

## Planning Committee Report

**Applicant:** Mr C Gowling

**Application Ref:** 19/01645/FUL

**Location:** Land At Queen St, Market Harborough, Leics

**Proposal:** Change of use from agricultural grazing land to dog walking field, with associated hardstanding and erection of timber and mesh perimeter fencing

**Application Validated:** 28/01/2020

**Target Date:** 28/04/2020 (extension of time agreed)

**Consultation Expiry Date:** 17/04/2020

**Site Visit Date:** 13/02/2020 and 21/05/2020

**Case Officer:** Emma Baumber

**Reason for Committee decision:** The application has been 'called-in' by Cllr James to allow for all points to be heard in relation to planning objections

## Recommendation

Planning Permission is **REFUSED**, for the following reasons as detailed further within the report:

1. The addition of the fence will diminish the openness and rural appearance of the site and as such its value as an unimproved field within the setting of Little Bowden. This in return will reduce its value as open space and the applicant has not provided an evidenced local need for a dog walking area as such the proposal fails to comply with G12 (2)c. It is not considered that the development meets an evidenced local need in such a way to outweigh the loss therefore the proposal does not accord with Policy G12 of the Harborough Local Plan.
2. The development by virtue of the proposed mesh-fence, namely its height and design, does not respect or enhance the local character and history, the site's landscape setting, nor does the proposal maintain the sense of place created by the site's contribution to open space within Little Bowden. As such the scheme does not accord with policies GD8 and GD5 of the Harborough Local Plan and paragraph 127 of the NPPF.
3. The proposed mesh-fence, by virtue of its height, design and proximity immediately behind the wall on Braybrooke Road would cause harm to this wall which is considered to be a non-designated heritage asset. Furthermore, this would be harmful to the significance of the listed wall at the Old House which is derived from its setting. The public benefits of the proposal are limited and are not considered to outweigh the harmful impact on local built heritage. As such the proposal does not accord with Policy HC1 of the Harborough Local Plan and paragraphs 196 and 197 of the NPPF.

## 1. Site & Surroundings

- 1.1 The application site relates to an area of agricultural land- used mainly for sheep grazing to the south of Little Bowden. The site is bounded by the River Jordan and Scotland Road to the west, Braybrooke Road to the south, Queen Street to the east and residential properties and the Public Right of Way (PRoW) to the north.



Figure 1. Site Location

- 1.2 The site itself is approximately 1.1ha in area. Land levels fall to the west towards the River Jordan and the site is elevated above Braybrooke Road to the south east. The site is bounded by post and wire fencing, approximately 1m in height, there is also a hedge to the northern boundary with the PRow. The southern boundary is formed by an attractive red brick wall which rises from approximately 1m to 1.8m in height where it meets the entrance pillars for The Old House to the east which is Grade II Listed.
- 1.3 As shown in green in figure 1, there are a number of trees protected by a Tree Preservation Order on the site. The protected trees to the north are Walnut and a Cedar tree, to the south are Lime trees. There is also an attractive line of trees along Scotland Road to the west which are outside the application site.

## 2. Site History

- 2.1 The application site has previously been the subject of the following relevant planning history:
- 04/00766/TPO Works to trees (approved)
  - 07/01216/TPO Felling of trees (refused)
  - 11/01532/TPO Works to tree (approved)
  - 18/00801/TPO Work to trees (approved)

The Council also served an immediate Article 4 Direction on the land on the 21<sup>st</sup> May 2020. Under Article 4(1) of the Town and County Planning (General Permitted Development) (England) Order 2015 this removes Permitted Development rights under Schedule 2, Part 2, Class A for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. Additionally, this removed Permitted Development Rights under Schedule 2, Part 11, Class B for any building operation consisting of demolition of a structure (eg the boundary wall). As such planning permission is required for the types of development stated above.

### 3. The Application Submission

#### a) Summary of Proposals

- 3.1 The proposal seeks to change the use of the land from agricultural grazing land to a dog walking field. It is intended that the application proposal would provide a secure area, available for private hire, for individuals and professional dog walkers to exercise dogs. The application states that operation would take place throughout the week, as no lighting is proposed the applicant envisages the use of the field would be solely during daylight hours.
- 3.2 The proposal includes fencing surrounding the site, this is proposed to be 1.8m (6ft) high, mesh fencing (Fig.3) as shown by the brown line on the below plan (Fig.2). The site would be accessed from the existing site access to the south off Braybrooke Road. Hard surfacing is proposed near the access, this is approximately 210 square metres in area and would create two off road parking spaces. A secure gateway is also proposed to the west of the parking area for Environment Agency maintenance access to the river.



Figure 2. Site Plan



*Figure 3. Indicative fencing photo*

#### **b) Documents submitted**

##### **i. Plans**

- 3.3 The application has been accompanied by the following plans –
- ‘Site location/ site plan’
  - ‘Site access plan’

##### **ii. Supporting Information**

- 3.4 The application has been accompanied by the following supporting statements –
- ‘Planning and Design Statement’
  - ‘Flood risk notes’

#### **c) Amended Plans and/or Additional Supporting Statements/Documents**

- 3.5 Amended site plans and flood risk notes have been submitted during the course of the application to alter the fence positioning and to account for comments from the Environment Agency and LLFA. The agent has also submitted an additional letter regarding Open Space, indicative photos of the fencing and photos of the PRoW during the application.

#### **d) Pre-application Engagement**

- 3.6 No pre-application advice has been sought.

#### **4. Consultations and Representations**

- 4.1 Consultations with technical consultees and the local community were carried out for the application, this mainly occurred on 30<sup>th</sup> January 2020, 24<sup>th</sup> March 2020, 30<sup>th</sup> March 2020 and 15<sup>th</sup> June 2020. Site notices were put up on the 13<sup>th</sup> February and a press notice was published in the Harborough Mail on 6<sup>th</sup> February. The total consultation period expired on 29<sup>th</sup> June 2020.

- 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**

4.3 **Environment Agency:**

**First comments (Objection):**

In the absence of an acceptable Flood Risk Assessment (FRA) we object to this application and recommend that planning permission is refused. Reasons:

The submitted FRA does not comply with the requirements for site-specific flood risk assessment and does not adequately assess the flood risks posed by the development. In particular:

- The flood risk assessment submitted does not follow the sequential approach for the location of the hard standing. The proposed hard standing (parking area) is located within the functional flood plain. The site includes areas which would be more appropriate to use.
- The exact location of the proposed fencing needs to be provided. The Environment Agency require access to the channel to carry out maintenance and an access route will need to be provided. The fencing should be located a minimum distance of 8m from the landward toe of the bank.
- A flood bank is located alongside the gauging station, this is owned by the district council and permission should be sought from them if the fencing will have an impact on the bank.

**Further comments (Objection):**

The proposed development would restrict essential maintenance and emergency access to the watercourse. The permanent retention of a continuous unobstructed area is an essential requirement for future maintenance and/or improvement works. In this location, the river has a 2 stage channel (part carries the flow at normal retention, the part on the side of the application is normally a dry berm – used in high flow conditions). Accordingly, 'banktop' is the top of the dry berm.

Access for maintenance must be retained:

Riparian landowners are responsible for maintaining conveyance through their land. The existing land use - grazing – ensures that vegetation is managed satisfactorily all the way to the normal retention channel. EA uses its permissive powers to manage vegetation growing from the channel bed, annually, and bushes growing on the opposite bank of the channel, as necessary. The 'amended site plan' does not incorporate a continuous vehicle access strip from road to channel. We require an 8m wide strip from banktop and access to it with no restrictions such as fencing.

In summary – we object pending the following:

- The applicant would need to demonstrate how they intend to manage the grass between fencing and normal water level in the river;
- Provision of a continuous maintenance access strip from road to channel, which will need to be 8m wide.

**Final comments (following several amendments):**

We have now had an opportunity to review the supplementary documentation/details sent via email by Andrew Granger & Co received on 21<sup>st</sup> April 2020.

The proposed development will only meet the National Planning Policy Framework's requirements subject to planning conditions.

Informative also recommended.

**Lead Local Flood Authority:**

**First Comments:**

The western part of the site is located within Flood Zone 3 being at high risk of fluvial flooding. The eastern half of the site is in Flood Zone 1 being at low risk of fluvial flooding.

There is a high risk of surface water flooding in the western part of the site. There is a low to moderate risk of surface water flooding in the central part of the site and a low risk of surface water flooding in the eastern part of the site.

The flood risk assessment submitted does not follow the sequential approach for the location of the car park. Furthermore, the Flood Risk Technical Note states that this should be a permeable surface. However, there are no details regarding the proposed nature of the car park or the total size of this area. Where this area is to be hard standing, the submission should include a drainage strategy which demonstrates how the proposals will continue to discharge at greenfield rates plus an allowance for climate change. In order to provide a substantive response, the following information is required:

- Total size of proposed car park and the nature of the material used in this.
- A surface water drainage strategy (where the proposals seek to introduce hardstanding areas).

**Second Comments:**

Although the Flood Risk Technical Note states that a drainage system will be required to drain surface water; either through infiltration, through the use of permeable materials, or via a pipe, no details have been provided. In order to provide a substantive response, the following information is required:

- A plan showing the location of proposed elements of the surface water drainage system. This should include indicative details such as size, fall and level.
- Consideration regarding the management and maintenance of the surface water drainage system.

**Final comments:**

The revised Flood Risk Technical Note proposes crushed limestone for the 200 m<sup>2</sup> car parking area, thus allowing surface water to drain through infiltration.

Leicestershire County Council as the LLFA advises the LPA that the proposed development is considered to be acceptable based on the surface water management principles provided within the application. The development should be designed in accordance with the details provided.

**LCC Highways:**

**First comments:**

The Local Highway Authority (LHA) does not consider that the application as submitted fully assesses the highway impact of the proposed development and further information is required as set out in this response. Without this information the LHA is unable to provide final highway advice on this application.

**Advice to Local Planning Authority**

**Site Access**

The supporting information indicates that the existing point of access onto Braybrooke Road will be used to serve the site. The applicant has stated this access is of adequate width and visibility to provide safe and suitable access for the proposed land use. However, in accordance with Leicestershire Highway Design Guide (LHDG) standards,

the access width should be a minimum of 4.25 metres and the gates should be set back at least 5 metres from the highway boundary.

This is necessary in order to maintain the free flow of traffic on Braybrooke Road.

In addition, visibility splays of 2.4m x 43m should be demonstrated from the site access.

A revised plan should be submitted accordingly, detailing a LHDG-compliant site access.

### **Highway Safety**

There has been one recorded personal injury collision within the vicinity of the site access in the last five years. This was recorded as 'serious' in its severity.

### **Internal Layout**

The applicant is proposing an area of hardstanding to accommodate customer parking and turning. The applicant is requested to clarify whether the site will be limited to one customer at a time. If the intention is for multiple customers to be on site at once, it should be demonstrated that additional onsite parking can be provided accordingly, in order to prevent on-street parking on Braybrooke Road.

### **Public Rights of Way**

The applicant is requested to supply a cross-sectional drawing of the proposed fencing, indicating the position of the fence in relation to public footpath A60. There should be a minimum separation of 1.5m between the fencing and the tarmacadam path.

### Final comments (following amendments):

The Local Highway Authority (LHA) 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.

### **Site Access**

The applicant has indicated that the gates will be setback a minimum of 5m from the highway boundary; this is an improvement compared with the existing scenario. A suitably-worded condition has been advised below accordingly.

The LHA is satisfied that visibility splays of 2.4m x 43m can be achieved from the site access. This may require the removal, relocation or reduction in height of the boundary wall to ensure that the visibility splays are not obstructed for a distance of at least 0.6m above the height of the adjacent footway.

The access will be surfaced in a hardbound material.

### **Internal Layout**

Two on-site parking spaces, and associated turning, will be provided. The parking and turning area will be hardbound. Given the intended operation of this development proposal, this arrangement is considered acceptable.

### **Public Rights of Way**

The proposed mesh perimeter fencing should be situated a suitable distance away from the Public Right of Way (Footpath A60). For this proposal, the proposed fencing should be located behind (in relation to the footpath) the existing hedgerow and fencing as indicated on the supporting photographs.

Conditions relating to the removal of the existing gates, establishment of visibility splays, parking and turning area and hard surfacing are recommended.

### **LCC Ecology:**

#### First comments:

My only concern would be related to the possible presence of water vole in the small river, which is a tributary of the R Welland - we have had recent records along the Welland.

Even if they are not present at the moment, Water Vole are having a bit of a comeback lately, so it is possible that they may re-colonise this small river in future. A colony would be disturbed by dogs on the bank or jumping into the watercourse.

Impacts can easily be mitigated by siting the fence c. 6m from the top of the bank, to allow an undisturbed zone along the watercourse. I stress that this should be from the TOP of the bank, not the water level (which fluctuates, of course).

This should be a planning condition.

**Second comments:**

In my last response, I asked for a buffer zone of along the top of the stream bank to be created, to prevent disturbance of the watercourse by dogs. The amended site plan now shows an acceptable fenced buffer zone. This has removed my concerns.

The establishment, maintenance and fencing of the 6m buffer zone should be planning condition, to be discharged before development starts.

**LCC Arboricultural Officer:**

I have reviewed the plans and do not have any objections to raise however the following comments should be considered. As the fence is to be erected on the western side of the water course adjacent to the site there is not likely to be any impact on the trees adjacent to the site, however, the trees to the north east of the site and the southern boundary are susceptible to root damage as a result of erecting the posts on the site. Due to the minor incursion within the rooting areas of the trees it would not be necessary to request a full BS 5837 report. However, the following methodology for the installation of the posts and fence should be followed within a 15m radius of the trees to reduce the risk of long term damage (see full recommendations online)

**HDC Conservation Officer:**

The application relates to land which is adjacent to the Old House on Braybrooke Road which is grade II\* listed and its boundary wall, which is independently listed at grade II.

The wall which runs along the boundary of the application site and Braybrooke Road appears to be a continuation of the listed wall in the adjacent plot being made from the same bricks and with the same distinctive 'half-moon' coping bricks. While this is not part of the official listing I consider it makes a positive contribution to the local street scene and read as a historic structure. As such I consider it to be a non-designated heritage asset.

**Impact of the proposal**

It is proposed to put a 1.8 metre-high mesh-fence immediately behind the wall. I consider that this would have a detrimental impact on the appearance of this wall through its height, design and proximity. Paragraph 197 of the NPPF and Local Plan Policy HC1 require that the impact on non-designated assets should be taken into account and to have regard to harm or loss of significance. In this case, for the reasons set out, I consider harm would be caused.

The listed wall, associated with the Old House derives part of its significance from its attractive contribution to the street scene – this is set out in the listing description. Paragraph 196 of the NPPF and Local Plan Policy HC1 require an assessment of the harm caused to the significance of designated heritage assets to be weighed against wider public benefits of a proposal.



As the wall in the application site is a visual continuation of the listed wall and the two are read together, I consider the proposal would be harmful to the significance of the listed element of the wall, which is derived from its setting.

As such, for the reasons set out above, I consider the proposal would have a harmful impact on local built heritage.

#### **HDC Neighborhood and Green Spaces Officer**

The site is designated in the Local Plan as a site for Open Space Sport and Recreation. This has not been considered in the Design and Access Statement

Planning Practice Guidance states:

*Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure (see National Planning Policy Framework paragraph 171, as well as being an important part of the landscape and setting of built development, ....*

The site forms an important part of the setting in Little Bowden and is unique in providing an unimproved field within the built environment. There is a strong case for retaining this site as an unimproved field.

The NPPF and Local Plan policy GI2 afford the site protection from development. The proposal allows for two car parking spaces which constitutes development of the site.

Evidence has not been provided that there is local need for an enclosed dog walking facility in accordance with Local Plan Policy GI2 (2) c.

The case officer will need to assess whether the change of use is permissible in planning terms and whether the proposed use is in keeping with the existing.

I suggest that if the application is permitted then permitted development rights should be removed to prevent the installation of sheds, huts, shelters and other paraphernalia that may be associated with dog walking and associated activities

#### **Market Harborough Civic Society:**

This is one of a number of applications for dog walking submitted in the District. The Market Harborough Civic Society feels that there is little or no guidance in NPPF and the Local Plan relating to such proposals. We are aware of the concerns raised by residents and feel that these should carry weight in the decision process.

This grazing land has for long been a part of the landscape and character of Little Bowden. It contributes to the sense of "place" and changes such as those put forward should be resisted. We question whether the proposals are sustainable given the wetness of the site. Why should cars be brought to the site.

This appears to be a commercial project, intended to meet other than local needs and should be refused

#### **LCC Archaeology:**

Having reviewed the application against the Leicestershire and Rutland Historic Environment Record (HER), we do not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or

potential heritage assets. We would therefore advise that the application warrants no further archaeological action (NPPF Section 16, para. 189-190).

## **b) Local Community**

4.4 Approximately 70 objection comments have been received as well as letters from Little Bowden Society. These comments are summarised by topic below, full objection comments can be read online.

Principle of Development/ Open Space Designation	<ul style="list-style-type: none"> <li>• Already many adequate areas for dog walking (including Little Bowden Recreation Ground, Brampton Valley Way, Welland Park), is there a need for this proposal</li> <li>• No economic need for the development</li> <li>• The development of this open green space of the local rural landscape would be contrary of the officially acknowledged protection under the local planning policy G12 it would degrade the fields merit for including in the policy as rural open space.</li> <li>• Concerns about future residential development</li> </ul>
Impact on the character of the area	<ul style="list-style-type: none"> <li>• The erection of timber and wire mesh perimeter fence of 1.8m high with associated hard standing (car parking for two cars) would have a serious detrimental effect upon the form, character and appearance of this open green space of Little Bowden.</li> <li>• Would destroy local charming surroundings which make Little Bowden unique</li> <li>• Should consider the retention of a natural countryside feel</li> <li>• Many people stop and look at the river, open space, sheep etc</li> <li>• Dog bins will smell and look ugly - it will ruin the natural landscape.</li> <li>• The quality of the land will deteriorate- Are we to expect the site to become vastly overgrown, or will the local residents have to endure a noisy tractor on a regular basis?</li> </ul>
Residential Amenity	<ul style="list-style-type: none"> <li>• Under the proposal, there will be an increase in noise, footfall and 'paw-fall'.</li> <li>• Noise from dog barking- The application does not give a limit to the number of dogs using the field at any one time or the hours of use</li> <li>• Who will check on proper disposal of dog muck and the nasty, filled plastic bags that appear in hedges and verges</li> <li>• This grazing land has for long been a part of the landscape and character of Little Bowden. It contributes to the sense of "place" and changes such as those put forward should be resisted.</li> <li>• Intimidation of people walking on footpath - field is elevated in comparison to the path and so dogs would be higher up than pedestrians, especially children using the footpath to walk to and from school.</li> <li>• Dog-walking is not a quiet use of the space - barking, calling and whistling are part-and-parcel of allowing dogs to run free. This could lead to quite significant disturbance to the households closest to the field.</li> </ul>
Highways	<ul style="list-style-type: none"> <li>• The provision of parking suggests people will drive to use the field, and when there is no space in the provided parking, dog owners will need to use spaces already in short supply for parents dropping off children.</li> <li>• Increased traffic would pose huge problems on an already busy and dangerous road /junction for both traffic and pedestrians and most particularly school children.</li> <li>• Have a dangerous entry and exit onto Braybrooke Road.</li> <li>• The access to the field has limited visibility due to the bend in Scotland Road which will make turning out onto this road problematic, particularly if</li> </ul>

	vehicles are reversing. If the field is hired for dog training or agility classes this would mean multiple dog owners arriving with their dogs in cars with no provision for parking. This would add to the already overstretched parking on nearby roads and Little Bowden park car park.
Flooding	<ul style="list-style-type: none"> <li>The increase in hard standing in the area will increase the run-off and make flooding even more likely. As it is now, the road opposite the school regularly floods.</li> <li>Impact on flood risk by affecting River Jordan and its floodplain</li> </ul>
Natural Environment/Ecology	<ul style="list-style-type: none"> <li>This is the one remaining truly natural visible open green space remaining in Little Bowden village.</li> <li>Hard standing and dog walking brings cars and people, immediately the natural environment of the space has been shattered</li> <li>Much of the varied and unusual wildlife will be scared away.</li> <li>Such a change will lead to a huge loss of bird, insect, flora and fauna species and habitats. The area is well known for the wide variety of wild fowl and birds as well as newts and other reptiles to name a few.</li> <li>Trees are protected</li> </ul>

## 5. Planning Policy Considerations

5.1 Please see above for planning policy considerations that apply to all agenda items.

### a) Development Plan

5.2 Relevant policies to this application are:

○ ***Harborough Local Plan 2011-2031***

- GD1 Achieving sustainable development
- GD2 Settlement development
- GD5 Landscape character
- GD8 Good design in development
- HC1 Built heritage
- GI2 Open space, sport and recreation
- GI5 Biodiversity and geodiversity
- CC3 Managing flood risk
- CC4 Sustainable drainage
- IN2 Sustainable transport
- IN4 Water resources and services

These are detailed in the policy section at the start of the agenda.

### b) Material Planning Considerations

5.3 ***The National Planning Policy Framework***

Whilst read as a whole of particular relevance are:

- Chapter 2- Achieving sustainable development
- Chapter 4- Decision making

- Chapter 8- Promoting healthy and safe communities
- Chapter 9- Promoting sustainable transport
- Chapter 12- Achieving well-designed places
- Chapter 14- Meeting the challenge of climate change, flooding and coastal change
- Chapter 15- Conserving and enhancing the natural environment
- Chapter 16- Conserving and enhancing the historic environment

### **Supplementary Planning Guidance**

### **The National Planning Policy Guidance**

## **6. Assessment**

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

- 6.1 Paragraph 103 of the NPPF, states that development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Policy SS1: 'The Spatial Strategy' therefore seeks to direct development towards the most sustainable locations, identified by the level of 'key services' provided within the village/town, with the aim of reducing reliance on private motor vehicle to access key services. Market Harborough is identified as the 'Sub-Regional Centre', the town is relatively self-contained with a wide range of services, employment opportunities and good transport links.
- 6.2 The proposal is somewhat unique as it presents the diversification of agriculture, yet is within the built up area of Little Bowden/Market Harborough as such the proposal would be assessed against policy GD2 of the HLP. On land within the existing of committed built up area of Market Harborough development will be permitted in accordance with GD2, development will be permitted where:
- a) 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, particularly trees, hedges and watercourses; or*
- b) it includes the redevelopment or conversion of redundant or disused buildings, or previously development land of low environment value, and enhances its immediate setting.*
- Importantly the site is within the existing built up area of Market Harborough in a highly sustainable location. Whilst future users may travel by car to use the site, its location would enable nearby residents to walk to the site reducing reliance on private motor vehicles. Whilst matters of design are assessed below, the principle of development therefore accords with policy SS1 and GD2 of the HLP.
- 6.3 Furthermore whilst the site is not within the countryside, as its current use is for agriculture the scheme also presents the diversification of an agricultural business. Paragraph 83 of the NPPF states that planning decisions should enable the development and diversification of agricultural and other land-based rural businesses.

### **b) Impact on Open Space, Sport and Recreation**

- 6.4 The is designated in the HLP as a site for Open Space, Sport and Recreation. The relevant section of Policy GI2 of the HLP is copied below:

## GI2 Open space, sport and recreation

1. The District's open space, sport and recreation facilities (as shown on the Policies Map) and any future additional facilities provided as part of new development will be safeguarded and enhanced through improvements to their quality and use.
2. Development resulting in the loss of or reduction in defined open space, sport and recreation facilities will not be permitted unless it can be clearly demonstrated that:
  - a. a robust assessment clearly demonstrates that the space or recreational facility is surplus to local requirements and will not be needed in the long term in accordance with local standards; or
  - b. replacement areas will be at least equivalent in terms of quality, quantity and accessibility, and there will be no overall negative impact on the provision of open space in accordance with local standards; or
  - c. the proposal is for alternative recreational provision which meets evidence of local need in such a way as to outweigh the loss.

- 6.5 The proposal does not accord with Policy GI2 2a-b and evidence has not been provided that there is local need for an enclosed dog walking facility in accordance with Policy GI2 (2) c. In response to the request for an evidenced local need the applicant's agent provided a letter outlining further comments on this designation:

*'The application site, which has been allocated under the adopted Harborough Local Plan as a site for Open Space Sport and Recreation, is currently a privately owned grazing paddock and as such is not accessible to the public and provides no opportunities for the formal or informal types of activities outlined under Policy GI2 of the Plan.*

*We do not believe it meets any of the definitions or typologies set out in Table B30 of the Plan, and as such the policy requirements should not apply. However, the proposed scheme does look to create a recreational space for use locally. Such facilities are proving more popular, allowing a safe and secure area to exercise and train dogs. This is proven by positive comments received via social media articles, as well as the recently approved scheme for a similar use at Walcote Road, South Kilworth (HDC. ref 20/00218/FUL).'*

- 6.6 The proposed dog walking area would be available for private bookings, as at present it would not be publicly accessible, although it is acknowledged the proposal would create recreational space for those private individuals using the site. The fact that the site is currently privately owned with no public access to the site itself does not diminish that the site as open space forms an important part of the setting in Little Bowden and is unique in providing an unimproved field within the built environment. Planning Practice Guidance states: *Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure (see National Planning Policy Framework paragraph 171, as well as being an important part of the landscape and setting of built development,....* This guidance sets out that open space does not necessarily require public access. The open space is clearly visible from the surrounding area and whilst there is not public access onto the land itself contributes to residents accessibility to view natural/semi-natural greenspace.
- 6.7 The proposal proposes hardstanding for two car parking spaces and the turning area as well as the erection of the boundary fence which constitutes development of the

site. Yet paragraph 97 of the NPPF and Local Plan policy GI2 afford the site protection from development. As is discussed in more detail below the addition of the 1.8m high post and wire fence will significantly alter the appearance of the site. At present the site is open with views across the site available in several locations surrounding the site, in particular the junction of Scotland and Braybrooke Road. The addition of the fence will diminish the openness and rural appearance of the site and as such its value as an unimproved field within the setting of Little Bowden. This in return will reduce its value as open space and the applicant has not provided an evidenced local need for a dog walking area as such the proposal fails to comply with GI2 (2)c, it is not considered that the development meets an evidenced local need in such a way to outweigh the loss.

### **c) Design and Visual Amenity**

- 6.8 Section 12 of the NPPF refers to achieving well designed places, specifically; paragraph 124 states that good design is a key aspect of sustainable development. Paragraph 127 states that developments should be sympathetic to local character and history, including the surrounding built environment and landscape setting. Development should establish and maintain a strong sense of place, using the arrangements of streets, spaces etc to create attractive, welcoming and distinctive places to live, work and visit. Whilst Policy GD8 of the HLP 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. Furthermore, policy GD5 of the HLP states that development should be located and designed in such a way that it is sensitive to its landscape setting.
- 6.9 As discussed above the site is a highly visible, valued site and provides character to the centre of Little Bowden. Little Bowden is a location that has a patchwork of greens and open spaces throughout the original built area of the village. The open space and greens contribute strongly to the character of Little Bowden and in accordance with the above policies it is important that developments respect this character. At present the site is undeveloped with approximate 1m high mesh fencing, hedging and historic brick wall to the south forming the enclosure of the site. The proposed 1.8m high post and mesh fencing (Fig.2 and 3) will be significantly more visually intrusive than the existing boundary treatments owing to the proposed height, further exacerbated by the open views of the site from the surrounding publicly accessible areas (Fig.4-7). The site is also elevated above Braybrooke Road, meaning the fence will protrude significantly above the boundary wall and be highly visible (Fig.8).



*Figure 4: View towards site from Braybrooke and Scotland Rd junction facing north east*



*Figure 5: View towards the site and River Jordan from Braybrooke and Scotland Rd junction facing north*





*Figure 6. Views across site from the PRow facing south east*



*Figure 7: View along the PRow with the site on the right (facing east)*

- 6.10 Whilst low post and mesh fencing has been present on the site and would be expected for an agricultural use, a 1.8m high post and mesh fence as proposed is considered to be incongruous. The fence would create a sense of enclosure to the site which erodes the open character of the landscape setting. The additional hardstanding would also contribute to the erosion of the rural character of the site. Overall and particularly in regards to the proposed fencing the proposal would not respect or enhance the local character of the immediate area, nor Little Bowden as a whole which is characterised by open greens. As such the scheme is at odds with paragraph 127 of the NPPF, and policies GD8 and GD5 of the HLP. The proposal fails to respect to the local character and history, its landscape setting and the proposal does not maintain the sense of place created by the sites contribution to open space within Little Bowden.
- 6.11 Concerns have also been raised with regards to future ancillary equipment/buildings such as storage sheds, agility equipment etc. Nothing of this nature is proposed as part of the application and it is considered that were the scheme otherwise acceptable this could be restricted by condition.



#### *Impact on trees*

- 6.12 There are several trees to the periphery of the site which are protected by a Tree Preservation Order (Fig.1, paragraph 1.3). To accord with Policy GD8 (i) development should protect and enhance existing landscape features and natural assets such as trees and hedges.
- 6.13 No works to the trees are proposed as part of the application and they are to be retained. Given the fence would be erected close to several trees officers consulted with LCC arboricultural team. Having reviewed the proposal the team noted that in erecting the fence there would be some minor incursion within the rooting areas of the trees. However, given this would be a minor incursion, no objections were raised providing specific methodologies were followed within a 15m radius of the trees to reduce the risk of long term damage. The methodologies include excavation by hand tools, no severance of roots with a diameter of 25mm and non-permeable lining to post holes if concrete is used. These methodologies could be secured by condition and subject to this, the proposal is considered to comply with GD8(i).

#### **d) Impact on Heritage Assets**

- 6.14 The application site is not within a Conservation Area but relates to land which is adjacent to the Old House on Braybrooke Road which is grade II\* listed and its boundary wall, which is independently listed at grade II. Furthermore, the wall which runs along the boundary of the application site and Braybrooke Road appears to be a continuation of the listed wall in the adjacent plot being made from the same bricks and with the same distinctive 'half-moon' coping bricks. While this is not part of the official listing, it is considered to make a positive contribution to the local street scene and read as a historic structure. As such is considered to be a non-designated heritage asset.



*Figure 8. Boundary wall along Braybrooke Rd*

- 6.15 In accordance with Policy HC1 development affecting heritage assets and their settings should be appraised in accordance with national policy and will be permitted

where it protects, conserves or enhance the significance, character, appearance and setting of the asset, including where possible better revealing the significance of the asset and enabling its interpretation. Development affecting a non-designated heritage asset and/or its setting will have regard to the scale of any harm or loss and the significance of the non-designated heritage asset.

- 6.16 It is proposed to erect a 1.8 metre-high mesh-fence immediately behind the wall on Braybrooke Road (Fig.2). This would have a detrimental impact on the appearance of this wall through its height, further exacerbated owing to the site being on higher ground level, as well as its design and proximity to this feature. Taking regard to paragraph 197 of the NPPF and Policy HC1 it is considered that harm would be caused to this non-designated heritage asset.
- 6.17 The listed wall, associated with the Old House to the east of the site derives part of its significance from its attractive contribution to the street scene – this is set out in the listing description. As the wall in the application site is a visual continuation of the listed wall at the Old House and as the two are read together within the street scene, it is considered that (for the above reasons) the proposal would be harmful to the significance of the listed element of the wall, which is derived from its setting.
- 6.18 Paragraph 196 of the NPPF and Policy HC1 require an assessment of the harm caused to the significance of designated heritage assets to be weighed against wider public benefits of a proposal. In terms of the public benefits of the proposal it could be argued it allows for some diversification of the rural economy in terms of the applicants agricultural business albeit the site is not in a rural area. The proposed dog walking area would not be publicly accessible but would allow private individuals to exercise their dogs in a purposefully designed area. Overall, the public benefits of the proposal are limited and are not considered to outweigh the harmful impact on local built heritage. As such the proposal does not accord with Policy HC1 of the HLP.

### **c) Highways**

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- 6.19 Paragraph 108 of the NPPF states that schemes can be supported where they provide safe access for all and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 makes it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residential cumulative impacts on the road network would be severe. GD8 of the Local Plan 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.
- 6.20 The roads in this area of Little Bowden are busy, especially at peak times where they can become congested and the highway impact of the proposal has been raised within objection comments. The proposal seeks to use the existing highway access, two parking spaces and a turning area is proposed close to the site entrance. Following amendments to the scheme the Local Highway Authority are satisfied that subject to conditions 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 (see full consultee comments section).

- 6.21 It is likely that both vehicle spaces would only be occupied at change over times for users of the facility. The limited number of users of the site at one time would be controlled through a booking system whereby individuals would book the use of the field for an allotted time period. This is commonplace for such facilities but full details of the operational system could be sought/controlled by condition were the scheme deemed acceptable. It is acknowledged that the proposed use is likely to increase the number of vehicular movements to the site, however, LCC Highways are satisfied that the impact on the road network would not be severe. Unlike other facilities which are often located within the countryside local users would also be able to walk to the proposed facility. LCC Highways are satisfied that given the use of the existing access and subject to conditions ensuring the gates are set back that the point of access is acceptable. Adequate visibility splays can be achieved and would be recommended by condition.
- 6.22 The proposed mesh perimeter fencing should be situated a suitable distance away from the PRoW to the north of the site, in this case it is proposed to be located behind the existing hedgerow and fencing which is deemed adequate to avoid adverse impacts on users of the PRoW.
- 6.23 Overall the impact on the highway network is not considered to be unacceptable, the proposal is considered (subject to conditions) to comply with policies GD8 and IN2 of the HLP.

#### **d). Residential Amenity**

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- 6.24 Policy GD8 of the HLP 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 or unpleasant odour emission which cannot be mitigated to an appropriate standard and so would have an adverse impact on amenity and living conditions.
- 6.25 Given the limited amount of built form and the nature of the fencing the proposal would not give rise to overshadowing or overbearing impacts. Nor would the use of the site give rise to significant loss of privacy considering the site is largely surrounded by publicly accessible roads and footpaths.
- 6.26 Concerns have been raised with regards to the generation of additional activity/noise. At present the site is used mostly for sheep grazing as such generates little noise, any additional noise as a result of the proposal would be through dog barking which may occur. However, the site is in an area whereby there are other noise generators including traffic on Scotland and Braybrooke Roads and from the trainline. Furthermore, there are also footpaths that surround the site and the site is in close proximity to Little Bowden Recreation Ground which are used for members of the public for exercising dogs at present. Given users of the site would be limited it is not considered that proposal would give rise to significant adverse noise disturbance.
- 6.27 Concerns have been raised in regard to waste management. Details of waste management have not been submitted, were the scheme deemed acceptable details could be sought and managed by condition.
- 6.28 To conclude subject to the suggested conditions outlined above, the proposal is therefore considered to comply with Policy GD8 of the HLP.

#### **e) Flooding/Drainage**

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- 6.29 The application site is bounded by the River Jordan to the west, the site/area is known to have experienced fluvial and surface water flooding. The western part of the site is located within Flood Zone 3 being at high risk of fluvial flooding. The eastern half of the site is in Flood Zone 1 being at low risk of fluvial flooding. There is a high risk of surface water flooding in the western part of the site. There is a low to moderate risk of surface water flooding in the central part of the site and a low risk of surface water flooding in the eastern part of the site. Policy CC3 states that developments should take place in areas of lowest risk of flooding. Development proposals in Flood Zones 2 and 3 will require a site-specific flood risk assessment.
- 6.30 The Environment Agency (EA) and Lead Local Flood Authority (LLFA) have assessed the proposal and provided several comments as outlined in the consultee comments section above (please view for detailed comments). Much of the site will remain undeveloped, with the exception of the hard-surfaced turning and parking area, this is proposed to be constructed from crushed limestone allowing infiltration of water which is deemed acceptable by the LLFA. It is acknowledged that the site includes other areas which would more appropriate for hard standing in flooding/drainage terms however this would increase the proposals impact on the character of the area as such the parking area has been retained close to the access. Amendments have been made to the flood risk assessment and site plan as the EA require access to the channel to carry out maintenance as such a gated access and 8m access route has been provided along the river. Following this, subject to conditions, both the EA and LLFA are satisfied with the proposal. The development is considered to comply with CC3 of the HLP.

#### **f) Ecology**

- 6.31 Policy GI5 of the HLP states that developments will be permitted where there is no adverse impact on the conservation of priority species, habitats and designated sites. In consultation with LCC Ecology concerns were raised with regards to the presence of water vole in the river (as has been suggested within objection comments also). It is considered that impacts on the species within the River Jordan could be mitigated providing the fence provided for a buffer zone at the top of the bank. This has been provided for and LCC Ecology are satisfied subject to a condition requiring details of the establishment, maintenance and fencing to be sought be planning condition. The proposal accords with GI5 of the HLP.

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

- 7.1 The proposed development is considered to be in a sustainable location, no adverse impacts are found in relation to neighbouring amenity, highways, flooding/drainage or ecology. However, the site is designated under policy GI2 as land for open space, sport and recreation. The addition of the fence will diminish the openness and rural appearance of the site and as such its value as an unimproved field within the setting of Little Bowden. This in return will reduce its value as open space and the applicant has not provided an evidenced local need for a dog walking area as such the proposal fails to comply with GI2 (2)c, it is not considered that the development meets an evidenced local need in such a way to outweigh the loss.
- 7.2 Furthermore, the development, particularly the proposed 1.8m fencing surrounding the site would not respect or enhance the local character of the immediate area, nor Little Bowden as a whole which is characterised by open greens. As such the scheme is at odds with paragraph 127 of the NPPF, and policies GD8 and GD5 of the HLP. The proposal fails to be respect to the local character and history, its landscape setting and

the proposal does not maintain the sense of place created by the sites contribution to open space within Little Bowden.

- 7.3 Finally, the proposed fencing is considered to cause harm to the non-designated boundary wall along Braybrooke Road and to the setting of the Grade II Listed wall at the Old House. The public benefits of the proposal are limited and are not considered to outweigh the harmful impact on local built heritage. As such the proposal does not accord with Policy HC1 of the HLP.
- 7.4 Turning to the three strands of sustainable development. The proposal represents some agricultural diversification albeit not in a rural setting, there are some economic benefits to the proposal. However, the harm to the provision of open space, to the character of the surrounding area and to heritage assets as outlined above is not considered to meet the social and environmental objectives of the NPPF.

*Fall Back Position*

- 7.5 Normally the erection of a fence which is not adjacent to the highway would not require planning permission if it is no more than 2m in height. Where a fence is adjacent to the highway this would not require permission providing the fence was no more than 1m in height. The Council served an immediate Article 4 Direction on the land on the 21<sup>st</sup> May 2020. Under Article 4(1) of the Town and County Planning (General Permitted Development) (England) Order 2015 this removes Permitted Development rights under Schedule 2, Part 2, Class A for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. Additionally this removed Permitted Development Rights under Schedule 2, Part 11, Class B for any building operation consisting of demolition of a structure (eg the boundary wall). As such planning permission is required for the types of development stated above, as such there is no fall-back position for the fence to be erected under Permitted Development.

## Planning Committee Report

**Applicant:** Mulberry Property Developments Limited

**Application Ref:** 20/00293/REM

**Location:** Land off Coventry Road, Lutterworth.

**Proposal:** Reserved matter of 15/01665/OUT including details of appearance, landscaping, layout and scale for 104 dwellings Phase 3.

**Application Validated:** 24/02/20

**Target Date:** 25/05/20 (extension of time agreed)

**Consultation Expiry Date:** 15/06/20

**Case Officer:** Louise Finch

**Site Visit Date:** 07/01/19, 06/03/20, and various

**Reason for Committee Decision:** Size and nature of the proposed development (it is over 25 dwellings).

## Recommendation

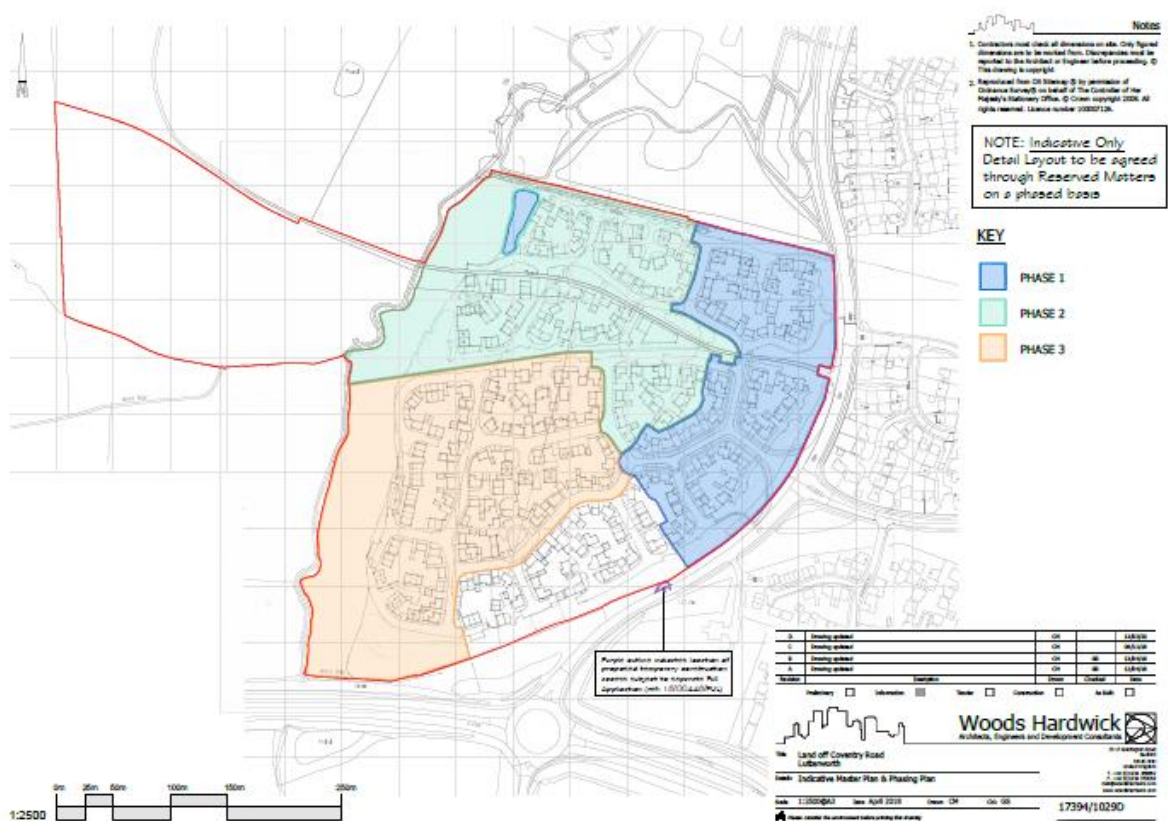
Planning Permission is **APPROVED** for the following reason and subject to the conditions as set out in Appendix A:

The scheme would make a significant contribution towards the Council's five-year supply of deliverable sites, without adverse impact on residential amenity, highways, ecology, archaeology and other interests of acknowledged importance. Significant weight is attached to the extant planning consents on the site, including 15/01665/OUT, which has established the principle of development of 250 dwellings on the site as a whole. On the basis of the necessary mitigation measures in respect of necessary infrastructure and affordable housing requirements, the scheme is considered sustainable, in accordance with Local Plan Policies and whilst outside the limits to development, in separation area, given the specifics of the site, these factors would outweigh any conflict with policy as already established.

### 1. Site & Surroundings

- 1.1 The application site refers to the south-western corner (known as Phase 3), part of the larger site which has outline permission for 250 dwellings and associated access. The site has subsequently been divided into three phases to enable effective delivery and this is the third phase to be brought forward (hereafter referred to as the 'Site'). The first phases have reserved matters consent and works are currently underway. The overall site (below) is located to the North-West of Lutterworth and is bounded by Brookfield Way and Coventry Road (east/south) and further arable land to other boundaries, with Magna Park to the West. The Lutterworth Country Park is directly to the East and two Public Rights of Way (PROW) cross the site, namely X35 and X57.





- 1.2 As stated, the Phase currently being considered (as shown in light orange, above) is the south-western portion which abuts the separation area with Magna Park and countryside, with the brook to the west, and is accesses via the new roundabout. Original site photo



Site photos (June 2020)  
View from public footpath, looking west across Phase 3.



The site slopes down away from the road, with post and rail fencing fronting the site, and substantial hedging /trees to the northern boundary with the Country Park.



Drone view-supplied by Applicant June 2020.



Current site photo looking North



## **2. Site History**

### **2.1 The site has the following planning history:**

15/01665/OUT- Erection of up to 250 dwellings with associated access, pedestrian links, public open space, car parking, landscaping and drainage (means of access to be considered only) (approved following an Appeal)

18/00448/FUL- Installation of a temporary construction access for construction vehicles in relation to forthcoming construction of residential development associated with application 15/01665/OUT (app)

18/00703/NMA- Amendments to conditions to allow phased implementation of original consent (proposed non-material amendment to 15/01665/OUT) (app).

Applications in regard to discharge of conditions discharged.

18/00768/REM- Reserved matter of 15/01665/OUT including details of appearance, landscaping, layout and scale for 67 dwellings Phase 1. (app)

18/02077/REM-Reserved matter of 15/01665/OUT including details of appearance, landscaping, layout and scale for 79 dwellings Phase 2 (and discharge of conditions). (app)

## **3. The Application Submission**

### **a) Summary of Proposals**

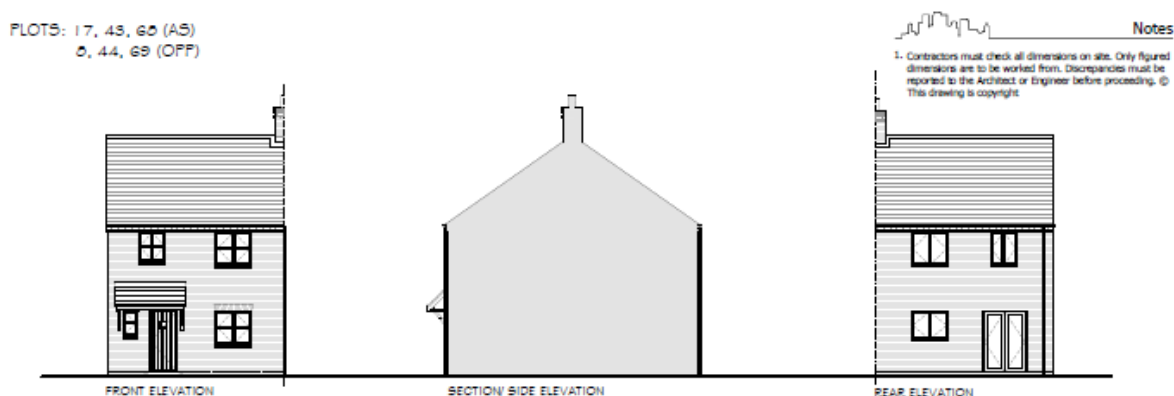
#### **3.1 The application seeks reserved matters approval for 104 dwellings, to include appearance, layout, scale, and landscaping as shown in the layout plan below. There are two main accesses which then splits off (North to South) with houses set back from the road and significant areas of landscaping to the western and southern boundaries (to separation area/countryside and main road). The public footpath is on the northern boundary and is incorporated into the design and has landscaping/open space to either side. The attenuation basin is shown towards the southern boundary, Incorporated into the area of open space. Layout is shown atop of following page.**



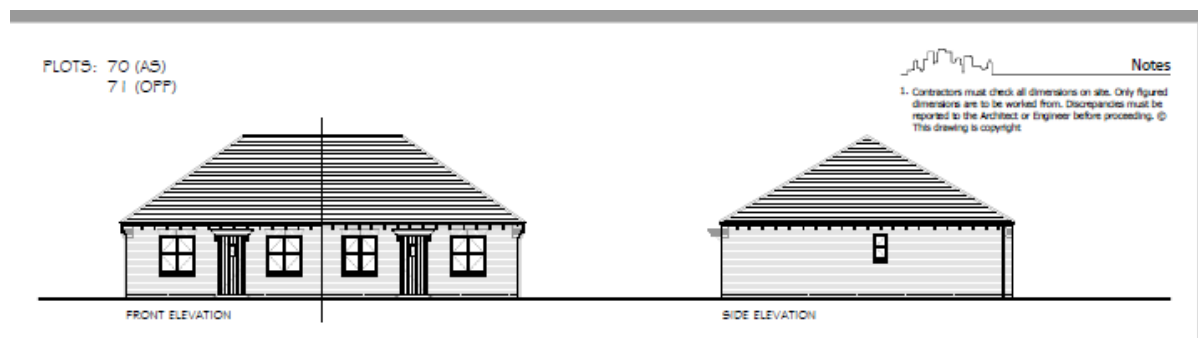


Schedule of Accommodation			
MARKET	No. Beds	Plots	No.
Harrington	4	166, 173	2
Sherbourne	4	147, 157, 165, 190	4
Salcey	4	217	1
Pitsford	4	148, 159, 169, 172, 183, 184, 188	7
Humberstone	4	167, 171, 185, 189	4
Humberstone (R)	4	150, 174, 216, 219, 228	5
Carlton with bay	3	156, 180, 186, 199, 203, 214	6
Carlton	3	149, 170, 182, 218, 222, 229, 244, 249	8
Carlton (R)	3	158	1
Famwell	3	153, 160, 175, 176, 179, 181, 187, 202, 225, 250	10
Warwick V2	3	168	1
Abbey	3	151, 152, 161, 162, 197, 198, 215, 220, 221, 223, 224, 230	12
Beacon	3	154, 155	2
Beacon (R)	3	163, 164, 177, 178, 226, 227, 242, 243	8
Bosworth	2	195, 196, 204, 205, 247, 248	6
Bosworth (R)	2	200, 201, 245, 246	4
<b>Total</b>			<b>81</b>
AFFORDABLE	No. Beds		No.
1B Bungalow	1	239, 240, 214	3
1B Apartment Plot 87	1	233	1
1B Apartment Plot 88	1	234	1
1B Apartment Plots 64-65	1	210, 211	2
1B Apartment Plots 66-67	1	212, 213	2
Sheldon	2	235, 236, 237, 238	4
Kingbury	2	232	1
Shipley	3	191, 192, 193, 194, 206, 152, 208, 209, 231	9
<b>Total</b>			<b>23</b>
<b>Grand Total</b>			<b>104</b>

Abbey house type (below) (8.5m to ridge)



Sheldon (affordable bungalows) (5.8m to ridge)



Humberstone (8.04m to ridge)



## b) Schedule of Plans and Supporting Statements/Documents

3.4 The application has been accompanied by the following plans and documents:

- Layout Plan
- House types
- Indicative Master plan and phasing plan
- Artists street scene
- Refuse strategy plan
- Fire vehicle tracking
- Landscape proposals
- Parking strategy
- Public rights of way phasing plan

## c) Amended Plans and/or Additional Supporting Statements/Documents Submitted since Validation

3.5 Additional information/plans to address technical highways matters (within site)  
Updated layout, landscaping and materials plans (all minor changes)

Plans schedule

#### **d) Pre-application Engagement**

- 3.6 No specific advice relating to this phase-previous correspondence relating to the public rights of way phasing plan.

#### **e) Environmental Impact Assessment**

- 3.7 A Screening Opinion was issued to the Applicant on 22/01/ 2016 (as part of the outline application), advising the LPA does not consider that the submitted application for the site requires an EIA, taking into account the schemes scale, nature and location.

#### **4. Consultations and Representations**

- 4.1 Consultations with technical consultees and the local community were carried out on the application.
- 4.2 Site Notices were placed on 06/03/20 and Press Advert advertised 19/03/20.
- 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**

- 4.4 ***Leicestershire County Council, Highway Authority***  
The Local Highways Authority does not consider that the application as submitted fully assesses the highway impact at this time and seeks further information. This relates to detailed matters in regard to the internal layout and suitability for adoption as public highway.  
The Applicant has now addressed such details, and the Highways Officer recommends conditions (Conditions 3-6 refer).
- 4.5 ***Leicestershire County Council, Public Rights of Way Officer***  
Phasing plan has been sent to officer  
I have no comments or objections to make on this application.  
I note though, as your team is already aware, that phase 1 as regards the public rights of way was not delivered on time (Condition 7 requires implementation of the Phasing Plan).
- 4.6 ***Leicestershire County Council, Environment and Transport Department, Lead Local Flood Authority (LLFA)***  
  
*No comments*
- 4.7 ***Environment Agency:***  
*No comments.*
- 4.8 ***Leicestershire County Council Senior Archaeologist***  
*No further action required.*
- 4.9 ***Leicestershire County Council Senior Ecologist***  
The landscape plans are acceptable, and in accordance with the outline masterplan. The layout retains a good buffer zone to the stream to the west, which is welcomed. Apart from badgers, I do not feel there is a need for updated ecology survey, as the

Wildlife corridors are being retained and protected. However, it is possible that the landscape proposals could impact on any badgers that may have moved on to site since the previous surveys, which was in 2015, and therefore an update survey is needed. Although the previous badger survey was negative, they are known in the vicinity of the development site.

My only other comment relates to the use of topsoil in the wildflower areas. I have made this point before in relation to phase 2, and repeat my comments below, with copied sections of text from the two landscape documents. Please see 18/02077/REM for more detail; my notes show that some changes were made to documents in 2018, but I have no record that a final version was agreed, and I don't think the revised docs have been submitted for this phase 3.

The Soft Landscape Specification makes no distinction between the sub-and top-soil treatment of grassed areas, with all grassland shown as having the same amount of subsoil and topsoil. Whilst this is OK for amenity grassland, it isn't acceptable for wildflower grassland, which must be created on low-nutrient substrate, such as clean and screened subsoil. It is unlikely to survive if topsoil is used. Therefore, I recommend that the specification is revised to provide a different treatment for the wildflower grassland areas. Similarly, the reference in 7.5 of the Soft Landscape Management and Maintenance Plan, to infilling holes with topsoil, should be amended.

I have a holding objection pending re-submission of the Soft Landscape documents, and of an updated badger survey.

Both issues subsequently addressed and no further comments. (condition 8 recommended regarding implementation of Ecological strategy, including for badgers)

#### 4.10 **HDC Neighbourhood & Green Spaces Officer**

1. The documentation provided is comprehensive and covers all aspects of landscape delivery and maintenance.
2. The documentation consistently refers to British Standards, which provides assurance should there be a dispute concerning standards.
3. Landscape management Plan para 3.3 *'Post Practical Completion: the Contractor will carry out the maintenance of trees, shrubs and grasslands after the date of practical completion until the responsibility is transferred to the new owners or by the appointed Management Company **and for a minimum period of twelve months**'*
4. Play equipment maintenance is included in the specification
5. The maintenance schedules are sufficient to maintain the landscaped areas in a clean and tidy condition
6. The general layout of the planted areas is satisfactory and the plant schedule provided suitable species for amenity landscaping.
7. The location of trees appears to be sensible. There are several *Malus domestica* 'Bramley' planted through the rear gardens of dwellings. 'Bramley' is a triploid apple requiring at least two pollinators of suitable pollinator groups (either domestic apple or crab apple). Can the landscapers confirm that sufficient pollinators are on site for these apples or that an amendment can be made to the plant schedule to take account of this requirement?

Amended landscape plan has been submitted to address points raised, and it has been agreed that Point 3 above is not required.

There is no 12 month maintenance period if the POS is transferred to a Management Company. The Management Company becomes responsible effectively after the Council has signed off the POS as being practically complete. The highlighted section should therefore be deleted.

The Public Open Space Scheme (Landscape Management Plan) will deal with issues concerning maintenance should there be any in the future

Pleased they have included the pollinating apple  
(Condition 2 refers to implementation of the updated management and maintenance Plan)

**4.11 HDC Environmental Health Officer**

No comments received

**4.12 HDC Environmental Services (Contaminated Land Officer)**

No comments received.

**4.13 HDC Housing Enabling and Community Infrastructure Officer (Developer Contribution)**

Housing mix agreed;

Shared ownership:8

Affordable rent: 15 (including 7 bungalows and 6, one bed apartments)

Total: 23

**4.14 Leicestershire Police (Developer Contribution)**

None received

**4.15 Arboricultural Officer:**

None received-the Green spaces Officer and Ecology have commented on this aspect.

**4.16 HDC (Conservation Officer):**

I do not consider the proposal would have any adverse impacts on any heritage assets as such I have no objections to this proposal.

**4.17 Lutterworth Town Council:**

Objects: Concerned about Public footpaths, and satisfactory surfacing of diverted footpaths. The licence for diversion expires on 27/02/19 and no renewal should be approved prior to this being resolved.

## **b) Local Community**

- 4.18 2 individual households have objected to the proposed development. Concerns regarding the rights of way, and failure to divert and surface properly. No further reserved matters should be granted until this matter resolved. (n.b. a Phasing Plan has been submitted with the application, and the Rights of Way Officer is satisfied with the plan-Condition 7 refers)  
Asks what is happening with land other side of brook (will be as outline consent)  
(Officer comment; This area will be parkland as agreed by the Planning Inspector)

## **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.



- 5.2 Unless stated an explanation of the development plan policies; material considerations. Evidence base and other documents referred to can be found at the beginning of the Agenda under 'All Agenda Items Common Planning Policy'

#### **a) Development Plan**

- *Harborough District Core Strategy*
- 5.3 The DP for Harborough comprises:
- The Harborough District Local Plan adopted April 2019.
- 5.4 Material considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land. The material considerations to be taken into account in considering the merits of this application include the DP referred to above, the National Planning Policy Framework (hereafter referred to as 'The Framework'), the National Planning Policy Guidance, together with responses from consultees and representations received from all other interested parties in relation to material planning matters.

#### *Harborough District Local Plan*

- 5.5 Policy GD1 Sustainable development  
Policy GD2 Settlement development  
Policy GD8 Good Design  
Policy H1 New housing  
Policy H2 Affordable housing  
Policy H5 Housing mix  
Policy CC4 Sustainable drainage

Policy GD2 specifically refers to Lutterworth and seeks to develop it as a key centre to provide new housing, employment, retail, leisure and community facilities to serve the settlement and catchment area

#### **b) Material Planning Considerations**

- 5.6 Material Planning Considerations relevant to this application:
- *The National Planning Policy Framework (The Framework / NPPF)*
  - *National Planning Practice Guidance (PPG)*
  - *Supplementary Planning Guidance*
  - *Five Year Housing Land Supply Statement*

#### **c) Other Relevant Documents**

- 5.7 The following documents should be noted

- The Community Infrastructure Levy Regulations 2010, S.I. No.948 (as amended)
- Circular 11/95 Annex A - Use of Conditions in Planning Permission
- ODPM Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System)
- Planning Obligations Developer Guidance Note
- Leicestershire Planning Obligations Policy
- Leicestershire County Council Local Transport Plan 3 (LTP3)
- *Leicestershire County Council Highways Authority Design Guide*

## 6. Assessment

### a) Principle of Development

- 6.1 The site has outline planning consent for residential development of up to 250 dwellings, to include means of access, thus the principle of residential development is clearly established and it is the details of the layout that the reserved matters application seeks to agree.

Thus, the key issues in this case relate to the scale and layout, landscaping, highways detail, taking into account 1) the proposal's impact on the living conditions of neighbouring residents and (2) highway safety, and (3) the resultant effects, including visual, landscape and wildlife, on the character and appearance of the countryside.

**Inspector's conclusions on Appeal:** "There would be considerable harm arising from the impact on the landscape character and some modest additional, localised harm arising from the loss of countryside and adverse visual impact. The appeal scheme would be in conflict with the development plan as it not would comply with relevant CS policies seeking to protect character and appearance. The aims of these policies are consistent with the NPPF and carry full weight of development plan.

The provision of up to 250 new dwellings on a site that is available, deliverable and in an accessible location, carries substantial weight in favour of the proposal in meeting housing need. Moreover, future residents would help to maintain and support local businesses within Lutterworth, providing some economic benefit, according with the aims of CS policy CS14. Other benefits include a considerable number of jobs relating to construction and social benefits with new residents supporting community infrastructure. There may be areas of improved biodiversity at the site and improved footpaths. These benefits add further weight in favour of the proposal.

Overall, the benefits would carry substantial weight. Any adverse effects would not be so great as to significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. The appeal scheme would be sustainable development and the presumption in favour applies. This is a significant material consideration that would outweigh any conflict with the development plan and the appeal is, therefore, allowed".

- 6.2 The Council can demonstrate a 7-year supply of deliverable housing sites and this development will help to kick start the further delivery of a significant number of houses, including affordable, on the site, and will also trigger the associated S106 contributions. Lutterworth is identified as a key centre for growth, and the site already has outline consent for 250 dwellings.

### c) Technical Considerations

#### Design

- 6.21 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 6.22 Policy GD8 advises all housing development should be of the highest design standard and have a layout that reflects the local character of the area, and Policy H5 requires housing development to make the most efficient use of land, particularly in sustainable locations.
- 6.23 An Illustrative Masterplan (see below) was submitted as part of the outline application and set out how the site might be developed.



Fig. 24: Proposed Illustrative Layout

- 6.24 The Illustrative Masterplan and DAS shows:
- Provision of up to 250 dwellings comprising buildings predominantly two storeys high.
  - 30% of the dwellings will be affordable
  - A mix of dwelling types and sizes for both affordable and market residents
  - Proposed vehicular access from new roundabout at junction with Coventry Road and Brookfield Way
  - Public open space within the proposed development associated with the retained public footpath that crosses the site and along the boundaries of the site. Enhances footways/cycle ways.
  - Several play areas
  - Retained public right of way through a green corridor within the Retention of existing hedgerows and associated hedgerow trees that border the site.
  - Allotments on north western part of site
  - Proposed succession native tree planting along site
  - Acoustic bund to A4303
  - Pumping station, surface water attenuation areas and swale features.
- 6.25 The proposed layout plan includes landscaping alongside the footpath forming northern boundary of this phase (within 15-17m buffer, and whilst the nature of the

footpath setting would change, the footpath is retained in situ and would be enjoyed by new residents as well as existing in accordance with the Appeal Inspectors comments regarding the importance of protecting and enhancing the public right of way. A Public Rights of Way phasing plan is also included, to show when the paths will be re-opened and surfaced (all by August 2020)

The proposal indicates areas of planting and buffer zones to the boundaries with Coventry Road and the A4303, where an acoustic bund is also proposed.

The density of the development will be approximately 30 dwellings per hectare. Policy CS2 (b) of the previous Core Strategy (relevant when the outline consent was granted, advocates a minimum of 30 dwellings per ha). Mindful of the edge-of-settlement location of the site, it is judged that the proposed density is appropriate for this site. The proposed density will allow more space for open space and hard and soft landscaping; buffer zones and amenity spaces.

- 6.26 The layout proposed is considered to accord with the above broad design principles as outlined above and would result in an attractive, well designed layout, with significant landscaping which will enhance the development and protect residents from road noise.

## Highways

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- 6.27 Access has already been approved as part of the outline application (via the new roundabout), which will upgrade the existing Brookfield Way/Coventry Road priority junction). A further temporary access has also been approved for period of construction. There is an existing footpath and crossing associated with the Country Park across Brookfield Way and further pedestrian crossings will be provided.
- 6.28 The S106 Agreement provides contributions to secure travel packs; 6 month bus passes, two per dwelling; improvements to 2 nearest bus stops, information display cases at these bus stops and towards monitoring of the Travel Plan. A Grampian condition was attached to the outline consent to ensure that the speed limit adjacent to the access is reduced to 40mph (this would need to be done through a Traffic Regulation Order), otherwise the access may not be deemed acceptable.
- 6.29 As previously mentioned, the proposal meets adopted parking standards, and the spaces are considered as well related to existing properties;(a parking strategy is also provided-garages are included as part of the requirement, and meet required LCC adopted size standards), additional visitor parking is also provided (20% of total (21 spaces). Refuse and fire-vehicle tracking plans are also provided, which show that the layout can meet required standards.
- The Highways Authority has reviewed the proposal and considers that the internal layout, including parking provision meets its adopted guidance, and that the cumulative impact of development can be mitigated in accordance with to Paragraph 109 of the NPPF.

## Flooding/Drainage

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- 6.30 The application originally submitted a Flood Risk Assessment (FRA) and Drainage Strategy, which included a buffer zone is shown alongside the stream some 30m in width with proposed water attenuation areas and the use of swales is also indicated.
- 6.31 The following mitigation measures will be incorporated where appropriate to protect dwellings from groundwater and surface water flooding:

Due to the topography of the site, a pumping station will be required to serve the area west of the existing sewer (not part of this phase).  
A series of Sustainable Urban drainage systems (SUDS) to include ponds, swales and permeable block paving. These will restrict surface water run off to green field equivalent.

- 6.32 The Lead Local Flood Authority and Environment Agency have no objection to the proposed development subject to conditions relating to the submission of a surface water drainage scheme, provision of buffer zone, and finished floor levels to be a required height (conditions on outline).

#### Ecology

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- 6.33 The application has been accompanied by an Ecological Appraisal Report, and updated badger report.
- 6.34 County Ecology have no objections to the proposed development, subject to conditions requiring compliance with the recommendations in the ecology report and the implementation of the updated ecological survey. The sensitive landscaping scheme may enhance the biodiversity of the site.

#### Forestry

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- 6.35 The application has been accompanied by an Arboricultural Impact Assessment. Subject to Conditions, to ensure the development is undertaken in accordance with the recommendations outlined within the Arboricultural Impact Assessment, there would be no arboricultural reasons to refuse the application.  
Following the receipt of detailed comments on the landscaping plans, including diversity and type of tree mix, some minor revisions have taken place.

#### Heritage

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- 6.36 The applicant submitted an archaeological assessment of the development area, comprising a heritage statement and separate geophysical survey. The Inspector concluded that "an archaeological survey has been carried out and further conditions would not be necessary".
- 6.37 The proposed development site is located some distance from both the Bitteswell and Lutterworth Conservation Areas (900m +). No part of the Site lies within the primary setting or curtilage of the Conservation Area or any of its designated heritage assets. The Conservation Officer's concurs with the Case Officer that because of the location, the proposed development will not cause harm any heritage asset.

#### Footpath

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- 6.38 Two footpaths run through the development as shown below. These would remain in situ and provide access through to further countryside routes.

**Extract From The Definitive Map of Public Rights of Way for Leicestershire**  
**Proposed Housing Development - Footpath X57 and X107 at Lutterworth**

Compiled by Piers Lindley ( Tel 0116 305 7087 ) on 10 December 2015

Environment & Transport Department,  
 County Hall, Glenfield,  
 Leicestershire LE3 8RJ  
 email: footpaths@leics.gov.uk  
 Director Phil Crossland



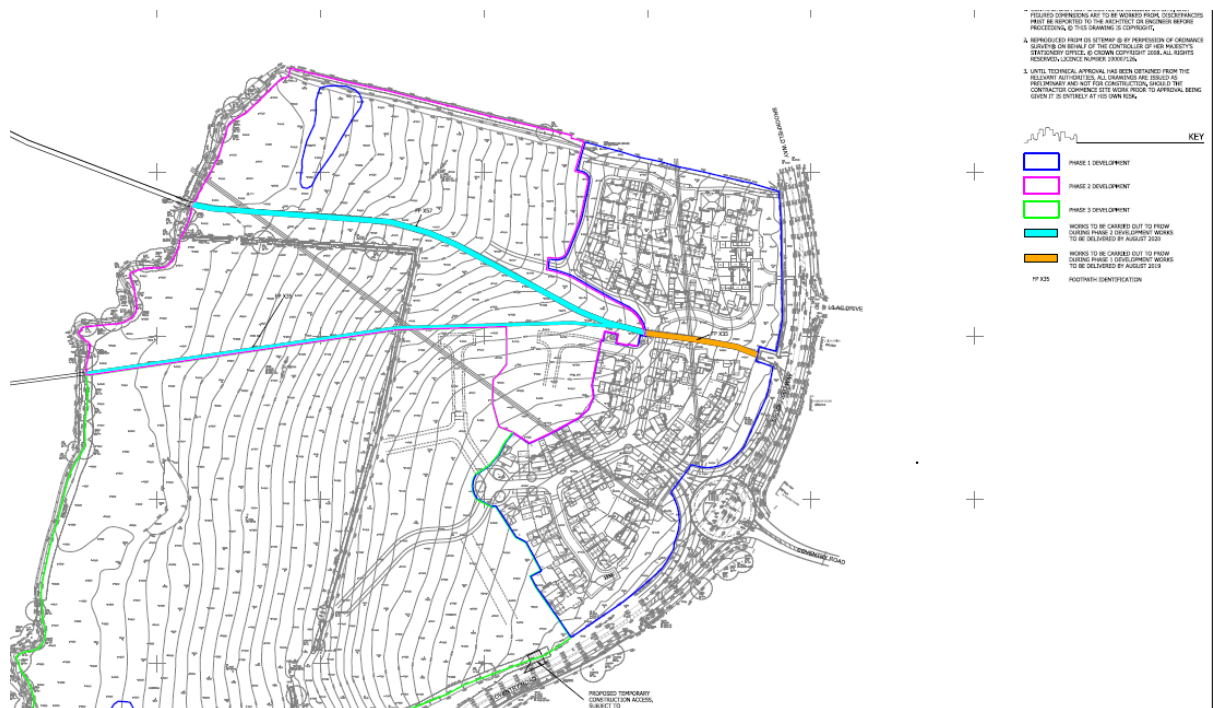
Scale 1:2500



These would be retained and incorporated into landscape strips and accords with the spirit of the Masterplan, which illustrates how the footpaths would be retained and incorporated into the development.

- 6.39 It is noted that objections have been raised, including from the Town Council, regarding the failure of the developer to properly surface and open the Public Rights of Way, in accordance with previously approved details. This matter has been referred to the Council's Enforcement team, and a Phasing Plan (below) forms part of this application. This requires works to re-open and surface PROW X35, X57 and X35 (the main footpaths shown above), by August 2020. Mulberry have confirmed that "The existing temporary footpath will be completed end of July 2020 and the first section of X35 will be completed end of August 2020".





## Residential Amenity

- 6.40 Policy GD8 of the Local Plan seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.
- 6.41 The proposed layout meets minimum separation distances within the site in the majority of cases and where there is an intervening road an acceptable separation distance, typical of this relationship also ensues, resulting in an acceptable layout. The nearest existing properties on Coventry Road and Lilac Drive but these are on the other side of Phase 1, with a large buffer and the road between, thus this part of the scheme has little impact. The scheme has been designed such that loss of amenity in respect of loss of light or over bearing impact does not result to properties approved as part of Phase 2.
- 6.42 During construction there would be some adverse impacts on residential amenity. However, a planning condition requiring a Construction Environmental Management Plan to be approved and implemented was imposed at outline stage to limit the disturbance and inconvenience that may arise when building works are undertaken (C14 refers). In addition to planning controls, the Environmental Protection Act provides a variety of safeguards in respect of noise, air and light pollution.
- 6.43 In respect of future occupiers, a noise impact assessment was originally submitted given the location close to the A4303 dual carriageway. The southern part of the site is the most significantly affected by road traffic noise. This is due in part to the higher level of road traffic noise emanating from the A4303, but also from the lower land height levels on the subject site near the road, which reduces ground absorption. A bund to provide acoustic screening and barrier is shown on the masterplan (southern part).

## Sustainable Development

6.44 The Framework identifies three dimensions to sustainable development – economic, social and environmental. Taking each of these in turn the following conclusions can be reached;

- Economic

The development would contribute towards economic growth during the construction period in terms of employment and support the house builder, particularly important in light of the current COVID-19 crisis. In the longer term, the additional population would be likely to increase spending, for instance in the local shops and help support the range of other local services, which would help maintain their viability.

- Social

The development would increase the supply and choice of housing, and would provide a mix of housing, including smaller dwellings, including a significant number of on-site affordable housing. As such, it is considered that the proposal would contribute to meeting the housing needs of the area. The proposal is, therefore, supported by paragraph 59 of the Framework which seeks to boost the supply of housing.

The site can also be accessed by sustainable modes of transport, which may contribute towards health and wellbeing and is accessible to the town centre.

- Environmental

In terms of environmental considerations, the application site is a greenfield site which has a residential permission. It is located within a sustainable distance to key facilities and the location has previously been deemed as sustainable.

Statutory consultees are satisfied that the development would not result in increased flood risk, adversely affect highway safety or ecological interests, and result in no adverse harm in respect of identified designated and non-designated heritage assets.

The development would safeguard the amenities of existing residents in the long term, but there would be some inevitable short-term disruption during the construction period. A Construction management plan should serve to control/manage this aspect (required by way of condition in outline consent). It is therefore considered that whilst the nature of the site would undoubtedly be altered, environmental matters have been addressed in accordance with the outline consent.

*In view of the above, it is considered that the proposal would represent sustainable development.*

#### **d) Planning Obligations**

6.45 Planning obligations in regard to contributions towards affordable housing, healthcare, open space, policing, education, travel packs, bus stop improvements and a Traffic Regulation Order, as attached to the outline consent, carry forward to the current application.

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

7.1 The site already has outline planning permission for 250 dwellings and the scheme would serve to bring forward the longstanding delivery of the site and support Lutterworth's role as a Key Centre. The scheme is considered in accordance with the outline and the details submitted would result in a development which is considered in keeping with the character of the area, would not result in a danger to highway safety and would not result in a significant loss of amenity to adjoining neighbours. All other technical matters have been addressed, and there are no other material considerations which have not been satisfactorily addressed.



7.2 When assessed against the NPPF, Paragraph 11 (presumption in favour of sustainable development), as well as the NPPF taken as a whole, no significant and demonstrable harm is identified and thus the proposal should be approved without delay.

The recommendation has been made taking into account Paragraphs 38 of the NPPF, as well as National Planning Practice Guidance.

## **8. Appendices:**

8.1 If Members are minded to approve the application, a list of suggested planning conditions is attached at Appendix A and Appendix B contains the approved conditions attached to the extant outline consent (17/00104/VAC), which remain to be complied with:

### **Appendix A: Suggested conditions:**

1. Approved Plans;

The development hereby permitted shall be carried out in complete accordance with the approved plans listed in schedule:  
(list of plans submitted by Woods Hardwick on 26.06.20 and updated landscaping plans Revision C, dated 02/07/20).

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

2. Landscape management plan:

The Soft Landscape Management and Maintenance Plan shall be implemented in accordance with the submitted plan s MUL22442-11C (Sheets 1-5), soft landscape management and maintenance plan, soft landscape specification, super lap proposal.

Reason: To ensure that proper maintenance of landscape features within public open space areas is undertaken.

3. Parking/turning:

The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with drawing number 18329/1007 Rev D. Thereafter the onsite parking provision shall be so maintained in perpetuity, including the visitor parking.

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 2019.

4. Pedestrian visibility:

No part of the development hereby permitted shall be occupied until such time as 2.0 metre by 2.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of the 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 the National Planning Policy Framework 2019.

5. Access drive surfacing:

The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 15 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 (2019)

6. Private drive surfacing:

Any dwellings that are served by private access drives (and any turning spaces) shall not be occupied until such time as the private access drives that serves those dwellings have been provided in accordance with Figure DG20 of the Leicestershire Highway Design Guide. The private access drives should be 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 (2019).

7. PROW Phasing Plan:

The Public Rights of Way Phasing Plan shall be implemented as submitted (dated April 2018).

Reason: To ensure that the Public can access Public Footpaths crossing the site in a safe and timely manner, in accordance with the National Planning Policy Framework 2019.

8. Ecology:

The development shall take place in accordance with the updated Ecology reports, including the Badger Report by Brindle and Green, dated 2020.

Reason: To protect the Ecology of the site, in accordance with G15 of the Harborough District Local Plan.

**Notes to Applicant**

1. You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. Market Harborough 821090). As such please be aware that complying with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.

2. Nesting birds and bats, their roosts and their access to these roosts, are protected under the Wildlife and Countryside Act 1981. Therefore, should birds or bats be present in the trees/hedges affected by this application, any felling/surgery should be deferred until late summer/autumn.

3. 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>

4. A signing and way marking scheme should be formulated by the developer and approved by the Highway Authority in respect of the Rights of Way, prior to the completion of the development.

5. Land Drainage Consent  
If there are any works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under Section 23 of The Land Drainage Act 1991. This is in addition to any planning permission that may be granted.

**Appendix B:** Conditions attached to most relevant permission 18/00703/NMA, (which allows phased implementation of the original consent 15/01665/OUT):

1. No part of the development hereby permitted shall commence until details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for that part of the development shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out as approved.  
Reason:- To comply with the Town and Country Planning (General Development Procedure) Order 1995 as this is a planning permission in Outline only.

2. Any applications for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.  
Reason:- To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 and to enable the Local Planning Authority to review the position at the end of this period.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.  
Reason:- To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 and to enable the Local Planning Authority to review the position at the end of this period.
4. The development hereby permitted shall be carried out in accordance with the following plans, but only in respect of those matters not reserved for later approval: Location Plan:17394 1006, Proposed Site Access 17416/LUTT/5/500 Rev.C  
Reason: For the avoidance of doubt.
5. The sequencing of the development hereby approved shall be in accordance with the Indicative Master Plan and Phasing Plan ref.17394/1029B, unless an alternative Phasing Plan is submitted to and approved in writing by the Local Planning Authority  
Reason:- To ensure a satisfactory form of development that mitigates impact on the character and appearance of the countryside and to accord with Core Strategy CS11 and the aims and objectives of the Framework in respect of Delivering Sustainable Development.
6. No dwelling hereby permitted shall be occupied until such time as the approved roundabout junction works serving the site from Coventry Road / Brookfield Way as detailed on drawing 7394/LUTT/5/500 Rev.C have been provided in full and are available for use by vehicular and non-vehicular traffic.  
Reason: In the interest of the amenity of the area and highway safety and to accord with Core Strategy CS11.
7. No other development shall commence on site until a temporary construction access has been provided in full in accordance with the details approved under planning permission 18/00448/FUL.  
Reason: In the interest of the amenity of the area and highway safety and to accord with Core Strategy CS11.
8. The reserved matters submitted in pursuance of Condition 1 shall include full details of all parking and turning facilities, access widths, gradients, surfacing and visibility splays relevant to that part of the site. The development shall then be carried out in accordance with the approved scheme prior to the occupation of that part of the development to which it relates.  
Reason: In the interest of the amenity of the area and highway safety and to accord with Core Strategy CS11.

9. Prior to first occupation, a travel plan, including a timetable for implementation shall be submitted to the local planning authority and approved in writing. The travel plan shall then be implemented in accordance with the approved details.  
Reason: In order to promote the sustainability of the development in accordance with Core Strategy CS5 and the aims and objectives of the Framework.
10. Prior to the first occupation of the first dwelling hereby approved, a scheme for the improvement of Public Footpaths X57 and X35, including an implementation timetable shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall include the provision of a 3 metre wide all-weather sealed surface for the contiguous section of Footpaths X57 and X35, a 3 metre wide all-weather sealed surface to the remaining sections of Footpath X57 and a 1.8 metre wide all-weather sealed surface to the remaining sections of Footpath X35. In addition, the scheme shall include details of signage and way marking. The footpaths shall then be improved in accordance with the approved scheme.  
Reason: In the interest of the amenity of the area and to safeguard Public footpath affected by the development, to accord with Core Strategy CS11.
11. No development, other than that permitted in accordance with Condition 5 or allowed for under Condition 6 [new condition for temporary construction access], shall take place within any part of the site until such time as a surface water drainage scheme for that part of the site has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of two treatment trains to help improve water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme  
Reason:- To prevent the increased risk of flooding, to ensure future maintenance of the surface water drainage system, and to accord with Policy CS/10 of the Harborough District Local Plan and the aims and objectives of the Framework
12. The reserved matters submitted in pursuance of Condition 1 shall be prepared in line with the recommendation and conclusions contained within the Flood Risk Assessment - September 2015 prepared by Woods Hardwick.  
Reason:- To prevent the increased risk of flooding, to ensure future maintenance of the surface water drainage system, and to accord with Policy CS/10 of the Harborough District Local Plan and the aims and objectives of the Framework
13. No development, other than that permitted in accordance with Condition 5 or allowed for under Condition 6 [new condition for temporary construction access], shall commence on site until full details of the design, implementation

and maintenance / management of the foul drainage for the development have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include full details as to location, design, specification and timetable for construction of the proposed pumping station. The development shall then be carried out in accordance with the approved details and maintained as such thereafter.

Reason:- To prevent the increased risk of flooding, to ensure future maintenance of the foul water drainage system, and to accord with Policy CS/10 of the Harborough District Local Plan and the aims and objectives of the Framework

14. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include 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) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate, e) wheel washing facilities, f) measures to control the emission of dust and dirt during construction, g) a scheme for recycling/disposing of waste resulting from demolition and construction works, h) measures for the protection of the natural environment, i) hours of construction work, including deliveries, j) measures to control the hours of use and piling technique to be employed, k) measures to control and minimise noise from plant and machinery, l) details of any security lighting on site and m) A Construction Traffic Routing Agreement, has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.  
Reason:- In the interest of the amenity of the area and highway safety and to accord with Core Strategy CS11.

15. The development hereby approved shall be implemented in accordance with the approved mitigation measures detailed in the Ecological Survey by Brindle and Green dated Sept 2015.  
REASON: In the interests of wildlife and nature conservation and to accord with Harborough District Core Strategy Policy CS11.

16. Any reserved matters submitted in pursuance of Condition 1 shall include details of the siting, design, external appearance, landscaping, means of access, facilities and equipment for all formal and informal recreation areas relevant for that part of the development and a timetable for their implementation. These areas are to be provided in accordance with the approved details.

17. Prior to commencement of the development, hydraulic modelling analysis of the watercourse showing safe developable limits shall be submitted to and approved in writing by the local planning authority. The reserved matters submitted in pursuance of Condition 1 shall be prepared in line with the analysis.

Reason:- To prevent the increased risk of flooding, to ensure future maintenance of the surface water drainage system, and to accord with Policy



CS/10 of the Harborough District Local Plan and the aims and objectives of the Framework

Notes to Applicant:

1. You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. Market Harborough 821090). As such please be aware that complying with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.
2. A public footpath / bridleway crosses the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council Highways Department (Tel. (0116) 305 0001).
3. The vehicular crossing shall be constructed to the satisfaction of the Highway Authority and a licence and specification must be obtained from Leicestershire County Council Highways Department (Tel. (0116) 305 0001).
4. Nesting birds and bats, their roosts and their access to these roosts, are protected under the Wildlife and Countryside Act 1981. Therefore, should birds or bats be present in the trees affected by this application, any felling/surgery should be deferred until late summer/autumn.

## Planning Committee Report

**Applicant:** Harborough District Commercial Services Limited

**Application Ref:** 20/00491/FUL

**Location:** B&M House, The Commons, Market Harborough, Leicestershire

**Proposal:** Change of Use from A1 (Retail) to D2 (Assembly and Leisure) use

**Application Validated:** 24/04/2020

**Target Date:** 19/06/20 (Extension of time agreed)

**Consultation Expiry Date:** 18/05/20

**Site Visit Date:** 25/04/20

**Case Officer:** Louise Finch

**Reason for Committee Decision:** HDC is the Applicant

## Recommendation

Planning Permission is **APPROVED**, for the reasons set out in the report, subject to;

- The conditions and informatives set out in Appendix A.

### 1. Site & Surroundings

- 1.1 The site is located in the centre of Market Harborough, within the Commons carpark, and has been used for a number of retail outlets, including Iceland, Marks and Spencer, and, most recently, as B&M. It has been vacant since the end of March 2020.

*Figure 1. Site Location*



## 1.2 The site.





*Figure 2. Photos of the site looking North*

- 1.3 The site is located within the Market Harborough Conservation Area. There are no listed buildings immediately adjacent to the site
- 1.4 The site is accessed via the carpark, and has a delivery yard to the rear, shared with Tesco.

## **2. Site History**

- 2.1 The application site has previously been the subject of the following relevant planning history:  
None relevant.

## **3. The Application Submission**

### **a) Summary of Proposals**

- 3.1 The proposal seeks the change of use from retail (Class A1) to a gym (Class D2-Assembly and leisure). The entrance will be on the ground floor via a main entrance from the Commons carpark. No external changes are proposed.
- 3.2 The Agent supporting information states:  
The use would be by a nationwide gym operator, who operate on a model of being open 24 hours a day, 7 days a week  
The staffed opening time would be between the hours of 6am to 10pm, and where there is justification for doing so, restrictions could be placed on the nature of use outside of these hours.

The property has a gross internal floor space of approximately 657m<sup>2</sup> and the gym will occupy the ground floor.

A limited number of internal alterations are proposed to the rear of the unit. These include installation of partitions to create toilets, and male/female changing facilities including showers

The proposed gym will be largely open plan comprised of distinct workout areas, including a cardiovascular area (rowing, running and cycling equipment), free weights section, weight machines and a self-contained fitness studio

The self-contained fitness studio will be installed for a variety of gym classes to run as and when required. The studio will be insulated and include acoustic and vibration materials to ensure noise and vibration do not escape

The gym will be occupied by an experienced operator with several other facilities across the country

The gym will provide a health and fitness use which is aimed at a different market to the current offer typically within the Market Harborough area. The gym aims to increase access to health and fitness activities to a wide demographic to encourage improved health by providing a low cost and flexible option

Membership will be at low cost, with no minimum contract period. As such members can join for just a single month, or have a break within their membership at nominal cost

A gym of this size is forecast to attract approximately 2000 members. The expectation is for approximately a 20% rolling dormancy rate (non-active members), with approximately 40% using on average 1 – 2 times a week, and approximately 40% using 3 – 6 times a week, either for personal workouts or classes. The majority of users stay for an average duration of 1 hour.

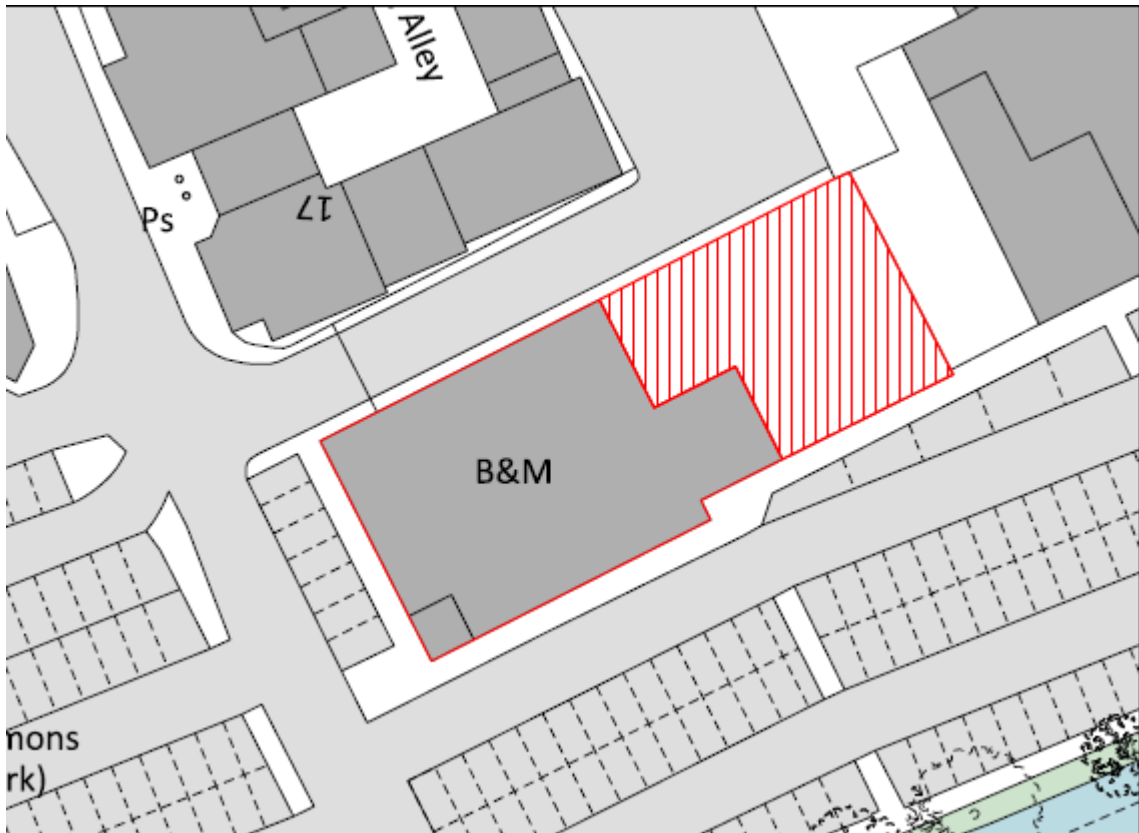
The gym clientele is usually based locally with 30% likely to travel to the gym on foot from home or their workplace. Most vehicular trips are undertaken as linked trips either on their way to and from home or work, or as part of utilising other retail services and facilities within the area and as such will park in the Commons Car Park

Using data from other sites, 10% of visits are made between the hours of 22:00 and 06:00, with very minimal attendance between 00:00 and 06:00. Due to the nature of the gym use members attending between these hours tend to do so on an individual basis, rather than as part of groups, and comprises those working shifts, such as emergency service personnel. As such the potential for any impact in terms of noise and disturbance during these hours is limited.

Peak usage is at lunchtime (12:00-14:00) and late afternoon/early evening (16:00-20:00) during weekdays, and weekend mornings (8am – 12pm).

8 full-time staff would be employed, and the gym would be staffed between 6am-10pm during the week, and 8am and 4pm at the weekend; at other times Members will access through secure lobby system.

Figure 3. Proposed site plan



#### **b) Documents submitted**

##### **i. Plans**

- 3.2 The application has been accompanied by the following plans –
- 'Site location and existing site plan'

##### **ii. Supporting Statements**

- 3.3 The application has been accompanied by the following supporting statements –  
Planning Statement

#### **c) Amended Plans and/or Additional Supporting Statements/Documents**

- 3.4 Additional Statement on retail demand (June 2020)  
Statement on operations management (June 2020)

#### **d) Pre-application Engagement**

- 3.5 None was undertaken.

#### **4. Consultations and Representations**



- 4.1 Consultations with technical consultees and the local community were carried out for the application. This consultation period expired on 18/05/20.
- 4.2 Firstly, 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**

- 4.3 **Market Harborough Civic Society**  
None received

**LCC Highways**  
None received

**HDC Environment Team**  
None received

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

- 1.4 Two objection comments have been received:

1. On behalf of Unit 5, Three Manors Retail Park, "Snap Fitness";  
Refers to The Planning statement associated with this application on page 5 quotes the Lichfields Harborough District Retail Study (update) 2017  
From this study the planning statement quotes section 4.9 which concludes 'There is capacity for three medium sized health and Fitness facilities (around 50 fitness stations each) in the district over the plan period.

The Lichfields Harborough District Retail Study (update) 2017 in table 3.1 on page 7 shows Harborough district has 10 Facilities.

Of these 10 facilities 3 are already highlighted as having more than 50 stations ( Harborough Leisure centre, Lutterworth Sports centre and Snap Fitness). Already therefore at this stage the district has the 3 medium sized facilities.

Since the Lichfields study in 2017 the following has happened in the district:

1. More Fitness opened with 50 stations plus in 2019 (Planning ref no 18/01884/FUL)
2. Gym 11 (75 St Marys Road,Market Harborough,LE16 7DS) have increased the number of stations after a recent refurbishment
3. The Training Shed has been completely missed from the facilities list in the report and has over 50 stations

The above clearly highlights that the provisions of the Lichfields report have already been met with those facilities highlighted in their report and the New facilities added since.

2. One local resident:

I feel the argument that this change of use is required to make the building viable is unjustified and based on a small amount of history which suits the applicant. In my opinion gyms should be an out of town experience as they do not add to the general A gym does not create local employment in any substantial way compared to a shop and the only reason that this could not be financially viable is tax or rent which could easily be changed to make it viable.

#### **5. Planning Policy Considerations**

5.1 Please see above for planning policy considerations that apply to all agenda items.

#### **a) Development Plan**

5.2 Relevant policies to this application are:

- *Harborough Local Plan (HLP) 2011-2031*
- SS1 The spatial strategy
- GD1 Achieving sustainable development
- GD2 Settlement development
- GD8 Good design in development
- H1 Provision of new housing
- H5 Housing density, mix and standards
- RT1 Provision of new retail uses
- RT2 Town and local centres
- RT4 Tourism and Leisure
- HC1 Built heritage
- GI5 Biodiversity and geodiversity
- CC3 Managing flood risk
- CC4 Sustainable drainage
- IN2 Sustainable transport
- IN4 Water resources and services

These are detailed in the policy section at the start of the agenda.

#### **b) Material Planning Considerations**

- 5.3
- *The National Planning Policy Framework ('the Framework')*
  - *The National Planning Policy Guidance*

#### **c) Other Relevant Information**

- *Reason for Committee Decision*

5.4 This application is to be determined by Planning Committee as the Applicant is Harborough District Commercial Services Limited.

### **6. Assessment**

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

6.1 The NPPF (2019) sets out the planning policies and decision should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. In line with the NPPF (para 85), the Local Plan defines a network and hierarchy of town centres and a policy context that allows 'them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters'.

The Local Plan defines both a Town Centre and a Primary Shopping Area for Market Harborough (Policy RT2). B & M House is within the defined Town Centre and adjacent to the Primary Shopping Area. Policy RT2.2 makes it clear that town centre uses will be permitted providing their scale and design reflects the role, function, distinctive qualities and historic/architectural heritage of the town centre.

The proposed use (a gym) falls within the NPPF's main town centre uses definition which includes 'health and fitness centres'. Therefore, the Town Centre is a suitable location for the proposed D2 use.

RT2.2 goes on to say that development that would harm the vitality and viability of the town centre will not be permitted. A gym could add to the vitality of the town by operating outside traditional retail opening hours. However, the loss of a relatively modern, sizable retail unit could impact negatively on the vitality of the town.

The retail unit is adjacent to the Primary Shopping Area and the Commons car park. The proposed change of use would result in the loss of a retail unit of 657sqm. Based on evidence prepared in 2017 (Harborough Retail Study Update), Policy RT1 sets out a need for 11,100sqm of additional retail floorspace in Market Harborough to 2031 (convenience 3,000sqm and comparison 8,100sqm), whilst recognising that projections for the period 2026-2031 should be treated with caution and kept under review. RT1 allocates 2 sites which could contribute to this retail need, neither of which has come forward to date. These allocations would be to provide net additional retail floorspace, not to address any reduction as a result of loss through this change of use (as suggested on page 4 of the applicant's Planning Statement).

Given that the Council's evidence suggests a substantial need for additional retail floorspace in Market Harborough, the Applicant was asked to provide evidence of the extent to which the site has been marketed for retail use would be helpful (now provided).

Policy RT4 Tourism and leisure supports the retention, enhancement and expansion of existing tourism and leisure attractions and tourist accommodation. It particularly encourages such provision where accessible by public transport, walking and cycling. This site provides such opportunities to encourage sustainable travel given its central location.

The supporting explanation to Policy RT4 at para. 7.7.6 refers to the Retail Study Update 2017 as identifying a need for food and beverage uses and other commercial leisure facilities, including health and fitness facilities. The study identified a projected need for approximately 3 medium sized health and fitness facilities (around 50 stations each) across the District to 2031.

Taking into account the findings of a recent audit of fitness stations 1], a total of 543 stations were found to exist in across the District. Since then More Fitness has opened in Market Harborough providing another 50 stations. This brings the total to approximately 600 fitness stations an increase of almost 200 on the audit figure in the 2017 Retail Study.

Whilst this need would appear to have been met, promoting the health and well-being of communities through access to recreational and leisure facilities is a key element of both the NPPF and the Local Plan vision and objectives. Town centres are considered to have an important role in meeting the demand for such leisure facilities.

It is noted that an objection has been raised on behalf of another gym located on the Three Manors Retail Park, who refers to the "need" identified in the Retail Study

Update 2017 being met, but as described above Policy RT4 sets no maximum figures, and encourages such uses in sustainable locations.

- 6.2 Whilst policy supports the provision of fitness/leisure facilities within the Town Centre, the loss of this relatively modern, sizeable retail unit could impact on the viability and vitality of the town. Our evidence indicates that there is a need for additional retail floorspace in Market Harborough over the plan period and as such would suggest a potential demand for this unit to remain in retail use. The applicant was subsequently asked to provide evidence of any market factors and/or site-specific reasons that suggest the site is no longer needed or suitable for ongoing retail use. This could include how the site has been marketed, to whom and over what time period, what interest there has been and any feedback from potential retailers/other users who enquired about the site
- 6.3 A statement on retail demand was submitted (17/06/20), in support of the application, at the request of the Planning Officer. This was to demonstrate whether the property has been suitably marketed for retail use as discussed above.

Relevant excerpt from the statement is quoted below:

**“ Marketing of B&M House, and Interest Received**

The applicant was notified by B&M in mid-2016 that they did not wish to renew their tenancy of the property once the lease expired on 23rd June 2018. Throughout the 2 years leading up to the lease expiry, and for 18 months subsequent to that, whilst B&M held-over temporarily, the applicants were unable to convince B&M to renew the lease, or agree on revised terms that would better suit B&M.

B&M had identified a more suitable out-of-town site (the former Homebase building) which better fitted with their local needs and desire to expand. Retaining a second town centre site was not a viable option for them.

From the time that B&M gave notice they did not wish to remain at the property, the applicant, who is a well established specialist listed real estate investment trust focused primarily on retail and leisure property, in tandem, marketed the property to retail users in an attempt to re-let to a A1 retail tenant. The property remains on the market with specialist national retail lettings agents, but with no significant interest from A1 retail users.

The property has therefore been marketed for approaching 4 years, which is a considerable amount of time in which to have been searching for a new retail tenant without success.

There had been some initial high-level interest from charity users, and also from a discount retailer, but these did not proceed to meaningful discussions, or an offer being submitted to the agents. Their interest no longer remains.

The property was vacated by B&M in March 2020, and the property is currently vacant. The only offers to have been received have been from two gym operators in the D2 leisure sector”.

The submission shows that the site has been marketed for considerable length of time (approximately 4 years) without any offers from the retail sector. Previous tenants have cited the secondary location and competition from within the town centre as challenges when operating from the site.

Further, given current Covid 19 circumstances, it is unlikely that any retail interest is imminent. Rather than an empty unit in the town centre, it is considered beneficial to have it in active use, particularly with the emphasis on health and wellbeing, and the need to provide adequate space at gyms.



- 6.10 The site is within the Market Harborough Conservation Area. The building is seen in the overall site context of the carpark and is itself a very functional building. There are some large glazed areas which may afford views both in and out of the building, and create some visual interest to passers-by. No advertisement or external changes are proposed, but these would be the subject of a future application, if required.

## 2. Highways

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- 6.11 Paragraph 108 of the NPPF states that schemes can be supported where they provide safe access for all and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 makes it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residential cumulative impacts on the road network would be severe. GD8 of the Local Plan 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.
- 6.12 The Local Highway Authority (LHA) have not commented as the site is within an existing public carpark, in a sustainable town centre location. There is no scope to provide any on-site parking and delivery arrangements remain as existing (and would be far lower than a retail use in any event). More off peak use is expected which will not clash with the busiest use of the carpark in the daytime. There are public covered cycle stands within the carpark, and there are also public transport options, though given the central location, it would be highly accessible by foot too.

## 3. Residential Amenity

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- 6.13 Policy GD8 of the HLP states that development should be designed to minimise impact on the amenity of existing residents. Given the location (nearest residential properties are flats above Tesco, Northbank Flats, (other side of Coop) and properties on Walcot Road (other side of river), and nature of the use, with any noise contained within the building the use is considered as compatible with the town centre location. There are a number of other night time uses, such as The Pizzaman restaurant, Blue Wave Fish Bar, and Enigma Bar in the vicinity. The use is likely to be very low very late at night and very early in the morning and it is not considered necessary to restrict hours of use
- 6.14 The Applicants have provided a “noise mitigation and Insulation” section in their submission (Operations report para 4.00). This includes limitation on music played and adequate sound insulation. It is considered reasonable to require such measures to be implemented prior to use commencing, in accordance with the report (condition 4 refers)





- 6.15 As previously mentioned, no external changes are proposed, but there would be a condition requiring details of any air conditioning equipment to be agreed prior to installation. Subject to such condition the development is considered acceptable without adverse impact on the amenity of existing residents in compliance with GD8 of the HLP.

#### 4. Flooding/Drainage/Ecology

- 6.16 Given the nature of the proposal there would be no impact on these matters.

#### 5. The Planning Balance / Conclusion

- 6.17 As outlined within the report the principle of this Class D2 use (gym) on this site is considered acceptable. It would be within a highly sustainable location and would add the vitality and viability of the town centre, including in evenings and result in the re-use of an empty unit, the proposal is therefore in accordance with policy RT1, RT2 and TR4 of the HLP. Furthermore, the proposed development is not considered to give rise to highways safety harm or harm to residential amenity. The proposal is considered to provide economic benefits, in respect of employment created during conversion, and job opportunities thereafter, as well as to provide further health and exercise opportunities.

## APPENDIX A- Planning Conditions and Informatives

### 6. Conditions

#### 1. Planning Permission Commencement

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

REASON: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004

#### 2. Permitted Plans

The development hereby permitted shall be carried out in accordance with the following approved plan(s): Drawing No. 17729:01, 17729:03G, 17729:04D and 17729:05D.

REASON: For the avoidance of doubt.

#### 3. Air-conditioning equipment details

Details of any external air conditioning equipment shall be submitted and agreed in writing of the Local Planning Authority, prior to installation.

REASON: To enable the Local Planning Authority 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. Noise mitigation measures

Prior to first use, the noise insulation measures shall be put in place, and the future operation of the premises shall be as set out in Section 4.0 of the "Statement of operations management" (June 2020).

REASON: To preserve the residential and visual amenities of the locality having regard to Harborough Local Plan GD8 and the National Planning Policy Framework

### 7. Informatives

#### Adverts excluded.

The applicant is advised that separate consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 may be required for the installation of any advertisements.

## Committee Report

**Applicant:** SG & EG (UK) Ltd

**Application Ref:** 20/00632/PCD

**Location:** Nether Hall, 5 Church Street, North Kilworth

**Proposal:** Discharge of Conditions 4 (written scheme of investigation) and 5 (ecology construction management plan) of 19/01679/FUL

**Application Validated:** 06/05/2020

**Target Date:** 01/07/2020

**Consultation Expiry Date:** 10/06/2020

**Case Officer:** Ruth Meddows-Smith

**Reason for Committee decision:** Call in by Ward Member Cllr Nunn for the following reason (summarised, for full text see paragraph 3.7 below):

- Insufficient archaeological investigation to discharge the condition

## Recommendation

It is recommended that condition 4 and condition 5 of planning permission reference 19/01679/FUL are discharged, for the following reasons:

The details contained within the Written Scheme of Investigation (*Written Scheme of Investigation for Archaeological Field Investigation* (University of Leicester Archaeology Services, March 2020, report ref 20/285 Acc No/Site Code: X.A41.2020) are considered acceptable, and it is recommended that condition 4 (archaeology written scheme of investigation) of planning permission reference 19/01679/FUL is discharged.

The details contained within the ecology report (*Update Preliminary Ecological Appraisal (PEA) Report* (Pearce Environmental Ltd, March 2020, ref 190320.PEA)) are considered acceptable, and it is recommended that condition 5 (ecology construction management plan) of planning permission reference 19/01679/FUL is discharged.

## 1. Site & Surroundings

- 1.1 The application site is located to the eastern side of Church Street within the existing built-up form and Conservation Area of North Kilworth. Residential properties lie to the north and west; to the immediate south lies the Parish Church of St Andrew (Grade II\* Listed); open countryside lies to the east.

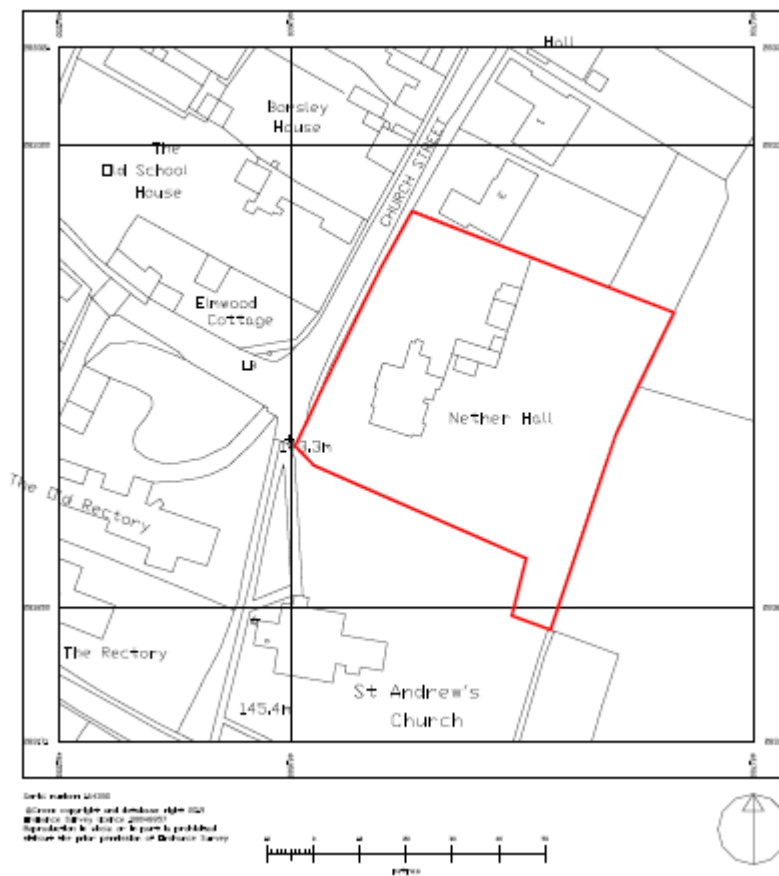


Figure 1: Site Location



Figure 2: Aerial photograph (2018) showing site in relation to village

- 1.2 The site is accessed from Church Street, and the house is set in a spacious plot, with the land lower at the northern end than the southern. Boundaries are marked by trees and some closeboarded fencing of 1.8-2m height, with the rear boundary to the countryside marked with a mature beech hedge and post & rail fencing, and the front boundary to Church Street and most of the south boundary having a 1.8-2m brick wall.
- 1.3 Nether Hall is a substantial detached dwelling of Victorian design and construction. It has brick walls with brick detailing including burnt header diaper work, and a slate roof with the tiles laid in a decorative pattern. The building is not nationally Listed, but does have considerable character. The Neighbourhood Plan recognises this, formally designating Nether Hall as Locally Listed.
- 1.4 The site has been subject to several separate Notifications of Works to Trees in a Conservation Area and it appears that most of the works have been carried out.

## **2. Site History**

2.1 The Site has the following relevant planning history:

- **18/00662/FUL** – Partial demolition of conservatory, erection of replacement conservatory, demolition of lean to store, erection of replacement store, erection of brick walls, erection of single storey outbuilding, installation of tennis court and erection of timber sauna (retrospective) – approved July 2018
- **19/00791/TCA** – works to trees (fell) – approved June 2019
- **19/01837/TCA** – works to trees (fell) – approved January 2020
- **20/00113/TCA** – works to trees (fell) – approved March 2020
- **19/01679/FUL** – Erection of a single storey side extension including installation of lift shaft (to serve basement area) and installation of bay window, underground engineering works to provide an extension to the existing basement area to create ancillary accommodation and to create a sunken courtyard with stepped water feature – approved February 2020 subject to conditions. (Hereafter ‘the extant permission’)
- **20/00113/TCA** – works to trees (fell) – approved 2<sup>nd</sup> March 2020
- **20/00567/VAC** – Variation of Condition 3 (approved plans) of 19/01679/FUL to amend the line of the underground extensions – pending Committee decision
- **20/00754/PCD** – discharge of condition 6 (Construction Environmental Management Plan) of 19/01679/FUL – approved June 2020.

## **3. The Application Submission**

### **a) Summary of Proposals**

- 3.1 The extant permission was granted subject to condition, including relating to archaeological investigation and ecological survey and mitigation. Information has been submitted to meet the requirements of the conditions, with the request that they are discharged.

### **b) Documents submitted**

#### **i. Plans**

- 3.2 No plans have been submitted with this application

#### **ii. Supporting Information**



- 3.3 In addition to a covering letter, the application was submitted with the following supporting information:

~ *Update Preliminary Ecological Appraisal (PEA) Report* (Pearce Environmental Ltd, March 2020, ref 190320.PEA)  
~ *An Archaeological Investigation Report at Nether Hall, Church Street, North Kilworth* (D. Clark, University of Leicester Archaeological Services, May 2020, report ref 2020-062, Accession ref X.A41.2020)

iii. Additional Information

- 3.4 The wording of the condition requires a Written Scheme of Investigation (WSI) to be submitted to the LPA, and the submitted *Archaeological Investigation Report* is not the WSI. It appears that the applicant sent the WSI to the County Council Archaeologist in error. Officers approached County Archaeology for the WSI and received the following document:

~ *Written Scheme of Investigation for Archaeological Field Investigation* (University of Leicester Archaeology Services, March 2020, report ref 20/285 Acc No/Site Code: X.A41.2020)

- 3.5 The applicant has confirmed that this is the correct document and that it should be used in determining the application.

c) Pre-application Engagement

- 3.6 No pre-application advice relating to this application was requested or given.

d) Other Relevant Information

- 3.7 The application has been called-in to Planning Committee for Committee determination at the request of Cllr Nunn, for the following reasons:

*"I do not feel the Condition 4 has been discharged due to the small scale of the archeological work which was undertaken and the significant increase in the size size of the basement development at Nether Hall . The comments below are required to be considered.*

*This area is potentially of significant archeological interest as it falls within the Historic settlement core and Conservation area of North Kilworth (her Refs : MLE9146 and DLE511). It is adjacent to the Church of St Andrew listed grade II\* (HER Ref :MLE12025) and to Medieval and post medieval remains to the south east (HER Ref MLE9824)."*

*In March 2019 a minor dig in the churchyard less than 35 metres away produced the remains of a large pot rim and a diamond shaped loom counterbalance weight of pottery-complete with a hole for the string that once attached it to the shuttle arrangement. The pottery dates the site to around 800-1000 years BC (3000 years ago). Since then in Jan/Feb 2020 we understand there has been another significant archeological find on the site being developed at the start of Pincet Lane in North Kilworth. These discoveries seem to suggest that the high ground at the North edge and the high ground at the South edge of north Kilworth were areas of early settlement in North Kilworth centuries ago. This theory is further supported by the*



*five day archeological survey conducted in February 2020 at the Ivy House planning proposal site in the centre of the village that revealed only a possible 'makeshift' set of stones which might suggest a pathway across the boggy area in the central dip of the village. This suggests that there is the potential for archeological finds in the vicinity of Nether Hall and therefore it probably warrants a more thorough excavation of the Nether Hall site. It also raises the question as to why Ivy House a grade 2 listed building merited a 5 day Archeological dig with c450 tonnes of earth being explored on a Planning site across the road, yet Nether Hall, next door to a Grade 1 listed building (St Andrews) where remains of a settlement dating back c3000 years were discovered in 2019 at a similar distance only merited less than a days exploration?"*

- 3.8 A four page letter has been received from Shakespeare Martineau, the applicant's legal representative. It raises various points, including whether committee determination is necessary for this application. Officers have replied to the letter and the response, together with the letter, are available for inspection upon request.
- 3.9 On 29<sup>th</sup> June, officers received a letter from the applicant's agent stating that "unless Condition 5 'Ecology Construction Management Plan' of the above Planning Approval is not determined by Wednesday 1st July 2020, we formally give you notice that Condition 5 will be 'deemed approved'". Officers do not consider that this notification meets the requirements of the legislation (Articles 27, 28 and 20 of the Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

#### **4. Consultations and Representations**

- 4.1 Consultations with technical consultees was carried out on the application. This occurred on 15<sup>th</sup> May 2020.
- 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**

###### **LCC Ecology – 20/00632/PCD**

- 4.3 "The updated PEA is satisfactory. It details the presence of a large main badger sett on adjacent land. There were no signs of badger occupation on site, but there is a risk to badger during construction, as they may forage on the site. Precautionary measures are required, and are detailed in the report (Pearce 2020). Section 5.3.14 and Appendix 8 (showing fencing) should be referred to in condition."

###### **LCC Archaeology – 20/00632/PCD**

- 4.4 "I can confirm that I am happy to accept the report and discharge the 20/00632/PCD application for the trenching work."
- 4.5 Officers have also been provided with correspondence between the applicant's archaeologist and the County Council Archaeology department, confirming that the WSI was acceptable.

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

- 4.6 Four letters of objection received, from 2 households, expressing the following concerns specially related to the discharge of conditions:

- Archaeology survey was curtailed by tree
  - Inconsistent amount of archaeological survey given amount on other sites in the village
  - Disturbance to badgers by proposed route of soil disposal
- 4.7 A number of other points were raised in the representation; however these all seem to relate to the larger development as proposed in 20/00567/VAC. The same neighbours have made similar representation separately on that application.

## **5. Discharge of Condition Considerations**

### 5.1 Condition 4 of the extant consent reads:

*“No development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and*

- o The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works*
- o The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI”*

The reason for the condition is: *“To ensure satisfactory archaeological investigation and recording given the location of the site and the underground works proposed and to accord with Harborough District Local Plan policy HC1 and the National Planning Policy Framework.”*

### 5.2 Members must consider whether the submitted information satisfactorily addresses the requirements of the condition, and therefore whether it can be discharged.

### 5.3 Condition 5 of the extant consent reads:

*“Prior to the commencement of any ground works, including any archaeological excavation, an Ecology Construction Management Plan showing suitable measures to protect badgers shall be submitted to and approved in writing by the Local Planning Authority. Any archaeological work and the subsequent development shall be carried out in accordance with the approved Ecology Construction Management Plan.”*

The reason for the condition is: *“To ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the construction of the development and any necessary archaeological works, having regard to Harborough Local Plan Policy GI15, North Kilworth Neighbourhood Plan policy NK13 and the National Planning Policy Framework.”*

### 5.4 Members must consider whether the submitted information satisfactorily addresses the requirements of the condition, and therefore whether it can be discharged.

## **6. Assessment**

### a) Archaeology

- 6.1 A Written Scheme of Investigation was submitted and considered acceptable by the County Archaeologist. On this basis, archaeological investigation was been carried out, including a desk-based assessment and then on-site archaeological investigation undertaken on 23<sup>rd</sup> April 2020. This involved digging a single trench of 17.2m length and 1.6m width, with a maximum depth of 0.82m, at which point the 'natural' ground (undisturbed ground) was reached.

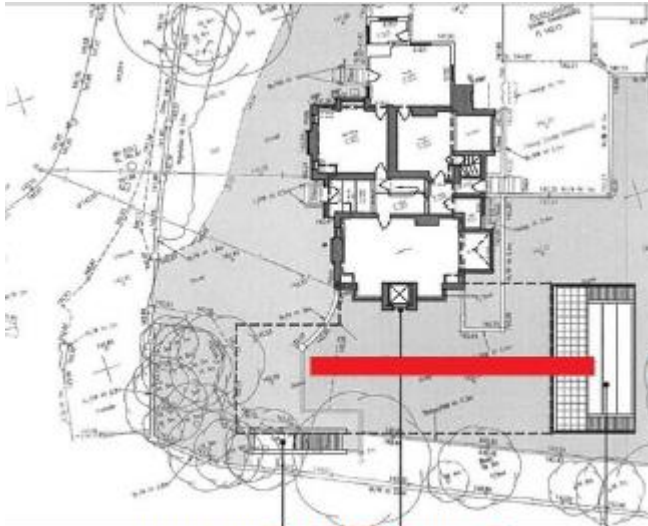


Figure 3: Proposed trench position



Figure 4: Actual trench position

**Figure 3: details from the archaeology report showing proposed and actual trench positions**

- 6.2 The investigation found heavily-disturbed soil, with only one archaeological feature: a narrow gully. No dating evidence was found within this gully, despite being excavated to its depth. The report concludes: "The site at Nether Hall, North Kilworth lay within the historic medieval core of the village and it was possible that archaeological remains may have survived within the area. However, only a shallow undated gully was found within the investigated area. Although the ground had been heavily disturbed in recent times, the depth of overburden suggested a build-up of material with features cut into the natural substrata surviving. The lack of any dating for the gully means the site does not add anything to the Regional Research Agenda."

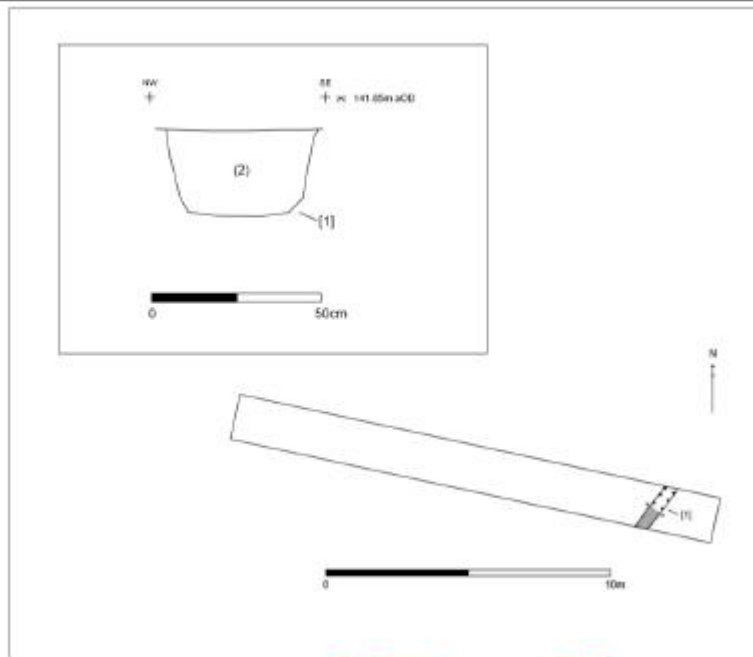


Figure 7: Detail of trench, with gully cut [1] as insert



Figure 8: Gully [1], at east end of the trench, partially excavated.

#### Figure 4: details from the archaeology report showing gully

- 6.3 The site is within the historic medieval core of North Kilworth, and evidence has been found of earlier settlement (prehistoric) on the northern edge of the village and in the adjacent churchyard. The investigative work carried out at Nether Hall went through all layers of human activity and stopped at the natural ground. From discussion with the County Archaeologist, officers understand that any features (be it post-medieval, medieval or earlier) would have been evident through the excavated soil if they were there. (For example, Iron-Age ditches on the north of the village were evident in geophysical survey and when removing just the topsoil). The County Archaeologist has clarified that the finds in the adjacent churchyard were not referred to in her consultation response as they were unaware of them at the time: the investigation

appears to have been carried out on behalf of the diocese and the County Council were not informed until recently.

- 6.4 The submitted WSI includes full details as required by the condition, including a programme for archiving, dissemination and deposition of the reports. The County Archaeologist is satisfied that the condition can be discharged.
- 6.5 The submitted WSI and Archaeological Evaluation report are considered acceptable by the County Archaeologist, in relation to the extant permission, and it is recommended that the condition is discharged. Members should be aware that further archaeology work is recommended for application reference 20/00567/VAC, also to be considered by Members.

## **b) Ecology**

- 6.6 An ecological survey has been carried out on the site and its surrounds. This comprises a desk based assessment and field survey undertaken on 19<sup>th</sup> March 2020. The survey was for all protected flora and fauna, including Badger, Bats, Nesting Birds and Great Crested Newts (GCN), and for suitable habitats. The survey covered a wide area, with detailed investigation confined to the site and to specific points within the wider area, as necessary.



**Figure 5: the wider search area**



**Figure 6: the specific site search area**

- 6.7 No badger setts were identified within the site, or within 30m of the site, although one active sett and one disused sett were found within the wider search area. There was negligible evidence of bats and nesting birds within the site, and the nearest waterbody to the site was found to be of poor habitat for GCN. The Millennium Green (a Local Nature Reserve) was identified as of importance. Various recommendations are made within the survey, and it concludes: "It is considered that implementation of the prescribed mitigation/ enhancement/ further survey recommendations will ensure that there are no significant, adverse impacts upon protected/ notable species or habitats of ecological merit, and that the proposals will conform with the relevant legislation and national/ local policies."
- 6.8 As the wording of the condition implies, the extant consent was most likely to impact badgers. The survey is considered very thorough, and its recommendations surpass those required by condition. Nonetheless, the survey is considered acceptable by the County Ecologist, and it is noted that the recommendations specifically relating to badger must be adhered to in order to comply with the condition. A note to applicant regarding this and reflecting County Ecology's comments is recommended. The

submitted details are considered acceptable, and it is recommended that the condition is discharged.

## **7. Conclusion**

- 7.1 The submitted information is considered by officers to satisfactorily address the requirements of the conditions, and it is therefore recommended that they are discharged.

## **Appendix A – Informative Notes**

### **1 – Ecology**

The applicant is reminded that in order to comply with the condition, the recommendations at Section 5.3.14 and Appendix 8 (showing fencing) of the approved preliminary ecological survey must be adhered to.



## Committee Report

**Applicant:** SG & EG (UK) Ltd

**Application Ref:** 20/00567/VAC

**Location:** Nether Hall, 5 Church Street, North Kilworth

**Proposal:** Variation of Condition 3 (approved plans) of 19/01679/FUL to amend the line of the underground extensions

**Application Validated:** 22/04/20

**Target Date:** 17/06/20

**Consultation Expiry Date:** 27/05/2020

**Site Visit Date:** Owing to the current COVID-19 situation a detailed site visit has not been undertaken. However, the case officer has visited the site previously and has been able to assess the proposal utilising the plans, previous site visit photographs and aerial imagery.

**Case Officer:** Ruth Meddows-Smith

**Reason for Committee decision:** Call in by Ward Member Cllr Nunn for the following reason (summarised, for full text see paragraph 3.7 below):

- Impact on heritage assets
- Impact on traffic movements etc given excavation
- Working hours and site management

## Recommendation

It is recommended that the application is **APPROVED** for the following reason and subject to the conditions appended to the end of this report:

The proposal is considered to have a satisfactory design and siting which respects the character and appearance of the street scene, and is integrated into the built form of the area. It will cause no harm to the character and appearance of North Kilworth Conservation Area, the setting of St Andrews Church and any buried non-designated heritage assets; and no harm to residential amenity, protected species, flooding, flood risk or highway safety. The proposal is therefore considered to accord with policies HC1, GD8 and GI5 of the Harborough Local Plan and policies NK5, NK6, NK13, NK14, NK17 and NK18 of the North Kilworth Neighbourhood Plan, and there are no material considerations which mean that the policies of the development plan should not prevail.

## 1. Site & Surroundings

- 1.1 The application site is located to the eastern side of Church Street within the existing built-up form and Conservation Area of North Kilworth. Residential properties lie to the north and west; to the immediate south lies the Parish Church of St Andrew (Grade II\* Listed); open countryside lies to the east.

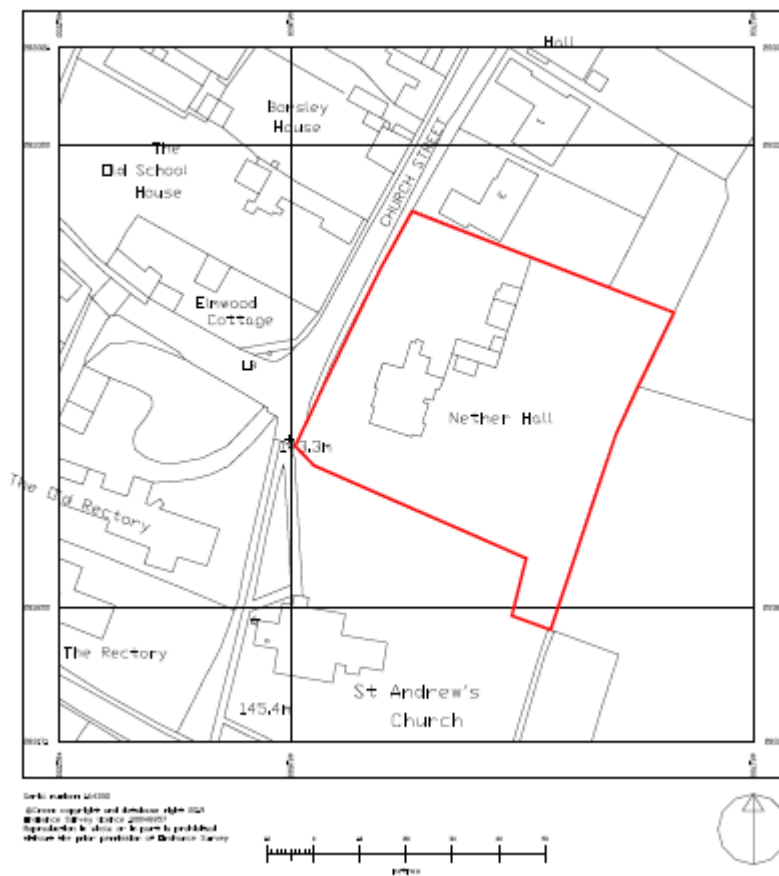


Figure 1: Site Location



Figure 2: Aerial photograph (2018) showing site in relation to village

- 1.2 The site is accessed from Church Street, and the house is set in a spacious plot, with the land lower at the northern end than the southern. Boundaries are marked by trees and some closeboarded fencing of 1.8-2m height, with the rear boundary to the countryside marked with a mature beech hedge and post & rail fencing, and the front boundary to Church Street and most of the south boundary having a 1.8-2m brick wall.
- 1.3 Nether Hall is a substantial detached dwelling of Victorian design and construction. It has brick walls with brick detailing including burnt header diaper work, and a slate roof with the tiles laid in a decorative pattern. The building is not nationally Listed, but does have considerable character. The Neighbourhood Plan recognises this, formally designating Nether Hall as Locally Listed.
- 1.4 The site has been subject to several separate Notifications of Works to Trees in a Conservation Area and it appears that most of the works have been carried out.

## **2. Site History**

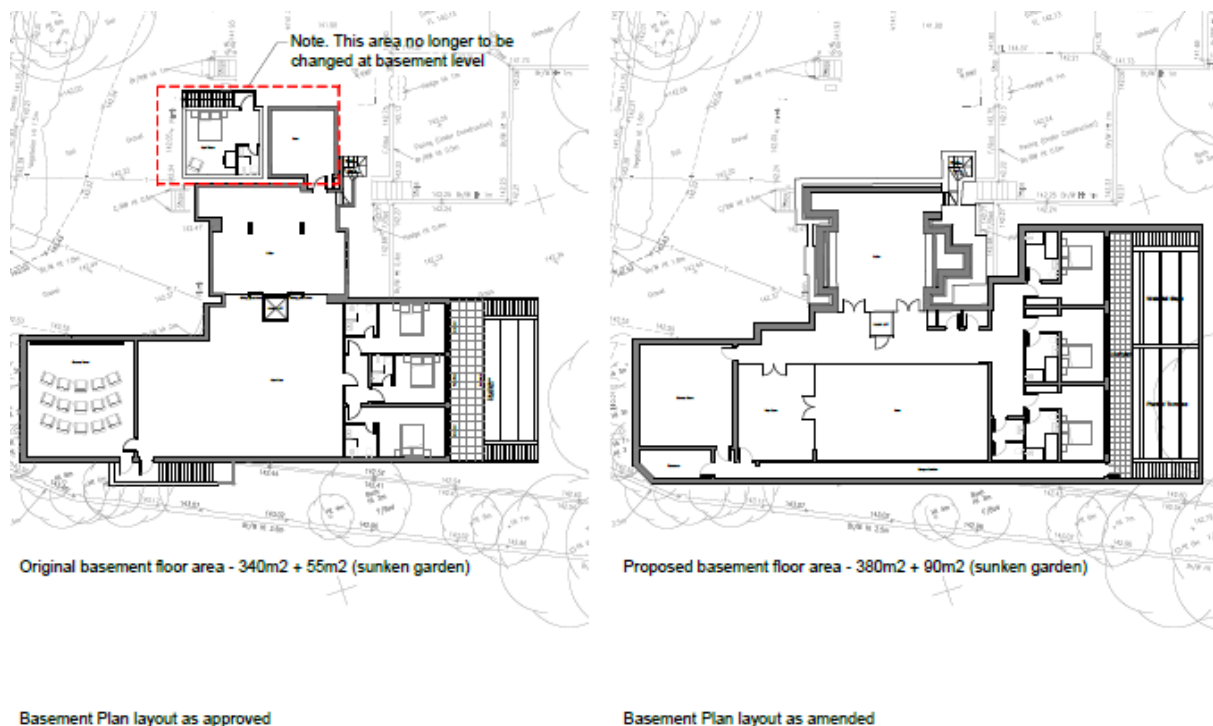
2.1 The Site has the following relevant planning history:

- **18/00662/FUL** – Partial demolition of conservatory, erection of replacement conservatory, demolition of lean to store, erection of replacement store, erection of brick walls, erection of single storey outbuilding, installation of tennis court and erection of timber sauna (retrospective) – approved July 2018
- **19/00791/TCA** – works to trees (fell) – approved June 2019
- **19/01837/TCA** – works to trees (fell) – approved January 2020
- **20/00113/TCA** – works to trees (fell) – approved March 2020
- **19/01679/FUL** – Erection of a single storey side extension including installation of lift shaft (to serve basement area) and installation of bay window, underground engineering works to provide an extension to the existing basement area to create ancillary accommodation and to create a sunken courtyard with stepped water feature – approved February 2020 subject to conditions. (Hereafter ‘the extant permission’)
- **20/00113/TCA** – works to trees (fell) – approved March 2020
- **20/00754/PCD** – discharge of condition 6 (Construction Environmental Management Plan) of 19/01679/FUL – approved June 2020
- **20/00632/PCD** – discharge of condition 4 (written scheme of investigation) and 5 (ecology construction management plan) of 19/01679/FUL – recommended for approval, to be determined by Committee

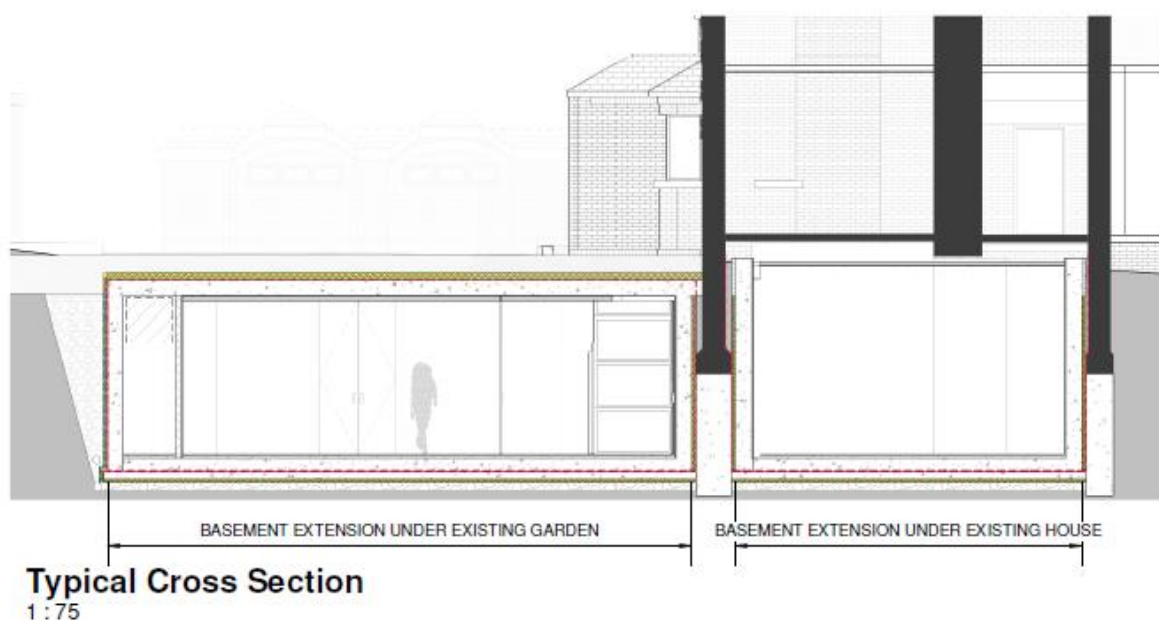
## **3. The Application Submission**

### **a) Summary of Proposals**

- 3.1 The proposal is to vary the permitted plans condition of the extant permission to allow for an enlarged basement design. The covering letter in support of the application states that the revisions are minor and that they are required for practical and security reasons. It is stated that “Our Client is no longer extending the basement under the whole of the existing house footprint for practical and structural reasons” and “The main increase in area relates to the need for the escape route to be internal for security reasons”. Helpfully, the applicant has provided comparison plans showing the extant permission and the proposal. It should also be noted that these plans state that the basement part of the extant permission which is not covered by this proposal will not be implemented.



**Figure 3: Comparative basement plan**



**Figure 4: section drawing**

3.2 The following table details the key differences between the extant permission and the proposals, with floor areas measured by officers from the comparison plans:

	19/01679/FUL	20/00567/VAC
Approximate floor area (gross internal, including staff room where applicable), in metres squared	397.187	474.897

Approximate cubic volume (maximum, from bottom of foundation to top of underground roof, taking into account different depths under the house and under the garden), in metres cubed	1647.4	1957.07
Number of bedrooms	3, each en-suite	3, each en-suite
Number of other rooms	5	5, also escape corridor, wc etc

**Figure 4: comparison of the extant permission and the current application**

- 3.3 It should be noted that the existing house already has a cellar, which will be altered, enlarged and extended under the proposals. The 'natural pool' shown on the plans does not form part of the application submission,, with the applicant proposing to construct this under permitted development rights.

#### **b) Documents submitted**

##### **i. Plans**

- 3.4 The application has been accompanied by the following plans:

Proposed Site Plan 2219/102 C  
Proposed Basement Plan 2219/115 B  
Proposed Ground Floor Plan 2219/116 C  
Comparative Ground Floor Plan 2219/117  
Comparative Basement Plan 2219/118  
Comparative Site Plan 2219/119

##### **ii. Supporting Information**

- 3.5 The applications were not submitted with any supporting information other than a covering letter.

#### **c) Pre-application Engagement**

- 3.6 No pre-application advice relating to either application was requested or given.

#### **d) Other Relevant Information**

- 3.7 The application has been called-in to Planning Committee for Committee determination at the request of Cllr Nunn, for the following reasons:

*"The Impact on the heritage setting and the conservation area  
The impact of significant traffic movements and issues associated with the movement of huge amounts of excavated materials through narrow streets in a conservation area.*

*The application states this is a minor amendment to the footprint of the underground works however the increase in the size of the proposal, from the approved consent, represents a significant increase to the footprint. This also significantly increases the movements required to remove the all excavated materials. I would also like committee to consider working hours and site management."*

- 3.8 The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 apply and notification has been carried out in accordance with this.
- 3.9 A four page letter has been received from Shakespeare Martineau, the applicant's legal representative (12<sup>th</sup> June 2020). It raises various points, including whether committee determination is necessary for this application.
- 3.10 On 30<sup>th</sup> June another 4 page letter was received by officers, also from the applicant's legal representative. This re-iterates previous points made regarding call-in, and makes further points regarding: information officers have requested from the applicant, heritage impacts, residential amenity, soil/vehicle movements through the village etc. These are addressed below. All correspondence is available to view upon request.

#### **4. Consultations and Representations**

- 4.1 Consultations with technical consultees and the local community were carried out on the application. This occurred on 23<sup>rd</sup> April 2020 and included a site notice put up on 27<sup>th</sup> April 2020.
- 4.2 On 26<sup>th</sup> May, further information was requested from the applicant to enable consideration of the application. The information requested was:  
~ a section drawing  
~ an Excavation Plan, including a calculation of the amount of earth to be excavated, whether or not this will be taken off site, how it will be removed, and where it will be deposited.
- 4.3 A section drawing ('Typical Cross Section', drawing number 2219/503) was submitted 5<sup>th</sup> June 2020. An Excavation Plan was not submitted. The agent stated in his letter 5<sup>th</sup> June that the volume of soil to be removed will be "in the order of 1750 cubic metres". The lack of full information from the applicant does not prevent officers making a recommendation.
- 4.4 Reconsultation on the additional information has not been carried out as officers do not consider that the information submitted would change any representation.
- 4.5 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**

- 4.6 **North Kilworth Parish Council** (received by case officer 9<sup>th</sup> July 2020)  
North Kilworth Parish Council does not approve of the application to vary Condition 3 of the approved plans on planning application 19/01679/FUL and would like to reiterate the concerns we previously raised for planning application 19/01679/FUL.
- 4.7 The proposed line amendment will result in the basement being considerably bigger than the approved application and will necessitate the removal of 1,750 cubic metres of earth. The Parish Council kindly request that Harborough District Council address the following matters in relation to the application:
1. Building Materials – The village of North Kilworth is a small network of narrow, winding streets. The scale of the proposal will require a large number of vehicle movements. When work was carried out on the property to renovate the existing building there was significant damage to footpaths, verges and kerbs in the village



due to heavy goods vehicles delivering to the property.

2. Working Hours – The neighbouring properties has suffered disruption and unacceptable noise levels at unreasonable hours during the original renovation. It is imperative that working hours are restricted to a normal working day. It should also be noted that the property is adjacent to the Parish Church and works being undertaken on a Sunday would be unacceptable.

3. Removed Earth - The application states that the removed earth will be distributed on a neighbouring field. The Parish Council asks that Harborough District Council are mindful that the field referenced is adjacent to the Millennium Green and Bogs area, which is a nature reserve. Any works and associated waste must not negatively impact upon the nature reserve.

4. Badger Sett – There is an extremely active, historic badger sett sited at the Millennium Green. Any works must not interfere with the sett or cause any disturbance to the badgers.

5. Boundary Wall – The property shares a boundary wall with the Parish Church. The burial ground surrounds the church. There is concern that any work deep underground and so close to the boundary could destabilise the boundary wall and disturb buried remains.

6. Plant Room – For a development of this scale there will need to be a reasonably sized plant room. The proposed siting of the plant room means that any emissions will be exhausted over the entrance to the church yard.

- 4.8 The Parish Council urges Harborough District Council to consider these matters and ensure that, if approved, construction of the development does not impact negatively on neighbouring properties, the adjacent nature reserve or the parish church.

**HDC Conservation Officer**

- 4.9 I don't have any specific comment on this – I don't consider harm would be caused to local designated heritage assets as it would only involve underground works. I would support the comments of the county archaeologist however.

**LCC Ecology – 20/00567/VAC**

- 4.10 I have no objections to this, subject to the application of conditions 5 and 6 of the previously approved plan.

**LCC Archaeology – 20/00567/VAC**

- 4.11 Thank you for your consultation on the above planning application. Having reviewed the application against the Leicestershire and Rutland Historic Environment Record (HER), we do not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets. We would therefore advise that the application warrants no further archaeological action (NPPF Section 16, para. 189-190).

*Further comments, following discussion with officers:*

- 4.12 Unfortunately the evaluation which has been undertaken hasn't been as forthcoming as we had hoped, and the footprint of the trenches had to be changed (less than intended) due to onsite constraints. That meant that only a small percentage of the site could be evaluated – this evaluation has shown some potential in a single undated small ditch.

- 4.13 Due to the archaeological interest of the area including the location next to the church yard, added to the limited eval results, we believe this warrants a further stage of archaeological investigation to ensure that any archaeological remains present are dealt with appropriately, the applicant should provide professional archaeological attendance with control of the stripping of the site to the appropriate archaeological horizon. A contingency provision for emergency recording and detailed excavation should be made, to the satisfaction of your authority in conjunction with your archaeological advisors in this Department's Historic & Natural Environment Team (HNET).
- 4.14 The applicant must obtain a suitable written scheme for the investigation and recording from an archaeological organisation acceptable to the planning authority. This should be submitted to HNET, as archaeological advisors to your authority, for approval before the start of development. The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.
- 4.15 To conclude, we have no issue with the amended plans as long as the new areas are encompassed into the mitigation under the condition on 19/01679/FUL. The mitigation required is archaeological attendance during groundworks, with archaeological control of the strip, and contingencies for recording and detailed excavation.
- Final comments received by case officer 9<sup>th</sup> July 2020:*
- 4.16 The evaluation that was undertaken on the original application did not fully meet the requirements in the WSI due to onsite restrictions causing the trench to be shortened below the required length. The report states:  
*'Initially a trench 25m long had been proposed, but due to the restrictions of a large tree and a boundary wall, the trench was reduced in length to 17.20m.'*
- 4.17 Taking the shortening of the trench into account and the new plans increasing the footprint of the proposed works the revised plans cause more impact on the below ground archaeology than could be thoroughly evaluated to a level we normally require.
- 4.18 The evaluation itself did not find anything nationally significant, but it did find undated archaeological remains in the form of a ditch, which itself is locally significant when exploring the wider archaeological environment. This ditch although undated does not match anything on the modern maps, suggesting it has the potential to be an earlier feature. The ditch is orientated north-east to south-west towards St Andrews church. The only way to investigate this ditch further and see if it has any more associated remains and dating – potentially relating with remains found in the church located next door- is to archaeologically excavate the area before destruction by building works.
- 4.19 Furthermore we have recently been informed of a watching brief undertaken in 2019 at St Andrews Church. This work found archaeological remains of Iron Age and Roman date with pottery and loom weights found within an east-west orientated ditch terminal. These remains were found less than 70m away from the proposed application area, and therefore could relate to the undated ditch suggesting there may be Iron age/Roman presence within the application area. The St Andrews report states:  
*'Within the surface water drainage trench excavated around the organ chamber on the south side of the chancel was a ditch that contained a large assemblage of Early*

*Roman pottery and a number of loom weights of Iron Age type. Analysis of these finds suggests that they were deposited over a short period of time during the middle decades of the 1st century AD, between about 30-60AD, immediately before or soon after the Roman Conquest of Britain. These remains indicate the existence of a previously unknown settlement of Late Iron Age/Early Roman date in the immediate vicinity of the church.'*

- 4.20 Although unlikely to be the same ditch due to the differing orientation, morphologically and in terms of the colour and character of the soil fill they are closely similar, suggesting there is a high likelihood that they form part of the same Iron Age/Roman archaeological site. Further archaeological observations on land to the south east of St Andrew's church, revealed medieval remains, which suggest the Iron Age remains found in the watching brief did not extend south but may continue north towards Nether Hall.
- 4.21 If a strip, plan and record condition is not acceptable then there is the option for the lowest level of archaeological investigation to be undertaken. This will require the applicant to ensure that any archaeological remains present are dealt with appropriately by providing professional archaeological attendance for inspection and recording during the groundworks for the proposed development. A contingency provision for emergency recording and detailed excavation should be made, to the satisfaction of your authority in conjunction with your archaeological advisors in this Department's Historic & Natural Environment Team (HNET).

#### **Historic England**

- 4.22 Thank you for your letter of 23 April 2020 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.
- 4.23 **LCC Highways**  
There would appear to be no material impact on the public highway and therefore the Local Highway Authority has no comments to make.
- 4.24 All correspondence/consultee responses are available upon request.

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

- 4.25 20/00567/VAC: Six letters of objection received, from 3 households expressing the following concerns:
- Loss of or damage to trees
  - Insufficient information within submission, particularly relating to size of proposal and associated earth removal
  - Large/major engineering works, unknown impact of removal of so much soil (with associated type and number of traffic movements) on narrow lanes of the village, highway safety; noise and disruption to neighbours
  - Noise from potential plant (ventilation/air conditioning units)
  - Disturbance from previous building work at the property: hours of construction, site management, construction traffic etc should be controlled by condition
  - Should be a new application, rather than a variation
- 4.26 One of the letters of objection refers to a High Court Judicial Review decision, Eatherley vs London Borough of Camden 2016. Officers consider that this is relevant

only in as much as it clarifies that basements extensions are not Permitted Development and thus require Planning Permission. As this proposal is an application for planning permission, the informal opinion of officers is that there is unlikely to be any conflict with the legal decision. Other matters raised in the representation (including construction impacts) are considered below.

## **5. Planning Policy Considerations**

5.1 Please see above for planning policy considerations that apply to all agenda items.

### **a) Development Plan**

#### ○ *Harborough Local Plan*

5.2 The following policies of the adopted Local Plan are considered most relevant in consideration of the application:

- GD8 (Good design in development)
- HC1 (Built Heritage)
- GI5 (Biodiversity and Geodiversity)

#### ○ *North Kilworth Neighbourhood Plan*

The Neighbourhood Plan was adopted July 2017 and forms part of the development plan for the District. The following policies are considered most relevant:

- NK5: Design Quality (together with the Village Design Statement)
- NK6: Sustainable Development
- NK13: Biodiversity
- NK14: Important trees and Hedges
- NK17: Traffic Management
- NK18: Parking

### **b) Material Planning Considerations**

5.3 The following are considered material planning considerations:

- *National Planning Policy Framework*
- *The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990*
- *Supplementary Planning Guidance 5 – extensions to dwellings*
- *Conservation Area Character Statement for North Kilworth*  
Specifically mentions “the elaborate 19th century brickwork and patterned clay tiles of Nether Hall near the Church.”

## **6. Assessment**

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

6.1 The application is a householder application, proposing extensions to the existing dwelling. No commercial use is proposed and the application does not meet the statutory definition of major development. Furthermore, as this application is simply to vary a condition on the extant consent, the applicant has a substantial fall-back position to which, in the opinion of officers, should be given considerable weight. Officers consider that the principle of the proposal is considered acceptable.

## **b) Technical Considerations**

1. Scale, appearance and impact upon heritage assets
- 6.2 Under the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act'), a Local Planning Authority must have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. Conservation Areas are afforded a similar protection, with a duty imposed on Local Planning Authorities to pay special regard/attention to Conservation Areas, including setting, when considering whether to grant planning permission for development. For Conservation Areas "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area". Preservation in this context means not harming the interest in the building/asset, as opposed to keeping it utterly unchanged.
- 6.3 To the immediate south of the site lies the churchyard and church building of the Parish Church of St Andrew. This building is Listed as Grade II\*. Impact of the proposal on the setting of this building must be considered. The site lies within the designated Conservation Area of North Kilworth and, under the Act, the character and appearance of this should not be harmed. Local Plan policy HC1 is similar to the policies of the NPPF, requiring an assessment of harm and a subsequent weighing of any harm against the public benefits of the proposal. As paragraphs 193 and 194 of the NPPF state, great weight should be given to the conservation of a designated heritage asset, and any harm to significance should require clear and convincing justification.
- 6.4 Although North Kilworth Neighbourhood Plan designates Nether Hall as a local heritage asset, the Plan contains no policy relating to this, and no robust evidence to support its designation. There is also no specific policy relating to North Kilworth Conservation Area, although the supporting text to NK5 refers to it. Officers therefore rely on the statutory protection of heritage assets and the policies of the Harborough Local Plan and the NPPF when formulating a recommendation on this proposal.
- 6.5 Due to their nature and siting, the proposed underground works are not considered to affect the street scene, the character and appearance of the Conservation Area or the setting of the adjacent Listed Building. The extant permission also included a side extension on the south elevation however question 5 of the application form states "Condition to be changed to substitute amended drawings for those originally listed in condition 3." As the amended drawings do not include this side extension, it does not form part of the proposed development. The red line denoting the site (on the location plan) cannot be changed by this application so this will be carried through from the extant permission.
- 6.6 The proposals will increase the area of underground excavation, with the potential for the proposal to impact underground, currently unknown heritage assets, particularly given the location of the site within the historic medieval core of North Kilworth, and its proximity to the Listed church building. Because of this, County Archaeology recommend that further archaeological work is undertaken, to be controlled by condition.
- 6.7 Prior to the applicant's submission of application reference 19/01679/FUL, officers advised that archaeological investigation should be undertaken prior to submission. At that stage, the County Archaeologist recommended a 'strip, plan and record' survey, which would (as officers understand it) strip the topsoil of the whole of the development site. Application 19/01679/FUL was not submitted with any such archaeology work, and a condition requiring this was attached to the permission.

The archaeological work required by that condition was of a different type, as advised by LCC Archaeology. As addressed within the report for 20/00632/PCD, the archaeology work was truncated but nonetheless was still acceptable to the consultee, with the recommendation that the condition be discharged.

- 6.8 The request for the archaeology condition on this application, together with the reasons for it is given at paragraphs 4.10 ff above. The archaeology work recommended by LCC Archaeology is not trenching (as previous), rather attendance and supervision by an archaeologist when the development takes place. Were the archaeological work as advised at pre-app stage, carried out (either prior to submission of 19/01679/FUL or by way of condition) then this further condition would have been unlikely to have been recommended by LCC.

- 6.9 As required by legislation, officers have notified the applicant of the recommended condition. They have responded by letter on 30<sup>th</sup> June as follows (*inter alia*):

*“Our Client does not agree with the proposition to insist on further archaeological site investigations. The request for further archaeological site investigation is unreasonable and disproportionate to the changes to the Section 73 proposals from the original approved scheme. An investigation was undertaken in accordance with the County Archaeologists strict instruction and nothing of significance was found. How can a nominal increase in footprint justify a new archaeological investigation? The proposal is unreasonable and questions the archaeological process undertaken previously. The length of the basement footprint has hardly changed, the width has increased but towards the house, which would have been disturbed ground in any event. Other than further delaying the project and causing our Client additional costs, we can see no justification for more archaeology.”*

- 6.10 Officers have measured the floor area of the basement area where it is under the existing garden. The measurement is approximate, gross external and does not include the ‘waterfall steps’ or the natural pool. Measured in this way, the extant consent is approximately 268.7 square metres, and the proposed approximately 367.4 square metres. Officers do not consider that this is a ‘nominal increase in footprint’, as suggested by the applicant. However, the majority of excavation for the whole area is to the south of the house, where the archaeological investigation already undertaken found no buried heritage assets. The new area proposed under this application is, mostly, adjacent to the house and, given the results of the archaeology survey, is likely to be disturbed ground. For this reason and although the nature and amount of archaeology work proposed is minimal and would not seemingly delay development, taken all together and on balance, officers consider that it is not necessary. The NPPF requires that lawful planning conditions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects (the ‘6 tests’). In the opinion of officers, any condition seeking to control this would therefore not meet the 6 tests and could be unlawful.
- 6.11 Officers consider that the proposal will preserve the character and appearance of the Conservation Area and cause no harm to the setting of the nearby Listed buildings, in accordance with HC1 and GD8 of the Harborough Local Plan, policy NK5 of the North Kilworth Neighbourhood Plan and the Act. On balance, officers do not recommend conditions to protect and record buried, currently unknown heritage assets.

## 2. Highways

- 6.12 Highways were consulted on the highway and traffic impact of the proposal and have no objection. Concerns regarding construction traffic were specifically raised during



the determination of the extant permission, and again, Highways did not object. They have no objection to this application to vary the permitted plans proposal and do not consider that the construction traffic will cause severe harm to highway safety or an unacceptable impact on the highway, such as might otherwise warrant refusal or control by planning condition.

- 6.13 Officers note the concerns of residents regarding the size and movement of construction vehicles, and their concerns regarding the associated potential impact of these on the narrow lanes, verges and pavements of the village. Whilst officers recognise that the amount of excavation proposed appears substantial, when taking the wider perspective, the application is still for householder development. The proposal is not for a major housing scheme, for example, which might reasonably be expected to take many months, involve wide site excavation and delivery of many materials. Control of the alleged highway impacts by condition is considered disproportionate by officers. Furthermore, such a condition is likely to be unenforceable and imprecise. Given that the highway authority is satisfied that the proposal, including during its construction, will not cause an unacceptable impact on highway safety or the road network, further details such as requested in the representation are not considered necessary. In the opinion of officers, any condition seeking to control this would therefore not meet the 6 tests and could be unlawful.
- 6.14 The application proposes the creation of 3 additional bedrooms; however there is sufficient space within the curtilage of the property to accommodate any additional vehicles generated by this. Officers are satisfied that the proposal will not give rise to a severe adverse highway impact, or increase on-street parking in the area, in accordance with GD8 and North Kilworth Neighbourhood Plan policies NK17 and NK18.

### 3. Residential Amenity

- 6.15 The proposal is for underground development, thereby minimising impact on the living conditions of adjoining/nearby occupiers. The plans indicate that any necessary plant will be installed within built form. With regard to harmful noise impacts of plant on users of the church and churchyard, officers note that the site's southern boundary is approximately 27m from the porch of the church. This, together with the solid construction of the church means that it is extremely unlikely that any household plant would disrupt church services. Although the south boundary of the site is adjacent to the church yard, so also is the public highway, with its associated unrestricted traffic movements, deliveries etc. Officers do not consider it necessary to further control any external plant by means of condition, particularly given that no commercial use is proposed which might otherwise generate unacceptable levels of noise, and the distance of Nether Hall from neighbouring properties.
- 6.16 Residential amenity impacts arising from construction of the proposal has generated most opposition as evident in the representation. Nether Hall is sited in a large plot. The nearest residential properties are to the north and west, away from the location of the proposal. Officers are mindful that, whilst substantial, the proposal is for householder development rather than any major development which might reasonably be expected to take a longer time to complete. A variety of other legislative controls is likely to address matters such as health and safety of workers, welfare facilities etc. In the opinion of officers, any condition seeking to control these and other aspects of construction would therefore not meet the 6 tests and could be unlawful.
- 6.17 The extant permission includes a pre-commencement condition requiring: details of the hours of construction work, hours of deliveries and removal of materials; on-site parking provision for construction contractors and construction vehicles; and contact

details for the site manager. Satisfactory details have been provided under discharge of condition application reference 20/00754/PCD and the condition discharged (working hours of Monday to Friday 8 am – 6 pm/ Saturday 8 am – 1 pm, No Construction work on Sundays or Bank Holidays). This condition is not requested to be removed or varied and this is therefore recommended to be carried over to this application, with amended wording to reflect the approved details. Notes to applicant are recommended, regarding disposal of soil, mud on the road, Health and Safety Executive and the CDM Regulations.

- 6.18 In conclusion and subject to condition, the proposal is not considered to cause an adverse impact on residential amenity, in accordance with Local Plan policy GD8.

### 3. Ecology

- 6.19 To the east of the site lies a Local Wildlife Site, and badgers have been recorded on land to the east, near to the site. The Ecology Survey submitted to discharge condition 5 of the extant permission is considered acceptable, and County Ecology have no objection to this variation application. It is recommended that the ecology condition of the extant permission is updated to reflect the submitted (approved) details.
- 6.20 Subject to condition, the proposal will not affect the locally designated wildlife site, sites of ecological value or protected species, and thus complies with GI5 of the Local Plan and policy NK13 of the North Kilworth Neighbourhood Plan.

### 4. Flooding & Drainage

- 6.21 The proposal is not for major development, therefore there is no statutory requirement for Sustainable Urban Drainage Systems (SUDs). The site is in flood Zone 1, with the land at the lowest probability of flooding. The application form states that surface water will be disposed by soakaway, with foul drainage unknown (although officers assume that the existing connection will be used, given that the proposal is for householder extensions). Given these things, together with the minor scale of the proposal, (that it is for extensions to an existing dwelling), it is not considered necessary to require further details by condition. The proposal is therefore considered to accord with Harborough District Local Plan policies CC3 and IN4.

### 5. Trees

- 6.22 No tree survey has been submitted, and no details of retained or proposed trees given. Separate applications for works to trees have been submitted.
- 6.23 It is regrettable that so many trees have been or will be lost across the site, particularly those adjacent to the south boundary which soften the appearance of the boundary wall and provide an attractive view within the street scene and from the churchyard. However, as noted in paragraphs 1.4 and 2.1 above, consent has been given for these works under separate legislation. The proposal does not include any above ground works for which a landscaping/planting condition is deemed necessary and thus a condition requiring the replacement of trees along the south boundary or elsewhere in the site would be likely to be unlawful. A note to applicant requesting replacement tree planting is recommended.

## 7. The Planning Balance / Conclusion

- 7.1 The proposal will provide modest economic benefits during its construction, and modest social benefits by way of extending an existing dwelling within a village. Environmental benefits are also modest but include investigative archaeological and ecological work. The site is within a sustainable settlement and no encroachment into the countryside is proposed. Giving considerable weight to the 'fall-back' position of the extant consent, officers consider that the proposal does represent sustainable development.
- 7.2 The proposal is considered to have a design which respects the character and appearance of the area and will cause no harm to protected species, highway safety, heritage assets, flooding or floodrisk, the street scene or residential amenity. Officers therefore consider that the proposal complies with policies HC1, GD8 and GI5 of the Harborough District Local Plan, and policies NK5, NK13, NK17 and NK18 of the North Kilworth Neighbourhood Plan. There are no material considerations which would mean that the policies of the development plan should not prevail.

## **Appendix A – Planning Conditions & Informative Notes**

### 1 – Commencement

The development hereby permitted shall begin within 3 years from the date of the permission which it varies (reference 19/01679/FUL, approved 27/02-2020).

REASON: For the avoidance of doubt and to meet the requirements of the Town and Country Planning Act 1990 (as amended).

### 2 – Permitted Plans

The development hereby permitted shall be carried out in accordance with the following approved plans:

- Proposed Site Plan 2219/102 C
- Proposed Basement Plan 2219/115 B
- Proposed Ground Floor Plan 2219/116 C
- Comparative Ground Floor Plan 2219/117
- Comparative Basement Plan 2219/118
- Comparative Site Plan 2219/119
- Typical Cross Section 2219/503

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

### 3 – Ecology

The development hereby permitted shall be carried out in accordance with the Update Preliminary Ecological Appraisal (PEA) Report (Pearce Environmental Ltd, March 2020, ref 190320.PEA), approved under planning condition discharge application ref 20/00632/PCD.

REASON: To ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the construction of the development and any necessary archaeological works, having regard to Harborough Local Plan Policy GI15, North Kilworth Neighbourhood Plan policy NK13 and the National Planning Policy Framework.

#### 4 – Construction Method Statement

The development shall be carried out in accordance with the Construction Management Plan Rev A (5<sup>th</sup> June 2020) approved under planning condition discharge application reference 20/00754/PCD.

REASON: To minimise detrimental effects to the neighbouring amenities and the amenities of the area in general, having regard to Harborough Local Plan Policy GD8 and the National Planning Policy Framework

#### **Notes**

- ~ Building Control
- ~ The Applicant's attention is drawn to other statutory procedures and consents which may be required in relation to the development, including (but not limited to) the Construction Design Management Regulations, Health and Safety Executive notification, disposal of waste (including soil disposal) and the Highways Act.
- ~ Please consider replacement tree planting along the south boundary and the corner with Church Street and the churchyard entrance.

## **Planning Committee Report**

**Applicant:** Harborough District Council

**Application Ref:** 20/00767/FUL

**Location:** Market Harborough

**Proposal:** Installation of 2 x halo backlit illuminated fascia signs (1 front and 1 rear elevation) and installation of 1 x internally illuminated totem entrance sign

**Application Validated:** 04.06.2020

**Target Date:** 30.07.2020

**Consultation Expiry Date:**

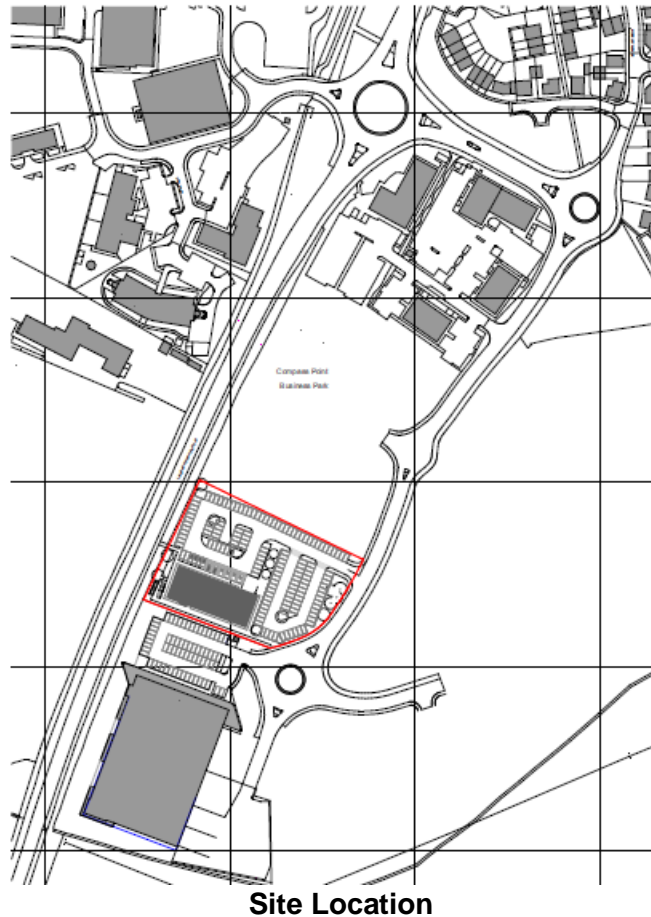
**Site Visit Date:** 09.06.2020

**Case Officer:** Nicola Parry

**Committee Decision:** HDC is the Applicant

### **1. Site & Surroundings**

- 1.1 The application site lies within a mixed use area, consisting of business units (Compass Point) and residential properties (Blackberry Grange), located on the southern side of Market Harborough. The site lies adjacent to Northampton Road to the west, undeveloped land to the immediate north, the Brevitt Rieker shoe factory to the south and allocated residential land (MH/2) to the east.
- 1.2 The site is accessed from the A580 roundabout.
- 1.3 The site is not within or adjacent to a Conservation Area.



## 2. Site History

2.1 The site has the following relevant planning history:

- 18/00890/FUL - New build B1 (business use) office development and ancillary car park to provide 'Grow On' spaces for new businesses APPROVED
- 19/01805/VAC - Variation of Condition 2 (approved plans) to make revisions to site and landscape plans for minor variations and additional minor works APPROVED

## 3. Summary of Proposal

- 3.1 The application seeks advertisement consent to install 2 x illuminated fascia signs (1 front and 1 rear elevation) and install 1 x illuminated totem entrance sign. These were proposed to be internally illuminated. However, amendments received 13<sup>th</sup> July now propose external back lighting (halo) to the building signs and illumination levels are reduced to not exceed 450 cd/m<sup>2</sup>.
- 3.2 Details of each sign is shown below:



**Proposed building signage.**



## Sign : Totem sign at entrance to Car Park



### Entrance Totem - Specification

Fabricated Face Illuminated Aluminium Totem With Rebated Returns. Panels Are Folded & Dress Welded To A Premium Standard & Mounted To Internal Framework With Mechanical Fixings. Panels Are Coated In A High Grade Automotive Paint Finish.

**Colour:** RAL White

Stencil Cut Graphics To Face Of Panels & Backed With Night & Day Acrylic Allowing For Black Graphics During Day, To Illuminate White When Required.

LED Modules Set Into Single Face Through An Opal Acrylic Lens Spaced To Achieve Illumination With Even Distribution & No Spotting.

**Illumination:** Face Illuminated Night & Day

**Illumination Colour:** Cold White

**Illumination Type:** Dynamic (Control by others)

**Luminance Level:** Will Not Exceed 600cd/m<sup>2</sup>

**Power Required:** 5amp Fused Spur

Digitally Printed Vinyl Graphic Wrap To Face With Brand Logo To Wrap Around Panel Return.

Mounted To Groundworks With Foundation Cage To Concrete Foundation Groundworks By Others.

### b) Documents submitted

3.2 The application has been assessed based on the following plans:

- Location Plan
- Signage Details

#### **4. Consultations and Representations**

4.1 Consultations, including the placing of a Site Notice, were carried out on the application. The following comments have been received

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

4.2 LCC Highways

The Local Highway Authority refers the Local Planning Authority to current standing advice provided by the Local Highway Authority dated September 2011. Given the proposed luminance levels, it is not anticipated that this proposal will have a detrimental impact on the adopted highway.

4.3 Market Harborough Civic Society

No comments received

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

4.4 No comments received

#### **5. Planning Policy Considerations**

5.1 The application should be assessed against Harborough Local Plan (2019) Policy GD8 (Good design) and Saved Local Plan (2001) Appendix I.

##### **a) Material Planning Considerations**

5.2 The NPPF, NPPG and The Institution of Lighting Engineers are material planning considerations.

#### **6. Assessment**

6.1 The site is located close the countryside edge. The Grow-on Centre is a tall building and is noticeable as you enter and exit Market Harborough when travelling along Northampton Road.

6.2 Signage for the building is accepted. The size and positioning of the signs, together with their originally proposed internal illumination was inappropriate.

6.3 In response to the original signage being queried the applicant provided the following clarification:

1. *We need to give the building a presence. It is very easy to drive past without noticing the building. This particularly important as the building is proving very slow to let currently.*
2. *The adjoining Rieker building has illuminated signage.*
3. *The Deichmann building has illuminated signage.*
4. *The proposed signage to the rear (Rieker side) will only be seen by traffic travelling towards MH on the Northampton Road, Rieker and some of the sports fields*

5. *The proposed signage to the car park will only be seen by traffic travelling from MH on the Northampton Road, some of the sports fields and adjoining office buildings, with minimal effect on housing situated some distance away.*
- 6.4 Whilst it is accepted that that the building could be enhanced, both in appearance and use by signage and how important that is to economic recovery from CV-19, the original internal illumination remained a concern. Furthermore, there are key differences between the proposed signage and the examples given:
- The Rieker signage was permitted in 2009 – pre Local Plan and NPPF.
  - The sign above the main entrance of Reiker is 2m above ground level and the sign facing Northampton Road is 4.7m above ground level. The Grow On signs are 8m and 9m above ground level respectively. Significantly more prominent.
  - The illuminance levels of the Reiker signs are 25cd/m<sup>2</sup>. The Grow On advises <600cd/m<sup>2</sup>. Significantly brighter.
  - The Deichmann signage was allowed in 2016 – pre Local Plan.
  - The illuminance levels are no greater than 350cd/m<sup>2</sup>
  - The signage is smaller than proposed by the 'Grow On'.
- 6.5 The planning officer visited the site at night (10pm, 24<sup>th</sup> June), and other similar sites within Market Harborough. The applicant was advised of the officers appreciation that that the building could be enhanced, both in appearance and use, by good signage and how important that is to economic recovery from CV-19. The Applicant then submitted (13/07/2020) amended plans introducing backlit halo illumination in place of internal illumination to the propose building signage. The level of illumination as also reduced.
- 6.6 Officers consider the amended signage, whilst relatively large and numerous, is a significant improvement on the original proposals. The internally illuminated totem sign would be more appropriate if externally lit but is not itself so large or intrusive to merit a refusal of consent. The amendments reduce the impact on the character and appearance of the surrounding area overall and, taking into account the potential to improve the building and its use, are recommended for approval.
- 6.7 Due to the distance from the site to the nearest properties on Eady Drive, there will be no adverse impact. Furthermore, the Highway Authority have raised no objections from a highway safety perspective.

**Recommendation: Advertisement Consent is APPROVED**

STANDARD ADVERTISEMENT CONDITIONS TO BE APPLIED.