astley and Sutton in the Elms would be entirely lost in this part of the Area of Separation, along with the open and undeveloped character of the site. Particularly because of the retained Public Right of Way through the site, this loss of character and separation would be visible to and experienced by the public (see also below). The proposal is contrary to Broughton Astley Neighbourhood Plan policy EH2.
- *Material considerations relating to principle*
- 6.15 The new government issued a Written Ministerial Statement (WMS) together with a consultation on a new NPPF in July 2024. The WMS sets out the Government's "ambitious, radical" plan to deliver more housing, including affordable and social housing and outlines the proposed changes to the NPPF and to legislation which they intend will achieve this. The consultation version of the NPPF proposes particular changes to identifying local housing need and to calculating how delivery of dwellings to meet that need is calculated.
- 6.16 Whilst officers consider that some weight must be attributed to the WMS, this does not change the Council's position or the officer recommendation as it is not Government policy. Similarly, the consultation NPPF document is considered by officers to have no weight in the decision: it is only draft and not policy. Both documents do however give an indication of 'direction of travel' of the Government.
- 6.17 The Council has a significant and substantial under-delivery of self and custom-build plots to meet the demand on the Register. It is worth noting that this under-delivery is not the same as lack of a 5 year supply. The 'tilted balance' of paragraph 11d of the NPPF is not engaged because of this under-delivery: the Council is still delivering enough homes to meet its need although it is failing to deliver self- and custom-build plots to meet the demand on the register.
- 6.18 The application proposes 17 self-build dwellings and is accompanied by a S106 agreement committing to deliver this. This addresses the Inspector's conclusion in the appeal that in that case "*the absence of a planning obligation and the adverse impact of failing to provide financial contributions towards travel packs, waste bins and the delivery of Self-Build and Custom-Build Housing plots weights significantly against the proposal*" (paragraph 31) Given the significant and substantial under-delivery of plots to meet the demand on the register, officers consider that the proposal for self-build dwellings together with an executed S106 legal agreement to secure this and other contributions should carry significant weight.
- *Conclusion*
- 6.15 The site adjoins the existing and committed built up area of a sustainable settlement (Broughton Astley); will help to meet an identified District-wide housing need for self- and custom-build housing; has a scale which cumulatively does not disproportionately exceed the size of Broughton Astley and its service provision; and subject to condition, could retain natural boundaries. However, it is not in a location suitable for housing as it is located within a defined Area of Separation and would result in loss of the visual separation of Broughton Astley and Sutton in the Elms, and detract from the open character of the Area of Separation, including when viewed from the public Right of Way through the site. Furthermore, the site is not allocated for housing and is for an amount of development that cannot be considered as windfall under the Broughton Astley Neighbourhood Plan. It is not located in an area which is suitable for housing for these reasons. The proposal is therefore contrary to Local Plan Policy H5, and Broughton Astley Neighbourhood Plan Policies H3 and EH2.

## **b) Design**



- 6.16 Design (form/layout, mass, scale, proportions, style, materials) is not a matter which is currently for consideration. Design would be evaluated at Reserved Matters stage in the event of an Outline approval. Policies which relate to the principle of development (for example Local Plan policy GD2) also require consideration of amount of development and how it fits into its context. Furthermore, given that the proposal description specifies the number of dwellings and that an indicative layout has been provided, it is necessary to consider whether the site can accommodate up to 17 dwellings, albeit with a possibly different layout from that currently shown.
- 6.17 The Illustrative Layout shows a fairly even spread of dwellings across the site accessed from the central spine road with its loop. Access for all highway users is roughly central to the southern boundary, with a new footway running east along Broughton Way to a crossing point, which links to an existing footpath onto Uppingham Drive. The Right of Way is shown on the Illustrative Layout as retained in its existing route.
- 6.18 Whilst the scale of development (up to 17 dwellings) is not considered disproportionate to the size of Broughton Astley as a whole or the level of service provision within the settlement (meeting GD2.2d), the proposed density is very low (12.14 dw per ha). Whilst low densities can be acceptable on sites close to or within the countryside, in this instance officers consider that the layout represents inefficient use of land. It is noted that a previous refusal was for 34 dwellings and the red line indicating the site has not been changed with this resubmission.
- 6.19 The green edge to the northern side of Broughton Way (retained by the committed commercial site adjacent) is likely to be eroded: a tree survey has not been submitted to demonstrate that all or even most of the tree belt on the south boundary of the site can be retained, and works for the access are likely to necessitate the removal of trees. Hedgerow boundaries appear to have been included as part of residential gardens, although there is sufficient space for these to be excluded from gardens and suitably buffered in order to retain these natural boundaries, including as ecological habitat. This could be controlled at reserved matters stage and any subsequent consideration of landscaping could include replacement tree planting. On balance, officers consider that the proposal could comply with GD2.2.f.
- 6.20 (GD2.2.g does not apply to this proposal as the criterion is to comply with GD6 and GD7. The latter relates to 'green wedges' elsewhere in the District; the former designates two Areas of Separation (in addition to those designated within Neighbourhood Plans) at Lutterworth and Market Harborough).

### **c) Landscape and Visual Impact**

- 6.21 The site is currently agricultural field which, on the occasion of officers' site visits, was grass, ungrazed and without crop. It sits on a plateau of land between the lower Broughton Way to the south and the properties along Sutton Lane to the north. It has mature trees and bushes to its boundaries, and, were it not for the public Right of Way running through it, would generally be screened from wider public view.
- 6.22 Local Plan policy GD5 requires that proposals respect their landscape setting, avoiding the loss or substantial harm to features of landscape importance, making restoration/mitigation as appropriate, and safeguarding important public views.
- 6.23 Nationally, the site is within the Leicestershire Vales National Character Area with no results on Defra's 'MAGIC' database for agricultural land classification or any other constraint. Locally, the site is within the Upper Soar (Broughton Astley Open Farmland) Landscape Character Area which has key characteristics of mixed

farmland, generally low and clipped hedgerows within a relatively open landscape with wide visibility from surrounding areas. The Lutterworth and Broughton Astley Landscape Character Assessment and Capacity Study was carried out by the Council in 2011 as part of the evidence base for the Local Plan. The Assessment found that the aim for the landscape approach for the character area should be to seek to improve and conserve the landscape.

- 6.24 The site forms part of land Parcel 12 in the Assessment. The well-contained nature of the site was identified, and it was noted that some properties off Leicester Road have views overlooking the parcel. The Assessment stated that *“Built development would form some limited associations with the existing urban fabric. The alignment and the vegetation associated with the bypass [Broughton Way], which provides a strong edge to Broughton Astley, would make establishing a connection between the development and Broughton Astley difficult. Any development would cause complete coalescence between the two villages.”* Landscape character was found to have moderate sensitivity to development and the site was judged to have medium capacity to accommodate development. Mitigation methods were recommended: these included retaining boundary hedgerows and existing rights of way through the site and careful consideration of access “due to strong coalescence factors”.
- 6.25 As considered above, the site is designated as an Area of Separation within the Broughton Astley Neighbourhood Plan (policy EH2). This reflects the strong coalescence factors found in the Assessment and the wording of the policy requires that the visual separation between Broughton Astley and Sutton in the Elms is retained. To quote the Inspector on the appeal, “Although the landscape character of the area has changed since the Assessment on account of planned developments, [neither] the overall open aspect of the Area of Separation nor its purpose of protecting the separate identities of Broughton Astley and Sutton in the Elms has been substantially undermined.”<sup>2</sup>.
- 6.26 The proposed development of up to 17 dwellings would result in the loss of the visual separation between Broughton Astley and Sutton in the Elms, leading to coalescence between the two settlements, and would result in the loss of the undeveloped countryside. There would be a major detrimental landscape impact to the site itself which would be experienced as a harmful visual impact to users of the public Right of Way and users of Broughton Way. Currently the Right of Way appears well-used as a countryside walk which is close to settlements and easily accessible. Only parts of residential properties on Sutton Lane are visible from the Right of Way as it crosses the site, in part due to these properties being set on a lower ground level. As a result of the proposal, the route would be diverted along the busy Broughton Way and then through the internal roads of the housing estate proposed on the site. This would be a very different experience from that currently and would be, in the opinion of officers and the Planning Inspectorate, detrimental to the enjoyment of the countryside of users of the Public Right of Way<sup>3</sup> with possible concomitant mental health and well-being adverse impacts. Whilst full details of a diversion of the Right of Way could be agreed at a later stage, nonetheless due to the amount of development proposed within the site officers consider that an adverse impact is unavoidable. Paragraph 100 of the NPPF requires that planning decisions should “protect and enhance public rights of way and access” and the proposal does not achieve this. The harm to the landscape of the site itself, the intrinsic value of the countryside, the rural character of the site and

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<sup>2</sup> Ibid, paragraph 15

<sup>3</sup> Ibid, paragraph 17

to the public enjoyment of the Right of Way at this point would be irreversible and the proposal fails paragraph 104 of the NPPF, Harborough Local Plan policies GD5 and GD8.1.j, and Broughton Astley Neighbourhood Plan policy EH2.

- 6.27 The layout of the proposal (albeit indicative) would be in stark contrast to the existing and historic built form of Sutton in the Elms with its Listed Buildings and linear form. In the words of the Inspector, “the proposal would appear as an intensively developed and anomalous feature that would not positively relate to the linear development pattern of Sutton in the Elms. Nor would it appear as a logical extension of Broughton Astley, located on the other side of the B581.”<sup>4</sup> For these reasons, the proposal will cause harm to the character and appearance of the area and the distinctiveness of the existing settlement, contrary to GD2.2e and GD8.1.a and d of the Harborough Local Plan. In conclusion, the proposal has not addressed the previous reasons for refusal, which were upheld at appeal by the Inspector.



**Figure 11: view northwest along the Right of Way, across the site**

**d) Climate Change**

- 6.28 Harborough District currently has a 6.9 tonne carbon footprint per person, higher than the England, County and Regional per capita amount and primarily due to the rural nature of the District and the dependency on motorised transport. A projection of the District’s emissions shows that we will only reach carbon neutrality by 2042. In June 2019 the Council declared a Climate Emergency with the aim that all council functions and decision-making should lead to the Council being carbon neutral by 2030.
- 6.29 Policy CC1 of the Local Plan sets standards for major development, requiring evidence of reduction in carbon emissions according to the energy hierarchy (supporting text paragraph 10.1.3), renewable energy technology, energy efficiencies, minimal carbon emissions during construction, justification for any demolition, and carbon-neutral building cooling if appropriate. Paragraph 157 of the NPPF requires new development

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<sup>4</sup> Ibid, paragraph 12

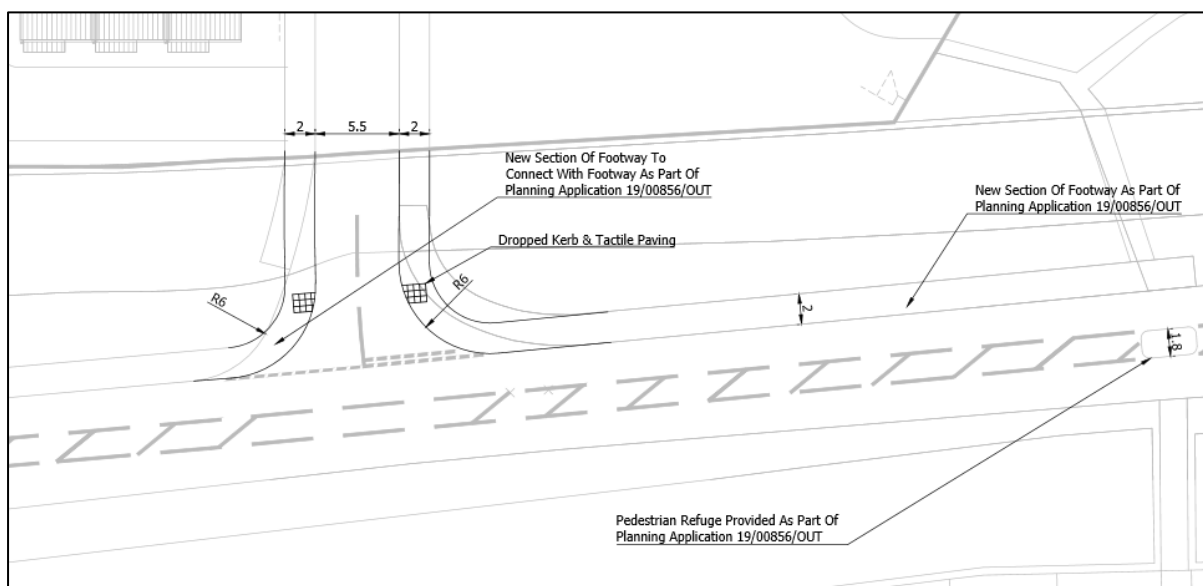
to “take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption” when determining planning applications.

- 6.30 The submission does not include any sustainability statement nor information as to how the proposal aims to reduce carbon emissions and comply with CC1. Whilst some measures are suggested (for example SUDs, storing rainwater for future use etc) no principles of approach to overall design have been submitted (informed by, for example, land form, orientation etc). Given the Council’s declaration of a Climate Emergency, the mitigation of the effects of climate change is very important and as indicated by CC1, should be central to a Major housing scheme. This matter could however be dealt with at a later date as necessary, and officers consider that a refusal for conflict with Local Plan policy CC1 is not warranted.

#### **e) Highways**

- 6.31 Access is a matter for detailed consideration as part of this application. The access layout is shown in detail on drawing number RHC-22-092-02 revision A (with 5 notes) and provides the following:

- Access to the south of the site, onto the B581
- New pedestrian footway to the east and west of the access (provided by the committed commercial site to the west)
- Kerb radii of 6m both sides of the access
- Tactile paving to both sides
- Pedestrian refuge within the carriageway of the B581 (provided by the committed commercial site to the west)



**Figure 12: drawing number RHC-22-092-02 revision A**

- 6.32 The submitted Transport Assessment show the background reasoning for the design and siting of the proposed access and uses various data including a TRICS data and personal injury collision data. The B581 (Broughton Way) is subject to a 40mph speed limit and is well-used. There is hardstanding linking the Right of Way at its junction with the B581, to a bus stop to the east of the site. There is currently no footpath past the site.



- 6.33 Right of Way W48 which transverses the site appears to be retained on its existing route through the site, although the Illustrative Layout indicates that this will entail crossing plots (dwellings/gardens) of the scheme.
- 6.34 The County Highway Authority has reviewed the proposal in full and does not object to the application. It is noted that the proposal has the same access as that proposed with the appeal and previous applications and that these were not refused on Highway grounds. On balance, officers consider that subject to conditions, a safe and suitable access could be provided and that the residual cumulative impact of the development can be mitigated. Concerns regarding the Public Right of Way could be addressed by condition and/or at reserved matters stage, were the proposal as a whole found to be acceptable. A footpath can be provided (with details by condition) to link the site's access to the existing pedestrian crossing point and refuge on Broughton Way. Officers judge that subject to condition, the proposal would not cause severe harm to highway safety and provides an acceptable access, according with Local Plan policies GD8 and IN2 in this regard.



**Figure 13: visibility from existing access looking westwards and eastwards**

**f) Drainage / Flood risk**

- 6.35 The site lies wholly within Flood Zone 1 and has a low risk of surface water flooding. Local Plan policy CC3 requires that development be directed towards land within Flood Zone 1 and location of the site accords with this. In accordance with paragraph 169 of the NPPF and Local Plan policy CC4, and as the proposal is for Major development, SUDs are required, with the LLFA as a statutory consultee on the application. They require an acceptable drainage strategy (with supporting evidence), with details usually provided at a later date (for example by condition).
- 6.36 Soil and ground investigation has been carried out and as a result of this, surface water is proposed to drain by infiltration (soakaway). Permeable paving will be used with eventual discharge into an infiltration basin, located towards the centre of the site (see Figure 4). A maintenance schedule for the SuDS provides for regular inspection, with additional inspection following periods of heavy rainfall.



- 6.37 The LLFA has reviewed the submitted information and still require further information on the drainage strategy, including the viability of infiltration drainage, although they accept that an infiltration strategy is likely to be acceptable and can be provided by condition.
- 6.38 Whilst officers recognise that the application has currently failed to demonstrate a drainage strategy for surface water drainage which is acceptable to the LLPFA, it is considered that this could be achieved by condition, given the information submitted so far and the LLFA's confirmation that an infiltration strategy is likely to be acceptable. There are insufficient grounds to warrant refusal of the application for this reason, and details can be dealt with later as necessary.
- 6.39 Foul drainage connections are proposed to the mains sewer and a Severn Trent sewer map provided shows these on land to the north and to the south. Details could be provided by condition if necessary (although it is noted that Severn Trent have not commented). If upgrades to the existing network are required then this is likely to be a matter for the water authority.
- 6.40 IN4 also requires that development should have access to an adequate water supply and that greywater and rainwater harvesting systems should be provided. Given the proximity of the proposal to Sutton in the Elms, the committed commercial site and to Broughton Astley, it is likely that a water supply would be achievable. Details of greywater and rainwater harvesting could be required by condition, were the proposal considered acceptable.
- 6.41 Subject to further details, officers consider that the proposal could demonstrate an acceptable sustainable drainage system, in accordance with Local Plan Policy CC4 and that the application should not be refused on these grounds.

#### **g) Ecology, biodiversity and soils**

- 6.42 The application site is made up of scrub grassland with hedgerows and trees along all boundaries. The site falls within the Natural England Amber Zone for Great Crested Newt (GCN) and within 500 metres of a pond known to support GCN. The applicant has submitted a survey for the presence/absence of GCN, together with a Preliminary Ecological Assessment, baseline Biodiversity Net Gain (BNG) metric and updated survey letter (September 2022). Although the proposal is entirely for self-build dwellings, the statutory exemption from BNG does not apply in this instance as the site area/number of dwellings exceeds that allowed by the exemption.
- 6.43 Final comments from LCC Ecology will be available on the Supplementary List on the date of committee.
- 6.44 As discussed above, the Illustrative Layout together with the amount of dwellings proposed suggests that the hedgerows and trees around the site's perimeter could be retained outside of residential gardens. Details would be required at reserved matters stage. The applicant has suggested that impact on Great Crested Newts could be appropriately mitigated through the District Level Licensing procedure provided by Natural England. Officers consider that these details could be provided at a later date if necessary (by condition for example).
- 6.45 No assessment of the quality of agricultural land to be lost by the development has been submitted. Natural England's MAGIC database returns no results for this constraint. However, given that the site area is small (less than 5 ha) any loss of the best and most versatile agricultural land will not be significant and, in the opinion of officers, insufficient to warrant refusal on these grounds.

- 6.46 Notwithstanding any final comments from LCC Ecology, officers consider that the application has addressed the impact of the proposal on protected species. Bearing in mind that the previous applications on the site were not refused on ecological grounds, that this was not raised as a concern in the appeal decisions, that any approval would be subject to the mandatory BNG condition (which includes a baseline assessment) and that a suitably worded condition could ensure impact on Great Crested Newts was satisfactorily mitigated (through District Level Licensing for example), officers judge that on balance the proposal could demonstrate an acceptable impact on protected species and demonstrate biodiversity net gain, in accordance with Local Plan Policy GI5 and that the application should not be refused on these grounds.

#### **h) Heritage and Archaeology**

- 6.47 The site is not within any designated Conservation Area and is sufficient distance from the nearest Listed Buildings to satisfactorily preserve their setting. However, archaeological remains have been found on the site and these are non-designated heritage assets. In accordance with the NPPF, the impact of the proposal on these must be considered, in proportion to their value and designation.
- 6.48 Archaeological desk-based assessments and field work (trial trenching, 13 trenches) have been carried out. These have demonstrated Iron Age, Romano-British and Early/Middle Saxon activity on the site, and conclude that there is high potential for the survival of further features or deposits of archaeological significance beyond the confines of the 13 trenches.
- 6.49 County Archaeology have been consulted on the archaeology work and recognise the significant archaeological potential on the site. They request further archaeological work prior to commencement of development, so that all the archaeological significance of the site is explored, mapped, understood and recorded by way of mitigation for the loss of these heritage assets.
- 6.50 The non-designated heritage assets present on the site are not considered of such national value to constrain the development (for example by Scheduling). However, to ensure that their extent, value and significance is mapped and recorded appropriately, a pre-commencement condition requiring further archaeological work could be included in the event of an approval. Subject to condition, officers judge that the proposal complies with Local Plan policy HC1 and the NPPF.

#### **e) S106 Obligations/Contributions**

- 6.51 Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism for securing benefits to mitigate against the impacts of development. Those benefits can comprise, for example, monetary contributions (towards public open space or education, amongst others), the provision of affordable housing, on site provision of public open space / play area and other works or benefits that meet the three legal tests under Regulation 122 of the CIL Regulations.
- 6.52 These legal tests are also set out as policy tests in paragraph 56 of the Framework whereby Planning obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development.

- 6.53 Policy IN1 of the Harborough District Local Plan provides that new development will be required to provide the necessary infrastructure which will arise as a result of the proposal. More detailed guidance on the level of contributions is set out in The Planning Obligations Supplementary Planning Document, January 2022.
- 6.54 Eight requests for contributions have been made and these are considered to be CIL compliant. A S106 legal agreement has been drafted and despite this not yet being executed, officers consider that the information submitted during the process of the application, together with the progress made so far is sufficient to say that the proposal would deliver self-build housing and would satisfactorily mitigate the impacts of the development on local infrastructure, in accordance with policy IN1. If Members are minded to approve the application then this must be subject to an executed legal agreement being in place in order to ensure that the mitigation and the self-build dwellings are delivered. Appendix C sets out the requested contributions.

#### **e) Other Matters**

- *Recent appeal*
- 6.55 Planning Permission has recently been granted at appeal for 9 dwellings on land near to the site, in Sutton-in-the-Elms (see Appendix A). In the decision, the Inspector found conflict with the policies of the development plan (SS1, GD2, GD3, GD4, H5 and H3 of the Local Plan, H1 and H3 of the Broughton Astley Neighbourhood Plan) but judged that a material consideration (the Council's "significant" under-delivery of self-build plots) outweighed the conflict with the development plan. This proposal differs in that the conflict is greater due to the site being in the Area of Separation and the very significant level of harm in terms of character and appearance of the area/visual impact, as well as being for major development. It is also noted that the Inspector for the appeal was also aware of this Sutton-in-the-Elms appeal, yet found that it did not cause them to reach a different conclusion when dismissing the appeal. For these reasons, officers do not consider that the recent appeal sets a precedent or in any way carries positive weight for this application.

#### **7. Conclusion and the Planning Balance**

- 7.1 The site adjoins the existing and committed built up area of a sustainable settlement (Broughton Astley); will help to meet an identified District-wide housing need for self- and custom-build housing; has a scale which cumulatively does not disproportionately exceed the size of Broughton Astley and its service provision; and subject to condition, could retain natural boundaries. However, it is not in a location suitable for housing as it is located within a defined Area of Separation and would result in loss of the visual separation of Broughton Astley and Sutton in the Elms, and detract from the open character of the Area of Separation, including when viewed from the public Right of Way through the site. Furthermore, the site is not allocated for housing and is for an amount of development that cannot be considered as windfall under the Broughton Astley Neighbourhood Plan. The proposal does not reflect the form and character of the existing settlement or respect and enhance the local character and distinctiveness of the settlement, causes loss of countryside and landscape harm to the site itself and fails to protect and enhance the public right of way and access to the countryside. For these reasons, the proposal conflicts with policies GD2.2.e, GD5, GD8.1.a, d and j and H5 of the Harborough District Local Plan, policies H3 and EH2 of the Broughton Astley Neighbourhood Plan and paragraph 104 of the NPPF.
- 7.2 Although the proposal does not currently demonstrate compliance with all the technical matters (highways, ecology, surface water drainage, climate change), given the information submitted for the previous application officers consider that these details could be provided at a later date if necessary.

- 7.3 The proposal will provide employment opportunities during construction and possibly beyond (through management of landscaping etc), and income generation through Council Tax. It will provide opportunities for people to build their own homes and increase the amount of housing within the District. These economic and social benefits attract some positive weight.
- 7.4 The most relevant policies of the Harborough District Local Plan and the Broughton Astley Neighbourhood Plan are up-to-date and can be afforded full weight. The Council has a published excess of 5 years housing land supply and there is no under delivery. The 'tilted' balance of NPPF paragraph 11d does not apply and therefore the proposal must be determined against the policies of the development plan unless material considerations indicate otherwise.
- 7.5 The attribution of weight in determining planning applications is a matter for the decision maker. In this instance, officers find clear conflict with the policies of the development plan. The Council has a significant under-provision of self- and custom-build plots which this proposal will help to address, with an executed legal agreement securing this. On balance, officers consider that the material considerations (including the Council's significant under-provision of self-build plots) do not outweigh this conflict. Officers recommend that the policies of the development plan should prevail and that the application is refused.

## APPENDIX A – RECENT APPEAL ON SITE OFF SUTTON LANE, SUTTON-IN-THE-ELMS

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### Appeal Decision

Hearing held on 29 November 2022

Site visit made on the same day

**by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS**

an Inspector appointed by the Secretary of State

Decision date: 2<sup>nd</sup> February 2023

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**Appeal Ref: APP/F2415/W/22/3303898**

**Land at Sutton Lane, Sutton in the Elms, Broughton Astley, Leicestershire LE9 6QF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Davico Properties Limited against the decision of Harborough District Council.
  - The application Ref 21/00826/OUT, dated 22 April 2021, was refused by notice dated 10 March 2022.
  - The development proposed is an outline application for the erection of up to 9 dwellings (all matters reserved except for access).
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#### Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 9 self-build dwellings, on land at Sutton Lane, Sutton in the Elms, Broughton Astley, Leicestershire LE9 6QF in accordance with the terms of the application, Ref 21/00826/OUT, dated 22 April 2021, subject to the conditions in the schedule at the end of this decision.

#### Applications for costs

2. An application for costs was made by Davico Properties Limited against Harborough District Council. This application is the subject of a separate decision.

#### Preliminary Matters

3. The proposed development is described on the application form as an 'outline planning application for the erection of up to 9 dwellings (all matters reserved except for access)' omitting the term 'self-build'. However, from the documentation submitted at application and appeal stage, which includes the statement of common ground, it is evident that the appellant proceeded on the same basis as the Council determined the application, namely that the application was for self-build dwellings. Accordingly, I have dealt with the proposal on this basis.
  4. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on this basis and I have taken the layout of development shown in the submitted 'layout, access and visibility' plan (ref P1603/11) into account as indicative in relation to my consideration of the principle of the development on the appeal site.
  5. At application stage Leicestershire County Council advised that if planning permission was to be granted financial contributions would be sought from the developer in relation to affordable housing and education. However, that request has now been withdrawn and I have dealt with the appeal on this basis.
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<https://www.gov.uk/planning-inspectorate>



6. At the site visit I was approached by a number of local residents who wanted to make verbal representations regarding the proposed development. I explained that as the hearing had been closed that this was not possible. Some of the residents said that they had not been notified of where and when the hearing was to take place and so had not been able to attend and participate.
7. In advance of the hearing, I was provided with copies of Harborough District Council's letters that notified that an appeal had been made and where and when the hearing was to take place. In addition, I was provided with the list of persons to whom these letters had been sent. This list included those who objected to the application. As a result, I am satisfied that the appeal and details of the hearing were properly notified. In any event, in determining this appeal I have taken into account the representations that were submitted at application and appeal stage.

### **Main Issues**

8. The main issues in this appeal are:
  - whether the location of the proposed development would comply with the spatial strategy of the development plan, including in relation to the provision of self-build and custom-build dwellings;
  - the effect of the proposal on the character and appearance of the area;
  - the accessibility of services and facilities from the appeal site by sustainable modes of transport; and,
  - the self-build and custom housebuilding duty.

### **Reasons**

#### *Location of development*

9. The development plan for the area includes the Harborough Local Plan 2011 – 2031 ('Local Plan'), adopted in 2019 and the Broughton Astley Neighbourhood Plan 2013 – 2028 ('Neighbourhood Plan') that was made in 2014.
10. The Local Plan has established a settlement hierarchy which identifies the settlements which are the most suitable in sustainability terms to meet the development needs of the District. At the top of the hierarchy is the urban area around the edge of Leicester followed by Market Harborough which is classified as a Sub-Regional Centre. As a Key Centre, Broughton Astley is located within the third tier. Sutton in the Elms is a small village separated from Broughton Astley by Broughton Way and has been placed in the category of 'other villages and rural settlements' which is the sixth and lowest tier of settlement. This category of settlement is considered by the Local Plan to be the least sustainable location for growth. As a result, new housing development is strictly controlled in such settlements.
11. Policy GD2 of the Local Plan in certain circumstances supports new housing on sites adjoining the built up area of Key Centres such as Broughton Astley. However, the appeal site is located towards the far end of Sutton in the Elms furthest away from Broughton Astley. In addition, an area of separation forming land with permission for a golf course separates the end of the village where the appeal site is located from the site adjacent to Broughton Way that has permission for a mixed use development. As a result, the appeal site is not adjacent to the committed built up area associated with Broughton Astley and the scheme would be contrary to policy GD2 of the Local Plan.

12. Policies GD3 and GD4 of the Local Plan relate to development including housing in the countryside and 'other villages and rural settlements' such as Sutton in the Elms. These policies support new housing on small sites of up to 4 dwellings that meets a local need for housing evidenced through a rural housing needs survey or a neighbourhood plan. The proposed scheme is for up to 9 self-build dwellings and the evidence of need for this type of dwelling does not originate from the sources specified. It forms no part of the appellant's case that the proposed scheme would benefit from the other types of housing that would be eligible for permission under policy GD4 or under policy H3 of the Local Plan which relates to rural exception sites for affordable housing. As a result the proposal would also be contrary to policies GD3, GD4 and H3 of the Local Plan.
13. As the appeal site is not an allocated housing site it is contrary to policy H1 of the Neighbourhood Plan. Policy H3 of the Neighbourhood Plan supports small, well designed residential windfall sites that do not harm the surrounding area or neighbouring properties subject to such development having a direct highway frontage. Guided by the second criterion of this policy, and policy GD4 of the Local Plan, I have taken 'small' to mean less than 5 dwellings. Hence, the proposal would also be contrary to policy H3 of the Neighbourhood Plan.
14. Given the location of the appeal site, the number of dwellings and the market tenure proposed the appeal scheme conflicts with the spatial strategy of the development plan, namely policy SS1 of the Local Plan. As a result, it would also be contrary to policy H5 of the Local Plan which, amongst other matters, is supportive of self-build and custom build housing in locations suitable for housing.
15. The location of the proposed residential scheme would therefore be contrary to the development plan and harm its spatial strategy. Although the Local plan and the Neighbourhood Plan predate the current National Planning Policy Framework ('the Framework'), the thrust of the development plan's spatial strategy, which focuses development on urban areas and settlements with a reasonable range of services and facilities, whilst seeking to protect the character and appearance is consistent with the Framework. As a result, the policies of the development plan that are the most relevant and relate to these two main issues, namely Local Plan policies SS1, GD2, GD3, GD4, GD5, GD8, H3, H5 and Neighbourhood Plan policies H1, H3 are not out of date.

*Character and appearance*

16. Of the various development plan policies cited in the reason for refusal in relation to this issue, I consider policies GD5 and GD8 of the Local Plan to be the most relevant. Sutton in the Elms is a small settlement separated from Broughton Astley by the Broughton Way bypass. As a result, it has its own separate identity. The justified reasoning to Policy SS1 explains that other villages and rural settlements' such as Sutton in the Elms are considered to be countryside.
  17. The village is characterised by linear development of closely spaced dwellings. On the western side of the village is an area of separation that creates a break between built development in the settlement and land where permission has been granted for a mixed use development along Broughton Way to the south. On the eastern side of the village are agricultural fields.
  18. The appeal site is an area of grassland located to the rear of dwellings on the northern side of Sutton Lane towards its north western end. In recent years the character and appearance of this part of the village has changed. Gaps between
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houses have been filled and backland development has taken place. As a result of the new houses in front of the site on Elm Crescent off Sutton Lane, the appeal site is completely enclosed by development on two sides and partly enclosed on two of its remaining sides. Consequently, in public views from Sutton Lane, other than for glimpsed views along the proposed site access, development of the appeal site would be screened from view.

19. From the public right of way to the rear, the roofs of the new houses in front of the appeal site can be seen above the height of the site's rear boundary hedge. With development extending beyond the north western side of the appeal site, and newly built housing consolidating development in depth close by to the south east, for all practical intents and purposes in views from the footpath the appeal site appears to be land within the built framework of the village rather than open countryside. An appropriate setback of dwellings on the site from the rear boundary would help the transition to the open countryside to the east, where the public right of way is located, and avoid a hard edge to the scheme.
20. As a result, whilst in policy terms the proposal would result in the loss of countryside to development, in practice, with the control that can be exerted at reserved matters stage and by condition, development of the site could complement the character and appearance of the village rather than cause harm.
21. Reference has been made to an outline application for nine dwellings on the opposite side of Sutton Lane that was dismissed on appeal in 2019. However, that proposal related to a site that was unenclosed by existing housing and so its development would have protruded into the countryside without integrating with the village. As a result, its context is quite different from that of the appeal site and reference to this appeal decision has not altered my assessment of the proposal before me.
22. For the reasons given above, I therefore conclude that whilst the proposal would result in the loss of countryside to development, with the control that can be exerted at reserved matters stage, the scheme would complement the character and appearance of the area. As a result, it would comply with policies GD5 and GD8 of the Local Plan which require the protection of the character and appearance of a locality through high quality design that respects local design features.

#### *Accessibility of services and facilities*

23. Whilst Sutton in the Elms is in the lowest tier of the Local Plan's development settlement hierarchy a number of services and facilities available in the Key Centre of Broughton Astley are within approximately 1km by road of the appeal site. This includes a primary school, post office and medical practice. A footway to the village centre with a crossing point and central reservation on Broughton Way at the end of Sutton Lane enables these services to be safely accessed on foot from Sutton in the Elms and the appeal site. Whilst the three services I have named are further than the 800m distance referred to in Leicestershire Local Transport Plan 3, as they are within a walking time of approximately 10 minutes they are within a reasonable walking and easy cycling distance.
24. In relation to public transport, regular bus services to towns in the county during the daytime Monday to Friday stop on Broughton Way near to Sutton Lane.
25. Permission for a mixed use development on land adjacent to Broughton Way to the south west of Sutton in The Elms has also been granted. If built out in accordance with the outline permission this development will provide some facilities and

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services that will be accessible on foot from the appeal site without crossing the bypass.

26. Taking all these matters into account, I therefore conclude that services and facilities are accessible by sustainable modes of transport from the appeal site to an extent that is more akin to a location within a larger settlement higher up the settlement hierarchy of the Local Plan. This is a consideration that weighs in favour of the appeal.

*Self-build and custom housebuilding duty*

27. Notwithstanding Local Plan policy H5, the Self-build and Custom Housebuilding Act 2015 (as amended) ('the Act') places a statutory duty on the Council to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand. The demand registered in each 12 month base period from the end of October 2015 onwards must be met by 30 October 3 years after the end of each period. The Council's Self-Build and Custom Housebuilding Corporate Policy details its approach to this type of housing.
28. The current position, as of 30 October 2022, is that since the introduction of the Act 3 plots have been provided to meet the demand for 48 plots. This leaves an unmet demand for 45 plots. This is a considerable shortfall. It was agreed by the parties at the hearing that with permission having been granted for the Lutterworth East Strategic Development Area (SDA) that an additional 15 plots will be provided. However, as the Council's appeal statement notes, these plots are not yet available and so cannot be included.
29. It is anticipated that permission may well be granted in 2023 for the Scraftoft SDA which in time will provide 10 self-build plots. Considerably more plots though than those provided by the SDAs will be needed to address the burgeoning demand. Next year with the inclusion of register entries from 2019 – 2020 demand will almost double and in the following two years demand will continue to increase by significant amounts.
30. I recognise that the absence of a Community Infrastructure Levy has caused difficulties for the Council in identifying applications that could qualify as self-build plots. Nevertheless, in the absence of further submitted evidence in relation to this matter, my assessment of this issue must be based on the published figures produced by the Council.
31. The proposed scheme in providing up to 9 self-build dwellings would make a significant contribution to addressing the current shortfall in provision.

**Other Matters**

*Highway safety*

32. The planning application was partly refused on the grounds that information supporting the design of the proposed access, and a road safety audit demonstrating that the access would be safe, had not been received by officers. The Council has confirmed that the required information has now been received and addresses their concerns. In terms of highway safety, the highway authority has no objection to the proposal subject to further details regarding the site access shown on the submitted plans. Similarly, the highway authority has not raised any objections regarding the effect of the proposal on the capacity of the local highway

network. On the basis of what I have read and seen, I have no reason to disagree with these positions.

*Living conditions – outlook, privacy, noise and disturbance*

33. The outlook across the appeal site from neighbouring houses is currently of open grassland enclosed by a hedge with cultivated fields beyond. Development of the site would change this outlook. However, there is no right to a view. I have found no material harm in terms of the effect of the proposed development on the character and appearance of the area, and with the control that exists at reserved matters stage regarding layout and scale, development of the site would not be overbearing, overly dominant or harmful to privacy.
34. The proposed access would pass between two dwellings. Sufficient space would exist for suitable boundary treatments and landscaping to avoid this resulting in noise and disturbance to the occupiers of these properties. Development and construction can generate noise and disturbance. However, this could be addressed by a Construction Environmental Management Plan which, amongst other matters, controls the hours of operation and requires that measures are taken to control noise. Such a plan could be required by condition.
35. For all of these reasons, I am therefore satisfied that the proposed scheme would not cause material harm to the living conditions of neighbouring residents.

*House prices*

36. There is concern that loss of the view of open grassland and fields beyond to development will devalue houses around the site. Planning Practice Guidance though states that planning is concerned with land use in the public interest. As a result, the protection of purely private interests, such as the impact of a development on the value of neighbouring properties, is not a material consideration<sup>1</sup>. For this reason, concerns regarding the effect of the development on the value of neighbouring houses has not altered my assessment of the development.

*Ecology*

37. One of the Council's reasons for refusal of the application related to a failure to demonstrate that the scheme would not adversely affect ecology. In particular, the site was considered to have the potential to support great crested newts, bats and badgers. Since then the necessary surveys have been carried out and progress has been made in relation to obtaining the appropriate licence from Natural England in relation to great crested newts. As a result, subject to the receipt of a copy of the license, the implementation of the approved wildlife mitigation strategies, and measures to enhance ecology on the site, the Council is satisfied that ecology has been properly addressed. I see no reason why such requirements could not be complied with and I have no reason to disagree with those conclusions.

**Planning Balance**

38. Applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons I have set out earlier, the location of the proposed development would be in conflict with the spatial strategy of the development plan. As a result, the

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<sup>1</sup> Planning Practice Guidance Paragraph: 008 Reference ID: 21b-008-20140306



proposal would be contrary to policies GD2, GD3, GD4, H3 and H5 of the Local Plan and policies H1 and H3 of the Neighbourhood Plan which seek to focus new development on the largest settlements in the District in order to further sustainability objectives. In so doing the proposal would be contrary to the development plan considered as a whole.

39. Although placed in the category of 'other villages and rural settlements' in the Local Plan the location of Sutton in the Elms adjacent to Broughton Astley means that there is acceptable access on foot and by bicycle to a number of services and facilities within this Key Centre. A regular bus service also provides reasonable access to towns in the county. As a result of the accessibility of services and facilities from the site by such sustainable modes of transport, only moderate harm would be caused by the proposal to the spatial strategy of the development plan. In terms of the character and appearance of the countryside, as the appeal site is largely enclosed by existing development it appears to fall within the built framework of the village and is of only limited landscape value. The proposed development would therefore complement the village and no material harm to the character and appearance of the area would occur.
40. Taking all these matters into account, I attach moderate weight to the policy conflict between the proposed scheme and the development plan.
41. The statutory duty of the Council to meet the demand for self-build and custom housebuilding is an important material consideration. The Council is failing by a very large margin to meet this demand and the submitted evidence indicates that it will fail to do so in forthcoming years by an even larger extent as more recent register entries feed through into the base period calculations. I attach considerable weight in favour of the appeal to the contribution that the appeal scheme would make in helping to address this shortfall.
42. Having regard to all the merits of this case, I conclude that the Council's poor performance against its statutory duty in relation to self-build and custom housebuilding outweighs the scheme's conflict with the development plan. As a result, material considerations indicate that in the particular circumstances of this case planning permission should be granted for development that is not in accordance with the development plan.

#### *Conditions*

43. To take into account the self-build and custom housebuilding nature of the scheme the standard reserved matters conditions have been revised. In order to comply with the policy of the Local Plan in respect to the provision of affordable housing, the scheme needs to make provision for affordable housing should the combined gross floorspace of buildings on the site exceed 1000sqm. In the interests of certainty, I have imposed a condition specifying the relevant drawings that the development is to be carried out in accordance with.
44. To ensure that dwellings built on the site help meet the demand for self-build and custom housing evidence in relation to each unit needs to be submitted. As a self-build or custom house is exempt from a Community Infrastructure Levy (CIL) unless it changes hands within 3 years of being first occupied a section 106 obligation is usually necessary. However, as the Council does not have a CIL a condition is appropriate in this instance. Given the potential for inconvenience and disturbance, a Construction Environment Management Plan is also necessary.

45. To protect wildlife on the site construction materials need to be stored off the ground, further details on biodiversity enhancement need to be provided and the development need to be carried out in accordance with an ecological report. Confirmation of a district level licence from Natural England also needs to be provided in order that the effect of the development on Great Crested Newts is mitigated.
46. To ensure that the development complements its surroundings and caters for biodiversity housing needs to be set back from the rear (northern) boundary of the site and trees and hedges protected. Further details on site levels and boundary treatments are also required so that development complements surrounding development. In the interests of highway safety, further details on the design of the access are necessary.
47. I have required all these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance.
48. A condition was suggested requiring that details of foul and surface water drainage are provided for approval. However, as this would duplicate statutory Building Regulations such a condition is unnecessary. A condition was also suggested regarding the provision of a footpath as shown on the plans that define the development. However as layout is a reserved matter the only point at which a footpath needs to be considered is at the point at which the access to the site is formed over the existing footpath along Sutton Lane. As this matter is covered by a different condition relating to site access arrangements which includes the design response to the stage 1 Road Safety Audit this additional condition is unnecessary.

**Conclusion**

49. For the reasons given above I conclude that the appeal should be allowed.

*Ian Radcliffe*

Inspector



## Appeal Decision

Site visits made on 16 January 2024 and 14 March 2024

**by Bhupinder Thandi BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 26 March 2024**

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**Ref: APP/F2415/W/23/3328656**

**Land north of Broughton Way, Broughton Astley**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by V300 Projects Ltd against the decision of Harborough District Council.
  - The application Ref 23/00756/OUT, dated 24 May 2023, was refused by notice dated 11 July 2023.
  - The development proposed is up to 17 self-build residential dwellings.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by V300 Projects Ltd against the decision of Harborough District Council. This application is the subject of a separate decision.

### Preliminary Matters

3. The name of the appellant on the appeal form differs from the applicant listed on the planning application form. I have been advised that the appeal is being pursued by the original applicant, despite the difference in names, and I have borne this in mind when making my decision.
4. The application is in outline with all matters reserved for future consideration, save for access. I have determined the appeal on this basis.
5. Illustrative plans accompany the application and I have paid regard to this information in so far as assessing the principle of development in land use terms.

### Main Issue

6. The main issue is the effect of the proposed development upon the character and appearance of the area and the defined Area of Separation.

### Reasons

7. Broughton Astley is a large settlement that contains a number of day-to-day services and is largely contained to the south of the B581 which is a busy road that extends along the southern edge of the appeal site. In contrast Sutton in

the Elms is much smaller extending in a linear manner along Sutton Lane, which is a no through road, and has a rural feel.

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8. The appeal site is open and undeveloped comprising scrub with boundaries formed of hedgerow and trees. It forms part of an open landscape, part of which is identified as an Area of Separation, between the settlements of Broughton Astley and Sutton in the Elms formed of fields, scrubland and a paddock. This landscape contributes to the rural appearance of the area and provides a notable visual and spatial buffer between the two settlements.
  9. My attention has been drawn to planned development in this landscape, including a large-scale employment development, neighbouring the appeal site and a golf course to the north west, although at the time of my site visits there was no obvious signs of construction works taking place on either site.
  10. A public footpath extends diagonally across the site and links Broughton Astley and Sutton in the Elms. It is apparent that the footpath is well used and that the site is highly accessible. Part of its route extends along the back of houses on Sutton Lane and whilst glimpsed views of the built form exist through the vegetation, there is still a sense of rurality when walking along the footpath. As you enter the site and the landscape opens up there is a stronger sense of rurality due to the green and open nature of the site, despite the presence of the B581 and nearby built form.
  11. The introduction of the built form through up to 17 new dwellings and associated infrastructure and the resultant urbanisation of the site would significantly erode the site's open and green appearance. The loss of this open area would unacceptably diminish the contribution it makes to the character and appearance of the area through this urbanisation.
  12. Because of the overall spread of development over the entire site, the proposal would appear as an intensively developed and anomalous feature that would not positively relate to the linear development pattern of Sutton in the Elms. Nor would it appear as a logical extension of Broughton Astley, located on the other side of the B581. Proposed landscaping and retention of vegetation to some extent would moderate the impact, however in my judgement, this would



not be sufficient to overcome the harm that I have identified.

13. Despite the presence of structures and miscellaneous items including fencing, tracks and solar panels the neighbouring paddock has an open appearance contributing to the character of the area. The site of the golf course is currently formed of an open and undulating landscape, and it would largely have a green and verdant appearance once completed. Irrespective of whether they form previously developed land these series of parcels together with the appeal site and Finn's Field have an open and green aspect and provide an important visual and spatial buffer between Broughton Astley and Sutton in the Elms. In this context, I do not agree that the proposed development would be read as an infill development but rather as an unwelcome intrusion into open countryside.
14. Whilst development of the neighbouring site for employment uses would, to some extent, diminish this gap, it would be contained by existing field boundaries and would maintain a notable degree of separation between it and Sutton in the Elms.
15. I acknowledge that the landscape character of the area has changed since the Lutterworth and Broughton Astley Landscape Character Assessment and Capacity Study was undertaken on account of planned developments. However,

the open aspect of the Area of Separation nor its purpose of protecting the separate identities of Broughton Astley and Sutton in the Elms has been substantially undermined by this development.

16. Coalescence is largely a matter of perception, and it is important to understand how the area is experienced as people move through it. The B581 is a busy road flanking the southern boundary of the site and when travelling along it the proposed development would be seen in the context of commercial buildings, once constructed, albeit views of it would be filtered by existing vegetation. Therefore, there would be a fleeting appreciation of the proposed development and no real appreciation of the encroachment into the rural landscape from the road.
  17. Despite the above, the proposed development would be most evident in views from along the footpath. As part of the proposal there would be a requirement to divert the route of the footpath as it crosses the site. I acknowledge that the precise route of the footpath is yet to be determined, however, it is likely that it would extend through or alongside the proposed housing development. Consequently, the experience of users of the public footpath would significantly and adversely change resulting from the diminishment of the spatial and rural qualities of the public footpath as it crosses the site.
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18. Whilst the effects would be localised the proposal would adversely affect the existing visual and spatial relationship between Broughton Astley and Sutton in the Elms. It would unacceptably reduce the physical and perceptual gap between the two settlements adversely affecting the character and appearance of the area and the defined Area of Separation.
19. As such, the proposed development conflicts with Policies GD2, GD5, GD8 and H5 of the Harborough Local Plan (2019) and Policies H3 and EH2 of the Broughton Astley Neighbourhood Plan (2014) which, amongst other things, require developments to respect the form and character of existing settlements and landscape; respect and enhance local character and distinctiveness of the settlement concerned and do not permit developments that would detract from the open character of the Area of Separation or reduce the visual separation between settlements.

#### **Other Matters**

20. The Self-Build and Custom Housebuilding Act 2015 introduced a legal duty on local authorities to establish and publicise a local register of custom-builders who wish to acquire suitable land to build their own home. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding (SBCH) in the authority's area arising in each base period. Authorities must have regard to the Register when carrying out their planning functions, including making decisions on planning applications.
21. The Council's data in respect of SBCH covers 12-month base periods starting in October 2016. At the end of each base period, the local planning authority has three years to permit an equivalent number of suitable permissions for SBCH, as there are entries for that base period. The Council's own figures show that the total number of entries on the register across the eight base periods from October 2016 to October 2023 is 160. In that time, the Council has granted

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permission for just 24 plots, representing a significant shortfall in the delivery of self-build units.

22. As such, whilst LP Policy H5 supports proposals for SBCH, I am of the view that it is highly unlikely that the Council will deliver a sufficient number of plots to address the current shortfall and meet the requirement in the near future. It is evident that up to 17 self-build houses would contribute towards meeting the requirement for such housing in the district.



22. As such, whilst LP Policy H5 supports proposals for SBCH, I am of the view that it is highly unlikely that the Council will deliver a sufficient number of plots to address the current shortfall and meet the requirement in the near future. It is evident that up to 17 self-build houses would contribute towards meeting the requirement for such housing in the district.
23. Ordinarily, this matter would attract substantial weight. However, the appellant has not provided an executed planning obligation to secure the intended plots as self-build. Taking into account the overall number of SBCH plots proposed I am of the view that a condition would not be appropriate in this instance. Therefore, there is no certainty that the proposed development would secure the delivery of SBCH in order to address this shortfall.
24. I recognise that the NP does not include policies relating to SBCH, nonetheless, it does support housing in the plan area including windfall development. As such, I am not persuaded that the NP constricts the delivery of SBCH. It is evident that the NP takes account of the neighbouring employment site and the wording of Policy EH2, which relates to the Area of Separation, whilst seeking to maintain separation between Broughton Astley and Sutton in the Elms does not preclude development from taking place within it provided it does not detract from its open character. As set out earlier the neighbouring equine use and golf course would largely maintain this character. Whilst the LP does not set out specific areas of separation, it does nonetheless, seek to maintain the open character of such areas and reaffirms their importance in maintaining the separate identities of settlements. Therefore, based on the evidence before me, I am satisfied that the NP does broadly conform with the development plan.
25. My attention has been drawn to an appeal decision allowing development of a site for SBCH plots in Sutton in the Elms. Whilst I have had regard to it, this decision does not lead me to reach a different conclusion in respect of the appeal. In any case, every appeal must be considered on its own merits, as I have done.

### **Planning Balance**

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
27. The provision of up to 17 self-build units would reduce the shortfall and would contribute to an identified local need and meet the need of the local community who wish to commission or build their own home. I therefore give both the provision of self-build plots significant weight in the planning balance.
28. The site is located opposite Broughton Astley within a short distance of a range of day-to-day services. Future occupiers would be able to reach these on foot, providing them with transport choice and an alternative to car use. This weighs in the scheme's favour.
29. The construction of up to 17 dwellings would provide jobs, albeit this would be largely short term limited to the construction phase. Future occupiers would help to maintain the vitality of services and facilities in Broughton Astley

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through increased spending. The net gain in biodiversity would also be a benefit. However, these benefits would be moderate in the overall balance.

30. The Framework makes it clear that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development and creates better places in which to live and work. As set out above I have found that the proposed development would adversely affect the character and appearance of the area and would result in coalescence between Broughton Astley and Sutton in the Elms.
31. Furthermore, the absence of a planning obligation and the adverse impact of failing to provide financial contributions towards travel packs, waste bins and the delivery of SBCH plots weighs significantly against the proposal.
32. Even taking into account the objective to significantly boost the supply of housing including on windfall sites, the conflict between the proposal and the LP and NP should be given very significant weight in this appeal.
33. In the context of the above, and taking into account other considerations, I find that the identified adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal. Consequently, the presumption in favour of sustainable development therefore does not apply in this case.
34. I conclude that the proposal conflicts with the development plan, when read as a whole. There are no other considerations that outweigh that harm. The appeal is therefore dismissed.

### **Conclusion**

35. For the reasons set out above the appeal does not succeed.

*B Thandi*

INSPECTOR

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## APPENDIX C – S106 OBLIGATIONS

Request by HDC	Obligation for Community Facilities contribution												
Amount /Detail	Delivery	CIL Justification	Policy Basis										
<b>Community Facilities</b>  Between £13,132.50 - £35,020.00 for the purpose of funding improvements to existing community facilities in the vicinity of the Development. As the housing mix is unknown, the final amount invoiced will reflect: <table><tr><td>1 bed dwelling</td><td>£772.50 per dwelling</td></tr><tr><td>2 bed dwelling</td><td>£1030.00 per dwelling</td></tr><tr><td>3 bed dwelling</td><td>£1184.50 per dwelling</td></tr><tr><td>4 bed dwelling</td><td>£1545.00 per dwelling</td></tr><tr><td>5 bed dwelling</td><td>£2060.00 per dwelling</td></tr></table>	1 bed dwelling	£772.50 per dwelling	2 bed dwelling	£1030.00 per dwelling	3 bed dwelling	£1184.50 per dwelling	4 bed dwelling	£1545.00 per dwelling	5 bed dwelling	£2060.00 per dwelling	100 % to be paid to HDC prior to the Commencement of Development	<p>See full CIL justification from HDC Parish and Community Facilities Officer on file</p> <p>The development would place additional demands on community facilities.</p> <p>The contribution request has been justified using evidence of need for the community facilities and the contribution would be allocated to projects supporting community facilities in the Parish of Broughton Astley.</p> <p>The projects evidenced will benefit the new residents of the proposed development.</p>	<p>HDC Planning Obligations Supplementary Planning Document June 2022</p> <p>Community Facilities Refresh Assessment May 2017</p> <p>Built Sports Facilities Strategy 2019</p> <p>Harborough Local Plan Policy IN1. Broughton Astley Neighbourhood Plan policy CI1</p>
1 bed dwelling	£772.50 per dwelling												
2 bed dwelling	£1030.00 per dwelling												
3 bed dwelling	£1184.50 per dwelling												
4 bed dwelling	£1545.00 per dwelling												
5 bed dwelling	£2060.00 per dwelling												
Request by HDC	Indoor Sports												
Amount /Detail	Delivery	CIL Justification	Policy Basis										
£28, 854.00 for swimming pool and sports hall provision in the locality.  Note : These figures are based on 17 x 5 bed dwellings – the amount will differ depending on the final housing mix.	100% to be paid when 25% of the dwellings are occupied. Spent within 7 years of receipt.	The population of the proposed development is estimated to be around 68 new residents. This additional population will generate additional demand for sports facilities. If this demand is not adequately met then it may place additional pressure on existing sports facilities, thereby creating deficiencies in facility provision. In accordance with the NPPF, Sport England seeks to ensure that the development meets any new sports facility needs arising as a result of the development.	<p>Built Sports Facilities Strategy 2019</p> <p>Harborough Local Plan Policy IN1. Broughton Astley Neighbourhood Plan policy CI1</p>										

		<b>Built Indoor Sports Facilities Contributions</b> – supported by Built Sports Facility Strategy and its action plan, excluding section 14. FPC gives the calculation and amounts to be collected.	
<b>Request by HDC</b>	<b>Open Space</b>		
<b>Amount /Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>
£91,260.00 towards enhancements of existing provision or additional provision in Broughton Astley of parks & gardens, outdoor sports facilities, children & young people's provision, allotments, greenways, cemeteries and burial grounds. All contributions to be off-site.	100% of the off-site contributions to be paid prior to 25% occupation. Contributions to be spent within 7 years of receipt.	See full CIL justification of HDC Neighbourhood and Green Spaces officer consultation response on file	Harborough Local Plan Policy IN1. Broughton Astley Neighbourhood Plan policy CI1  Open Spaces Strategy 2021  Provision for Open Space Sport and Recreation 2021
<b>Request by HDC</b>	<b>Waste</b>		
<b>Amount/Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>
£2179.74 for the provision of 1no black- and 1no blue-lidded household waste and recycling receptacles per household.	Unspecified in the response.	See full CIL justification of HDC Waste consultation response on file	Harborough Local Plan Policy IN1
<b>Request by LCC</b>	<b>Libraries</b>		
<b>Amount /Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>
£513.36 towards increasing capacity (stock/reading materials) at Broughton Astley Library based on an assumed occupancy of 51 people	No trigger specified in the response. To be spent within 10 years or as drafted in the Legal agreement	See full CIL justification from LCC Libraries on file	Leicestershire County Council Planning Obligations Policy (2019).  Harborough Local Plan Policy IN1. Broughton Astley Neighbourhood Plan policy CI1
<b>Request by LCC</b>	<b>Schools</b>		
<b>Amount /Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>

£50,749.96 for secondary schools in the local area. As the housing mix is unspecified, the calculation is based on all the dwellings having two or more bedrooms.	No trigger specified in the response. To be spent within 10 years or as drafted in the Legal agreement	See full justification from LCC Schools on file.  The proposal generates a deficit of 13 pupil places at Thomas Estley Community College, the nearest secondary (11-16) school within a two mile walking distance from the development. The contribution is sought to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Thomas Estley Community College (within the DfE approved planning area) or any other school within the locality of the development including a new school.	Leicestershire County Council Planning Obligations Policy (2019).  Harborough Local Plan Policy IN1. Broughton Astley Neighbourhood Plan policy CI1
<b>Request by LCC</b>	<b>Highways</b>		
<b>Amount /Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>
£898.45 for 1no Travel Pack per dwelling  £12,240.00 for 2no six-month bus passes per dwelling	No details given in response.	To encourage sustainable travel to and from the site and to establish changes in travel behaviour from first occupation.	Leicestershire County Council Planning Obligations Policy (2019).  Harborough Local Plan Policy IN1. Broughton Astley Neighbourhood Plan policy CI1  NPPF
<b>Request by the CCG</b>			
<b>Amount /Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>
£13,164.80 towards providing additional clinical accommodation at the Orchard Medical Practice in Broughton Astley.	Prior to first Occupation	See full CIL justification from the NHS CCG on file  The development is proposing 17 dwellings which, when based on the average occupancy of dwelling averaging 2.42 patients, would result in an increased patient population of approximately 41.14 generated by the proposal.	Harborough Local Plan Policy IN1. Broughton Astley Neighbourhood Plan policy CI1
<b>Request by HDC</b>	<b>Obligation for Monitoring Fee</b>		
<b>Amount /Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>

<p>The formula for calculating the monitoring fee of a Section 106 agreement is as follows: Part One: Desk-based costs • (Number of 'trigger events' x 'Fee per monitoring point') plus Part Two: Site visit costs • (Number of 'trigger events' x Site Visit Fee)</p> <p>Based on the Council's Schedule of Charges 2021/22, Site visit monitoring is £70/hour; cost of each monitoring point in agreement is £349/monitoring point.</p>	<p>Within 14 days of commencement</p>	<p>To cover the costs of monitoring payments and implementation of the developer contributions and scheme.</p> <p>The sum of the monitoring fee to be paid to the Council must not exceed the Authority's estimate of its cost of monitoring the development over the lifetime of the planning obligation(s). Monitoring fees will therefore be based on current costs and will be reviewed periodically as necessary in line with changing costs.</p>	<p>Part 10 of the Community Infrastructure Levy (Amendment) (England) Regulations 2019 permits a local authority to secure fees to monitor and report on planning obligations contained within a Section 106 agreement, especially where the scale of development is complex and needs long term monitoring.</p> <p>HDC Planning Obligations Supplementary Planning Document June 2022</p>
<b>Request by LCC</b>	<b>Obligation for Monitoring Fee</b>		
<b>Amount /Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>
<p>£300.00 or 0.5% (whichever is greater) per financial obligation in favour of the County Council</p>	<p>Within 14 days of commencement</p>	<p>To cover the costs of monitoring payments and implementation of the developer contributions and scheme.</p>	<p>Leicestershire County Council Planning Obligations Policy (2019).</p>

**NOTE 1: Indexation may be applied to the above figures.**



## Committee Report

**Applicant:** Davidsons Developments

**Application Ref:** 24/00888/FUL

**Location:** Land to The West Of Leicester Road, Market Harborough

**Parish/Ward:** Market Harborough Parish / Lubenham Ward

**Proposal:** Erection of 17 dwellings

**Application Validated:** 07.08.2024

**Overall Consultation Expiry Date:** 05.11.2024

**Target Date:** 06.11.2024 - EOT Agreed

**Committee Decision:** Call-in from Cllr Asher (11.09.2024):

*I would like to call this application in to committee as I am concerned about the neighbouring houses privacy, there is a boundary dispute, and the opening of Harvest Road is further delayed at the time of writing this.*

*As it stands there is insufficient infrastructure on site to make the site sustainable. This will of course improve but as we are looking at what is in front of us at the moment there isn't a bus service, there isn't a through road and there aren't any shops on site. The school is now open but only 1 year at a time so any school age children moving on to the site unless they are very young would have to leave the site to go to school elsewhere.*

**Officer Note:** Harvest Road is now open and plans have been amended to address neighbouring amenity concerns

## Recommendation

Planning Permission is **APPROVED** for the reasons set out in this report and subject to the recommended Planning Conditions and Informative Notes in Appendix A; the signing of a legal agreement to secure the obligations set out in Appendix B and confirmation from the LLFA the drainage strategy is acceptable and the Ecology information is acceptable.

### 1. Site & Surroundings

- 1.1 The application Site is located to the west of Market Harborough, on land which forms part of the permitted allocation of 1,500 dwellings at the North-west Market Harborough Strategic Development Area (SDA).
- 1.2 The Site relates to the middle section of the SDA which is being developed by Davidsons. This section of the SDA was granted outline planning permission in March 2016 (ref. 13/01483/OUT). Pursuant to that permission, a number of reserved matters consents have been approved (see planning history).



**Wider Masterplan – indicating site application site with an ‘X’**

## Officer Site Photos



Looking east into the site from Harvest Road



Looking south-west from the site



Looking east towards the site from the playground



Looking north-east from the site



Looking south and south-west from the site





Looking south-east from the site



Looking north-west from the site



Looking towards site from Blackhouse Drive

## 2. Site Planning History

2.1 The site has the following relevant planning history:

- **13/01483/OUT** - Erection of 450 dwellings, a local centre (to potentially include A1 (Retail), A3 (Food), A4 (Pub), A5 (Hot Food) D1 (day nursery/medical centre) and D2 (Leisure)), Public Open Space (to include outdoor sports pitches and children's play space, LEAP, allotments and community hall), Associated drainage infrastructure including SUDs features, highway infrastructure and new roads, including part of the new link road and the creation of pedestrian and cycle ways. **APPROVED**
- **17/00339/REM** – Erection of 135 dwellings **APPROVED**
- **17/01966/REM** - Erection of 315 dwellings and associated garage and parking (reserved matters of 13/01483/OUT) **APPROVED**
- **19/01115/REM** - Erection of 135 dwellings and associated garage and parking (Reserved matters of 13/01483/OUT) (revised scheme of 17/00339/REM to update house types to plots 2, 4-7, 16-17, 21-26, 29-40, 43-49, 51-66, 68-73, 75-76, 79-89, 92-99, 102, 104-109, 111-117, 118, 120-122, 125, 127-128, 132-135, house type substitutions to plots 1 and 125, repositioning of plot 50, repositioning of garages to plots 30 and 67, relocation of pumping station and amendments to attenuation pond and landscaping proposals **APPROVED**

- **21/01519/FUL** - Erection of a local centre comprising retail units (Class E), 13 apartments and 6 dwellings with associated parking, creation of overflow parking area, landscaping and supporting infrastructure **APPROVED**
- **21/01520/REM** - Installation of three outdoor sports pitches, erection of changing room facility and LEAP (Reserved Matters of 13/01483/OUT, including details of appearance, landscaping, layout and scale) **PENDING CONSIDERATION**
- **21/01519/FUL** - Erection of a local centre comprising retail units (Class E), 13 apartments and 6 dwellings with associated parking, creation of overflow parking area, landscaping and supporting infrastructure **APPROVED**
- **21/01669/VAC** - Erection of 135 dwellings and associated garage and parking (Reserved matters of 13/01483/OUT) (revised scheme of 17/00339/REM to update house types to plots 2, 4-7, 16-17, 21-26, 29-40, 43-49, 51-66, 68-73, 75-76, 79-89, 92-99, 102, 104-109, 111-117, 118, 120-122, 125, 127-128, 132-135, house type substitutions to plots 1 and 125, repositioning of plot 50, repositioning of garages to plots 30 and 67, relocation of pumping station and amendments to attenuation pond and landscaping proposals (Variation of Condition 1 (Permitted Plans and Condition 4 (Landscaping Management Plan) of 19/01115/REM to create a new bund, updated Landscaping Plan and Landscaping Management Plan) **APPROVED**
- **21/02155/REM** - Erection of 315 dwellings and associated garage and parking (Reserved matters of 13/01483/OUT) (revised scheme of 17/01966/REM, including details of appearance, landscaping and layout for substitution of plot numbers 201-221, 223, 225-233, 235-249. **APPROVED**
- **22/00860/REM** - Erection of 135 dwellings and associated garage and parking (Reserved matters of 13/01483/OUT) - Revised scheme of 19/01115/REM for house type substitution to plots 30-41 with plot 37 omitted (details of appearance, landscaping, layout and scale to be considered) **APPROVED**
- **23/00308/REM** - Forestry Planting Proposal (Reserved Matters of 13/01483/OUT, including details of appearance, landscaping, layout and scale) **APPROVED**
- **23/00309/REM** - Erection of 315 dwellings and associated garages and parking (reserved matters of 13/01483/OUT) - revised scheme of 17/01966/REM covering plot substitutions and layout revisions (covering details of appearance, landscaping, layout & scale) **APPROVED**
- **23/00365/FUL** - Erection of 20 dwellings **APPROVED**
- **24/00273/VAC** - Erection of 315 dwellings and associated garages and parking (reserved matters of 13/01483/OUT) - revised scheme of 17/01966/REM covering plot substitutions and layout revisions (covering details of appearance, landscaping, layout & scale) (Variation of Conditions 1 (approved plans) and 2 (parking and turning facilities) of 23/00309/REM including Phase 3 to update housetypes to 10 plots including an updated layout plan and Phase 5 to update landscaping **APPROVED**

- **24/00491/VAC** - Erection of a local centre comprising retail units (Class E), apartments and dwellings with associated parking, creation of overflow parking area, landscaping and supporting infrastructure. Variation of Conditions 2 (Plans), 6 (Opening Hours), 7 (Delivery Hours), 9 (CEMP), 11 (Surface Water Drainage), 12 (Management of Surface Water), 16 (Access Arrangements) and 17 (Parking and Turning Facilities) of 21/01519/FUL to change various designs and alter the number of apartments and dwellings **PENDING CONSIDERATION**

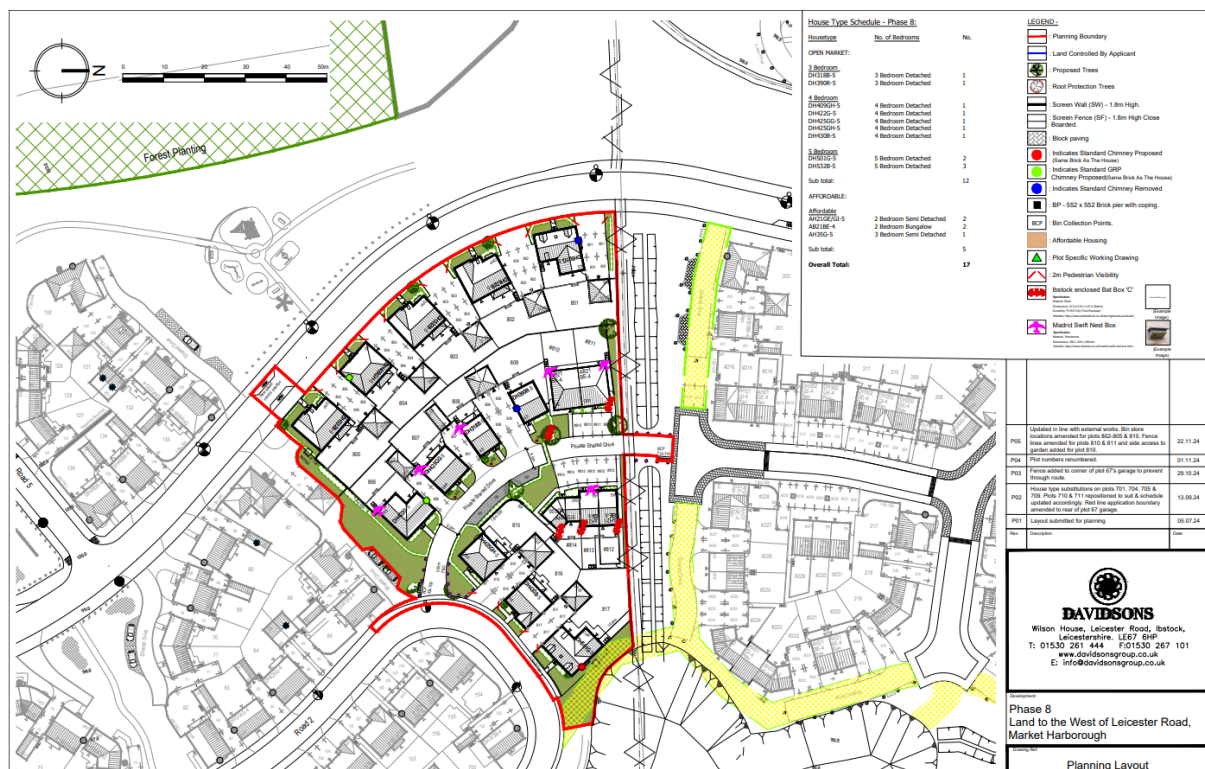
2.2 In addition to the above applications, various discharge of conditions and non material amendments have been received and approved, or are pending consideration

### 3. The Application Submission

#### a) Summary of Proposal

3.1 This application proposes the erection of 17 dwellings on land proposed in the original masterplan for the southern local centre. The local centre was later approved to be re-located to its current position to the north of the site as this would connect with the bus provision, play area and grass pitches. The local centre is currently under construction.

3.2 The proposed layout, which has been amended during the course of the application, is shown below



**Proposed Planning Layout (P05)**

3.3 The accommodation schedule proposes 12 Open Market and 5 Affordable Dwellings; with the mix outlined below:



#### House Type Schedule - Phase 8:

Housetype	No. of Bedrooms	No.
OPEN MARKET:		
<u>3 Bedroom</u>		
DH318B-5	3 Bedroom Detached	1
DH390R-5	3 Bedroom Detached	1
<u>4 Bedroom</u>		
DH409GH-5	4 Bedroom Detached	1
DH422G-5	4 Bedroom Detached	1
DH425GG-5	4 Bedroom Detached	1
DH425GH-5	4 Bedroom Detached	1
DH430B-5	4 Bedroom Detached	1
<u>5 Bedroom</u>		
DH501G-5	5 Bedroom Detached	2
DH532B-5	5 Bedroom Detached	3
Sub total:		12
AFFORDABLE:		
<u>Affordable</u>		
AH21GE/GI-5	2 Bedroom Semi Detached	2
AB21BE-4	2 Bedroom Bungalow	2
AH35G-5	3 Bedroom Semi Detached	1
Sub total:		5
<b>Overall Total:</b>		<b>17</b>

#### Accommodation Schedule

- 3.4 The house types proposed have been designed to be in keeping with the scale and appearance already set out with the previous reserved matters.

#### 4. Consultations and Representations

- 4.1 Consultation with the technical consultees and local community has been carried out on the application submission.
- 4.2 A Site Notice was placed at the site and an Advert was placed in the Harborough Mail.
- 4.3 A summary of the technical consultee responses which have been received are set out below. If you wish to view comments in full, please request sight or go to [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

#### a) Statutory & Non-Statutory Consultees

Consultee	Date	Comment
Leicester, Leicestershire & Rutland Integrated Care Board	05.09.2024	Financial contributions sought in realltion to healthcare
LCC S106 Obligations		Financial contributions sought in realltion to Waste; Libraries and Education
LLFA	04.09.2024	The application documents as submitted are insufficient for the LLFA to provide a substantive response at this stage.  <b>Members will be updated via the Supplementary Paper</b>
Ecology	11.09.2024	Further information required

		<b>Members will be updated via the Supplementary Paper</b>
Highways	22.10.2024	<p>The impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe.</p> <p>Conditions/Obligations requested</p>
Archaeology	22.08.2024	<p>A satisfactory programme of archaeological fieldwork has been undertaken within the development area. The application warrants no further archaeological action</p>
HDC EHO	30.09.2024	Request a Construction Management Plan condition
HDC POS Officer	24.10.2024	<p>The applicant should confirm that the open space typologies provided on site remain sufficient for the additional population*</p> <p>*Case Officer Note: The Applicant has confirmed (25.09.23) that the relevant open space can be accommodated on site; but off site provision will be payable in terms of Allotments; Cemeteries and Greenways.</p>
Affordable Housing Officer		Agree with suggested affordable housing mix
HDC Waste Management	22.08.2024	Financial contributions sought in relation to household waste and recycling receptacles per household.
HDC Environmental Co-Ordinator	04.09.2024	This I note the actions that the applicant is making to meet the requirements of Policy CC1 as laid out in the design and access statement. The applicant has identified actions to reduce carbon emissions in construction and when the homes are in use and such meets the requirements of policy CC1
HDC Community Facilities Officer		Financial contributions sought in relation to community facilities
Lubenham PC	15.09.2024	<p>Objection:</p> <p>No more permission should be granted to this applicant on this development until all outstanding section 106 agreements relating to the Airfield Farm SDA development have been fulfilled - most importantly</p> <ol style="list-style-type: none"> <li>1. the opening of the link road that is now well overdue (also now past its extension date)</li> <li>2. the provision of the bus service</li> <li>3. the provision of the local centre</li> </ol> <p>We note the request from the LLFA for more information.</p>

		<p>These houses appear to be additional to those granted in application number 11/00112/OUT which were considered and agreed following a lengthy master planning process. What was previously planned for this part of the site?</p> <p>As all outstanding builds from the Airfield Farm development are not yet completed, we can see no reason for the current developer to increase the size of this estate until all other permissions on the development are complete and then only if there is a locally identified need.</p> <p>Services in Market Harborough have not kept pace of the current developments and this should be addressed before further development is allowed on an already large site</p>
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## **b) Local Community**

4.4 3 objection comments have been received, raising the following points:

- There has been disappointingly little/no engagement with residents
- Plan discrepancies
- Highway/Pedestrian safety concerns
- Soft landscaping concerns
- How will this development be linked to the existing management agreement
- The Construction Management Plan will need to identify how the construction site will be serviced in particular with regards to children's play areas adjacent to the site.
- Exceedance of approved amount - 450 homes
- There is a boundary overlap between the planning application boundary and our ownership boundary
- Appropriate boundary treatments are needed in to prevent informal routes being created
- There are no proposals for permanent boundary treatments. The applicant should propose appropriate fencing of landscaping to delineate the boundary between plots 706 and existing houses

**Case Officer Note:** No additional comments have been received following re-consultation of amended plans

## **5. Planning Policy Considerations**

5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 instructs that planning applications must be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

5.2 The Development Plan consists of the Harborough Local Plan (HLP), adopted April 2019

*HLP key policies:*

- Policy SS1 The spatial strategy

- Policy GD1 Achieving sustainable development
- Policy GD2 Settlement Development
- Policy GD8 Good design in development
- Policy H1 Provision of New Housing
- Policy G12 Open Space, Sport and Recreation
- Policy GI5 Biodiversity and geodiversity
- Policy CC1 Mitigating climate change
- Policy CC3 Managing flood risk
- Policy CC4 Sustainable drainage
- Policy IN2 Sustainable transport

## **b) Material Planning Considerations**

5.3 Material considerations include any matter relevant to the application which has a bearing on the use or development of land. The material considerations to be taken into account when considering this application include the DP referred to above, the National Planning Policy Framework, the national Planning Policy Guidance, further materially relevant legislation, policies and guidance, appeal decisions, planning case law and High/Appeal court judgements, together with responses from consultees and representations received from all other interested parties in relation to material planning matters. Some key documents are cited as follows.

- National Planning Policy Framework (NPPF) (July 2021)
- National Planning Practice Guidance (PPG)
- Development Management SPD (December 2021)
- The Leicestershire Highways Design Guide (2018)
- Planning Obligations Developer Guidance Note
- 5 Year Land Supply Position Statement
- SDA Masterplan (2013)

## **6. Assessment**

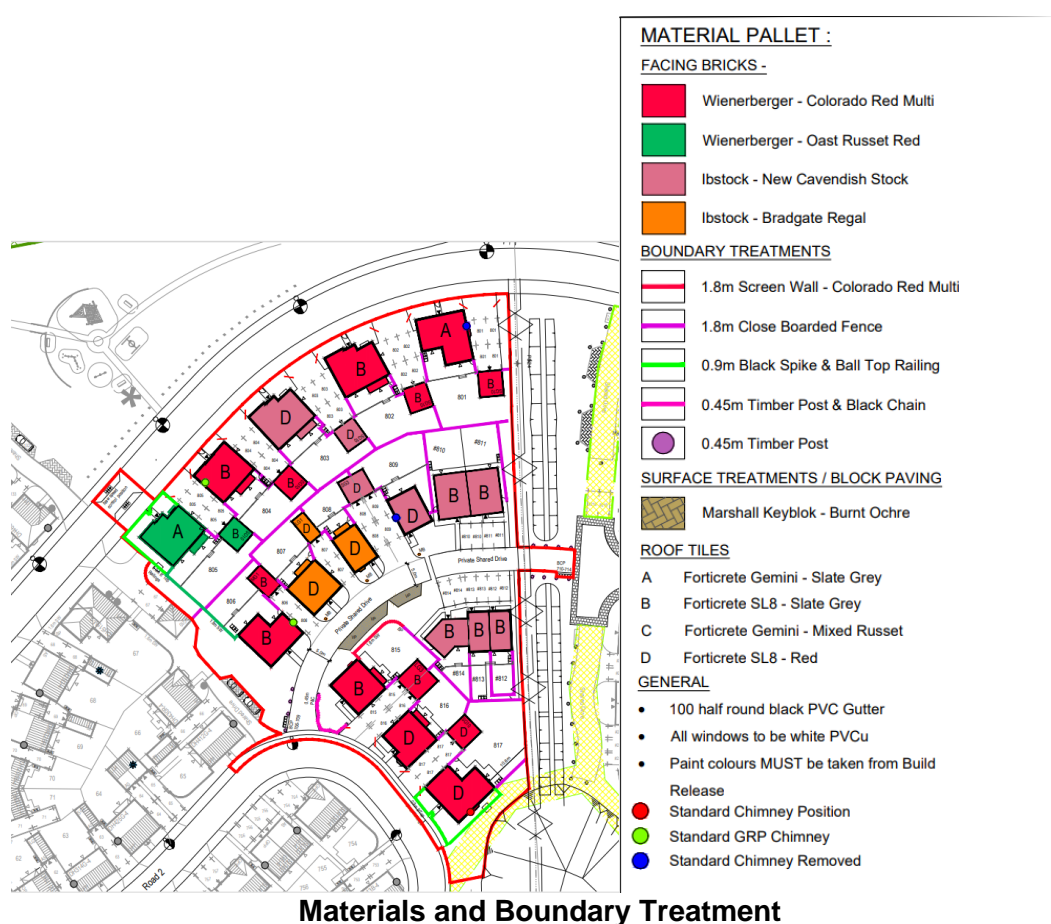
### **a) Principle of Development**

- 6.1 The outline consent granted permission for the erection 450 dwellings; this proposal, together with the additional 19 units approved under application 21/01519/FUL and the additional 20 units approved under 23/00365/FUL the increase the overall dwelling numbers to 506 (a 14.4% increase in the number of dwellings originally permitted).
- 6.2 Policy SS1 sets out the settlement hierarchy for the District and identifies Market Harborough as a Sub-Regional Centre.
- 6.3 As the site is within the existing or committed built up area of Market Harborough, GD2 permits development where it respects the form and character of the existing settlement and, as far as possible, it retains existing natural boundaries within and around the site.
- 6.4 The site forms part of a wider residential development within a sustainable location and developing the site for additional residential units would not undermine the SDA Masterplan. The additional dwellings do not prevent delivery of the approved scheme or key components of it. The additional units supplement rather than detract from what has been approved to date.

- 6.5 The addition of 17 residential units in a sustainable and accessible location would help the Council's 5 year land supply position and provide additional affordable housing choice by providing bungalow provision.

## b) Design and Visual Amenity

- 6.6 Policy GD8 requires development to achieve a high standard of design which is inspired by, respects and enhances local character and distinctiveness. Where appropriate development can be individual and innovative yet sympathetic to local vernacular in terms of building materials. Development should respect the context and characteristics of the individual site, street scene and wider local environment to ensure that it is integrated as far as possible into the existing built form.
- 6.7 The scale, design, architectural detailing, facing materials and boundary treatments of the dwellings proposed are reflective of the wider development site and would be in keeping. The design is therefore judged to satisfy Policy GD8.



## c) Highways

- 6.8 Based on the information provided the Local Highway Authority (LHA) are satisfied with the proposed site access, internal layout, trip generation (proposals are likely to generate ten two-way vehicular movements during the AM highway network peak and eight two way vehicular movements during the PM highway network peak) and wider transport sustainability. They have suggested conditions relating to vehicular and pedestrian visibility and parking provision. In terms of obligations the LHA have requested travel packs to inform new residents what sustainable travel choices are



available in the surrounding area and 2 x 6month bus passes to encourage new residents to use bus services as an alternative to the private car.

#### d) Residential and General Amenities

- 6.9 Policy GD8 requires that development should be designed to minimise impact on the amenity of existing and future residents through loss of privacy, overshadowing and overbearing impact. Nor should developments generate a level of activity, noise, vibration, pollution of unpleasant odour emission which cannot be mitigated to an appropriate standard and so would have an adverse impact on amenity and living conditions. HDC's Development Management Supplementary Planning Document (SPD) also contains guidance relating to neighbouring amenity standards, including separation distances e.g. In general, the Local Planning Authority will require a minimum distance of 21 metres between facing elevations containing principal windows serving habitable rooms and a minimum distance of 14 metres between a blank elevation and an elevation containing a principal window, however, such standards are applied flexibly as noted in the guidance.
- 6.10 As you will have noted, objections to the original proposal were received. These comments were duly considered by the Applicant and amended plans were received. In particular, the relationship between House No.67 and Plot 805 and House No.66 and Plot 806 was re-assessed as explained below.



**Separation distance between House No.67 and Plot 805 and House No.66 and Plot 806**



**Looking from the site towards House No.65, 66 and 67**



**Looking towards House No.67 Harvest Road**



## Looking towards House No.65 and 66 from Blackhorse Drive

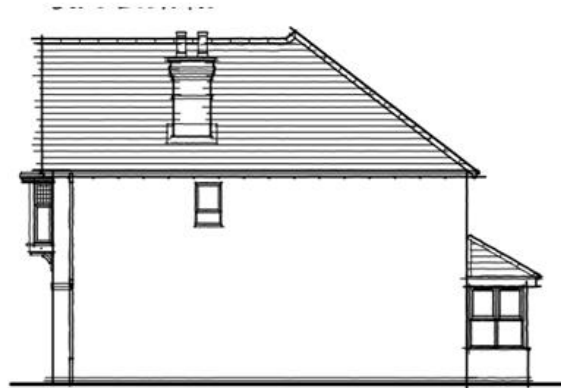
- *House No.67 and Plot 805*

6.11 The front elevation of No.67 faces the proposed side elevation of Plot 805. There is a separation distance of 14.01m. in order to address the concerns raised, the house type proposed for Plot 805 has been changed, which has reduced the scale (height) and windows proposed:



*Side Elevation*

Previously submitted



*Side Elevation*

Now proposed

### Comparison between previously submitted planning drawing and the amended drawing

- *House No.66 and Plot 806*

6.12 The front elevation of No.66 faces the proposed side elevation of Plot 806. There is a separation distance of between 14.26m and 15.83m. Plot 806 has been amended, by reducing the number of windows on this elevation (see extracts below). So that there is now only have one obscured window in the bathroom, one in the utility room, and one in the kitchen.



### Comparison between previously submitted planning drawing and the amended drawing

- 6.13 In Officers opinion the amendments made result in a satisfactory neighbouring amenity relationship. It is also worth noting, no further comments were received from neighbours following re-consultation on the amended plans
- 6.14 Should members be minded approving the application it is recommended that a construction management plan be submitted to control noise/disturbance during the construction of the development given the proximity to occupied residential dwellings.
- 6.15 Subject to conditions, the proposal is judged to satisfy policy GD8 in terms of residential amenity.

#### e) Climate Change

- 6.16 Policy CC1 (Mitigating Climate Change), requires major development to demonstrate how CO2 emissions will be reduced. The Applicant has advised that they intend to follow the 'fabric first approach' as the primary approach (i.e. high quality insulation and increased air tightness) and will :
- 1) Provide thermally efficient glazing;
  - 2) Provide adequate ventilation throughout dwellings to ensure healthy environments within each home;
  - 3) Will target a water consumption rate of 110 litres p/p per day for residential properties;
  - 4) Provide Cycle parking within the development;
- 6.17 These measures, together with other design features proposed, including energy efficient boilers, appliances and lighting, as well as Broadband provision, will make a contribution to reducing emissions and will deliver environmentally friendly homes and premises.
- 6.18 The Applicant has also explained how CO2 emissions can be reduced during the construction phase through the use of construction materials.

- 6.19 Additionally, the Applicant also explains that the Local Centre which is under construction will provide facilities/services to residents thereby reducing the need for vehicular trips outside of the development. The development also provides good connectivity for both pedestrians and cyclists and a bus route will eventually serve the development again reducing the need to use private cars.
- 6.20 Officers are satisfied that the fabric first approach and provision of on site measures will ensure that the development can make a positive contribution toward Climate Change objectives and as such Policy CC1 is satisfied.

#### **f) S106 Obligations/Contributions**

- 6.21 Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism for securing benefits to mitigate against the impacts of development. Those benefits can comprise, for example, monetary contributions (towards public open space or education, amongst others), the provision of affordable housing, on site provision of public open space / play area and other works or benefits that meet the three legal tests under Regulation 122 of the CIL Regulations.
- 6.22 These legal tests are also set out as policy tests in paragraph 56 of the Framework whereby Planning obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development..
- 6.23 Policy IN1 of the Harborough District Local Plan provides that new development will be required to provide the necessary infrastructure which will arise as a result of the proposal. More detailed guidance on the level of contributions is set out in The Planning Obligations Supplementary Planning Document, January 2017.
- 6.24 Appendix B identifies the CIL compliant developer contributions sought by consultees, a summary of the CIL compliance of the requests and a suggested trigger point to indicate when the contribution should be made. With regards to the trigger points they should not necessarily be seen as the actual or final triggers points for the S106 agreement but treated as illustrative of the types of trigger points which may be appropriate. It is recommended that the determination of the trigger points in the Section 106 Agreement be delegated to the Development Management Manager. The assessment carried out by Officers concludes that all stakeholder requests are CIL compliant. It will also be important that the S106 ties in with the S106 document signed in March 2016.

#### **g) Other Matters**

- 6.25 As you will have noted in the consultation section, both the LLFA and County Ecology have requested additional information. This information has been provided (15<sup>th</sup> November 2024). Members will be updated on both matters via the Supplementary Paper.

#### **7. Conclusion / Planning Balance**



- 7.1 The development will provide additional residential accommodation, including affordable housing on a sustainable site.
- 7.2 The layout, scale and appearance of the buildings reflect and respect the surrounding residential development.
- 7.3 Overall, the development is judged to comply with the policies of the Development Plan and therefore represents sustainable development and should be **Approved**.

## Appendix A

- 8.1 If Members are minded to approve the application, the following conditions and informative are suggested:

### **1. Commencement**

The development hereby permitted shall begin within 3 years from the date of this decision.

REASON: To meet the requirements of the Town and Country Planning Act 1990 (as amended).

### **2. Permitted Plans**

The development hereby approved shall be implemented in accordance with the approved Drawing Schedule, submitted 22.11.2024

REASON: For the avoidance of doubt

### **3. Materials as per approved plans**

The external materials, used in the construction of the development hereby approved shall be as detailed within the approved plans and shall be retained in perpetuity, unless prior written consent is obtained from the Local Planning Authority.

REASON: To safeguard the appearance of the development and the character and appearance of the area, having regard to Harborough Local Plan Policy GD8 and the National Planning Policy Framework.

### **4. Landscaping**

The landscaping details shown on the approved plans (Condition 2) shall be implemented in during the first planting and seeding season prior to, or immediately following, the first occupation of the building to which it relates. All hard landscaping comprised in the approved Landscape Scheme shall be completed prior to the first occupation of the building to which it relates.

Any trees, shrubs, hedges or plants which, within a period of five years from their date of planting, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

REASON: To ensure that the work is carried out within a reasonable period and is allowed to establish and to ensure the landscaping is implemented and maintained in the interests of

the visual amenities of the development and its surroundings having regard to with Harborough Local Plan Policies GD2, GD5, GD8 and GI5.

## **5. Landscape Management Plan**

Prior to construction above damp proof course, a landscape management plan, which shall include the specification, the timing of the completion of and the arrangements for the management and maintenance of:

- A. All areas of informal and formal open space to be included within the development
- B. Children's play areas including all LEAP's and NEAP's
- C. Allotment areas
- D. Sustainable Urban Drainage Systems, watercourses and other water bodies
- E. Green Infrastructure linkages including pedestrian and cycle links, public rights of way and bridleways.

Thereafter the development shall be implemented and maintained in accordance with the approved details.

REASON: To ensure the effective delivery, management and maintenance of the approved landscaping on site

## **6. Construction Environmental Management Plan**

No development shall commence on site, including any enabling works until a Construction Environment Management Plan (CEMP) been submitted to and approved in writing by the Local Planning Authority. The CEMP shall detail the following:

- a) The parking of vehicles of site operatives and visitors
- b) Loading and unloading of plant and materials
- c) Storage of plant and materials used in constructing the development
- d) Location of Contractor compound(s)
- e) Screening and hoarding details
- f) a detailed reactive and proactive road cleaning schedule, incorporating the use of road sweepers, on-site wheel wash facilities and the use of hand brooms on wheels and roads where necessary.
- g) Measures to control the emission of dust and dirt during construction
- h) Hours of operation - the details shall include the hours of construction and the hours for the loading/unloading of materials.
- i) Construction noise and vibration strategy
- j) Earthworks and soil management strategy
- k) Sustainable site waste management plan
- l) The means of access and routing for demolition and construction traffic and indication of signage locations to assist those delivering to the site
- m) A construction travel plan
- n) Management of surface water run-off including details of any temporary localised flooding management system and a scheme to treat and remove suspended solids from surface water run-off during construction
- o) The storage of fuel and chemicals
- p) details of any piling operation to be undertaken
- q) details of a Construction Communications Strategy which contains points of contact and details for residents to report HGVs utilising inappropriate routes;

r) full details of any floodlighting to be installed associated with the construction of the development

The development shall be carried out in accordance with the approved CEMP throughout the construction period.

REASON: To ensure appropriate mitigation for the impacts caused by the construction phases of the development and to reflect the scale and nature of development and to accord with Policy GD8 of the Harborough Local Plan.

## **7) Vehicular visibility splays**

No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 25 metres have been provided at the shared driveway leading off Blackhorse Drive and at each direct frontage access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

REASON: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with the National Planning Policy Framework (December 2023).

## **8) Pedestrian visibility splays**

No part of the development hereby permitted shall be occupied until such time as 1.0 metre by 1.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of each access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.

REASON: In the interests of pedestrian safety and in accordance with the National Planning Policy Framework (December 2023).

## **9) Parking and turning facilities**

The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Davidsons drawing number MH\_PHASE\_8\_100 Rev. P01. Thereafter the onsite parking and turning provision shall be kept available for such use(s) in perpetuity.

REASON: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

## **Suggested Informative**

### **1) Section 278 Agreement**

Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>

## **2) Temporary Directional Signage**

To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).

## **3) Private Roads**

The proposed road layout does not conform to an acceptable standard for adoption and therefore it will not be considered for adoption and future maintenance by the Local Highway Authority. The Local Highway Authority will, however, serve Advance Payment Codes in respect of all plots served by (all) the private road(s) within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the Advanced Payment Code may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details please email [road.adoptions@leics.gov.uk](mailto:road.adoptions@leics.gov.uk). Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it.

## APPENDIX B – S106 OBLIGATIONS

Request by HDC	Obligation for Community Facilities contribution inc. Indoor Built Sports Facilities		
Amount /Detail	Delivery	CIL Justification	Policy Basis
<p><b>Community Facilities</b></p> <p><b>£25,698.50</b></p> <p>for the purpose of funding improvements to existing community facilities in the vicinity of the Development</p>	<p>100 % to be paid to HDC prior to the Commencement of Development</p>	<p>See full CIL justification from HDC Parish and Community Facilities Officer on file</p> <p>The development would place additional demands on community facilities.</p> <p>The contribution request has been justified using evidence of need for the community facilities and the contribution would be allocated to projects supporting community facilities in the Market Harborough</p> <p>The projects evidenced will benefit the new residents of the proposed development.</p> <p>The additional population will generate additional demand for sports facilities. If this demand is not adequately met then it may place additional pressure on existing sports facilities, thereby creating deficiencies in facility provision. In accordance with the NPPF, Sport England seeks to ensure that the development meets any new sports facility needs arising as a result of the development.</p> <p>Sport England's Sports Facilities Calculator (SFC)</p>	<p>Developer Contributions SPD January 2022</p> <p>Community Facilities Refresh Assessment May 2017</p> <p>Built Sports Facility Strategy 2019</p> <p>HDC Parish Profiles March 2017</p> <p>Harborough Local Plan Policy IN1.</p>
Request by HDC	Open Space		
Amount /Detail	Delivery	CIL Justification	Policy Basis



<p><b>£42,931.80</b></p> <p>towards Greenways, Cemetery, Outdoor Sports and other POS typologies</p> <p>To provide new or enhance existing open space with or adjacent to Market Harborough.</p>	<p>To be paid prior to occupation of first dwelling</p>	<p>See full CIL justification of POS Officer consultation response on file</p>	<p>Developer Contributions SPD January 2022</p> <p>Harborough Local Plan Policy IN1.</p> <p>Open Spaces Strategy 2021</p> <p>Playing Pitch strategy</p> <p>Provision for Open Space Sort and Recreation</p>
<b>Request by HDC</b>	<b>Affordable Housing</b>		
<b>Amount/Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>
<p>2 x 2 bedroom semi-detached</p> <p>2 x 2 bedroom bungalow</p> <p>1 x 3 bedroom semi-detached</p>	<p>Not to allow Occupation of more than 50% (fifty per cent) of the market housing units until 50% of Affordable housing Units have been completed, not to allow Occupation of more than 75% (seventy five percent) of the market housing units until the remaining 50% Affordable Housing Units have been completed.</p> <p>Affordable housing upon completion</p>	<p>See full CIL justification of HDC Strategic Housing and Enabling officer consultation response on file</p>	<p>Developer Contributions SPD January 2022</p> <p>Harborough Local Plan Policies IN1 and H2</p>

	must be transferred to a partner Registered Provider at open market values to be agreed between the developer and RP partner and approved by HDC.		
<b>Request by HDC</b>	<b>Waste Management</b>		
<b>Amount/Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>
<b>£2,179.24</b>	100 % to be paid to HDC prior to the Commencement of Development	Effective household waste management is important in developing sustainable communities. One of the demands on growing community is the need to deal with household waste management  The contribution sought is based on full cost recovery.	Developer Contributions SPD January 2017  Harborough Local Plan Policies IN1 and H2
<b>Request by LCC</b>	<b>Education</b>		
<b>Amount /Detail</b>	<b>Delivery</b>	<b>CIL Justification</b>	<b>Policy Basis</b>
Primary Education – Lubenham All Saints CoE <b>£93,615.60</b>  Secondary Education Welland Park Academy <b>£50,749.96</b>  Post 16 Education Robert Smyth Academy <b>£10,842.45</b>		See full CIL justification of LCC S106 Officer on file	Leicestershire County Council Planning Obligations Policy (2019).
<b>Request by LCC</b>	<b>Waste</b>		

Amount /Detail	Delivery	CIL Justification	Policy Basis
<b>£1,360.68</b>		The nearest RHWS to this development is Market Harborough RHWS and the proposed development of 17 dwellings would create additional pressures on the site.	
<b>Request by LCC</b>	<b>Highways</b>		
Amount /Detail	Delivery	CIL Justification	Policy Basis
Travel packs, (one per dwelling). Can be supplied by LCC at (average) £52.85 per pack.	From first occupation	To inform all new residents what sustainable travel choices are in the surrounding area including incentives to encourage changes in travel behaviour towards the greater use of sustainable travel modes.  To promote sustainable travel and to inform new residents what sustainable travel options are available in the surrounding area.	Leicestershire County Council Planning Obligations Policy (2019).  Harborough Local Plan policy IN1
Two x six-month bus passes per dwelling (application forms to be included in the Travel Packs and funded by the developer). These can be supplied through LCC at current average cost of £396 per pass	From first occupation	To encourage new residents to use the bus service; to establish changes in travel behaviour from first occupation and promote use of sustainable travel modes other than the car.  To encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation.	Leicestershire County Council Planning Obligations Policy (2019).  Harborough Local Plan policy IN1
<b>Request by LCC</b>	<b>NHS</b>		
Amount /Detail	Delivery	CIL Justification	Policy Basis
£13,164.80  For use at any of the named GP Surgeries – Medical Centre, Coventry Road, MH and St Lukes, Leicester Road	Prior to 1 <sup>st</sup> occupation	The housing development will result in a minimum population increase of 41.14 patients which will put additional pressure on healthcare infrastructure. To ensure that the health and well-being of the local community is protected, s106 funding is essential to help mitigate/support the needs arising from an increase in population	Developer Contributions SPD January 2017  Harborough Local Plan Policies IN1 and H2
<b>Request by LCC</b>	<b>Obligation for Monitoring Fee</b>		

Amount /Detail	Delivery	CIL Justification	Policy Basis
£300.00 or 0.5% (whichever is greater) per financial obligation in favour of the County Council	Within 14 days of commencement	To cover the costs of monitoring payments and implementation of the developer contributions and scheme.	Leicestershire County Council Planning Obligations Policy (2019).

**NOTE 1: Indexation will be applied to the above figures.**

## Committee Report

**Applicant:** Mr J S Minhas

**Application Ref:** 24/01357/OUT

**Location:** The Causeway, Church Causeway, Church Langton

**Proposal:** Outline application for up to two serviced plots for self-build and custom housebuilding (access and layout to be considered) (Revised scheme of 24/01127/OUT)

**Application Validated:** 29.10.2024

**Target Date:** 24.12.2024

**Overall Consultation Expiry:** 12.12.2024 (Press Notice Expiry)

**Reason for Committee Decision:** Contrary to Development Plan

## RECOMMENDATION: APPROVE

For the reasons given within this report and subject to:

- a) The Conditions outlined within Appendix B
- b) The completion of a Unilateral Undertaking
- c) No new material planning considerations being received following the expiry of the press notice

## 1. Site & Surroundings

- 1.1 The site which consists of flat mown grassland to the north of the dwelling known as The Causeway, Church Causeway, Church Langton.
- 1.2 The Causeway is a large detached 2.5 storey dwelling with basement, permitted as a replacement dwelling in 2010 and extend in 2013/14.
- 1.3 The Causeway sits to the south with paddock land associated with Leadclune Court to the north. Ashleigh, a detached two storey dwelling sits to the east together with the access road leading to Hanbury Gardens, new residential development of 17 dwellings. Footpath A81 located to the immediate north of the site connects Church Causeway with The Langton Arms Public House to the west of the site.
- 1.4 The site itself is relatively flat mown grassland and views into the site are limited in the summer months due the existing boundary vegetation. The hedgerow at the eastern boundary supports semi-mature ash (approximately 8 m tall) with a blackthorn and hawthorn *Crataegus* hedgerow beneath (approximately 2 m high and 2 m wide). A fence and newly planted hedgerow consisting of hawthorn and leylandii (approximately 2 m high and 1 m wide.) is present along the southern edge of footpath A81. A mature tree line is present along the northern boundary of the Site. It supports semi-mature ash trees which are approximately 5 m tall. The native hedgerow to the western boundary of the field consists of hawthorn, elder dog rose and bramble (approximately 4 m tall and 2 m wide).
- 1.5 The site is located within an Area of Separation (fig 11) as designated within the Neighbourhood Plan
- 1.6 The site falls within field parcel '9' which has been identified in the Neighbourhood Plan (fig.13) as a Site of Environmental and Community Significance.
- 1.7 The site is not within, but the northern boundary of the site, is adjacent to the Church Langton Conservation Area boundary.



## Site location

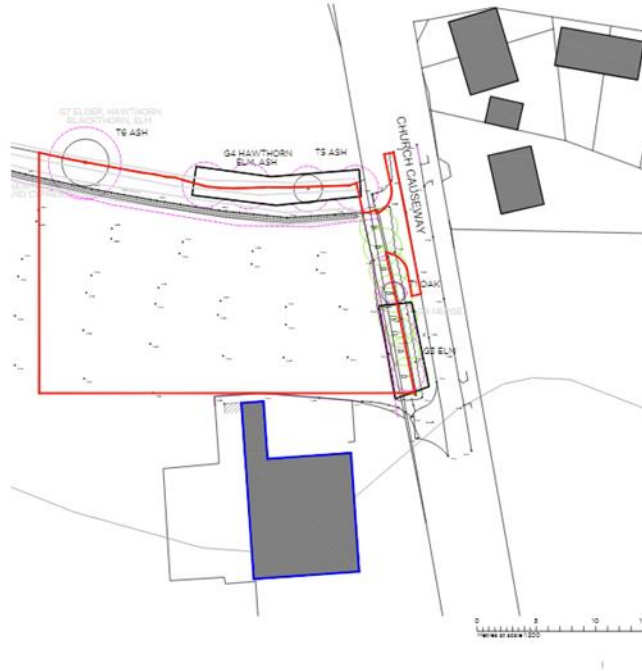
Figure 1. Existing Site Aerial (NTS @ A3)



Figure 2. Site Location Plan (1:2500 @ A3)

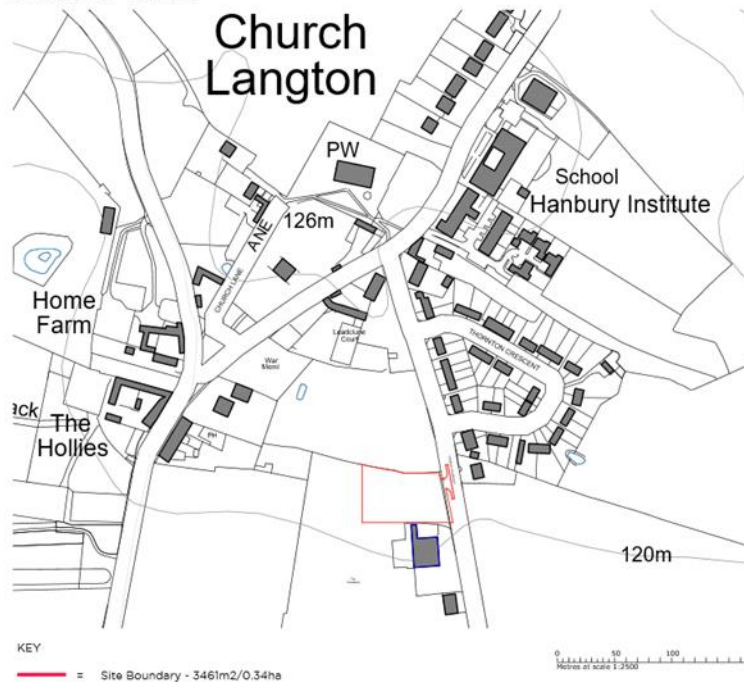


Figure 3. Existing Site Plan (1:500 @ A3)



## Site Location

Site Location Plan - 1:2500 @ A3



## Site Location in context of Church Langton

**Site Photos:**



**View of site from Church Causeway, looking north/north-west**



**Proposed Access Location, adjacent to PROW A81 (following felling of trees)**



**Rear of site as viewed from PROW A81, looking east**





View of site from PROW A81, looking south

## 2. Site History

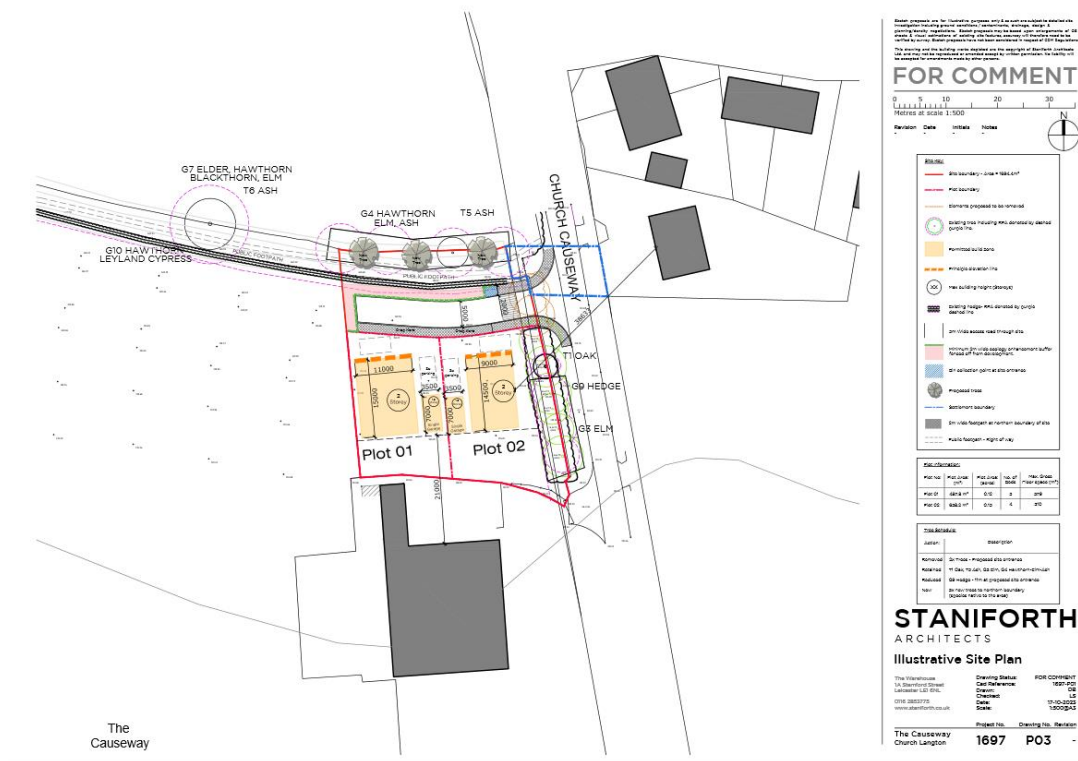
2.1 The site has the following relevant planning history

20/00838/FUL – Erection of 9 dwellings (WITHDRAWN)

21/01094/FUL - Erection of 8 dwellings (revised scheme of 20/00838/FUL) (REFUSED, DISMISSED AT APPEAL)



**23/01583/OUT** - Outline application for two serviced plots for self-build and custom housebuilding (access to be considered) (REFUSED, DISMISSED AT APPEAL)



## REFUSED / DISMISSED PLAN – 23/01583/OUT

### Refusal Reason:

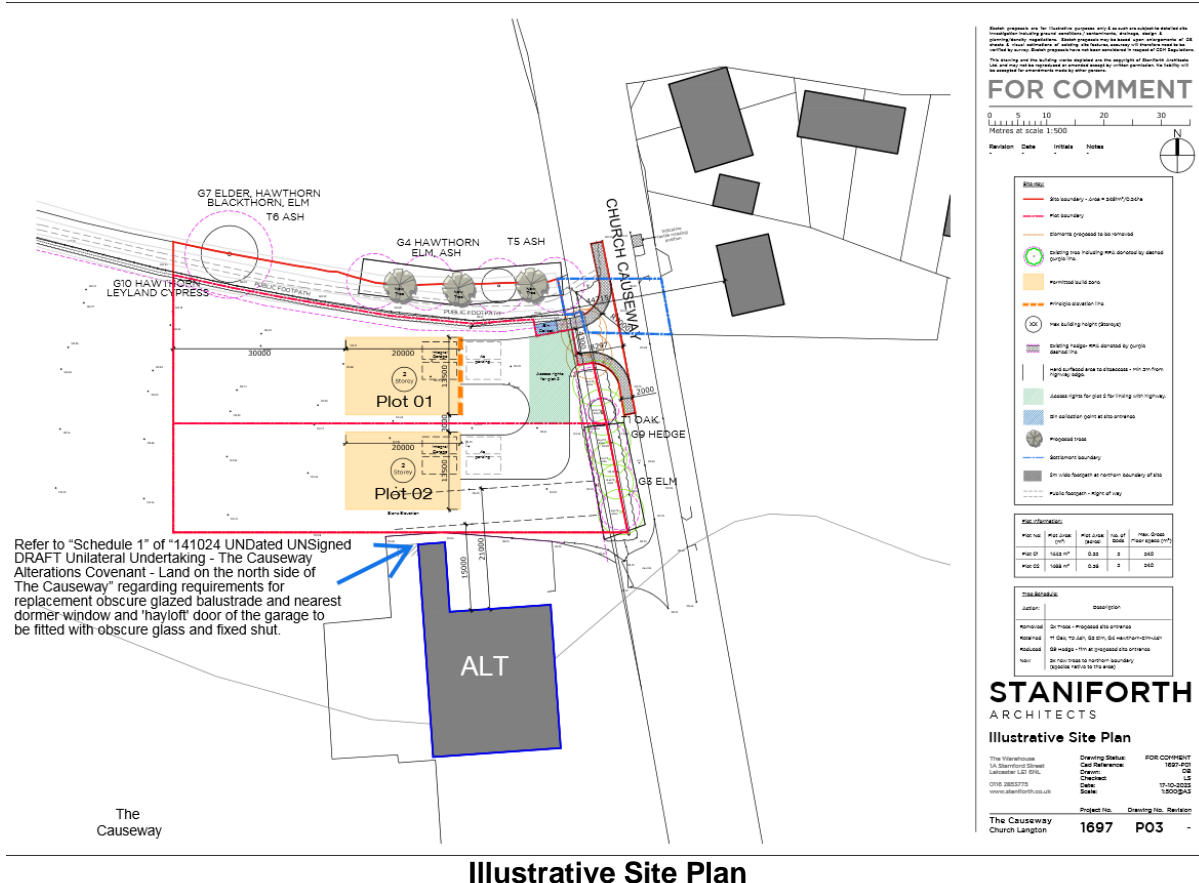
The development if approved would undermine and fail to accord with the spatial strategy and would result in environmental and heritage harm to both the character and appearance of the Conservation Area and Area of Separation and would not therefore be a suitable location for development. The proposed benefits of the development which include self build provision are insufficient justification to grant planning permission contrary to development plan policies. The proposal is therefore contrary to Local Plan Policies GD2; GD4; H5 and HC1; Neighbourhood Plan Policies H2; H3, DBE3 and ENV6 and the National Planning Policy Framework.

**CASE OFFICER NOTE:** The Appeal Decision relating to this refusal is attached at Appendix A

**24/01127/OUT** - Outline application for up to two serviced plots for self-build and custom housebuilding (access to be considered) (resubmission of 23/01583/OUT)







- 3.2 In addition to the Site Plan, a Plot Passport and Design Code has been submitted.
- 3.3 This Plot Passport document sets out the parameters of the intended build, giving clear guidance on where buildings can occur on a given plot and what can and cannot be done
- 3.4 The Plot Passport (August 2024) advises:

*"The dwelling, garage(s) and outbuilding(s) are to be erected within the Build Zones and they must not be exceeded. It is referred to as the maximum developable footprint of a given Build Zone. The footprints do not need to fill the Build Zones and are to be positioned within them.*

*Each plot is for one detached dwelling, garage(s) and outbuilding(s), where applicable. The plots cannot be merged, or sub divided".*

PLOT NUMBER	PLOT AREA (M <sup>2</sup> )	PLOT AREA (ACRES)	BUILD ZONE (M <sup>2</sup> )	MAXIMUM GROSS FLOORSPACE (M <sup>2</sup> )	MAXIMUM NO. OF STOREYS
1	1,443	0.35	270.00	540.00	2
2	1,468	0.36	270.00	540.00	2

### Proposed Plots

- 3.5 The Design Code (August 2024) sets design "instructions" for how the site should come forward at reserved matters stage:

1. The principle elevation is the elevation of the dwelling which fronts and/or is closest to the main estate road. The dwelling must face, but not necessarily be on the principle elevation build line.
2. The dwelling may be set back from the principle elevation build line to accommodate the desired parking arrangement. The dwelling must remain within the permitted Build Zone. For the avoidance of doubt, built form is not to extend forwards of the principle elevation build line.
3. Easements as shown hatched on the drawing. These are to be kept clear in perpetuity.
4. Root protection zones as shown must be avoided and are to be fenced off during construction.
5. Any upper storey window on a side elevation with height to window head of over 1.7m facing a neighbouring property must have obscure glazing and be non-opening.
6. The following are NOT to be located on the principle elevation and wherever possible out of public view:
  - Wall mounted meter(s)
  - Electric vehicle charge point(s)
  - Cycle storage
- Refuse store(s) (sufficient storage for 3 no. 240 litre wheellie bins for recycling, garden and residual waste should be provided)
- Air/ground source heat pumps (at/on relevant elevation furthest removed from public sight lines)
- TV aerials and/or satellite dishes (recommended that wherever possible they are to be located at/on the rear elevation)
- Photovoltaics (PVs)
7. Parking:
  - A minimum of 3 parking spaces must be provided for any proposed dwelling of 4 or more beds. These can be within the Build Zone or not and must be set back behind the plot boundary.
  - Parking spaces should be 2.4 metres x 5.5 metres (or have space to achieve this) with an additional 0.5 metres if bounded by a wall, fence, hedge, line of trees or other similar obstruction on one side, 1 metre if bounded on both sides.
  - For a garage to count as a parking space it should have internal dimensions of 3.0 metres x 6.0 metres.
- Minimum setback for all garages or carports must be 7m from the plot boundary.
- Garages will either be attached, detached or integral and no garage elevation should extend beyond the principle elevation build line. An exception to this is the dwelling(s) furthest away from the site access and where the set-back of other dwellings is not impeded visually.
- Garages can be a maximum of 1.5 storey allowing for a room above.

#### 8. Cycle storage:

- Each dwelling must provide secure, covered cycle parking, either within garage or external store.
- 2 spaces should be provided as cycle parking provision for a 3 or 4 bedroom house.
- 3 spaces should be provided as cycle parking provision for a 5 + bedroom house.
- Garages will only be accepted as a car parking space and cycle store if they are at least 7m long and a minimum width of 3.5m.

#### 9. Front and front-side boundaries:

- Unless already provided, the front and front-side boundaries of the Plot Area frontage (the area between the front boundary and principle elevation) should be formed with new native hedgerows. Height of 1.2m should not be exceeded, and the visibility splay from the access should not be obstructed.
- Access to the plot will be via a single gap in the hedgerow to provide both vehicular and pedestrian access.
- The use of close board and/or lap timber fencing along any public facing boundary is not permitted.

#### 10. Rear and rear-side boundaries:

- The use of close board and/or lap timber fencing along any public facing boundary is not permitted.
- Unless already provided, boundary fencing or walls located to the sides (and behind the principle elevation build line) of the Build Zone and the rear of the Plot Area should be no higher than 1.8m.
- The use of close board and/or lap timber fencing along any public facing boundary is not permitted.

3.6 A new pedestrian and vehicular access road will be created off of Church Causeway.

#### 4. Consultations and Representations

- 4.1 Consultation with the technical consultees and local community has been carried out on the application submission.
- 4.2 A Site Notice was placed on 08.11.2024 and a Press Notice was published in the Harborough Mail on 22.11.2024.
- 4.3 A summary of the technical consultee responses which have been received are set out below.

##### a) Statutory & Non-Statutory Consultees

###### **Leicestershire County Council Highway Authority (LHA)**

The Local Highway Authority advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 115 of the National Planning Policy Framework (December 2023), subject to the conditions and/or planning obligations outlined.

###### **East Langton Parish Council**

East Langton Parish Council strongly objects to the above planning application as it breaches Policies H2: Windfall Sites and ENV6: Area of Separation in our Neighbourhood Plan. Policy H2: states - "Small scale development proposals for infill housing will be supported where: a) It is within the existing built-up area of the villages of Church Langton and East Langton." This site is outside the built area of the village as there is a paddock between the site and the centre of the village to the north. The Appeal decision for the previous application 23/01583/OUT states in para. 12 that the Inspector observed "the site has a feeling of being more closely related to surrounding open countryside."

The Inspector goes on to conclude "that the appeal site is not suitably located for the proposal as it would undermine the strategic objectives of the development plan and would conflict with the sustainable development principles and plan-led approach endorsed by the Framework. (Para. 21) The proposal would conflict with LP policies GD2 and GD4, and would also therefore conflict with the requirements of NP Policy H2, which requires compliance with GD2, and LP Policy H5, which supports proposals for self build and custom housebuilding in any location suitable for housing, including sites which are in accordance with Policy GD2." Policy ENV6 states "Development proposals which would reduce the separation of Church Langton and East Langton and between East Langton and West Langton Parish boundary ..... will not be supported". The Plan supports this policy by saying "The Parish is made up of two villages - Church Langton and East Langton. Each has its own history, identity and character. Consultation shows that maintaining the separation of the two communities is important to ensure that the distinct identity and character of these two villages is maintained. We urge that the application is refused. Roz Folwell (Chair, East Langton Parish Council)

**Case Officer Note:** Leicestershire County Council Ecology has been directly consulted on the application. Members will be updated via the Supplementary Paper if comments are received.

## **b) Local Community**

- 4.4 At the time of writing the report, the application has generated no comments from the local community.

## **5. Planning Policy Considerations**

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 instructs that planning applications must be determined in accordance with the provisions of the Development Plan (DP), unless material considerations indicate otherwise.

## **a) Development Plan**

- 5.2 The DP relevant to this application comprises the Harborough Local Plan (HDLP) Adopted 30.04.2019 and the East Langton Parish Neighbourhood Plan Review Referendum Version (NPR) 'made' in November 2022

The LP policies relevant to this application are as follows:

SS1 – The spatial strategy  
GD1 – Achieving sustainable development  
GD3 – Development in the countryside  
GD4 – New housing in the countryside  
GD5 – Landscape character  
GD8 – Good design  
HC1 – Built heritage  
H5 – Housing density, mix and standards  
GI5 - Biodiversity  
IN2 - Sustainable Transport

The NP policies relevant to this application are as follows:

H1: Housing Provision  
H2: Settlement Boundaries  
H3: Windfall Sites  
H4: Housing Mix  
H5: Affordable Housing  
DBE1: Protection of the Built Environment: Conservation Areas and Listed Buildings  
DBE3: Design  
ENV2: Other Environmentally Significant Sites  
EN3: Biodiversity  
EN4: Trees  
ENV6: Area of Separation  
ENV8: Electric Vehicles  
T1: Traffic Management

## **b) Material Planning Considerations**

- 5.3 The following material considerations are considered relevant to this application:
- The National Planning Policy Framework (The Framework / NPPF)
  - National Planning Practice Guidance
  - The Self-Build and Custom Housebuilding Act 2015 (as amended)
  - Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 72)
  - HDC 5 Year Housing Land Supply (5YS) Statement

- HDC Self-Build and Custom Housebuilding Register
- HDC Self-Build and Custom Housebuilding Corporate Policy
- Development Management SPD (December 2021)
- Leicestershire Local Transport Plan
- Leicestershire Highways Design Guide (April 2018) and associated Standing Advice (2011)
- Written Ministerial Statement *Playing your part in building the homes we need* (Angela Raynor, 30<sup>th</sup> July 2024)
- The National Planning Policy Framework consultation document (July 2024) [consultation closed 24<sup>th</sup> September 2024]
- Court of Appeal Decision, *Corbett V Cornwall Council*
- Planning Appeal Decisions, notably:
  - 22/00837/FUL Land adjacent to Walton Hall, Chapel Lane, Walton (1 self-build dwelling) ALLOWED, September 2022
  - 21/00826/OUT: Land at Sutton Lane, Sutton in the Elms, Broughton Astley (9 self-build dwellings) ALLOWED, February 2023
  - 21/01094/FUL – Erection of 8 dwellings, The Causeway, Church Causeway, Church Langton, DISMISSED, February 2023
  - 23/01583/OUT: Land adjoining The Causeway, Church Causeway, Church Langton, DISMISSED, July 2024
  - 23/00852/OUT & 23/01530/OUT: Land off West Langton Road, August 2024  
 --Appeal A, 2 self-build dwellings, Dismissed;  
 --Appeal B, 1 self-build dwelling, Allowed

## 6. Assessment

### Principle of Development

- 6.1 Harborough District Local Plan (LP) Policy SS1: 'The Spatial Strategy' seeks to direct development towards the most sustainable locations, identified by the level of 'key services' provided within the village/town and its population.
- 6.2 Part 1 e) of SS1, identifies Church Langton (along with East Langton) as a "Selected Rural Village" (SRV) as a result of it having the presence of at least 2 of the 6 'key services' (food shop, GP surgery, library, post office, primary School and pub). Part 8 of the same Policy advises the spatial strategy is to "meet local needs in Selected Rural Villages, while protecting the character and environment of local areas".
- 6.3 SV's are the fifth tier of the settlement hierarchy, with the sixth tier referring to 'Other villages, rural settlements and the countryside where development will be strictly controlled'.
- 6.4 LP Policy GD2, part 2, is permissive of development in certain circumstances subject to the site "adjoining the existing or committed built up area".
- 6.5 The Applicant has submitted copy of a Court of Appeal decision (*Corbett v Cornwall Council*) which discussed the interpretation of 'immediately adjacent' in support of his application. The judge, Sir Keith Lindholm said the words 'immediately adjoining' in the context of policy should not be given an unduly prescriptive meaning'. He said that the words did not necessarily mean 'contiguous, or 'next to', or 'very near'.



- 6.6 Court of Appeal decision advised that the extent of the settlement, and how the site and proposal related to it, were matters of fact and judgement for the decision-maker.
- 6.7 The Applicant contends that on the basis of this decision, the site is 'adjoining the existing or committed built up area'. Officers take a different view, as it will depend on the site-specific characteristics.
- 6.8 In the 2023 appeal decision in connection with 21/01094/FUL; Inspector Russell having visited the site and having considered the relevant development plan policies; concluded the site did not 'adjoin' the built-up area:

*"...the appeal site forms part of a wider grassed area to the sides and rear of the dwelling at The Causeway. It also sits adjacent to fields which provide a buffer between the boundary of the site and the built-up area of Church Langton to the west of Church Causeway. In these respects, the site does not adjoin the built up area of the village. This is further demonstrated by the position of the site set away from the settlement boundary defined in the NPR. Therefore, the site does not in any event fall within the scope of Policy GD2."*

- 6.9 In the most recent appeal decision in connection with 23/01583/OUT; Inspector Philips similarly concludes at Para 13 *"the development would not adjoin the existing built up area of Church Langton, and would not therefore accord with requirement 2 of LP Policy GD2"*
- 6.10 As the proposed development is not considered to satisfy LP Policy GD2, we turn our attention to LP Policy GD3 "Development in the Countryside". GD3(f) allows for rural housing in accordance with GD4. GD4 "New housing in the countryside" sets out allowable criteria for residential development in the countryside under a) to f).
- 6.11 Of these criteria only (a) could possibly apply to the current proposal, and this stipulates that the following must apply in order for housing to be supported:
- small site of no more than 4 dwellings;
  - within or physically and visually connected to settlements;
  - to meet a local need for housing of a particular type as evidenced through a rural housing needs survey.
- 6.12 The proposal is considered to partially comply with criteria 1 (a) of LP Policy GD4 in that the proposal is not for more than 4 dwellings and would meet a local need for housing of a particular type as evidenced through a rural housing needs survey. It is accepted that self-build and custom housebuilding can be classed as 'housing of a particular type', as ratified in the Walton Hall appeal decision (22/00837/FUL) hence covered by policy GD4 provided there is an evidenced need.
- 6.13 CNB Housing Insights was commissioned the Applicant to undertake a housing needs survey within the parish. The survey was conducted to gather evidence to establish if need existed for a small-scale development in the parish.
- 6.14 The household survey was conducted, and report written, in November 2022 and updated in September 2023. The survey advises there is a need for 8 units of market housing in the parish, of which 4 and 5-bedroom dwellings were sought. Notably, 6 households in need indicated that their preference was for a self or custom-built dwelling. These households told CNB that they had joined the Harborough District self and custom build register.

- 6.15 However, the site is not judged to be “visually and physically connected to the settlement” (second criteria of Policy GD4a), a view shared by both previous appeal decisions:

Para 11 of 21/01094/FUL:

*“...the proposal would not accord with criteria 1 (a) of this policy as the proposal...for the reasons already set out is not visually and physically connected to the settlement”*

Para 19 of 23/01583/OUT:

*“...the lack of visual connection means that the proposal would not meet the requirements of LP Policy GD4”*

- 6.16 In Officers opinion, the proposed development would therefore conflict with Local Plan policies GD2 and GD4.
- 6.17 Now turning to the East Langton Neighbourhood Plan Review (NPR). Policy H2 (Settlement Boundaries) confirms that land that land outside the settlement boundary will be treated as open countryside where development will be carefully controlled.



**Church Langton Settlement Boundary**

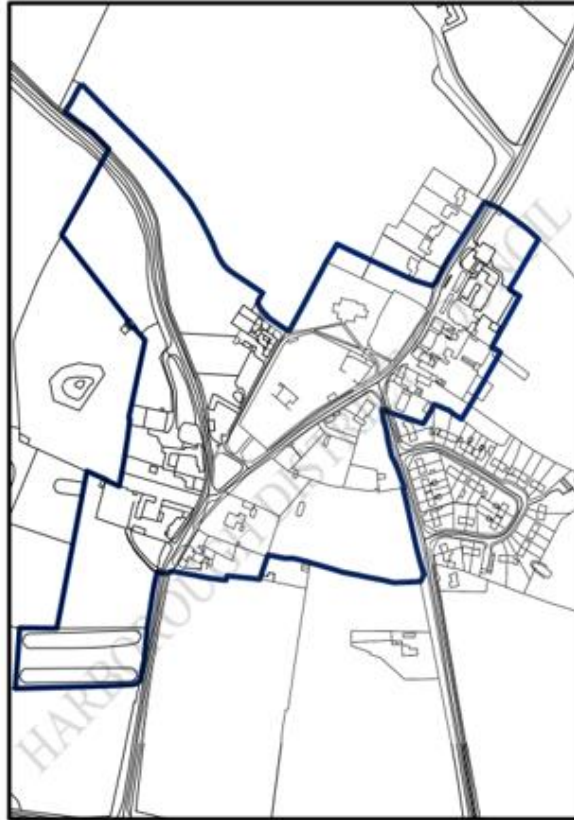
- 6.18 The site sits outside the defined settlement boundary for Church Langton and is therefore in the countryside for the purposes of decision making. The proposal does

not fall under the types of development included as being appropriate for the countryside.

- 6.19 The proposal is not for infill housing within the defined settlement boundary and so the proposal so does not meet 'windfall development'.
- 6.20 Furthermore, although NPR Policy H5, criteria 'e' advises "First Homes and self-build proposals will be welcomed"; this relates to affordable housing and therefore also does not apply.
- 6.21 The proposed development would therefore also conflict with NPR policies and as such the principle of development in terms of the Development Plan is not supported.

**Design and Impact on the Character of the Area inc Area of Separation and Heritage Asset**

- 6.22 The Framework requires developments to be 'well designed, beautiful and safe places'. The LPA does not as of yet have a local design guide or code and therefore developments should be consistent with the principles in the National Design Guide and National Model Design Code which provides the baseline standard of quality and practice on design.
- 6.23 Policy GD8 of the LP outlines that development should achieve a high standard of design, be inspired by, respect and enhance local character and the context of the site, street scene and local environment.
- 6.24 NPR Policy DBE3 advises, all development should continue to reflect the character and historic context of existing developments within the Parish. However, contemporary and innovative materials and design will be supported where positive improvement can be robustly demonstrated without detracting from this historic context.
- 6.25 Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Policy HC1 of the Local Plan and DBE1 of the NPR reflect Section 16 of the NPPF which sets out how applications should be assessed that would affect heritage assets.
- 6.26 Policy HC1 states that development within or affecting a Conservation Area will be permitted where it preserves or enhances the character or appearance of the Conservation Area, including local design and materials. Policy DBE1 of the ELNP reflects Policy HC1.
- 6.27 The site sits outside but next to the boundary of the Church Langton Conservation Area.



**Church Langton Conservation Area Boundary**

6.28 Inspector Russell at Para's 12-14 describes the significance of the Conservation Area:

*The significance of the CA primarily derives from the high quality of its built form which includes several listed buildings, the prevailing building materials which include red brick facades, slate roofs and white casement windows and the verdant character of its spaces which provide a semi-rural setting. Together with neighbouring fields, the open and soft landscaped attributes of the appeal site form part of an overriding pastoral character to the edge of the CA which positively contributes to this setting and adds to its significance.*

6.29 Inspector Phillips found similarly in terms of significance:

*The appeal site sits outside but next to the boundary of the CA. The Church Langton Conservation Area 'Record details' sets out that the significance of the CA primarily derives from the arrangement of the listed buildings St. Peters Church, the Old Rectory and Leadclune Court, which dominate the village core. The wedge of paddock land to the south between Church Causeway and Stonton Road is within the CA and provides a setting for Leadclune Court. The appeal site is part of open space which sits south of this paddock, and further provides an open pastoral character to the edge of the CA which positively contributes to this setting and its significance.*

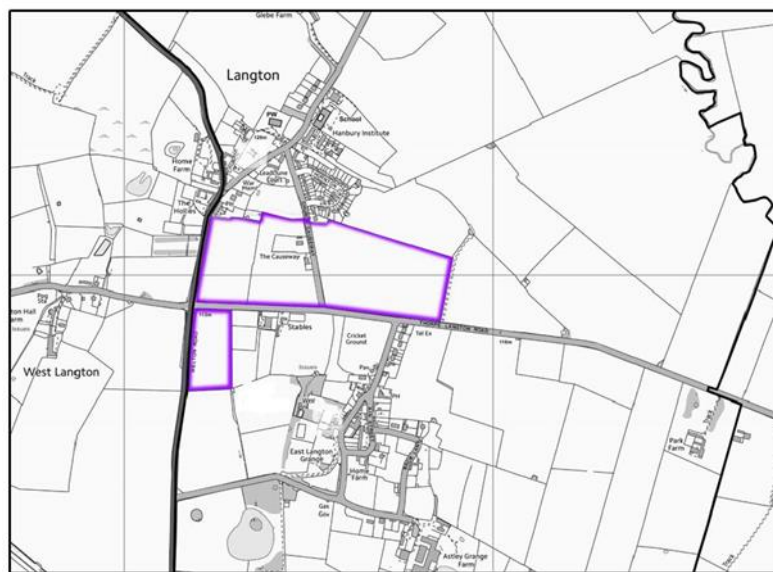
6.30 Officers concur with these views on significance.

6.31 Notably, Inspector Russell, found harm to the significance of the Conservation Area, but it needs to be remembered the proposal at that time was for 8 dwellings. Inspector Phillips however came to a different conclusion:

*“...the development would have a neutral effect that would not harm the setting or the significance of the CA and would preserve its character and appearance”*

6.32 Having considered the most recent appeal decision, Officers could not sustain a reason for refusal on heritage grounds. Furthermore, Officers consider the revised indicative plan is more in keeping with the built form of Church Causeway with both principal elevations fronting Church Causeway. In addition, this gives a level of protection to the land to the rear being developed in future as the new access will just serve these two plots.

6.33 The site lies within an Area of Separation (AoS) as defined within the NP.



**Areas of Separation (fig.8 in NPR)**

6.34 The application site is located on both figure 8 and figure 9 as illustrated below.

6.35 Policy ENV 6 states *“development proposals which would reduce the separation of Church Langton and East Langton and between East Langton and West Langton Parish boundary as shown on the map (figure 8) and the Environmental Proposals map (fig 9) will not be supported.*

6.36 As with heritage harm, Inspector Russell found harm to the AoS However, Inspector Phillips found no conflict with Policy ENV 6:



30. There is no dispute that the site is located within an Area of Separation (AOS), as defined by the neighbourhood plan. The wording of NP Policy ENV6 does not exclude all development, but rather sets out that development within the AOS, *'which would reduce the area of separation between Church Langton and East Langton'* (and between East Langton and West Langton Parish boundary) would not be supported. The supporting text makes it clear that the intention of the policy is to maintain the separation of the communities as it is important to ensure that the distinct identity and character of these villages is maintained.

31. The substantial property at The Causeway sits between the appeal site and East Langton. As set out above, the development would be seen in the context of this neighbouring property from both the PROW and Church Causeway and would not extend built form into the rear past this property. In addition, there would remain a sufficient separation gap between the appeal site and the side elevation of The Causeway that would allow views through from the highway to the open fields behind. As such, the spacious appearance of the land around The Causeway would remain, when viewed from the highway or the PROW or indeed any other footpath. The development would not reduce the perceived separation between the villages and their distinct identities would be maintained. As such, I find no conflict with NP Policy ENV6.

6.37 Again, having considered the opinion of the Inspector Phillips, Officers could not sustain a reason for refusal on grounds of conflict with the AoS.

6.38 Although this is an outline application, with design considerations (layout, scale and appearance) reserved for future consideration, sufficient information has been supplied within the Applicant supporting documentation i.e. Illustrative Site Plan, Plot Passport and Design Code to ensure an appropriate development comes through at reserved matters. It is recommended that these documents are conditioned.

6.39 In addition a Sustainability Strategy, August 2024, has been submitted suggesting a series of measures which if implemented during the design, construction and operation stage of development will minimise the developments carbon footprint. Measures include fabric efficiency; renewable energy deployment; energy storage; heat distribution; operational energy efficiency; water efficiency; waste management and transport e.g. promote the use of electric vehicles (EVs) by providing EV charging stations. This document should also be conditioned.

6.40 Considering the most recent appeal decision, Officers do not consider they could substantiate the previous refusal reasons and as such conclude that the proposal would not result in harm to the significance of the Church Langton Conservation Area and would not reduce the perceived separation between Church Langton and East Langton.

#### **Highway Impact inc. Public Right of Way**

6.41 HDLP Policy GD8 states that development will be permitted where it ensures safe access, adequate parking and safe, efficient and convenient movement for highways users. Policy IN2 states that development proposals should have regard to the transport policies of the Local Transport Authority and that developments should provide safe access and parking arrangements and where possible protect or connect to existing pedestrian, cycle and equestrian routes.

6.42 NPR Policy T1 states development proposals will not be supported if the cumulative impact

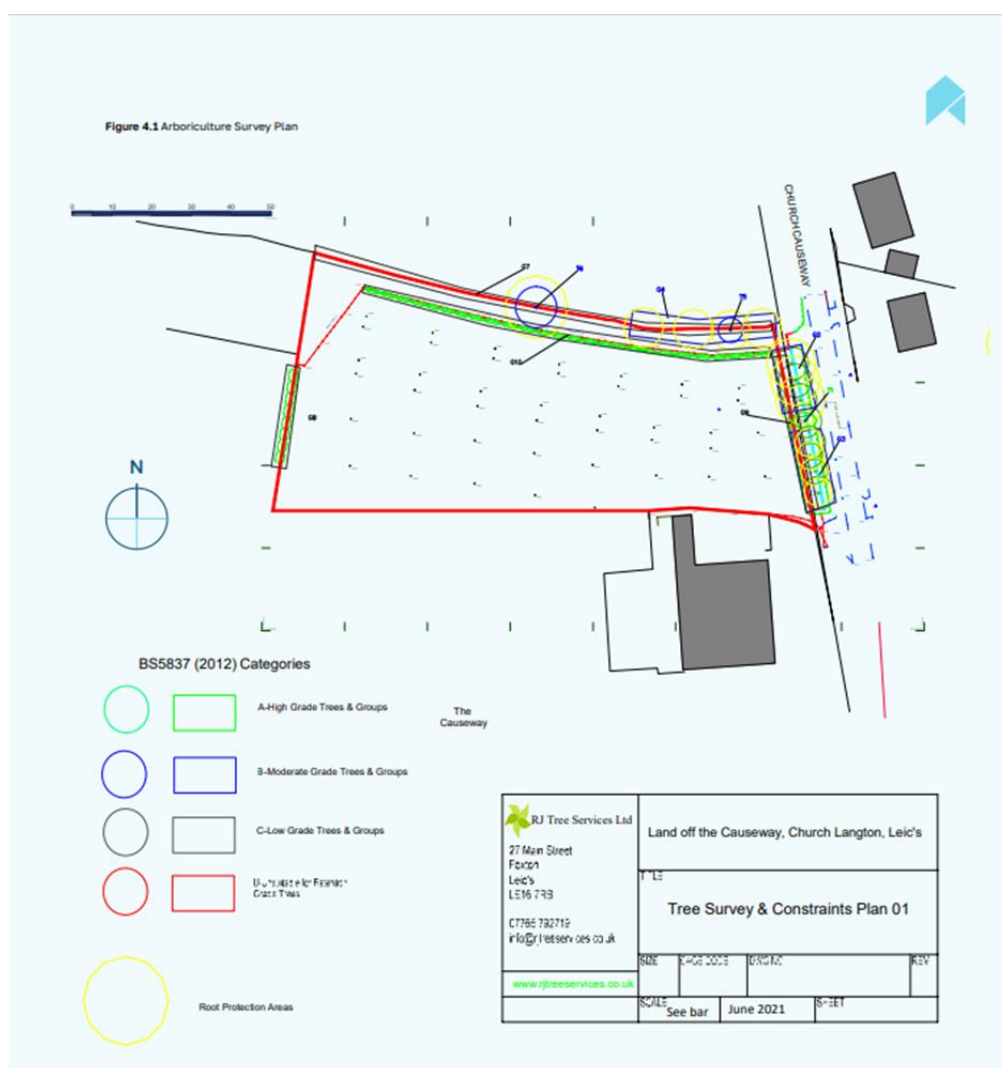
of additional traffic on the local highway network is severe, unless appropriate mitigation measures are undertaken. NPR Policy T2 states development proposals that will adversely affect existing footways and footpaths will not be permitted except in special circumstances or where appropriate mitigating measures can be provided.

6.43 Church Causeway is single carriageway road that runs northwest to southeast and provides connectivity between the villages of Church Langton and East Langton, via Thorpe Langton Road. It is proposed to create a new access off Church Causeway, to the north of the site. The access will have a width of 5m with 2m footways either side. The 2m footway to the south will continue into the development, whilst the northern footway will connect into a newly created footway to the west of Church Causeway before halting and providing a tactile crossing to link into the existing footway on the east of Church Causeway.

6.44 The LHA have reviewed the access arrangements and have raised no objections subject to conditions.

### **Arboricultural Impact**

6.45 A Tree Survey Impact Assessment & Method Statement was carried out in May 2021.



**Tree Survey & Constraints Plan**

- 6.46 The proposed development will necessitate the removal of the semi-mature ash trees in the group G2 and a section of the unmanaged hedgerow G9 in order to facilitate the accessway. The trees in G2 are semi-mature self-seeded specimens with only a moderate impact on the landscape as amenity. The Applicant proposes to add 3 no. trees to the Northern boundary
- 6.47 The remaining trees at the site are not impacted directly by this proposal including the only identified Category A (High value) Oak tree. However, it should be noted, the Statement advises that Groups G2, G3 & G4 and the trees T5 and T6 which consist of Ash, may be affected by Chalara ash dieback which is widespread in Leicestershire. Ash dieback causes leaves to die and the crown to dieback.
- 6.48 Recognising that some of the existing trees may be impacted by the prevalent Chalara ash dieback disease, the Applicant has advised they are amenable to a planning condition that mandates a greater number of replacement trees beyond the currently proposed three along the northern boundary. These replacement trees could be semi-mature trees approximately 4 to 5 meters in height and could belong to either the Ash species or other native species. This approach will help to alleviate Officer concerns regarding the potential degradation of the rural setting and character of the Conservation Area in the event that the proposed development is approved.

### **Ecology Impact**

- 6.49 A Phase 1 Preliminary Ecological Appraisal (September 2024) was carried out at the site to evaluate the habitats, describe any further surveys required and indicate the level of required mitigation/ compensation/ enhancement in relation to the proposed development on the site.
- 6.50 The Appraisal advises that the majority of the site is of 'low ecological value', comprising improved grassland, the boundary native hedgerows and semi-mature trees are of most importance. No further ecological surveys are recommended.
- 6.51 To maintain the suitability of the site for roosting and foraging bats, the Appraisal advises any external lighting provision within the development should be as minimal as possible and should follow the most up to date guidance.
- 6.52 Precautionary measures of working with regard to Great Crested Newts are suggested in Section 4.3b of the Appraisal.
- 6.53 The Appraisal suggests that an Ecological Enhancement scheme is drawn up for the site to mitigate, as far as possible, within the site, any loss of biodiversity and for any residual loss, this can be accommodated potentially by improving the management of the remaining area of the field to the south of the development proposal (off-site)
- 6.54 The County Ecologist has reviewed the proposal, including the Appraisal and advised the recommendations of the Appraisal should be followed by way of condition.
- 6.55 As the proposal is for Self-Build; Biodiversity Net Gain is not required.

### **Flooding and Drainage**

- 6.56 The application site is located within Flood Zone 1, at low risk from flooding.

- 6.57 As the development is 'minor' (i.e. less than 10 dwellings) and within Flood Zone 1, the LLFA are not consulted on the application. Surface water and foul drainage details can be controlled by way of condition.

### **Residential Amenity**

- 6.58 Policy GD8 of the Local Plan states that development should be designed to minimise impact on the amenity of existing and future residents through loss of privacy, overshadowing and overbearing impact. Nor should developments generate a level of activity, noise, vibration, pollution of unpleasant odour emission which cannot be mitigated to an appropriate standard and so would have an adverse impact on amenity and living conditions.
- 6.59 The side elevation of The Causeway contains principal windows at ground and first floor. In addition, at first floor there is a flat roof area with a glass balustrade to the roof's perimeter as it is possible for occupiers of this property to stand and/or sit outside from the first floor doors. In addition, the roof space above the garage contains dormer windows, which could be used as habitable accommodation; which could also result in a loss of privacy to the new occupiers of the 2 dwellings.
- 6.60 In order to address these concerns, the Applicant has submitted a Unilateral Undertaking, which will require the owner of The Causeway to provide a higher balustrade screen to be provided to the edge of the balcony area and for the nearest dormer window and 'hayloft' door to be altered to be obscure glazed and fixed shut.
- 6.61 In terms of Plot to Plot amenity relationships; this can be addressed at Reserved Matters stage.

### **Material Planning Considerations**

- 6.62 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications should be determined in accordance with the development plan "*unless material considerations indicate otherwise*".
- 6.63 In 2015 the Self-Build and Custom Housebuilding Act was passed which established the requirement on local authorities to maintain a Register of individuals and associations of individuals who wish to acquire land to build and for those authorities to have regards to the Register in carrying out their planning functions
- 6.64 In 2016, the Housing and Planning Act introduced a duty on authorities to give sufficient development permissions to meet the demand on the Register arising within each Base Period.
- 6.65 The table below shows the Council's current position.

Base Period	No of individuals during base period	No of groups during base period	Plots required	Plots required (cumulative)	Delivery deadline
Base period 1 01/04/16-30/10/16	33	0	33	33	30/10/19
Base period 2 31/10/16-30/10/17	40	0	40	73	30/10/20
Base period 3 31/10/17-30/10/18	35	0	35	108	30/10/21
Base period 4 31/10/18-30/10/19	34	0	34	142	30/10/22
Base period 5 31/10/19-30/10/20	40	0	40	182	30/10/23
Base period 6 31/10/20-30/10/21	36	0	36	218	30/10/24
Base period 7 31/10/21-30/10/22	28	1	30	248	30/10/25
Base period 8 31/10/22-30/10/23	34	0	34	282	30/10/26
Base period 9 31/10/23-30/10/24	16	0	16	298	30/10/27

### HDC Latest Housing Register Figures

- 6.66 As can be seen from the table above, it is clear the Council has not granted sufficient permissions to meet the demand on the Register. The shortfall is substantial.
- 6.67 The NPPG is clear that Registers are likely to be a material consideration in decisions involving proposals for self and custom housebuilding, and statutory duties under the right to build legislation are material considerations.
- 6.68 The provision of two plots as self-build and custom housing therefore attracts substantial weight should be given substantial positive weight in the planning balance.
- 6.69 In addition to the statutory requirement mentioned above, there is an explicit requirement in the NPPF for local authorities to consider the needs of *“those wishing to commission their own home”*
- 6.70 NPPF Para.70 says;
- Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should: b) seek opportunities, through policies and decisions, to support small sites to come forward ... for housing and self-build and custom build housing;*
- 6.71 *“In the absence of an appropriate mechanism to secure the development as self-build and custom housebuilding”, Inspector Philips, could “not give any weight to the contribution that the appeal scheme would make in helping to address the Council’s shortfall.”*
- 6.72 The Applicant has submitted a Unilateral Undertaking which would secure the plots to be disposed to an “Eligible Person” i.e. an individual as per the definition of the Self-Build and Custom Housebuilding Act and has been registered on the Council’s self-build and custom housebuilding register. Furthermore, the plots will be made available for the first 8 months of marketing to an Eligible Person with a “Local Connection” to Harborough District.



## **Other Matters**

### *Affordable Housing*

Policy H2 of the Local Plan requires provision of 40% affordable housing on where 10 or more dwellings are proposed or the combined gross floor space exceeds 1,000sqm. The Plot Passport advises each Plot could have up to a maximum gross floorspace of 540sqm. If both Plots built to this maximum floorspace, this would result in a total gross floorspace of more than 1,000sqm. However, due to the specialist nature of the proposal (for self-build dwellings) in this instance affordable housing is not required at present. The consultation version of the NPPF published summer 2024 suggests that affordable housing will be a requirement on self-build sites (paragraph 66) and it is possible that this may be a requirement in the future.

## **Conclusion / Planning Balance**

- 7.1 The application site does not adjoin the existing or committed built up area of the village and is and therefore fails policy GD2:2. The site is therefore within the countryside, where LP policy GD4 applies. The proposal does not meet GD4a as the site it is not judged to be visually and physically connected and therefore also fails to satisfy this policy. The site also fails to satisfy NPR policy H2 as it is located outside the defined settlement boundary. This weighs against the scheme as the proposal conflicts with the spatial strategy.
- 7.2 The site is located on land designated within the Neighbourhood Plan as an Area of Separation and is adjacent to the Conservation Area of Church Langton. However, Inspector Philips when considering the previous scheme found no harm to either the Area of Separation or Conservation Area. A reason for refusal on these grounds could not therefore be substantiated.
- 7.3 There are no technical objections to the application (i.e. highways, flooding) and design issues can be dealt with at Reserved Matters.
- 7.4 The proposal will create economic benefits during construction and once operational with potential local spend in the local public house. Officers consider that this should be afforded moderate weight.
- 7.5 Social benefits include the provision of 2 self-build plots which will meet an identified local need within the Parish as evidence through the Housing Need Survey and help to meet a District wide need in terms of custom and self-build housing, which attracts substantial positive weight.
- 7.7 In conclusion, the substantial benefits of the proposal outweigh the harm identified to the Development Plan. The application should therefore be **APPROVED**.



## Appendix A – Appeal Decision



The Planning Inspectorate

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### Appeal Decision

Hearing held on 22 May 2024

Site visit made on 22 May 2024

**by B Phillips BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18<sup>th</sup> July 2024

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**Appeal Ref: APP/F2415/W/24/3338486**

**Land adjoining The Causeway, Church Causeway, Church Langton, Market  
Harborough LE16 7SU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Clarity Property Alpha Limited against the decision of Harborough District Council.
  - The application Ref is 23/01583/OUT.
  - The development proposed is two serviced plots for self-build and custom housebuilding.
- 

#### Decision

1. The appeal is dismissed.

#### Preliminary Matters

2. The application is in outline with access to be considered as a detailed matter, with appearance, landscaping, layout and scale reserved for future consideration. I have therefore considered all details relating to these reserved matters as indicative.
3. I have removed the address of the site and other wording from the development description above as it does not describe development.
4. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). Both main parties had opportunity to comments on this at the Hearing, and I am satisfied that no party would be prejudiced by making reference to the Framework in this decision.
5. The Council set out in their submissions that Policies DBE3 and ENV2 of the East Langton Parish Neighbourhood Plan Review (2011-2031) (NP) referred to in the refusal reason or in the officer report, are not determinative. They refer to, respectively, Design and Other Environmentally Significant Sites. I have no reason to disagree in this respect, and as such, I have not taken these policies into account.

#### Main Issues

6. The main issues in this case are:
  - whether the appeal site is a suitable location for the proposal having regard to the development plan and national strategy; and

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<https://www.gov.uk/planning-inspectorate>

- the effect of the proposal on the character and appearance of the area, including the area of separation and whether it would preserve or enhance the setting of the Church Langton Conservation Area (CA).

## Reasons

### Location

7. Policy SS1 of the Harborough Local Plan (2019) (LP) sets out the spatial strategy for the district and seeks to direct development to appropriate locations, in accordance with a settlement hierarchy. The fifth tier of the settlement hierarchy refers to 'Selected Rural Villages' and includes Church and East Langton.
8. The appeal site sits outside the settlement boundary of Church Langton, as defined by the NP. NP Policy H2 (Settlement Boundaries) confirms that land outside the settlement boundary will be treated as open countryside *'where development will be carefully controlled in line with local and national strategic planning policies'*.
9. The Council confirmed at the hearing that LP Policy GD2 of the Local Plan is considered a strategic policy, which sets out amongst other things, that in addition to sites allocated in the LP and neighbourhood plans, development *'adjoining the existing or committed built up area'* of Selected Rural Villages will be permitted subject to several criteria. In addition, another strategic policy, LP Policy GD4 also sets out instances where 'New housing in the countryside' will be permitted. It allows for housing on small sites of no more than 4 dwellings which are within or physically and visually connected to settlements, which meet a local need for housing of a particular type.
10. The term 'adjoining' is not defined within the development plan, however, as established by the courts<sup>1</sup>, it does not mean contiguous but rather has a broader meaning which is a matter of planning judgement.
11. The built form of Church Langdon becomes more sporadic in extending south from the core out of the settlement, particularly on the western side of the highway where open fields are visible through the roadside vegetation. The appeal site sits on this sparsely developed western side of Church Causeway and forms part of a larger grassed area which sits either side and to the rear of the substantial two-storey detached dwelling at 'The Causeway'. The wider site is enclosed by mature trees and hedgerows and forms a visual barrier and edge to the built form of the settlement.
12. The location of the appeal site within this existing open space, next to the open paddock means that there is a significant gap between the site and the built up area of Church Langdon on this side of the highway. Whilst the nearest dwelling within the settlement boundary, 'Ashleigh', in part sits directly on the opposite side of Church Causeway to the appeal site, I observed that the site has the feeling of being more closely related to surrounding open space and countryside than the existing built up area. The large open space to the rear and the existing open and verdant character of the site would remain. As such, it would not appear to be a part of, nor adjoin the existing or committed built up area.

<sup>1</sup> Corbett v Cornwall

13. Therefore, the development would not adjoin the existing built up area of Church Langdon, and would not therefore accord with requirement 2 of LP Policy GD2. It is noteworthy that the previous Inspector<sup>2</sup> found similarly in terms of this matter, and no material changes in terms of the site or policy context has occurred since this decision.
14. The appellant has provided numerous examples<sup>3</sup> of other development both within this district and elsewhere, where development has been found to meet the criteria of 'adjoining'. However, the broader meaning of the term requiring planning judgment is based upon the site specific circumstances and context of each proposal, the adjacent pattern of development, and how the proposal would be viewed and experienced 'on the ground'.
15. There are therefore no set and defined distances or thresholds between sites and the nearest dwellings that would mean that a development meets this criterion, and none is set out within the policy. I therefore cannot give any of these examples much weight in terms of precedence. This is also the case in relation to examples given in relation to the issue of physical and visual connection.
16. There is no dispute between the parties that self-build and custom housebuilding would meet the requirement of 'housing of a particular type' and I have no reason to disagree in this respect. However, there is no definition of 'physically and visually connected' provided, and again therefore, its consideration is based upon the site context. As such, little weight can also be given to the examples of development elsewhere provided pertaining to this matter.
17. Given the visual gap between the appeal site and the built up area of Church Causeway, as set out above, the proposed development would not be closely related to the built up area of Church Langdon and rather, would be seen in the context of the surrounding open space.
18. Whilst the site could be seen from dwellings within the settlement boundary and vice versa, given the flat open fields surrounding the settlement, this would also be true of sites some substantial distance away. As such, visibility does not necessarily infer visual connection.
19. As such, even if the dwellings were secured as self build/custom units and the pavement/footpath and PROW directly adjacent to the appeal site could mean that the site is physically connected to the settlement, the lack of visual connection means that the proposal would not meet the requirements of LP Policy GD4.
20. I conclude therefore that the appeal site is not suitably located for the proposal as it would undermine the strategic objectives of the development plan and would conflict with the sustainable development principles and plan-led approach endorsed by the Framework.
21. The proposal would conflict with LP Policies GD2 and GD4 and would also therefore conflict with the requirements of NP Policy H2, which requires compliance with GD2, and LP Policy H5, which supports proposals for self build

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<sup>2</sup> Appeal reference APP/F2415/W/22/3300733, March 2023

<sup>3</sup> Mostly included within document titled "adjoining" & HDC LP Policy GD2 Settlement Development".



and custom housebuilding in any location suitable for housing, including sites which are in accordance with Policy GD2.

22. The refusal reason also refers to NP Policy H3, however this relates to infill sites within defined settlement boundaries, and as such is not determinative in this instance.

*Character and appearance*

23. As set out above, the appeal site sits on the sparsely developed western side of Church Causeway. It forms part of a larger grassed area which sits either side and to the rear of the substantial two-storey detached dwelling at 'The Causeway'. The wider site is enclosed by mature trees and hedgerows.
24. The appeal site sits outside but next to the boundary of the CA. The Church Langton Conservation Area 'Record details' sets out that the significance of the CA primarily derives from the arrangement of the listed buildings St. Peters Church, the Old Rectory and Leadclune Court, which dominate the village core. The wedge of paddock land to the south between Church Causeway and Stonton Road is within the CA and provides a setting for Leadclune Court. The appeal site is part of open space which sits south of this paddock, and further provides an open pastoral character to the edge of the CA which positively contributes to this setting and its significance.
25. The development would sit adjacent to the substantial two storey detached property at The Causeway, and, unlike the previous proposal for 8 dwellings on this site, its built footprint would not extend further to the rear into the open space than this property. I observed that The Causeway is clearly visible not only from the highway, but, whilst mostly screened by trees and hedgerow, in glimpses from the Public Right of Way A81 (PROW) to the north of the site and in particular in a gap in the hedgerow to the western side of the field.
26. Whilst the proposal would bring development closer to the PROW therefore, it would generally be seen from the same view points as, and seen with, The Causeway. Whilst the submitted Tree Survey<sup>4</sup> raises the possibility of Ash Dieback along the northern boundary, it is not as yet identified with certainty. Were I minded to allow the appeal, a condition could ensure that the existing level of screening and verdant character is maintained.
27. The large open space remaining to the rear would retain the general open, verdant, spacious and pastoral character of the wider site. Given the limited scale of development, it would not appear urbanising and would sit comfortably within the sparsely developed western side of Church Causeway.
28. The proposed access would sit in close proximity to the larger access opposite to the development at Hanbury Gardens and would not be incongruous nor urbanising in this context. Other than access, the submitted site plan is illustrative only, and issues relating to scale, siting and design, including the orientation and height of the properties, would be assessed and addressed at reserved matters stage, were the appeal allowed. There is nothing before me to indicate that the site would not be capable of accommodating two units that would sit comfortably within the established pattern and height of the surrounding development.

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<sup>4</sup> Tree Survey Impact Assessment & Method Statement by RJ Tree Services Ltd June 2021

29. As such, the development would have a neutral effect that would not harm the setting or the significance of the CA and would preserve its character and appearance.
30. There is no dispute that the site is located within an Area of Separation (AOS), as defined by the neighbourhood plan. The wording of NP Policy ENV6 does not exclude all development, but rather sets out that development within the AOS, *'which would reduce the area of separation between Church Langton and East Langton'* (and between East Langton and West Langton Parish boundary) would not be supported. The supporting text makes it clear that the intention of the policy is to maintain the separation of the communities as it is important to ensure that the distinct identity and character of these villages is maintained.
31. The substantial property at The Causeway sits between the appeal site and East Langton. As set out above, the development would be seen in the context of this neighbouring property from both the PROW and Church Causeway and would not extend built form into the rear past this property. In addition, there would remain a sufficient separation gap between the appeal site and the side elevation of The Causeway that would allow views through from the highway to the open fields behind. As such, the spacious appearance of the land around The Causeway would remain, when viewed from the highway or the PROW or indeed any other footpath. The development would not reduce the perceived separation between the villages and their distinct identities would be maintained. As such, I find no conflict with NP Policy ENV6.
32. I conclude that the development would not harm the character and appearance of the area, including the AOS, and would preserve the setting of the Church Langton CA. I therefore find no conflict with LP Policy HC1, which seeks to protect built heritage, including the setting of Conservation Areas, nor the separation of settlement protection goals of NP Policy ENV6. There is no conflict with the well-designed and beautiful places goals of the Framework.

#### *Other Matters*

33. The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) states that an authority must give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period.
34. Section 123 of the Levelling-up and Regeneration Act 2023 (s123) makes it clear that demand is evidenced not by the number of people on the register at any one time but by the number of entries added to the register in each base period. Nevertheless, at the hearing the Council set out that their demand figures were based upon the number of people requesting to be on the register, and that subsequently, if requested, the entry was removed. As such, the Council accepted its figures in this regard were 'probably not accurate'.
35. In addition, at the hearing the Council also set out that their figures for qualifying permissions were based on approved developments that had self build or custom build in the description or accompanying documents. Regulations are still awaited that will define exactly what can be counted as a development permission. However, the recent amendments by s123 mean that a development permission now only counts in meeting the duty if it is actually

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for self-build or custom housebuilding and the government have indicated that it is likely to require that for a permission to count it will need to be secured as such, making that requirement explicit. At the hearing the Council did not dispute the information provided by the appellant that sets out that a number of their qualifying permissions were not secured through a planning obligation for example. Therefore, the qualifying permission figures provided by the Council are also likely to be inaccurate.

36. Given the inaccuracy of the Council's figures, I have no reason to doubt that the true figures are far more likely to be closer to those submitted by the appellant<sup>5</sup>, which indicate a far greater size of deficit. Nevertheless, the Council indicated that, even based on its own figures, the deficit within the authority's area is 'significant', and that 'positive to substantial' weight should be given to this deficit.
37. The statutory duty of the Council to meet the demand for self-build and custom housebuilding is an important material consideration. The Council is failing by a very large margin to meet this demand and the submitted evidence indicates that it will fail to do so in forthcoming years by an even larger extent as more recent register entries feed through into the base period calculations.
38. However, as set out above, to meet the legislative requirements for custom/self build housing, and therefore meet the statutory duty, developments must be adequately secured as such.
39. The parties have suggested that a condition would ensure that the proposed dwellings are secured as serviced plots for self-build and custom housebuilding. In order to meet the requirements of Framework paragraph 56, conditions must be enforceable.
40. There are numerous enforceability issues with the condition as proposed. Firstly, in relation to knowing for sure that the person building the house will live in it, meaning enforcement action is unlikely to be possible until the house is completely built and occupied.
41. Secondly, if the LPA did not consider that the occupier was a person who had primary input into the design, and took enforcement action, in order to comply, the third party would have to get the person who built the house (and presumably sold it to them) to return to live in the property. It would be impractical and unreasonable to require this. In such circumstances, it is likely that enforcement action would also be unreasonable.
42. I therefore do not consider that a condition in this instance would meet the tests of the Framework. In the absence of an appropriate mechanism to secure the development as self-build and custom housebuilding, I cannot give any weight to the contribution that the appeal scheme would make in helping to address the Council's shortfall in this respect. I note the previous appeal example<sup>6</sup> where such a condition has been accepted, however, whilst this is a material consideration, for the reasons set out above, I have come to a different conclusion.

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<sup>5</sup> Table 1.1 of Harborough District Council Self-build and Custom Housebuilding Register and Permissions as of 29 January 2024

<sup>6</sup> Appeal reference APP/F2415/W/22/3303898

43. The proposal would result in 2 additional windfall units of accommodation which would contribute to the Government's broader objective of significantly boosting the supply of homes, in a location with good access to services and facilities, as supported by Framework. The proposal would result in short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the units. However, given the quantum of development in this case, I give these matters limited weight in favour of the scheme. In addition, given the scale of development, limited weight can be given to any secured biodiversity enhancements.
44. Applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out above, the location of the proposed development would be in conflict with the spatial strategy of the development plan. The minor benefits outlined above do not outweigh this identified harm.

### **Conclusion**

45. For the reasons given above I conclude that the appeal is dismissed.

*B Phillips*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Ronan Donahoe - Clarity Property Alpha Limited

### **FOR THE LOCAL AUTHORITY:**

Nicola Parry - Development Management Team Leader - Harborough District Council

Jo Christopher - Senior Planning Policy Officer - Harborough District Council

Matthew Bills - Neighbourhood and Green Spaces Officer - Harborough District Council

Simon Kolka - Parish Councillor

## **DOCUMENTS SUBMITTED AT THE HEARING**

Officer report for planning application reference 24/00216/OUT at South View Farm, Main Street, Tur Langton.

## **Appendix B – Schedule of Conditions**

### **1. Reserved Matters**

Details of the appearance, landscaping, layout, and scale, "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved. The reserved matters shall include the following: i) the layout and surfacing of the internal access road, footway and any shared surfaces; ii) any external lighting in these areas; iii) site boundary treatments and structures; iv) landscaping not incorporated within a residential plot curtilage including any shared open space and associated tree planting; and v) the identification of and enclosures for the plot boundary

REASON: The application was made for outline planning permission and is granted to accord with the provisions of Section 92 of the Town and Country Planning Act 1990.

### **2. Approved Details**

Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The reserved matters submissions for the plot will be in general accordance with the Illustrative Site Plan Drawing No. P03, Design Code, Plot Passport and Sustainability Strategy submitted as part of this outline.

REASON: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

### **3. Time Period**

The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

REASON: To meet the requirements of Section 92 of the Town and Country Planning Act 1990

### **4. Access width**

Notwithstanding the submitted plans, the proposed access shall have a width of a minimum of 4.25 metres, a for a distance of at least 5 metres behind the highway boundary. The access once provided shall be so maintained at all times.

REASON: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (December 2023).

### **5. Visibility Splays**

No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 43 metres to the north and 2.4 metres by 215 metres to the



south have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

REASON: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with the National Planning Policy Framework (December 2023).

## **6.No gates etc**

Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

REASON: To 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)

## **7. Access drive surface**

The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

REASON: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023)

## **8. Rights of Way**

No development shall take place until a scheme for the treatment of the Public Rights of Way A81 has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include provision for their management during construction, surfacing, width, structures, signing, and landscaping in accordance with the principles set out in the Leicestershire County Council's Guidance Notes for Developers. Thereafter the development shall be carried out in accordance with the agreed scheme and timetable.

REASON: to protect and enhance Public Rights of Way and access in accordance with Paragraph 104 of the National Planning Policy Framework (December 2023).

## **9. Replacement trees**

No development shall take place on site until a scheme for replacing the boundary trees shown to be removed on the Tree Survey and Constraints Plan and those that have been identified as likely to have Chalara ash dieback disease has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the location of

replacement trees, the tree species and planting size and how the replacement trees will be maintained and managed. The replacement trees shall be implemented in accordance with the approved scheme during the 1<sup>st</sup> available planting season following 1<sup>st</sup> occupation of the Plot/Plots hereby approved

REASON: To preserve the rural setting and character of the Conservation Area.

## **10. External lighting**

No external lighting shall be installed on the site until details (including luminance levels and measures to minimise light spillage) have been submitted to and approved in writing by the Local Planning Authority. Any lighting scheme must be sympathetic to nocturnal species. External lighting shall only be installed in accordance with the approved details and shall not be replaced with any alternative lighting without the prior permission in writing of the Local Planning Authority.

REASON: To safeguard Bats and other nocturnal species

## **11. Biodiversity Enhancement Strategy**

Prior to any works for the construction of the development hereby approved, a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not necessarily be limited to, the provision of at least one bat box, one 'universal' bird box, and one bee brick to be integrated into the façade of each proposed building. The approved scheme of enhancements shall be implemented and managed in accordance with the approved details.

REASON: To mitigate as far as possible, within the site, any loss of biodiversity.

## **12. Ecological Appraisal Recommendations**

The development hereby approved shall be undertaken in strict accordance with the precautionary measures of working with regard to Great Crested Newts as suggested in Section 4.3b of the Phase1 Preliminary Ecological Appraisal (September 2024)

REASON: To safeguard Great Crested Newts

## **13. Construction Management Plan**

No development shall commence on site (including any works of demolition), until (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include the following:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development (taking into account tree protection areas);
- iv) wheel washing facilities;
- v) measures to control the emission of dust and dirt during construction;
- vi) hours of construction work, including deliveries; and
- vii) measures to control the hours of use and any piling technique to be employed

- viii) measures to control and minimise noise from plant and machinery

The approved CMP shall be adhered to throughout the construction period and verified where appropriate

REASON: In the interests of residential amenity

#### **14. PD Removal – boundary treatment**

Notwithstanding the provisions of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or reenacting or amending that Order with or without modification) no gates, fences, walls or other means of enclosure, other than those approved under the reserved matters submission, shall be erected anywhere within the site.

REASON: In the interests of visual amenity and to safeguard the character of the Conservation Area and the rural setting of the site and its surroundings

#### **15. PD Removal - outbuildings**

Notwithstanding the provisions of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification) no garages, sheds, greenhouses or other ancillary domestic outbuildings, other than those approved under the reserved matters submission, shall be erected anywhere within the site.

REASON: In the interests of visual amenity and to safeguard the character of the Conservation Area and the rural setting of the site and its surroundings

### **Informative/Notes**

1. Building Regulations

2. Highway Matters:

Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>

Prior to construction, measures should be taken to ensure that users of the Public Right of Way are not exposed to any elements of danger associated with construction works.

Public Rights of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.

If there are any Public Rights of Way which the applicant considers impracticable to retain on their existing lines, a separate application for diversion is required. It should be submitted under the Town and Country Planning Act 1990 to the Local Planning Authority. The applicant is not entitled to carry out any works directly affecting the legal line of a Public Right of Way until a Diversion Order has been confirmed and become operative.

If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to [networkmanagement@leics.gov.uk](mailto:networkmanagement@leics.gov.uk) at least 12 weeks before the temporary diversion is required.

Public Rights of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.

Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.

No new gates, stiles, fences, or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way, and the County Council may be obliged to require its immediate removal

## Committee Report

**Applicant:** Leicestershire County Council

**Application Ref:** 24/00932/VAC

**Location:** Land East Of Lutterworth, Gilmorton Road, Lutterworth

**Proposal:** Hybrid planning application comprising Outline application for development (including demolition) of up to 2,750 dwellings, business, general industrial and storage and distribution uses, two primary schools, neighbourhood centre, public open space, greenspace, drainage features, acoustic barrier, and other associated infrastructure (some matters reserved), and full application for the development of a spine road and associated junctions with the A426 north of Lutterworth, Gilmorton Road, Chapel Lane (including the partial closure and realignment of Chapel Lane to motor vehicles and horse riders), and the A4304 east of M1 Junction 20, comprising carriageway, footway, cycleway and associated infrastructure to include earthworks, bridge structures, services, drainage, landscaping, lighting and signage. (Variation of condition 50 (Traffic Signage), 51 (PRoW Strategy) and 54 (Pedestrian Crossings) and Removal of condition 20 (B8 limitation) of 19/00250/OUT)

**Parish/Ward:** Lutterworth and Misterton with Walcote / Lutterworth East and Misterton

**Application Validated:** 25/07/24

**Application Target date:** 24/10/24

**Extn. of time:** 06/12/24

**Reason for Committee Consideration:** Due to the nature of the application and the scale of the original application

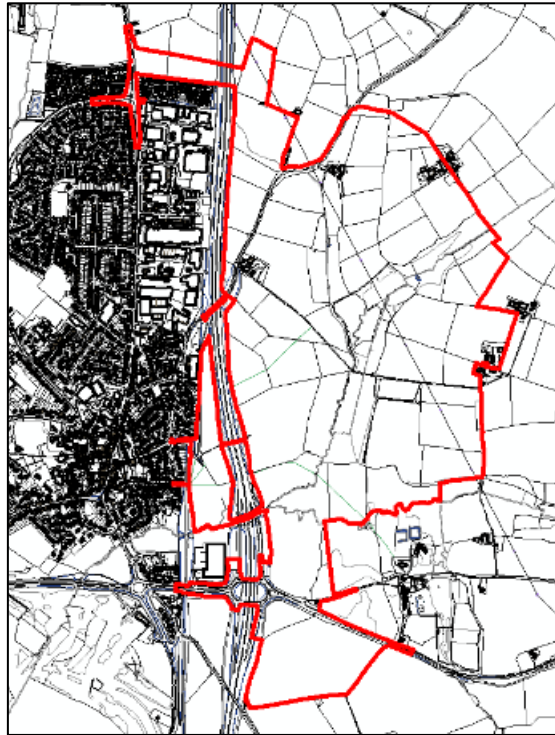
## Recommendation

Planning Permission is **APPROVED**, for the reasons set out in the report, subject to Deed of Variation to tie this consent to the original S106 agreement.

### 1. Introduction (including Site & Surroundings)

- 1.1 The site lies predominantly to the east of the M1 Motorway, with built development only being proposed to the east of the M1. The site also includes land to the west of the M1. This comprises land north of Gloster Road, on the northern edge of Lutterworth, alongside the A426 (Leicester Road) and Bill Crane Way. The site also includes land to the east of Station Road and Misterton Way. This land is bordered by a dismantled railway line and the M1 Motorway. The site adjoins the town of Lutterworth to the west, is near to the hamlet of Misterton to the southeast.
- 1.2 The site is circa 225ha and is predominantly agricultural land in both pastoral and arable use. There are a small number of residential and agricultural buildings within the site, and high voltage overhead power lines cross the site. The site contains the Misterton Marshes Site of Special Scientific Interest (SSSI), Thornborough Spinney, and smaller pockets of woodland and hedgerows of local ecological value.
- 1.3 The River Swift and its tributaries run through the site, along with a network of drains and ditches. The majority of the site falls within the Flood Zone 1. The site is not designated for its landscape value, has a relatively limited visual envelope due to the

presence of the M1 and tree planting. Part of the site falls within the setting of Grade II\* listed Misterton Church.



**Figure 1: Site Location Plan**

- 1.4 The site can be accessed from the A4304 to the south, the Gilmorton Road, the A426 to the north, and numerous footpath connections along the western and eastern boundary. Whilst the individual parcels within the application site have a considerable planning history, none of this is relevant to this planning application.



**Figure 2: Aerial Photo of site**



## 2. Site History

- 2.1 19/00250/OUT – Hybrid planning application comprising Outline application for development (including demolition) of up to 2,750 dwellings, business, general industrial and storage and distribution uses, two primary schools, neighbourhood centre, public open space, greenspace, drainage features, acoustic barrier, and other associated infrastructure (some matters reserved), and full application for the development of a spine road and associated junctions with the A426 north of Lutterworth, Gilmorton Road, Chapel Lane (including the partial closure and realignment of Chapel Lane to motor vehicles and horse riders), and the A4304 east of M1 Junction 20, comprising carriageway, footway, cycleway and associated infrastructure to include earthworks, bridge structures, services, drainage, landscaping, lighting and signage – Approved 17/05/2022.
- 2.2 24/01135/S106 – Varying the existing Section 106 Agreement for the East of Lutterworth SDA 19/00250/OUT to a minimum of 10% and a maximum of 40% affordable housing – Pending Consideration at this meeting of the Planning Committee

## 3. The Application Submission

### a) Summary of Proposals

- 3.1 The application seeks to vary the planning conditions which are currently written so they relate to the whole of the site so that they can be discharged in a phase by phase basis. The application also seeks to remove a condition relating to the B8 element of the site.
- 3.2 The application has been made under section 73 of the Town and Country Planning Act 1990 (as amended). This section of the act is to allow development to proceed without complying with conditions attached to the original grant of planning permission or for the imposition of different conditions. If such an application is granted it amounts to a new planning permission and consequently a Deed of Variation to the S106 agreement will be required. Despite being a new consent, this will not extend the life of the planning permission.
- 3.3 The applicants have submitted a “Letter of Assurance” setting out their reasons for the applications and their commitment to delivery of the development. This can be seen at **Appendix A** of this report.
- 3.4 Advice has also been sought from the Council’s legal Officer and this can be found at **Appendix B**

## 4. Consultations and Representations

- 4.1 Firstly, a summary of the technical consultees responses received is set out in **Figure 3** below. Where appropriate the responses will be discussed in more detail within the main body of the report. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

Consultee	Date	Summary
<i>National / Regional Bodies</i>		
Environment Agency	02.08.24	No comment
National Gas	05.08.24	No National Gas assets affected in this area
Historic England	20.08.24	No objections
Natural England	13.08.24	No comment
Active Travel England	28.08.24	ATE is content with the development as proposed
Integrated Care Board	12.08.24	No comments

Canal and Rivers Trust	02.08.24	No comments
Sport England	20.08.24	No comments
Leics Police	22.08.24	No objections
National Grid	21.08.24	No objections
<b><u>LCC</u></b>		
Highways	23.08.24	<p><b><u>Condition 20:</u></b></p> <p>The applicant tested the impact of the development on the local and strategic highway as part of the 2019 application. The comprehensive modelling exercise included testing several future year scenarios including with and without the spine road, identifying a package of highway measures and then re-running the scenarios to confirm that the interventions will mitigate the impact of the development.</p> <p>In the model runs the applicant tested the number of employees / trips associated with 21.5hectare employment land. The land use was split between 2.5hectares of business park, up to six hectares of B1/B2 industrial estate and 13hectares of Distributional Storage and Distributional (B8). The LHA did not advise the condition to limit the size of B8 as part of the proposals however in the event all the employment land was allocated as B8 the LHA is content that there will be no additional development trips on the network.</p> <p>Therefore the LHA offers no objection to removal of Condition 20.</p> <p><b><u>Condition 50:</u></b></p> <p>The LHA advised this condition was included on the Decision Notice in its final response to the Hybrid application in March 2020. However the applicant has now indicated that they do not think it is appropriate for a traffic and direction signing strategy to be submitted and approved prior to the commencement of any part of the development or the need for a signing strategy is removed all together.</p> <p>The LHA is content that a signing strategy is submitted and approved prior to commencement of each phase or sub phases of the development.</p> <p><b><u>Condition 51:</u></b></p> <p>There are no Public Rights of Way (PROWs) to the south of the River Swift, therefore the applicant would like the condition to be amended to refer to the commencement of development north of the River Swift rather than north of the A4304.</p> <p>Based on the evidence submitted, the LHA does not object to the proposed amendment to the wording of the Condition 51.</p> <p><b><u>Condition 54:</u></b></p> <p>Given the condition has no trigger point the applicant has asked the LPA to amend the wording of the condition so that details of the pedestrian crossing should be provided prior to the commencement of development north of the River Swift e.g. around the community hub.</p> <p>The LHA offers no objection to the proposed amendment of Condition 54.</p> <p><b><u>Closing</u></b></p> <p>After a review of the information submitted, the LHA would not object to the removal of condition 20. Furthermore LHA does not consider that the proposed variation of the conditions 50, 51, and 54 would have an unacceptable impact on highway safety and nor would the residual cumulative impacts on the highway network be severe, in accordance with paragraph 115 of the NPPF (2023).</p>
Archaeology	29.08.24	No comments

LLFA	08.08.24	No comments
Ecology	22.08.24	These conditions to not refer to ecological matters, therefore I have no comments to make
<u>HDC</u>		
Conservation Officer	16.08.24	No objections. Impact of size of buildings can be dealt with via Reserved Matters
Neighbourhood and Green Spaces Officer	12.08.24	No comments
<u>MP's / Cllrs / PC's</u>		
Cllr Bateman	06.09.24	<p>I must object in the strongest terms to this application for the following reasons:-</p> <ol style="list-style-type: none"> <li>1. There is no evidenced need for any additional B8 warehousing in this area, as detailed in the Strategic Warehousing document covering both Leicestershire and the larger geographical area.</li> <li>2. The original permitted application was approved based on the smaller units proposed at that time, and despite local reservations, the smaller size was considered acceptable to assist LCC in marketing the adjoining Lutterworth East residential development. Whilst I accept that the market has changed since that application was approved, I cannot agree that changing the size of the warehousing simply to enable the LCC to better market their development is acceptable.</li> <li>3. The enlargement of the warehouses would in my opinion increase substantially the volume of articulated HGV traffic into and out of the site, which together with the Lutterworth East development, and potentially the Misterton Quarry (if approved) would significantly increase the traffic levels at this already heavily used and regularly congested location.</li> <li>4. If approved, this application would be a 'foot in the door' for further expansion of the site, along the south-east corridor of the M1 motorway, allowing more unnecessary and unrequired warehousing, which as previously stated is not required according to approved studies.</li> <li>5. I note that the improved marketability of this site would allow the LCC to invest any funds raised into the further marketability of Lutterworth East, however I have seen no evidence that this is to be mandated, which could lead to LCC simply banking the monies, leaving Lutterworth East to languish undeveloped.</li> </ol> <p>In closing there is no evidenced need or requirement for this increase in size to be permitted and I would encourage the authority to refuse the application</p>
Lutterworth Town Council	11.10.24	<p>Lutterworth Town Council strongly objects to the application.</p> <p>Lutterworth Town Council would ask that the following points are considered in light of the fact that the original planning application (19/00250/OUT) was passed by a single vote, having received significant opposition relating to warehousing, spine road location, predicted noise levels and impact to the local heritage and environment.</p> <ol style="list-style-type: none"> <li>1. As part of the original planning process there was significant opposition to the building of any warehousing as part of the development, given the proximity of Magna Park and other logistics facilities nearby. However residents of Lutterworth were given the clear commitment that the warehousing concerned would not be of the Magna Park variety, as all Strategic B8 warehouses (ie above 9,000 sqm each) would be restricted to sites such as Magna Park. This was a significant point in the consideration of the planning application, and the restriction in size would certainly have been a</li> </ol>

		<p>contributory factor in some members voting in favour of the application. To now vary that condition would be wrong, as had that variation been part of the original application there is a strong possibility that the outline planning permission would not have been granted approval.</p> <p>2. The Employment Land Needs Assessment on which the premise of the removal of the 9000sqm size limit is based is misleading. Firstly, it has been created by Marrons themselves who, in acting on behalf of Leicestershire County Council, are hardly likely to bring forward a document that does anything other than support their own application. There has been NO independent study of land needs as part of this application. Secondly, reference is made to an accompanying letter from Gerald Eve which supposedly supports the conclusions of the Land Needs Assessment. In that letter Gerald Eve give reasons why the size cap should be removed, the first of which is that all but one of the plots at Magna Park have been speculatively developed or let, thereby removing the need for Magna Park to be protected. This is factually incorrect. Even the briefest investigation reveals that there are currently 3 newly constructed buildings available at Magna Park South with a combined floorspace of 41,156sqm (none of which have been let) and there are also 3 further plots to be developed at Magna Park North with capacity for 198,000 sqm, one of which is currently being developed with a speculative 70,600 sqm unit (again, no customer identified). In terms of constructing and then leasing all the remaining plots and buildings that currently benefit from planning permission, it is obviously difficult to apply a timeline as it is very much dependent on prevailing market conditions. There is no indication whatsoever that either the development is in any way complete, nor that there is an approximate date in mind when it is believed that it will be complete. Further, a cursory glance at the market reveals that there are currently 5 sites available at Europark Rugby (A5), 3 sites available at DIRFT, and 1 site available at Hinckley Park, all in the Strategic B8 category. There is therefore no evidence whatsoever that the supply of Strategic B8 warehousing is, or is about to be, exhausted. Finally, the report Warehousing and Logistics in Leicester and Leicestershire: Managing Growth and Change which was sponsored by both HDC and LCC and was updated in 2022 looks at land needs from 2020 to 2041. It states very clearly that between now and 2041 (ie the next 17 years) there is a shortfall of only 392,000sqm (112 ha) at non-rail (ie road served) sites after taking into account existing supply. For scale, this is less than the extension of Magna Park North of over 400,000sqm. We expect submissions to be made to HDC as part of the new Local Plan process to extend Magna Park further, and as the shortfall does not manifest itself for a considerable period of time there is no reason to accept developments that breach the current local plan, and every reason to continue to focus Strategic B8 in or adjacent to the existing areas.</p> <p>3. The covering letters to the application are interesting. Contrary to the comment made in the covering letter from Marrons, and the comment referring to it within the letter from Gerald Eve, there is absolutely no reference in Policy BE2 to the comment that the purpose of the policy was to protect strategic locations identified for growth. The purpose of the policy, very clearly, was to ensure that Strategic Warehousing was confined to those already identified areas, thus avoiding widespread speculative development in areas that were not suitable.</p> <p>4. The remainder of the reasons given by Gerald Eve in support of</p>
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		<p>the removal of the condition are all about value, ie the amount of money that Leicestershire County Council will be able to get from the development. There is nothing about value to the local community, this is all about how much money the county council can get out of Lutterworth. Which brings us on to the next point. In the Local Plan itself, Explanation 15.2.13 clearly states that there is no requirement for this level of B8 development at this location, and that its creation is merely there to generate the cash flow required to fund road junctions that will serve the Strategic Development Area. In other words, the creation of the housing itself does not have a viable business case, and it is dependent on the provision of an unnecessary warehousing area to make the numbers balance. The fact that Leicestershire County Council cant balance the books should NOT be a reason to change either the planning permission nor to breach Local Plan policies, notably BE2.</p> <p>5. The covering letter goes on to say that the provision of Strategic B8 warehousing will provide economic benefit of £17m to £23m, and job creation of between 550 and 740 FTEs. The implication here is that this will be the cost of refusal to remove the condition. There are two points to address here. Firstly, the economic benefit is not supported by the letter from Gerald Eve. They state that warehousing built to the existing conditions will already generate an economic benefit of circa £24m, potentially rising to £30m should the condition be lifted. Therefore, at worst case the cost of refusal would be £6m, not the implied £17m to £23m. Secondly, the addition of 550 to 740 full time equivalent jobs, in the logistics sector, is simply not required in Lutterworth. Unemployment in Lutterworth is currently below 1% and were those sub 1% attracted to employment within the logistics sector there is plenty of opportunity for employment at Magna Park due to the high level of agency staff that are employed there on a long-term basis. As a result, the 550 to 740 additional employees will have to travel to Lutterworth from distance, adding to the already significant commuter traffic to the town, and adding further to Leicestershire County Councils own predicted 17% increase in traffic through Lutterworth town centre. This is in no way a benefit to the town there will be no increase in commercial activity for the shops in Church Street or surrounding areas, there will merely be an increase in through traffic and congestion.</p> <p>6. A natural consequence of sizable warehouses is the scale of inbound and outbound commercial vehicle activity. While smaller units can attract the use of smaller vehicles, Strategic B8 tends to operate around the 38 to 44 tonne gross vehicle weight levels, simply because of the economies that they bring to the operation. We do not accept that all of the inbound and outbound traffic will only access the site directly from the M1, and as a result it is inevitable that Lutterworth town centre will see a significant increase in heavy goods vehicle traffic if the condition is removed. It must be made clear that there are no access or weight restrictions that are being applied, can be applied, or are being planned to be applied to the A426 that runs straight through the centre of the town. Therefore, no promises, commitments or good intentions will have any impact on the issue. If any one of these additional vehicles is driven through the town centre, there is nothing that can be done to stop them. For clarity, Local Plan Policy L1 refers to the situation. In explanation note 15.2.9, it clearly states that the development will deliver a spine road to alleviate pressure upon Lutterworth High Street and the Air Quality Management Area, and in 15.2.24 it states that Following completion of the spine road, traffic management measure and public realm improvements will be</p>
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		<p>developed to remove or minimise the passage of HGVs through the centre of Lutterworth. It must be stated that despite years of lobbying there is no commitment from Leicestershire County Council to guarantee that these elements of the Local Plan will be complied with, and that officers of Harborough District Council do not have any idea how the requirements of 15.2.24 (above) can be enacted. Indeed, given the details of the planning permission for the spine road, the only solution to comply with the above two requirements would result in the traffic being directed through the centre of the new development, past two schools, directly through the lower cost housing area, and effectively moving the problem from one area to another. Lutterworth Town Council asks that the Planning Committee take the above points as a demonstration that the application to remove Condition 20 should be refused.</p>
Misterton with Walcote	13.11.24	<p>The original application, 19/00250/OUT, proposed the inclusion of 40% affordable housing within the development. The amount of affordable housing was then in accordance with the adopted Harborough Local Plan and was considered financially viable when the application was submitted. Local plan guidance has not changed and very little affordable development has occurred within the district. Misterton with Walcote Parish Council feels strongly that the need for affordable housing remains. Our parish has been directly affected. Although there is an identified local need, no new affordable housing has been developed and a number of young people who hoped to secure homes have now left the area as no suitable accommodation is available locally.</p> <p>The price of housing locally continues to climb. If no affordable housing is included in the mix, the average house price will be further inflated. Thus the affordable element, pegged at 80% of the local average price, will become dearer, making even affordable housing more expensive and less accessible to those on modest and average incomes.</p> <p>If, as is claimed, the housing market is sluggish, it seems unlikely that building more expensive property will generate the boost needed to reignite the market. Without first time buyers, the chain of house moves falters, so surely it makes sense to ensure the foundations of the local market remains healthy. The provision of affordable housing can only help.</p> <p>For these reasons, Misterton with Walcote Parish Council urges Harborough District Council to retain the existing 40% requirement for affordable housing on the Lutterworth East development ref 19/00250/OUT</p>
<u>Other Local Groups</u>		
Welford Action Group	18.10.24	<p>No mitigation plans have been proposed to prevent a significant increase in HGV traffic in villages to the East of the site during construction or operation. Only by applying the most stringent traffic routing on traffic to and from the development will prevent a free-for-all use of local roads rather than the strategic road network.</p> <p>Specifically, may we, once again, make it clear that the A5199 at Welford is significantly under 6m in width and two HGV's are unable to pass without one or both mounting the pedestrian pavement. Any increase in HGV traffic generated as a result of this planning variation has the potential to put more HGV's in Welford and therefore more on the pavement with increased risks to the safety of pedestrians, other vehicles and roadside homes.</p>

**Figure 3: Summary of responses from technical consultees**

**b) Local Community**



# 1. Objections

- 4.2 Approximately 140 letters were distributed to properties within Lutterworth and the surrounding locality, with a site notice also being posted in the vicinity. 8 letters have been received from properties in Lutterworth, Gilmorton, Swinford and Great Bowden. Officers note that several of the representations are very detailed and whilst regard has been had to these in assessing this application, it is impractical to copy these verbatim and therefore a summary of the key points is provided at **Figure 4** below. Full copies of all representations can be viewed at [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning). It should be noted that some of the representations refer to issues related to 24/01135/S106, and some also relate to the principle of the development which has already been approved as part of 19/00250/OUT.

<b>Issues of Principle raised through representations</b>	<ol style="list-style-type: none"> <li>1) this adjustment to the original planning application breaks the local planning policy, has no real economic benefit to the local area and will provide nothing but significant problems to Lutterworth and its surrounding areas.</li> <li>2) The creation of a Spine road could open up the possibility of further developments branching off it, such as trade estates and retail complexes. Adding further disruption and unknown issues. This could possibly be on the small amount of land between our home and the Spine road</li> <li>3) The development is hugely out of proportion to the locality.</li> <li>4) It will take out valuable land currently used for agriculture and recreation.</li> <li>5) As of 2025 Gas or other fossil fuels will not be permitted as the means of heating new build houses, how does the developer intend to satisfy the legislation of the required percentage of new builds as "affordable" if they have to be constructed to the very highest EPC rating?</li> </ol>
<b>Layout issues raised through representations</b>	<ol style="list-style-type: none"> <li>1) If it goes ahead the so-called spine road needs to be sufficiently wide to divert traffic from Lutterworth Town Centre and should be located next to the M1 so that access is not to and from both sides of the road.</li> <li>2) We object to the planning application for the Spine Road which will run directly behind our home and overlook our garden. Leicester Road is already too busy to cross in the morning and afternoons when doing the school runs. The proposed Spine Road would increase the flow of traffic making it much busier and dangerous to what it is now.</li> <li>3) At present, there is a constant humming from the M1 motorway and the A426, both.</li> <li>4) during the day and night. This does have an impact on our daily life and mental health, effecting quality of life, sleep and enjoying relaxing in our garden during the summer. The completed spine road will have a greater impact by increasing the level of noise from cars and heavy good vehicles, causing large amounts of disruption, increased traffic and congestion resulting in higher levels of pollution.</li> </ol>
<b>Socio-Economic issues raised through representations</b>	<ol style="list-style-type: none"> <li>1) It is also concerning that the developer appears to be prioritizing the profitability of warehousing instead of fostering community growth, this proposal seems driven by financial gain from warehousing, without adequate consideration for the local impact.</li> <li>2) The lack of local labour will mean increased car journeys let alone the freight transport required.</li> <li>3) Whilst the provision of housing so close to the M1 is unacceptable because of the noise from the Motorway - especially when the wind is from the West (as it usually), reducing the percentage of affordable housing from the already low 40% would be against the national plan for 50% affordable homes.</li> <li>4) Our NHS/Local Dr's surgeries are at full capacity. Local residents are unable to get appointments or get to see the same Dr. Why put these facilities under more strain. Leicester Royal and General are also extremely flat out having to cater for the entire county. having more houses built this would mean more strain on the facilities.</li> </ol>

	<p>5) The spine road has the potential to attract further criminal elements with access/exit to Lutterworth and the surrounding areas. Gloster Road will sit on the back of the Spine road, which causes concerns around to our property and easier access for burglaries.</p> <p>6) There are plans for new schools but none for health centres.</p> <p>7) The Government has stressed the new approach to such developments to have the Infrastructure in place before the housing elements are commenced. Is this the plan for this proposal and where does the 1,000 plus over 11year old children go for their Secondary Education?</p> <p>8) There is no provision for increasing the provision of health services.</p> <p>9) There is no economic, business or actual need for the extra warehousing planned, especially given the size of the planned new units.</p> <p>10) There is no one in Lutterworth or the surrounding areas available to work in the new units so the employment benefits are unrealistic</p> <p>11) The evisceration of the provision for affordable housing in the application will do nothing to solve the shortage of available housing in the area, and will actually make it worse.</p>
<b>Highways issues raised through representations</b>	<p>1) The addition of more warehouses, as proposed by the developer, will intensify existing issues with increased HGV movements and traffic congestion.</p> <p>2) The lack of planned improvements to traffic infrastructure in this area is troubling. Adding large warehouses without enhancing roads and traffic management systems will worsen congestion and increase road hazards, bringing no benefit to local people but only harm to our community.</p> <p>3) There is no provision for ameliorating the excess traffic that will have to go through the town centre, both while the development is being built and subsequently.</p> <p>4) As there is no access to the M6 Westbound from the M1 the increased traffic on the A4304, The Whittle Roundabout, the A426 and at the Gibbet roundabout on the A5 will be chaotic.</p> <p>5) The proposed Tarmac Quarry at Misterton which was not considered when the original planning permission was granted exacerbates the road traffic issues.</p>
<b>Air Quality issues raised through representations</b>	<p>1) The addition of more warehouses, as proposed by the developer, will intensify existing issues with increased HGV movements, traffic congestion, and pollution, leading to further deterioration of air quality and negatively impacting the health and wellbeing of residents.</p> <p>2)</p>
<b>Appearance issues raised through representations</b>	<p>1) In short, this development is unsupported by any need - economic or otherwise - and will only serve to surround Lutterworth with massive boxes that are unlet, unused and unwelcome</p>

**Figure 4: Issues raised in Objection through consultation with local residents**

## **5. Planning Policy Considerations**

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the provisions of the development plan (hereafter referred to as the 'DP') (this is the statutory presumption), unless material considerations indicate otherwise.

### **a) Development Plan**

- 5.2 The DP for Harborough comprises:
- The Harborough District Local Plan adopted April 2019
  - Made Neighbourhood Plans.

**b) Statutory Duties, Material Planning Considerations and other relevant documents**

5.3 Material considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land:

- The National Planning Policy Framework ('the Framework') Dec. 2023
- Planning Practice Guidance
- National Design Guide
- Community Infrastructure Levy Regulations
- Circular 11/95 Annex A - Use of Conditions in Planning Permission
- Leicestershire Planning Obligations Policy (July 2019)
- Leicestershire County Council 'Local Transport Plan 3' 2011-2026;
- Market Harborough Transport Strategy 2017 – 2031
- Planning Obligations Developer Guidance Note
- Development Management SPD (December 2021)

**6. Officer Assessment**

**a) Removal of Condition 20 (B8 floorspace restriction).**

6.1 Original Condition:

The floor space of any single building constructed on the land that lies to the south of the A4304 identified for B8 uses, Storage and Distribution as defined by the Town and Country Planning (Use Classes Order) 1987 as amended, shall be restricted to 9000m<sup>2</sup>.

REASON: The site is not designated as a site for strategic scale units which are considered in Local Plan policy BE2 to exceed 9000m<sup>2</sup> to ensure compliance with Policies SS1 and BE1 of the Harborough Local Plan

6.2 Assessment:

The applicant is seeking to vary the condition as set out above. This condition was imposed as Use Class B8 development 'storage or distribution' of a strategic scale of 9000m<sup>2</sup> or above as defined in the Adopted Local Plan is to be directed to Magna Park which is to be the focus of this type of development in the district. At the time that the condition was imposed it was necessary to safeguard Magna Park for strategic B8 and ensure that development was not drawn away from it. Subsequently development at Magna Park has been substantially completed and the need to ensure that the provision of new strategic B8 development elsewhere does not undermine its purpose has been reduced. The application site could potentially accommodate a unit of up to 40,375m<sup>2</sup> and a further unit of 15,580m<sup>2</sup>.

6.3 The purpose behind the application is to provide funding to enable the remainder of the site to be opened up for development. This application will achieve this by making the B8 development more attractive to developers, increasing the value of the site, being easier to develop and let as fewer large units rather than a number of smaller ones.

6.4 The release of funds from the sale of this site would contribute towards the junction and access works from the A4304 and north into the main part of the site as far as the river Swift crossing and planned improvements to M1 junction 20, therefore improving the deliverability of the residential element of the Development.

6.5 The original application required an Environmental Statement this application needs to consider the issues raised in that statement. This assessment only needs to address the issues relating to the increased floor area of the buildings which could potentially affect its visual impact. However, the original assessment considered the whole of the site as a single mass of buildings with a maximum height of 18.5m. Consequently, the

original Environmental Statement was sufficiently broad in its scope to include the impact of the current proposal, as the only Environmental Statement matter this has been dealt with in a supporting note. This concludes that the impact would be the same as originally assessed. **Figure 5** indicates the parameters upon which the ES and LVIA were considered. **Figure 6** sets out how the development could proceed were the cap to be lifted. Officers have considered this and the submissions made by the applicants on this matter and concur with their assessment that the visual impact would be the same as that assessed within the original submissions as part of 19/00250/OUT.



**Figure 5: Approved Parameters Plan extract**



**Figure 6: Indicative layout demonstrating how development could be laid out**

- 6.6 A Transport Assessment accompanied the original planning application. The current application has been accompanied by a supplementary letter which examines the

methodology used to calculate traffic impacts from HGV and employee movements. In terms of employee movements these were based on floor areas and therefore, for the purposes of the calculation, the impact is the same for a number of smaller units as for fewer larger units. A related methodology was used for HGV movements, based on floor area and the number of employees. Again because it is a floor area / employees calculation the way in which the floorspace is arranged, fewer larger units have the same impact as a larger number of smaller ones. This concludes that the impact would be the same as originally assessed.

- 6.7 To accompany the application the applicant has submitted an Employment Land Needs Assessment. This identifies the need for different types and scales of development including strategic and non-strategic Use Class B8 (storage and distribution).
- 6.8 Turning in the first instance to the need for strategic scale storage and distribution uses. There have been significant changes in the scale of demand since the local plan was adopted. COVID and Brexit have increased floor space demands which would not have been apparent at the time of the local plan. The context at the time of the local plan has been set out in paragraph 6.7. The purpose of what follows is to set out the current context for the need for strategic B8 uses, this discussion is focused on road served distribution as opposed to rail served demand which is an entirely different discussion.
- 6.9 The Harborough Local Plan Review Issues and Options consultation document was published in January 2024. This document explains that the Leicester and Leicestershire Housing and Economic Needs Assessment (HENA) published in 2022 identifies a need for industrial and distribution, excluding strategic warehousing, of 194,1000 sq. m (48.6ha) over the period 2021 – 2041. After accounting for completions and net commitments there is a residual supply to 2041 of 0.9ha.
- 6.10 The Local Plan Issues and Options document also explains that the Leicester and Leicestershire local authorities commissioned an Employment Distribution Paper to consider providing for Leicester City's unmet industrial need to 2036. This paper identified that there should be no increase to Harborough's employment requirement to 2036. The situation regarding any unmet employment needs beyond 2036 is unknown.
- 6.11 In relation to strategic storage and distribution the Local Plan Issues and Options document explains that the Warehousing and Logistics in Leicester and Leicestershire Study (2021) has identified the need to provide about 2,570,000 sq. m of additional floorspace between 2020 and 2041 across Leicester and Leicestershire, of which 1,466,000 sqm is for non-rail served sites. As at April 2021, after accounting for supply, the residual requirement to 2041 is 301,293 sq. m for non-rail served sites. The Study identifies Areas of Opportunity where strategic warehousing could be located including Area of Opportunity 6 (M1 corridor south of Leicester) which includes parts of Harborough District, including the location of the Lutterworth East SDA, and is identified for non-rail served provision only. The amount of development to be apportioned to each local authority or area of opportunity is yet to be agreed. Preparation of the New Local Plan continues and the amount and location of strategic storage and warehousing in the New Local Plan is yet to be determined.
- 6.12 Therefore, across Leicestershire there is an outstanding requirement for 301,293 sqm. The applicant's research has suggested that this requirement could be greater due to considerable change in the logistics sector since the study was undertaken, including the Covid pandemic and Brexit which both increased the need for strategic

warehousing floorspace and supply chain resilience. The applicant's research has also identified that there is only a small number of units available over 23,225m<sup>2</sup> across the south Midlands region - which is the location of this site. It is therefore the applicant's contention that at present there is a need for units of more than 9,000sqm that could be accommodated on this site.

- 6.13 What needs to be borne in mind is that the site has permission to be developed as a non-strategic site. It is the applicant's contention that within the period of the emerging local plan there will a marginal surplus of provision of the approved smaller size units.
- 6.14 The applicant has not been able to supply any evidence that there is not a demand for this smaller non-strategic form of development. Indeed in the applicant's Employment Land Needs Assessment it is stated that it is *clear that there remains a need for all forms of logistics floorspace within Harborough* [paragraph 7.18]. It is also stated in that report that the *relaxation of the floorspace condition will not necessarily translate to 100% occupation of the site by strategic logistic operators but it will provide occupiers with flexibility which will inevitably increase the attractiveness and marketability of the site and lead to a better/more intense utilisation of the site* [paragraph 7.19]
- 6.15 The final factor driving the applicant's desire to relax the condition is that sites on which larger units can be constructed attract a premium. Larger sites and larger units have less development costs as for example there is less need for access roads, strategic scale development sites have a wider investor appeal and larger units attract higher rents.
- 6.16 Taking into account these factors Gerald Eve for the applicant have stated that they believe the indicative value for the c.30 acres of B8 land as per the current outline consent is c.£24 million (on a gross basis) and in the order of c.£30 million with the restriction lifted. [see Gerald Eve's letter to Stephen Holme dated 25/06/24 and submitted with the VAC]. This means the relaxation of the condition would increase the value of the site by in the region of £6 million.
- 6.17 Summary  
The site for a B8 use was included within Policy L1 as such a development would help facilitate the development of the site as a whole. As set out previously the purpose of this application is to make the site more attractive to the market to bring it forward for development which would then enable the applicant to carry out works to bring forward the first phase of development and open the wider site.

#### **b) Variation of Condition 50 (Traffic signage)**

- 6.18 Original condition:  
Prior to the commencement of any part of the development hereby permitted, a traffic and direction signing strategy shall be submitted to and approved in writing by the Local Planning Authority. Prior to the commencement of each phase or sub phase of the development traffic and directions signing proposals for that phase or sub phase shall be submitted and approved in writing by the District Planning Authority. The development shall thereafter by signed in accordance with the approved details.  
REASON: To mitigate the impact of the development, in the general interests of highway safety and in accordance with the National Planning Policy Framework and to accord with Policy L1 of the Harborough Local Plan
- 6.19 Proposed Condition (words in ***italics and bold*** are the proposed amended text, words that are ~~struck through~~ are to be removed from the condition):



~~Prior to the commencement of any part of the development hereby permitted, a traffic and direction signing strategy for the phase or sub-phase within which development is due to commence shall be submitted to and approved in writing by the Local Planning Authority.~~ Prior to the commencement of **development each of any** phase or sub phase **details** of the development traffic and directions signing proposals for that phase or sub phase shall be submitted and approved in writing by the District Planning Authority. The development shall thereafter ~~by signed~~ **be carried out** in accordance with the approved details.

REASON: To mitigate the impact of the development, in the general interests of highway safety and in accordance with the National Planning Policy Framework and to accord with Policy L1 of the Harborough Local Plan

6.20 Assessment:

This condition refers to temporary signage for the direction of building traffic etc. during construction and permanent signage as the development is completed. Rather than dealing with the whole of the site and subsequently each phase the applicant is seeking to agree signage on a phase-by-phase basis.

- 6.21 It will be noted that the reason for the condition relates inter alia Policy L1 of the Adopted Local Plan. Section six of the policy, which relates to the whole of the development, refers to traffic management measures to remove or minimise the passage of HGV traffic through Lutterworth town centre. Traffic signage would be an integral part of these traffic management measures. In order to ensure that there is not a proliferation of signage, and that any signage is most appropriate to the development being undertaken at that time a revised condition be imposed. This is set out in the recommendation.

**c) Variation of condition 51 (PRoW Strategy)**

6.22 Original condition:

Prior to the commencement of any part of the development north of the A4304 hereby permitted, a Public Rights of Way Strategy detailing improvements to Public Rights of Way within the site including a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority. The improvements as set out in the strategy shall be implemented in accordance with the approved details and timetable.

REASON: To improve access for all in the interests of protecting and enhancing Public Rights of Way and access and providing better facilities for users in accordance with the National Planning Policy Framework and to accord with Policy L1 of the Harborough Local Plan

6.23 Proposed Condition (words in **italics and bold** are the proposed amended text, words that are ~~struck through~~ are to be removed from the condition):

Prior to the commencement of any part of the development north of the A4304 **River Swift** hereby permitted, a Public Rights of Way Strategy detailing improvements to Public Rights of Way within the site including a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority. The improvements as set out in the strategy shall be implemented in accordance with the approved details and timetable.

REASON: To improve access for all in the interests of protecting and enhancing Public Rights of Way and access and providing better facilities for users in accordance with the National Planning Policy Framework and to accord with Policy L1 of the Harborough Local Plan.

6.24 Assessment:

In dealing with the changes the applicant is seeking to condition 20 referred to in above it was explained that in order to improve the viability and deliverability of the site the applicant is seeking to develop the site to the south of the A3404 and also in part to the north first. In the case of this condition there are no public rights of way to the north of the A4304 and south of the river Swift. Restricting the condition to the development north of the river Swift will effectively have no impact on the effectiveness of the condition. A revised wording is included in the recommendation.

#### **d) Variation of condition 54 (Pedestrian Crossings)**

##### **6.25 Original Condition**

Notwithstanding the details shown on the submitted plans details of the pedestrian crossings on the spine road shall be submitted to and approved in writing by the Local Planning Authority the crossings shall be implemented in accordance with those details and retained thereafter.

REASON: To ensure that crossings over the spine road do not pose a barrier to eases of crossing for pedestrians and cyclists and to accord with Policy L1 of the Harborough Local Plan

##### **6.26 Proposed Condition (words in *italics and bold* are the proposed amended text, words that are struck through are to be removed from the condition):**

Notwithstanding the details shown on the submitted plans, ***prior to the commencement of any development north of the River Swift***, details of the pedestrian crossings north of the River Swift on the spine road shall be submitted to and approved in writing by the Local Planning Authority the crossings shall be implemented in accordance with those details and retained thereafter.

REASON: To ensure that crossings over the spine road do not pose a barrier to eases of crossing for pedestrians and cyclists and to accord with Policy L1 of the Harborough Local Plan

##### **6.27 Assessment:**

The spine road serving the development extends north from the A4304 passing through the entire length of the site. As referred to in respect of condition 51 the applicant is proposing that development north of the A4304 and south of the river Swift would be an early element of the development. It is the section of the spine road north of the river which serves predominantly residential development that the highway authority has a particular interest in the provision and placement of any pedestrian crossings. In the light of this a revised condition is recommended.

#### **e) S106 Obligations**

##### **6.28 This application if approved would result in a new consent being issued, therefore the application should be accompanied by a deed of variation linking this application to the previous legal obligations approved under the original ref:19/00250/OUT.**

#### **7. Conclusion / Planning Balance**

##### **7.1 The variation of Conditions 50, 51 and 54 do not significantly affect highway and pedestrian safety and the amendments are therefore considered to be acceptable.**

##### **7.2 Whilst it is accepted that the proposed removal of Condition 20 is controversial and is the cause of concern within the local community, Officers have assessed the proposal from a pragmatic viewpoint, with an eye to the delivery of housing on the site. It has been demonstrated that the landscape, visual, economic and highway impacts of the removal of the restriction would be negligible when compared to the original consent. Furthermore, the Applicants have demonstrated that the removal of the restriction would generate additional income which could be used to aid the deliverability of the**

residential element site of the site. Lutterworth East forms a key housing site within the 2019 Local Plan. And the delivery of housing from the site plays a key role in the identification of housing need, and the distribution of housing across the District through the allocation of new sites within the emerging Local Plan. As such, it is considered that the housing delivery which can be achieved from this site remains a very significant positive material consideration in favour of this proposed amendment to the S106 in the Planning Balance.

- 7.3 In the broader context this scheme is central to the delivery of the amount of housing need identified in the current local plan. Consequently failure to deliver a sufficient quantum of housing in the early part of the emerging local plan would throw into question the quantum of housing provision which has been provided for within the emerging plan and also the distribution of this provision through the allocation of sites within the emerging plan. On this basis, Officers have recommended approval of this application.

## APPENDIX A – Letter of Assurance



### Letter of Assurance – Lutterworth East

Date: 19 November 2024

My Ref: DK/DB

Contact: Declan Keegan

Email: [Declan.keegan@leics.gov.uk](mailto:Declan.keegan@leics.gov.uk)

To Whom It May Concern,

With regard to the current Section 73 application to remove condition 20 relating to the B8 Unit sizes (24/00932/VAC) and the deed of variation application to amend the minimum quantum of affordable houses in the Section 106 agreement (24/01135/S106), we would like to highlight certain aspects of the scheme and offer the following assurances to Harborough District Council (HDC) with regards to the principles that underpin the overall development of the scheme.

#### Background

- Lutterworth East is a Strategic Development Area (SDA) allocated in the HDC Local Plan (adopted 2019).
- Infrastructure costs have increased significantly since the grant of planning permission for the development and are detrimental to the overall scheme viability.
- House prices have not kept up with cost inflation and have stagnated or dropped in real terms.
- This is not a unique Lutterworth East issue, and a number of sites throughout the country, including in Leicestershire, are facing significant viability challenges.
- HDC need to secure delivery of the site to ensure the significant number of new homes are brought forward in a timely manner to support HDC's 5-year housing land supply and to support plan-led development.
- Therefore, there is a need to adjust expectations around what the site can deliver to enable the viable delivery of this important strategic site.

In order to overcome these serious viability challenges Leicestershire County Council (LCC) has submitted the above applications to address these issues. LCC remains committed to the full delivery of the Lutterworth East site.

Contd./

#### Corporate Resources

Leicestershire County Council, County Hall, Glenfield, Leicestershire LE3 8RB

Email: [resources@leics.gov.uk](mailto:resources@leics.gov.uk)

Declan Keegan, Director of Corporate Resources

[www.leics.gov.uk](http://www.leics.gov.uk)

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## Affordable Houses

- Key to this adjustment is moderating expectations on affordable housing delivery
- The site will deliver an important and significant 10% minimum and 40% maximum - which even at the minimum level is National Planning Policy Framework (NPPF) compliant.
- The actual levels of affordable housing are subject to a review mechanism, which will be incorporated into the Section 106 agreement by way of the deed of variation.
- The principles of the review mechanism have been agreed by LCC and HDC officers and will increase the level of affordable housing (up to a maximum of 40%) should site viability improve.
- The Government are coming forward with a new affordable housing support delivery fund. HDC and LCC will work collaboratively to access this funding to support higher levels of affordable housing early on in the delivery of the site.
- LCC and HDC will continue to work proactively with Homes England to identify opportunities for future funding and support to ensure the development of a sustainable and quality place, noting that LCC has already made an application to the New Homes Accelerator Fund.

## B8 WAREHOUSING

- By removing the B8 warehouse unit size threshold LCC intends to make use of the uplift in values and capital receipts to support delivery of infrastructure and affordable houses on the wider scheme.  
The first phase of highways infrastructure will serve both the residential area and the B8 site. It is a planning condition on the original consent that this road infrastructure must be built before the warehouses can come into use. Condition 41 of the decision notice:  
*Open prior to the occupation of any part of the development north or south of the A4304, the access arrangements from the A4304 as shown on Plans: o A4304 / Spine Road Signalised Junction (LE-J2) General Arrangement LESR-ACP4XX-XX-DR-HW-00026 rev P07 and o A4304 / Employment Signalised Junction (LE-J3) General Arrangement LESRACP4-XX-XX-DR-HW- 00031 rev P05 shall be completed in full and available for use by all users.*
- All proceeds from the sale of the B8 site in excess of the infrastructure development costs will be captured by the review mechanism, included in the Section 106 agreement, required as the site progresses, to support the level of affordable houses
- LCC has already invested a substantial amount of time and money in land assembly and planning costs. As such, it is heavily incentivised to bring about the site's delivery as soon as practically possible in order to recoup its investment.
- LCC expects housing to be delivered on site within the next 5 years - following the construction of the necessary infrastructure.

I trust this helps to both explain the reasons for the two applications and to give the assurance that LCC are fully committed to the delivery of the Lutterworth East scheme in order that HDC can support us in these planning matters.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Lee Breckon', written in a cursive style.

Mr Lee Breckon JP CC  
Cabinet Member for Corporate Resources

A handwritten signature in black ink, appearing to be 'Declan Keegan', written in a cursive style.

Declan Keegan  
Director of Corporate Resources (Section 151 Officer)



## **Appendix B- HDC Legal Advice**

### **Lutterworth East – Planning Committee – 03/12/24.**

#### **Applications: 24/00932/VAC & 24/01135/S106.**

These 2 applications are included on the agenda for the meeting of Harborough District Council's Planning Committee at its meeting on 3<sup>rd</sup> December 2024.

Both applications relate to the site at Lutterworth East which was the subject of planning application 19/00250/OUT and sought permission for:-

*“Hybrid planning application comprising Outline application for development (including demolition) of up to 2,750 dwellings, business, general industrial and storage and distribution uses, two primary schools, neighbourhood centre, public open space, greenspace, drainage features, acoustic barrier and other associated infrastructure (some matters reserved), and full application for the development of a spine road and associated junctions with the A426 north of Lutterworth, Gilmorton Road, Chapel Lane (including the partial closure and realignment of Chapel Lane to motor vehicles and horse riders), and the A4304 east of M1 Junction 20, comprising carriageway, footway, cycleway and associated infrastructure to include earthworks, bridge structures, services, drainage, landscaping, lighting and signage.”*

This application was considered by Planning Committee at its meeting of 28<sup>th</sup> July 2020 when committee resolved to approve the application subject to the completion of an agreement under section 106 of the Town and Country Planning Act 1990 to secure a number of planning obligations to the District and County Councils.

The relevant agreement was completed on 17<sup>th</sup> May 2022 and planning permission issued by the District Council on the same date.

The effect of this decision is that the principle of development for the site has been established and an extant permission exists for the site. In considering these 2 applications members cannot revisit the issue of the acceptability/suitability of the development as that has already been established. If members were to stray into this area/subject matter in determining these applications it is probable that such a decision would be challenged and the Council being ordered to pay costs.

Members can only decide these 2 applications to vary one of the conditions on the permission and to vary the amount of affordable housing provided via the s.106 agreement for this site on their suitability on planning grounds as to do otherwise would potentially result in an irregular decision being made by the Council which would liable to challenge and a potential substantial costs award.

## Committee Report

**Applicant:** Leicestershire County Council

**Application Ref:** 24/01135/S106

**Location:** Land East Of Lutterworth, Gilmorton Road, Lutterworth

**Proposal:** Varying the existing Section 106 Agreement for the East of Lutterworth SDA 19/00250/OUT to a minimum of 10% and a maximum of 40% affordable housing

**Parish/Ward:** Lutterworth and Misterton with Walcote / Lutterworth East and Misterton

**Application Validated:** 03/09/24

**Application Target date:** N/A

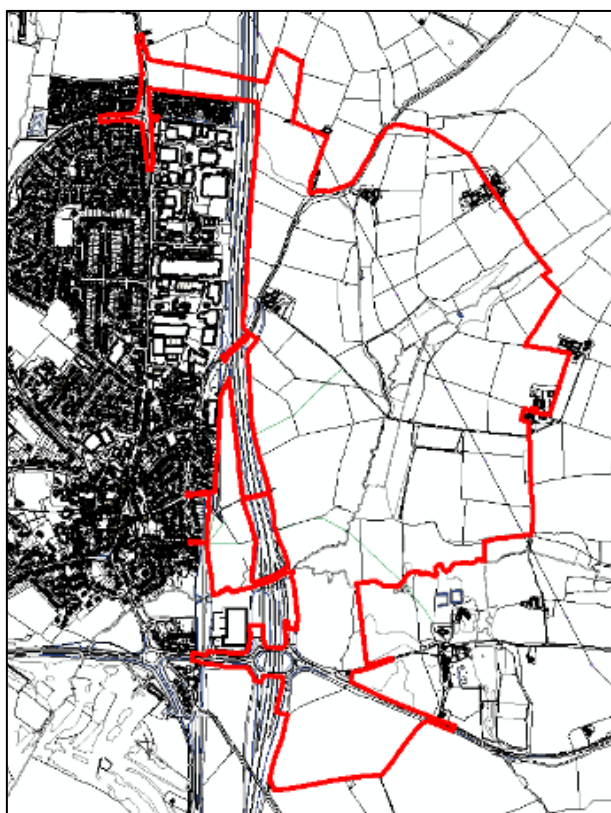
**Extn. of time:** N/A

**Reason for Committee Consideration:** Due to the nature of the application and the scale of the original application

## Recommendation

This application be **APPROVED**, for the reasons set out in the report, subject to Deed of Variation to the S106.

### 1. Introduction (including Site & Surroundings)



**Figure 1: Site Location Plan**

- 1.1 The site lies predominantly to the east of the M1 Motorway, with built development only being proposed to the east of the M1. The site also includes land to the west of the M1. This comprises land north of Gloster Road, on the northern edge of Lutterworth, alongside the A426 (Leicester Road) and Bill Crane Way. The site also includes land to

the east of Station Road and Misterton Way. This land is bordered by a dismantled railway line and the M1 Motorway. The site adjoins the town of Lutterworth to the west, is near to the hamlet of Misterton to the southeast (see **Figures 1 and 2**).



**Figure 2: Aerial Photo of site**

- 1.2 The site is circa 225ha and is predominantly agricultural land in both pastoral and arable use. There are a small number of residential and agricultural buildings within the site, and high voltage overhead power lines cross the site. The site contains the Misterton Marshes Site of Special Scientific Interest (SSSI), Thornborough Spinney, and smaller pockets of woodland and hedgerows of local ecological value.
- 1.3 The River Swift and its tributaries run through the site, along with a network of drains and ditches. The majority of the site falls within the Flood Zone 1. The site is not designated for its landscape value, has a relatively limited visual envelope due to the presence of the M1 and tree planting. Part of the site falls within the setting of Grade II\* listed Misterton Church.
- 1.4 The site can be accessed from the A4304 to the south, the Gilmorton Road, the A426 to the north, and numerous footpath connections along the western and eastern boundary. Whilst the individual parcels within the application site have a considerable planning history, none of this is relevant to this planning application.

## **2. Site History**

- 2.1 19/00250/OUT – Hybrid planning application comprising Outline application for development (including demolition) of up to 2,750 dwellings, business, general industrial and storage and distribution uses, two primary schools, neighbourhood centre, public open space, greenspace, drainage features, acoustic barrier, and other associated infrastructure (some matters reserved), and full application for the development of a spine road and associated junctions with the A426 north of Lutterworth, Gilmorton Road, Chapel Lane (including the partial closure and realignment of Chapel Lane to motor

vehicles and horse riders), and the A4304 east of M1 Junction 20, comprising carriageway, footway, cycleway and associated infrastructure to include earthworks, bridge structures, services, drainage, landscaping, lighting and signage – Approved 17/05/2022.

- 2.2 24/00932/VAC – Hybrid planning application comprising Outline application for development (including demolition) of up to 2,750 dwellings, business, general industrial and storage and distribution uses, two primary schools, neighbourhood centre, public open space, greenspace, drainage features, acoustic barrier, and other associated infrastructure (some matters reserved), and full application for the development of a spine road and associated junctions with the A426 north of Lutterworth, Gilmorton Road, Chapel Lane (including the partial closure and realignment of Chapel Lane to motor vehicles and horse riders), and the A4304 east of M1 Junction 20, comprising carriageway, footway, cycleway and associated infrastructure to include earthworks, bridge structures, services, drainage, landscaping, lighting and signage. (Variation of condition 20 (B8 limitation), 50 (Traffic Signage), 51 (PRoW Strategy) and 54 (Pedestrian Crossings) of 19/00250/OUT) – Pending Consideration at his meeting of the Planning Committee

### 3. The Application Submission

#### a) Summary of Proposals

- 3.1 The applicant is seeking to vary the terms of the section 106 agreement associated with this grant of planning permission with the aim of reducing the number of affordable homes. It is a matter for the council to agree to or otherwise. There is no mechanism for the applicant to appeal immediately against the council's decision if the applicant is aggrieved by it. Should there be no agreement to vary its terms after five years, and a more current application to vary the agreement, there is a right of appeal to the Secretary of State, but this is limited in its terms. At this time since the agreement is less than five years old this is a moot point.
- 3.2 The applicant's reason for wanting to vary the agreement is that under its current terms the scheme is not viable. The applicants have submitted a "Letter of Assurance" further setting out their reasons for the applications and their commitment to delivery of the development. This can be seen at **Appendix A** of this report.
- 3.3 Advice has also been sought from the Council's legal Officer and this can be found at **Appendix B**

#### b) Plans and Documents submitted in support of the application

- 3.3 These following documents have been submitted in support of the application:
- Financial Viability Assessment
  - Financial Viability Assessment Summary

### 4. Consultations and Representations

- 4.1 Firstly, a summary of the consultee responses received is set out in **Figure 3** below. Where appropriate the responses will be discussed in more detail within the main body of the report. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

Consultee	Date	Summary
<i>MP's / Cllrs / PC's</i>		
Lutterworth Town Council	15.04.24	Policy H2 requires 40% affordable housing, this was a major element in securing local support in the light of local house prices.

		<p>LCC assert that the local housing market is stagnant, affordable homes would enliven the market, what is being proposed would have the opposite effect. The market houses that replace the affordable will have a cost more in line with the local market which will contribute to increasing the average house price.</p> <p>This is the second element of the original proposal which mitigated the impact of the development, the other being the size of the B8 units, that is being promoted.</p>
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**Figure 3: Summary of responses from technical consultees**

## **b) Local Community**

### **1. Objections**

- 4.2 Due to the nature of the submissions, no consultation with local residents has taken place.

## **5. Planning Policy Considerations**

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the provisions of the development plan (hereafter referred to as the 'DP') (this is the statutory presumption), unless material considerations indicate otherwise.

## **a) Development Plan**

- 5.2 The DP for Harborough comprises:
- The Harborough District Local Plan adopted April 2019
  - Made Neighbourhood Plans.

## **b) Statutory Duties, Material Planning Considerations and other relevant documents**

- 5.3 Material considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land:
- The National Planning Policy Framework ('the Framework') Dec. 2023
  - Planning Practice Guidance
  - National Design Guide
  - Community Infrastructure Levy Regulations
  - Circular 11/95 Annex A - Use of Conditions in Planning Permission
  - Leicestershire Planning Obligations Policy (July 2019)
  - Leicestershire County Council 'Local Transport Plan 3' 2011-2026;
  - Market Harborough Transport Strategy 2017 – 2031
  - Planning Obligations Developer Guidance Note
  - Development Management SPD (December 2021)

## **6. Officer Assessment**

- 6.1 In May 2022 the applicant secured a hybrid planning permission (including S106) for:
- Hybrid planning application comprising Outline application for development (including demolition) of up to 2,750 dwellings, business, general industrial and storage and distribution uses, two primary schools, neighbourhood centre, public open space, greenspace, drainage features, acoustic barrier, and other associated infrastructure (some matters reserved), and full application for the development of a spine road and associated junctions with the A426 north of Lutterworth, Gilmorton Road, Chapel Lane (including the partial closure and realignment of Chapel Lane to motor vehicles and horse riders), and the A4304 east of M1 Junction 20, comprising carriageway, footway, cycleway and*

*associated infrastructure to include earthworks, bridge structures, services, drainage, landscaping, lighting and signage*

- 6.2 The application was subsequently subject to a Judicial Review in the High Court in December 2022 with regards healthcare contributions. This Judicial Review failed, with the High Court and Lord Justice Holgate finding in favour of the Defendants (ie HDC and LCC). Since the High Court decision was handed down in early 2023, the Applicants have been working to address pre-commencement conditions and marketing the site with the aim of the application being implemented prior to its expiry in May 2027. One aspect that has caused significant delay to date is related to the marketing of the site, particularly around issues of the financial viability of the scheme.
- 6.3 There are three key issues to consider before coming to a conclusion on this application, affordable housing, viability and the interaction between the two.

#### **a) Affordable Housing**

##### *Policy Background*

- 6.4 The Glossary included as Annex 2 in the NPPF defines affordable housing as:  
*“Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions of types of affordable housing a full definition of each type is set out in the NPPF Glossary:*  
A) *Affordable housing for rent;*  
B) *Starter homes ;*  
C) *Discounted market sales housing;*  
D) *Other affordable routes to home ownership “.*
- 6.5 Proposed changes to the NPPF were subject to public consultation between 30 July and 24 September 2024, but at the time of writing the government is analysing the feedback received and has not published the final updated NPPF. The proposed changes include that the definition of Starter Homes be deleted from the Glossary and replaced by a new category of affordable housing - First Homes. These revisions to the NPPF also propose changes to Paragraph 66 which deletes the requirement for at least 10% of homes on major development to be available for affordable home ownership, the exceptions to this requirement are also proposed for deletion. This is replaced by a requirement that the mix of affordable housing required meets identified local needs across both affordable housing for rent and affordable home ownership tenures.
- 6.6 Policy H2 Affordable Housing of the Adopted Local Plan refers to the provision of affordable housing. Affordable housing is defined in the Local Plan glossary as:  
*‘Housing provided to eligible households whose needs are not met by the market. This can include social rented housing (target rents determined by national rent regime) and intermediate housing (rent above social rent but below market rates).’*
- 6.7 Policy H2 sets out the requirements for the provision of affordable housing, in summary for the purposes of this application:
- 40% affordable housing on major sites;
  - A tenure split of about 75% affordable or socially rented; and about 25% low-cost home ownership products; or a variation of these justified by reference to the latest assessment of affordable housing need.



- Proposals which do not meet the policy requirements will be considered acceptable where it is demonstrated to the Council's satisfaction that a different level or mix of affordable housing is required to make the development viable and the approach contributes towards creating mixed and balanced communities.
- 6.8 Paragraph 5.3.9 of the Local Plan states that the requirements of policy H2 have been assessed against their potential impact on the viability of individual housing developments. The Local Plan Viability Assessment 2017 demonstrates that both the required percentages of affordable housing and the mix of tenure are viable across developments including Lutterworth East.
- 6.9 Paragraph 5.3.10 allows that where an applicant considers the development cannot meet the requirements of the policy due to particular unusual circumstances, the applicant will be required to submit a viability assessment which will then be independently reviewed. To this end provision is made for the submission of an Affordable Housing Viability Assessment (AHVH) this is defined in the Local Plan glossary as '*an assessment of the economic viability of land for housing, testing a range of percentages and thresholds of affordable housing and the impact of developer contributions*', also defined in the glossary.
- 6.10 The current position is that a Section 106 agreement has been entered into as part of the original grant of outline planning permission for each sub-phase this requires 40% of housing to be affordable. This proportion of housing is to be delivered in accordance with an 'Affordable Housing Scheme' this amongst other matters relates to the number of homes to be provided and their tenure mix. The S106 agreement contains a great deal of detail which is not materially affected by the proposed amendment.

#### **b) Viability**

- 6.11 Before moving to the specific requests, it is proposed to set out in some detail how national policy and guidance deals with the issues of viability. This policy / guidance is referred to in the council's adopted Planning Obligations SPD (June 2022).
- 6.12 The viability of the proposed development has been identified as a key consideration. Because of this, this report sets out in detail government policy and guidance on viability and the methodology to calculate it, the applicant's methodology and the council's review of this will then be considered.
- 6.13 Paragraph 34 of the NPPF (December 2023) requires 'Plans to set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan. At the plan making stage, a whole plan viability appraisal is undertaken to test the levels and types of contributions to be provided by the development identified in the Local Plan. This includes testing the viability of different sizes and types of sites as well as specific viability appraisal for strategic sites allocated in the Local Plan.
- 6.14 Paragraph 58 of the NPPF states:  
*'Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the*

*plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'*

- 6.15 The National Planning Practice Guidance - Viability sets out in detail a standard methodology for carrying out viability assessments. For the purposes of this report, it is not intended to go into the detail of this but present a broad outline.
- 6.16 The methodology sets out some general principles, which will be considered later. In this context the methodology identifies the costs of the development including abnormal costs such as contamination and its remediation and the requirements of policy i.e. affordable housing and infrastructure costs and the developer's profit.
- 6.17 A key element of assessing viability is the cost of the land. Which is referred to as the Benchmark Land Value (BLV). This calculation is based on the existing use value of the land plus a premium sufficient that the landowner would be willing to sell. The gross development value is an assessment of the value of the development, put simply how much will all the properties be sold for.
- 6.18 What the NPPG does state is 'Under no circumstances will the price paid for the land be a relevant justification for failing to accord with relevant policies of the plan'.
- 6.19 The guidance does recognise that large scale developments take some time to deliver and consequently the viability can vary over time and also that the initial stages of a development may require expensive infrastructure to facilitate the development some flexibility may be required to deliver policy compliance over time.
- 6.20 The Harborough District Local Plan (2011-2031) adopted in 2019 was supported by the Local Plan Viability Assessment (August 2017). Paragraph 5.3.9 of the Adopted Local Plan sets out that the affordable housing requirements set out in policy H2 have been assessed in terms of their potential impact upon the viability of individual housing developments. The Local Plan Viability Assessment, 2017 demonstrates that both the required percentage of affordable housing and the mix of tenures are viable for the East of Lutterworth Strategic Development Area. This was assessed against the council's preferred tenure mix of affordable housing types of 12.5% shared ownership, 12.5% intermediate homes and 75% social rented.
- 6.21 Paragraph 5.3.10 explains that should an applicant consider that an individual housing proposal is unable to meet these affordable housing requirements due to particular unusual circumstances, the applicant will be required to submit a viability assessment to the Council. In such cases the Council will commission an independent review of the viability assessment, for which the applicant will bear the cost. This review should take account of the availability of public funding. Only where the independent review supports the conclusions of the applicant's viability assessment will a scheme which does not meet the affordable housing requirements be considered appropriate.
- 6.22 Policy H2 Affordable Housing at point 5 recognises that a different level of affordable housing may be required to make a scheme viable, and the approach contributes towards creating mixed and balanced communities.
- 6.23 Policy IN1, Infrastructure Provision identifies the need for infrastructure and social assets but also recognises the need for a development to be viable to deliver these. Paragraph 11.1.6 of the Adopted Local Plan notes that further guidance on how the

Council will implement Policy IN1 will be set out in revisions to the Planning Obligations Supplementary Planning Document 2017, now superseded by the 2022 revision of the document. This sets out how Policy IN1 will be implemented.

- 6.24 The most recent version of the Planning Obligations SPD (2022) at section 3.11 deals with viability and reiterates the advice in the national PPG referred to previously. Paragraph 3.1.3 refers to Paragraph 5.3.10 of the Adopted Local Plan and also states that a review mechanism or clawback clause may be required in the Section 106 agreement to enable compliance to be achieved over the lifetime of the project where lower levels of affordable housing have been accepted.
- 6.25 Turning now to the specifics of this application. In December 2023, the applicant commissioned a viability assessment, and the council has had this independently reviewed. The review has been carried out by Aspinall Verdi, the same consultancy that carried out the original Local Plan Viability Assessment.
- 6.26 One of the principles alluded to previously as to the need to carry out a review is that there has been a change in circumstances. The application was submitted in 2017 and the Council's Local Plan Viability Assessment was published in the same year. Subsequently there have been wider issues which have impacted on development in general;
- 2020 covid pandemic and its impact on the economy;
  - 2022 mini budget and its impact on the economy and interest rates; and
  - 2022 the invasion of Ukraine and its impact on the global economy.
- Taken together these factors have had a significant impact on the cost of materials and other costs.
- 6.27 In July 2024 the Government published proposed reforms to the NPPF and other changes to the planning system. The consultation closed on 24<sup>th</sup> September 2024 and the Government is currently analysing the responses received. These changes are a material consideration in the determination of the applications.
- 6.28 The NPPF consultation proposed no changes to the NPPF in relation to viability. The purpose of a Section 106 agreement is to create a mechanism for a development to mitigate its impact on the wider community. The affordable housing element of an agreement is to ensure that a development is policy compliant.

### **c) Analysis**

- 6.29 In accordance with the requirements of the policy the applicant has submitted a viability assessment which has been independently reviewed. The review of the applicant's assessment has been carried out by the consultant who carried out the viability review of the local plan.
- 6.30 The provision of affordable homes is a cost to the development. Put simply each different type of affordable home represents a different level of cost. For example, private sales represent a return of 20% of the gross development value (GDV), i.e. the total cost to the scheme, affordable housing 6% GDV and first homes 15%. Consequently, the mix of types of affordable home can have an impact on the viability of a scheme.
- 6.31 In June 2023 the applicant submitted a viability assessment. The PPG set out in detail a standard methodology for carrying out viability assessments. It is not intended here to go into the detail of the methodology employed to carry out the analysis, in essence the costs of the scheme including land assembly and construction costs are set against

the profits made from the sale of the development. If the calculation does not produce a surplus, then the scheme is not viable.

- 6.32 The applicant carried out an assessment of three levels of affordable housing 40%, 5% and 0%. At 40% the scheme is not viable, whilst at 5% and 0% the scheme is viable. This accorded with the council's consultant's assessment. The mix of affordable housing types was the same as the council's preferred mix as set out in the local plan and used for the viability assessment of the local plan. But given there is a level of viability and in the light of the NPPF requirement to deliver 10% affordable housing, which the applicant had offered, a more detailed analysis was carried out by the council's consultant. This analysed 8%, 9% and 10%, this concluded that at 8% the scheme is viable.
- 6.33 The guidance recognises that large schemes take time to deliver and that the factors that affect viability including the mix and type of affordable housing can vary. The existing 106 agreement allows for a variation of mix affordable housing types to reflect the council's need at that time.
- 6.34 In the light of the foregoing, the applicant's offer is of 10% affordable housing. Because of the factors affecting the viability of a scheme such as the impact of variations of mix and external factors such as construction cost rather than agreeing to a fixed position at the current time it is suggested that any revised 106 agreement includes a review mechanism. Any such review mechanism will also be required to take consideration of all additional revenue available to the scheme from other sources at the time of the review.
- 6.35 In the first instance the 10% affordable homes is fixed for the life of the scheme with the mix to be agreed. This would apply to the first phase because of the costs of providing the infrastructure to allow the site to be developed. For further phases a review mechanism would be incorporated into the agreement. This would allow the viability to be assessed in the light of prevailing conditions and the mix of affordable homes needed. It is also an opportunity to enable the later phases, subject to a cap on each phase, make up for shortfalls in earlier delivery. The final phase would be limited to 40% affordable homes as per the current agreement. This is because there is potential for the final phase to have a disproportionate number of affordable homes as there may be a shortfall to make up and economic conditions have changed sufficiently to supply this.

#### **f) S106 Obligations**

- 6.36 This application if approved would result require a Deed of Variation to amend the definition of 'Affordable Dwellings' contained in Third Schedule of Part Two 'Affordable Housing' of the S106 Agreement. No other Schedule within the S106 Agreement would be amended, and as such, all existing Contributions and Obligations would remain valid.

#### **7. Conclusion / Planning Balance**

- 7.1 Whilst Officers accept that the proposed amendment to the S106 is not ideal, it is considered that a minimum of 10% Affordable Housing provision across the site (with the potential of an uplift in this by way of the Review Mechanism) would be compliant with both the HDC Local Plan and also the NPPF.
- 7.2 Notwithstanding this, Officers have assessed the proposed amendment from a pragmatic viewpoint, with an eye to the delivery of housing. Lutterworth East forms a key housing site within the 2019 Local Plan. Furthermore, the delivery of housing from

the site plays a key role in the identification of housing need, and the distribution of housing across the District through the allocation of new sites within the emerging Local Plan. As such, it is considered that the housing delivery which can be achieved from this site remains a very significant positive material consideration in favour of this proposed amendment to the S106 in the Planning Balance.

- 7.3 In the broader context this scheme is central to the delivery of the amount of housing need identified in the current local plan. Consequently failure to deliver a sufficient quantum of housing in the early part of the emerging local plan would throw into question the quantum of housing provision which has been provided for within the emerging plan and the distribution of this provision through the allocation of sites within the emerging plan. On the basis of this, Officers have recommended approval of this S106 variation.

## APPENDIX A – Letter of Assurance



### Letter of Assurance – Lutterworth East

Date: 19 November 2024

My Ref: DK/DB

Contact: Declan Keegan

Email: [Declan.keegan@leics.gov.uk](mailto:Declan.keegan@leics.gov.uk)

To Whom It May Concern,

With regard to the current Section 73 application to remove condition 20 relating to the B8 Unit sizes (24/00932/VAC) and the deed of variation application to amend the minimum quantum of affordable houses in the Section 106 agreement (24/01135/S106), we would like to highlight certain aspects of the scheme and offer the following assurances to Harborough District Council (HDC) with regards to the principles that underpin the overall development of the scheme.

#### Background

- Lutterworth East is a Strategic Development Area (SDA) allocated in the HDC Local Plan (adopted 2019).
- Infrastructure costs have increased significantly since the grant of planning permission for the development and are detrimental to the overall scheme viability.
- House prices have not kept up with cost inflation and have stagnated or dropped in real terms.
- This is not a unique Lutterworth East issue, and a number of sites throughout the country, including in Leicestershire, are facing significant viability challenges.
- HDC need to secure delivery of the site to ensure the significant number of new homes are brought forward in a timely manner to support HDC's 5-year housing land supply and to support plan-led development.
- Therefore, there is a need to adjust expectations around what the site can deliver to enable the viable delivery of this important strategic site.

In order to overcome these serious viability challenges Leicestershire County Council (LCC) has submitted the above applications to address these issues. LCC remains committed to the full delivery of the Lutterworth East site.

Contd./

#### Corporate Resources

Leicestershire County Council, County Hall, Glenfield, Leicestershire LE3 8RB

Email: [resources@leics.gov.uk](mailto:resources@leics.gov.uk)

Declan Keegan, Director of Corporate Resources

[www.leics.gov.uk](http://www.leics.gov.uk)

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## Affordable Houses

- Key to this adjustment is moderating expectations on affordable housing delivery
- The site will deliver an important and significant 10% minimum and 40% maximum - which even at the minimum level is National Planning Policy Framework (NPPF) compliant.
- The actual levels of affordable housing are subject to a review mechanism, which will be incorporated into the Section 106 agreement by way of the deed of variation.
- The principles of the review mechanism have been agreed by LCC and HDC officers and will increase the level of affordable housing (up to a maximum of 40%) should site viability improve.
- The Government are coming forward with a new affordable housing support delivery fund. HDC and LCC will work collaboratively to access this funding to support higher levels of affordable housing early on in the delivery of the site.
- LCC and HDC will continue to work proactively with Homes England to identify opportunities for future funding and support to ensure the development of a sustainable and quality place, noting that LCC has already made an application to the New Homes Accelerator Fund.

## B8 WAREHOUSING

- By removing the B8 warehouse unit size threshold LCC intends to make use of the uplift in values and capital receipts to support delivery of infrastructure and affordable houses on the wider scheme.  
The first phase of highways infrastructure will serve both the residential area and the B8 site. It is a planning condition on the original consent that this road infrastructure must be built before the warehouses can come into use. Condition 41 of the decision notice:  
*Open prior to the occupation of any part of the development north or south of the A4304, the access arrangements from the A4304 as shown on Plans: o A4304 / Spine Road Signalised Junction (LE-J2) General Arrangement LESR-ACP4XX-XX-DR-HW-00026 rev P07 and o A4304 / Employment Signalised Junction (LE-J3) General Arrangement LESRACP4-XX-XX-DR-HW- 00031 rev P05 shall be completed in full and available for use by all users.*
- All proceeds from the sale of the B8 site in excess of the infrastructure development costs will be captured by the review mechanism, included in the Section 106 agreement, required as the site progresses, to support the level of affordable houses
- LCC has already invested a substantial amount of time and money in land assembly and planning costs. As such, it is heavily incentivised to bring about the site's delivery as soon as practically possible in order to recoup its investment.
- LCC expects housing to be delivered on site within the next 5 years - following the construction of the necessary infrastructure.

I trust this helps to both explain the reasons for the two applications and to give the assurance that LCC are fully committed to the delivery of the Lutterworth East scheme in order that HDC can support us in these planning matters.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Lee Breckon', written in a cursive style.

Mr Lee Breckon JP CC  
Cabinet Member for Corporate Resources

A handwritten signature in black ink, appearing to be 'Declan Keegan', written in a cursive style.

Declan Keegan  
Director of Corporate Resources (Section 151 Officer)

## **Appendix B- HDC Legal Advice**

### **Lutterworth East – Planning Committee – 03/12/24.**

#### **Applications: 24/00932/VAC & 24/01135/S106.**

These 2 applications are included on the agenda for the meeting of Harborough District Council's Planning Committee at its meeting on 3<sup>rd</sup> December 2024.

Both applications relate to the site at Lutterworth East which was the subject of planning application 19/00250/OUT and sought permission for:-

*“Hybrid planning application comprising Outline application for development (including demolition) of up to 2,750 dwellings, business, general industrial and storage and distribution uses, two primary schools, neighbourhood centre, public open space, greenspace, drainage features, acoustic barrier and other associated infrastructure (some matters reserved), and full application for the development of a spine road and associated junctions with the A426 north of Lutterworth, Gilmorton Road, Chapel Lane (including the partial closure and realignment of Chapel Lane to motor vehicles and horse riders), and the A4304 east of M1 Junction 20, comprising carriageway, footway, cycleway and associated infrastructure to include earthworks, bridge structures, services, drainage, landscaping, lighting and signage.”*

This application was considered by Planning Committee at its meeting of 28<sup>th</sup> July 2020 when committee resolved to approve the application subject to the completion of an agreement under section 106 of the Town and Country Planning Act 1990 to secure a number of planning obligations to the District and County Councils.

The relevant agreement was completed on 17<sup>th</sup> May 2022 and planning permission issued by the District Council on the same date.

The effect of this decision is that the principle of development for the site has been established and an extant permission exists for the site. In considering these 2 applications members cannot revisit the issue of the acceptability/suitability of the development as that has already been established. If members were to stray into this area/subject matter in determining these applications it is probable that such a decision would be challenged and the Council being ordered to pay costs.

Members can only decide these 2 applications to vary one of the conditions on the permission and to vary the amount of affordable housing provided via the s.106 agreement for this site on their suitability on planning grounds as to do otherwise would potentially result in an irregular decision being made by the Council which would liable to challenge and a potential substantial costs award.