

## Planning Committee Report

**Applicant:** Mr Michael Maloney

**Application Ref:** 19/00888/FUL

**Location:** Wells Close, Woodway Lane, Claybrooke Parva

**Proposal:** Erection of one dwelling

**Application Validated:** 05/06/19

**Target Date:** 31/07/19

**Consultation Expiry Date:** 04/07/19

**Site Visit Date:** 11/06/19

**Case Officer:** Chris Brown

## Recommendation

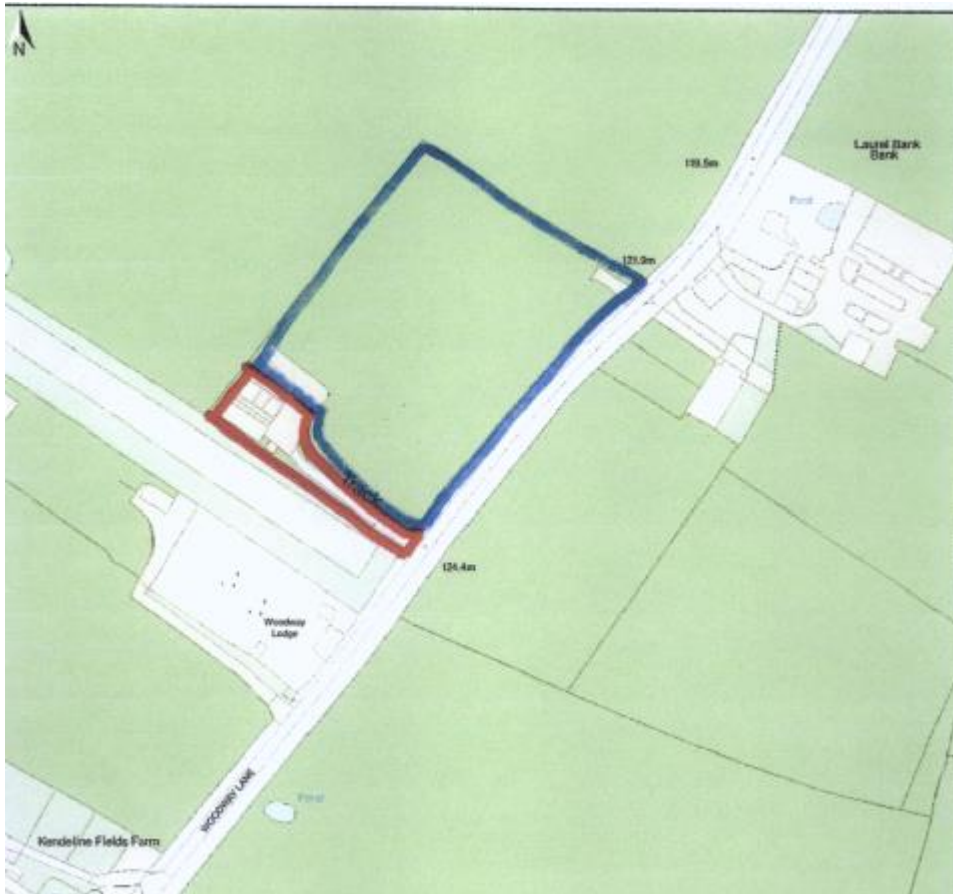
Planning permission is **REFUSED** for the reasons set out in the report.

### Recommended justification statement

Outside sustainable settlements new residential development is controlled for the purposes of supporting rural workers in agriculture, horticulture, woodland management or other similar uses appropriate to a rural area, including uses which would help to diversify the rural economy, as well as for providing dwellings to meet needs evidenced through a rural housing needs survey or a Neighbourhood Plan. The proposal is not for any of the above purposes. The proposal is not within or physically and visually connected to a settlement and is remote from services and facilities with limited opportunities for sustainable transport choices. The proposal is unacceptable in principle in this countryside location. While the proposal would contribute to the Council's 5 year housing land supply, the harm in principle significantly and demonstrably outweighs the benefits of the proposal. The proposal does not accord with Policies SS1, GD4 and IN2 of the Harborough Local Plan. No other material considerations indicate that the policies of the Development Plan should not prevail. The proposal also conflicts with the National Planning Policy Framework's para 79 and presumption in favour of sustainable development.

## 1. Site & Surroundings

- 1.1 The application site is located 700m to the south west of Claybrooke Parva, 400m from the junction of Woodway Lane and the A5. The site is located within open countryside, with open fields to all sides. The site is currently open in appearance and with earthworks undertaken to the site in May 2019. There is an existing access to the site from Woodway Lane with a further site access into the same field closer to Claybrooke Parva associated with a previous stables permission and subject of neighbouring application 19/00934/FUL. The site is outside of the existing built form of Claybrooke Parva, and not located within a conservation area.



**Figure 1: Site Location**



**Figure 2: View north west into the site, with site clearance works having taken place**





**Figure 3: View across the site from the access point showing the remainder of the field linked to application 19/00934/FUL**



**Figure 4: aerial view of the site (2018)**

- 1.2 The site is open in appearance, with direct access on to Woodway Lane. The site has landscaping to all boundaries of the site, with established hedgerows and trees to all boundaries. The site is largely flat, with a later change in levels dropping from south east to north west across the site. The red line site is approx. 0.15ha, and the wider field approx. 1.52ha.

## 2. Site History

2.1 The site has an existing permission as a travelling showpeople site, with this application proposing an extension to this.

- **LR/00405/LRDC** – Erection of a dwelling (Refused 19/01/73)
- **75/01164/3O** - Erection of pig building and feed store and siting of caravan (Approved 26/11/75).
- **76/00887/3R** – Establishment of pig breeding and rearing unit (Approved 06/10/76)
- **77/01002/3R** – Erection of a pig building and feed store and siting of a caravan (Approved 2/02/78)
- **78/02139/3T** – Renewal of permission for siting of residential caravan (Approved 23/05/79)
- **80/00785/3P** – Erection of pig fattening building (Approved 11/06/80)
- **80/01220/3P** – Erection of a pig fattening unit (Approved 16/12/80)
- **80/01218/3O** – Erection of a bungalow (Refused 19/08/80)
- **80/02143/3T** – Renewal of permission for siting of caravan (Approved 10/03/81)
- **83/01248/3T** – Renewal of permission for siting of caravan (Refused 08/11/83)
- **87/01584/3T** – Renewal of permission for siting of caravan (Approved 17/12/87)
- **88/01701/3O** – Renewal of permission for siting of caravan (Approved 17/12/87)
- **88/01701/3O** – Erection of a dwelling (Refused 01/12/88)
- **90/00632/3T** – Renewal of permission for siting of caravan (Refused 13/07/90)
- **07/00230/FUL** – Change of use of land for the siting of residential caravans (Approved 18/04/07 – not within red line boundary of this application)
- **13/01655/FUL** – Change of use of land from agricultural to equestrian, erection of building to provide 2x stables and tack room, and installation of gates (Approved 14/01/14 – not within red line boundary of this application)
- **14/00603/FUL** – Change of use of land for the provision of two Gypsy / Traveller pitches (to include the siting of caravans, the provision of hardstanding and ancillary accommodation) (Refused 03/07/14 and Appeal dismissed 28/10/14)
- **17/01436/PDN** – Prior Approval for the proposed change of use of two agricultural buildings to two dwellinghouses (C3) and for associated operational development (Class Qa and b) (Approved 13/10/17)
- **19/00934/FUL** – Erection of barn and manure store, extension of stable yard and construction of manege – Pending consideration

2.2 In addition to the above planning history there has been a number of planning enforcement cases related to the site. These include 3 investigations in 2014 and one in 2015 relating to the creation of 2 access to the field and siting of caravans and trade vehicles on the site and investigations in 2017 related to temporary storage of construction vehicles on the site and importing of soil and hardcore to the site.

2.3 In May 2019 the Planning Enforcement team opened an investigation that works to demolish the piggery buildings had started on site and that hard core and soil was being imported on to the site. A temporary stop notice was served on the site and a

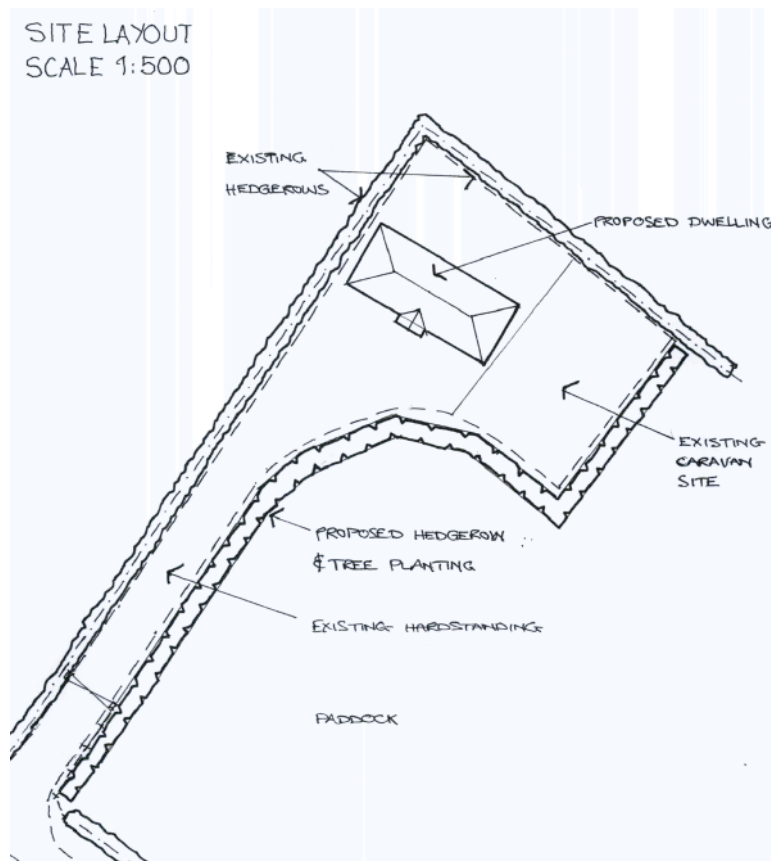


court injunction obtained to prevent any further work on the site. The injunction granted on 17th June 2019 remains in place and subsequently this application and neighbouring application 19/00934/FUL were received by the Council. To date the applicant has complied in full with the terms of the injunction and paid the Council's costs immediately following the hearing.

### 3. The Application Submission

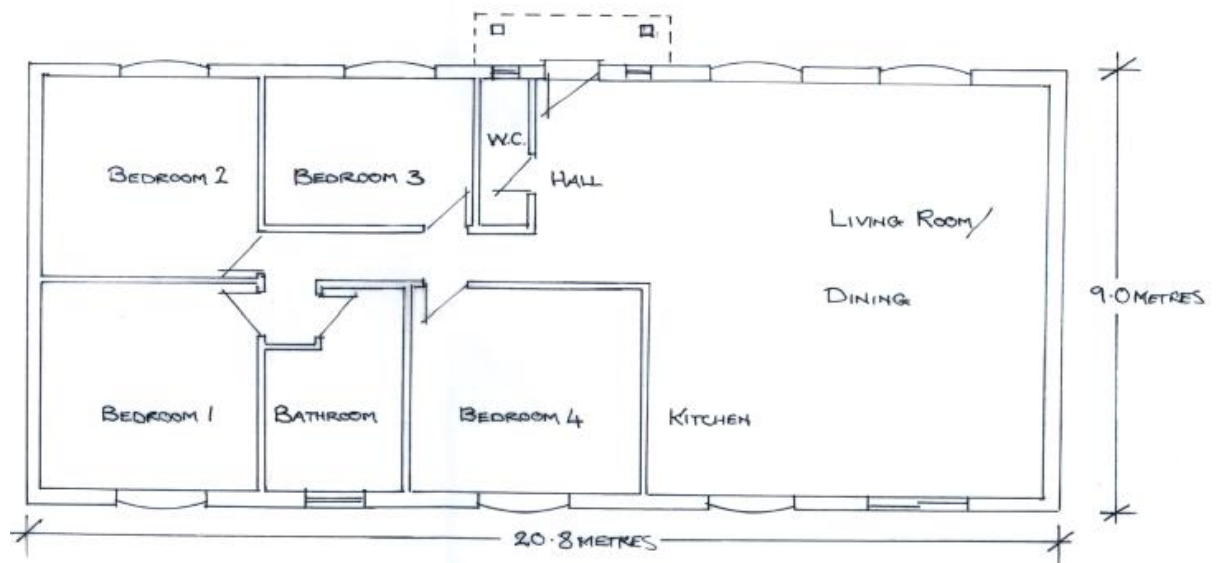
#### a) Summary of Proposals

- 3.1 The proposal seeks the proposed erection of 1 dwelling on the site. The proposed dwelling is shown as sited to the rear (western corner) of the site and located in place of the previous piggery buildings on the site. The proposed site layout plan (Figure 5 below) shows retention of hedgerows to the southern and western boundaries and creation of a new hedgerow to delineate the site from neighbouring application 19/00934/FUL for equestrian use. The site will be accessed from the existing access into the site. The proposed layout also includes an existing caravan site, and this is discussed in the report in paras 6.9-6.12.

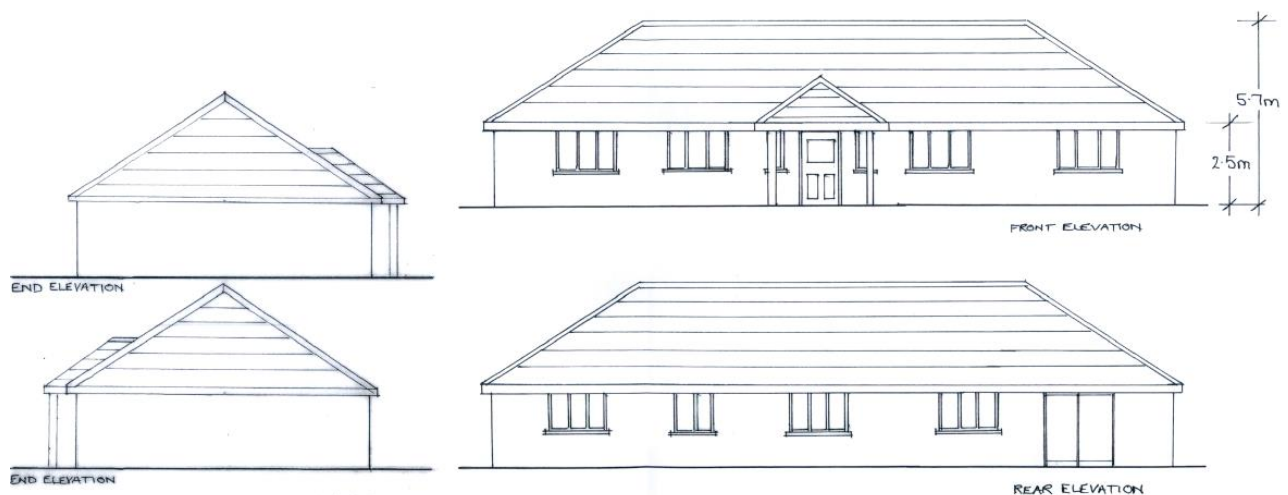


**Figure 5: Proposed Site Layout**

- 3.2 The proposed dwelling is a 4 bedroom bungalow of approx. 20.80m in width across the site, and approx. 9.00m in depth. The bungalow will be approx. 5.70m to the ridge and approx. 2.50m to the eaves with a hipped roof to both sides and an open porch to the front elevation over the central door. The bungalow is proposed with 4 bedrooms, a bathroom and an open plan living room/kitchen/dining room.



**Figure 6: Proposed floorplan**



**Figure 7: proposed elevations**

- 3.3 Proposed materials are red bricks to all elevations, dark grey roof tiles, white upvc windows and timber doors with 1.2m post and rail fencing to the boundaries inside the existing and proposed hedgerows. Foul sewerage is proposed to use a package treatment plant and use of a soakaway for surface water drainage.

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

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

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

Site Location Plan  
 Site Layout Plan  
 Proposed elevations  
 Proposed floorplans  
 Google Earth aerial photographs

Photographs of previous piggery buildings  
Covering letter and Design and Access Statement

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

- 3.5 Prior to submitting the planning application the site has not been subject to a pre-application. It is noted however that the applicant did inform the Council of an intention to submit an application for a bungalow on the site during the injunction proceedings.

## **4. Consultations and Representations**

- 4.1 Consultations with technical consultees and the local community were carried out on the application. This occurred on 7<sup>th</sup> June 2019 and included a site notice put up on 11<sup>th</sup> June 2019 and advertisement in the Harborough Mail on 13<sup>th</sup> June 2019. The consultation period expired on 4<sup>th</sup> July 2019.
- 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 ***Claybrooke Magna Parish Council (objection to this application and neighbouring application 19/00934/FUL)***  
Claybrooke Magna Parish Council strongly objects to these applications on the grounds of both safety and loss of open countryside.
- 4.4 The entry and exit to the site is onto an unrestricted road notorious for speeding. It leads onto this busy derestricted road which feeds on to the main A5 at a single carriage way point. Thus, further traffic at this pinch point will only add to an already dangerous part of this main arterial road. Also, extensive vehicle movements, associated with an equestrian centre, would be unsafe for occupants and other road users.
- 4.5 As for the proposed dwelling, there is no footpath linking to any amenity such as the school or bus stop. In addition, the dwelling is proposed in an open countryside location and would be overbearing and detrimental to the local landscape. The site is in very attractive open countryside and its loss will have a major impact on the area. The fact that development has commenced against the law, further impacts upon the vital importance of protecting our open countryside.
- 4.6 In addition, the site is on a single track road on a bend, without any safe walking area, making it a highly dangerous place to undertake any development.
- 4.7 ***Claybrooke Parva Parish Council***  
Object to the application.
- 4.8 The site of the proposed Development has recently been developed through the Applicants extensive dumping and spreading of uncontrolled Construction Demolition Waste (CDW) to an approximate depth 200mm to 400mm. There is now a repository of several thousand tonnes of CDW covering the site which has not been screened at point of collection for removal of hazardous materials, examples; asbestos, silica,



bitumen, oil, and metal. It is understood this CDW has been transported and dumped in contravention of The Waste (England & Wales) Regulations 2011, also The Environment Agency Procedures for the Management of Land Contamination. The current exposed condition of the dumped CDW is a genuine risk of causing both soil and airborne contamination, which represents a health hazard to residents within the surrounding villages. Beyond the recent dumping of CDW, the site is also unlikely to have been cleared of waste previously known to have existed on the site. This waste included asbestos, metalwork, & timber, which will now exist as contaminated waste buried below the 200mm to 400mm covering of uncontrolled Construction Demolition waste.

- 4.9 The Application of one Dwelling is also predicated on an erroneous claim (elaborated by the Applicants Agents) of an existing Planning entitlement to site Gypsy Caravans. Reviewing previous Planning Applications for this site it seems clear that this entitlement has been removed at an earlier stage. Further, it is local knowledge that while a scrapped Caravan may have at some stage been dumped on the site, at no time has Gypsy residence ever been taken-up. The Applicant while applying for a Domestic residence, seems to be applying in parallel for use of the site as a Gypsy Caravan Site. This leaves a valid question, what is the need to site Gypsy Caravans if you are planning to develop the site as a domestic dwelling presumably to live in or rent? Claybrooke Parva Parish Council understands that Leicestershire currently meets the Government recommend quota for providing Gypsy facilities and is therefore not in need of considering this factor. Further, the residents of Claybrooke Parva and surrounding villages object to the siting of a Gypsy Caravan Site at Wells Close. The site is not served by a mains drain / sewage system. The Application does not state any intention to connect these services, therefore should be considered as unsuitable for the development of either a permeant Dwelling or use as a site for Gypsy Caravans.
- 4.10 It cannot be ignored that the proposed dwelling design and positioning on the plot is also well suited for conversion into a dayroom or community facility in support a Gypsy Caravan Site. Given the proposed dwelling position at the rear of the site (being uncommon to the surround properties) this in particular provides ample opportunity for development of an access from the proposed drive on to the wider part of the site. When considering these possibilities together with the fact the site has already been covered with 200mm to 400mm of Construction Demolition Waste hardcore typically used in the development of permanent Gypsy Caravan Site hardstanding. It can reasonably be determined that this Planning Application is part of a wider ambition over a period of time to convert Wells Close into a large Gypsy Caravan Site on what is Agricultural land and as such not suited to this tranquil rural location.

***Cllr Page – Ward Member (objection to this application and neighbouring application 19/00934/FUL)***

- 4.11 I objects to these applications on the grounds of it being a unsustainable location and development in the open countryside against policy.
- 4.12 The entry and exit to the site is onto an unrestricted road which feeds on to the main A5 at a single carriage way point. Extensive vehicle movements, associated with an equestrian centre would be unsafe. There is a reliability to a car and no footpath linking to any amenity rendering this as location as unsustainable. A previous application was refused for this reason and upheld at appeal.

***LCC Highways***

- 4.13 The Local Highway Authority Advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 109 of the National Planning Policy Framework (2019), subject to the conditions and/or planning obligations outlined in this report.
- 4.14 The Local Highway Authority (LHA) is in receipt of a full application for the erection of one dwelling at Wells Close on Woodway Lane in Claybrooke Parva. Woodway Lane is a classified C road subject to a 60 mph speed limit. The LHA acknowledges the previous site history in particular in relation to Harborough District Council application reference 17/01436/PDN. Approval was given for a proposed change of use of an agricultural building to a dwelling. However, due to the poor condition of the building, the building has been demolished. The applicant is now applying to replace the previous approved dwelling in 2017 with the erection of one dwelling (19/00888/FUL).
- 4.15 The applicant is planning to use the existing access off Woodway Lane. The LHA consider that the existing site access is suitable to serve the proposed development based on the previous site history. The LHA has reviewed personal injury collision data for the most recent 5-year period. There have been no recorded personal injury collisions along in the vicinity of the site access in this period. The LHA note that the application form has detailed that 2 parking spaces will be provided. No plans have been submitted to this effect. Based on the number of bedrooms proposed, a dwelling of this size will require 3 car parking spaces.
- 4.16 Conditions proposed for 3 car parking spaces to be provided.

#### ***LCC Ecology***

- 4.17 No objections to this minor development, subject to retention of the existing hedgerow and trees along the southern boundary; this should be a planning condition.
- 4.18 I welcome the planting of the new hedge to the northern edge, as shown on the layout plan; as a planning condition, I recommend that this is of locally native species only. A suitable list of species can be provided on request.

#### ***HDC Environmental Health***

- 4.19 Proposes pre-commencement conditions for a risk based land contamination assessment and verification investigation report.

### **b) Local Community**

- 4.20 28 objections received from 25 addresses. Of the objections received, 16 are from Claybrooke Parva, 3 from Claybrooke Magna and the remainder from elsewhere including Lutterworth, Broughton Astley, Frolesworth, Ullesthorpe and Coventry. The objections received raise the following points:
- Contaminated land due to dumping of waste materials on site
  - Applicant will use the site for a Traveller site
  - Bungalow not in keeping with location
  - Development in open countryside
  - Unsafe access to Woodway Lane
  - No pavement to access Claybrooke Parva or street lighting

- Site has no previous residential or equestrian use
- No gas, water, electricity services to site
- Previous piggery buildings demolished, therefore no permitted development
- Removal of hedgerows on site
- No bus service to site
- Primary school is full
- Dwelling should be agricultural in appearance
- Impact on wildlife
- Previous permission for Traveller pitches no longer valid

4.21 Of the objections received, 5 are anonymous, with therefore less weight to be applied to anonymous objections; however points raised in all objections received are included above.

## **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 Relevant Policy of GD4 – New housing in the Countryside is considered most relevant to this application. Further policies considered to be relevant are:

- SS1 – The Spatial Strategy
- GD2 – Settlement Development
- GD8 – Good design in development
- CC3 – Managing flood risk
- IN2 – Sustainable transport

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

- *National Planning Policy Framework*

5.3 The Framework published February 2019, replaces previous national guidance set out set in Planning Policy Guidance and Planning Policy Statements.

5.4 The overarching policy objective of the Framework is the ‘presumption in favour of sustainable development’. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 8). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system. The presumption in favour of sustainable development is seen as the ‘heart of the Framework’ running through plan-making and decision-taking (para.10). For decision-taking this means:

- approving development proposals that accord with the development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:



- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- *National Planning Practice Guidance*

5.5 The National Planning Practice Guidance (hereafter referred to as the PPG) published 6th March 2014 replaces a raft of previous planning guidance documents that have been cancelled as part of the Government's drive to simplify the planning process.

- *Supplementary Planning Guidance*

5.6 The Supplementary Planning Guidance Note that is relevant to this application is Note 4 – Residential Development in the Countryside.

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

- *Reason for Committee Decision*

5.7 This application is to be determined by Planning Committee as the Council has obtained an injunction on the site. It is therefore considered to be in the public interest for determination by Planning Committee.

## **6. Assessment**

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

6.1 The principle of residential development is assessed through Policy GD4 of the Harborough Local Plan together with the National Planning Policy Framework. Dwellings in the countryside, outside of sustainable settlements, would not normally be permitted.

6.2 The Claybrookes are identified in Policy SS1 as a Selected Rural Village. As such, development within or adjoin the built form of Claybrooke Magna and Claybrooke Parva is considered acceptable in principle, with Policy H1 outlining a target for an additional 12 dwellings at The Claybrookes within the Plan period.

6.3 Whilst development within and adjoining Selected Rural Villages is considered acceptable in principle, this site is located approx. 700m from the edge of Claybrooke Parva, with no pavement connecting the site to the village. Further, whilst the 700m distance is located within the guideline of 800m walking distance to a service (the primary school), the site is not located within 800m of two services, with the public house in Claybrooke Magna well outside of an 800m guidance distance.

6.4 As the site is not located within or adjoining Claybrooke Parva, the site is considered to be located in open countryside, with new housing in the countryside assessed through Policy GD4. Policy GD4 allows for new housing in the countryside in the following scenarios:

- Housing of no more than 4 dwellings to meet an identified and evidenced rural housing need;
- Housing to meet the needs of a rural worker, subject to criteria;

- The re-use of redundant or disused buildings;
  - Subdivision of an existing dwelling;
  - A design of exceptional quality, in that it is truly outstanding or innovative; or
  - Rebuilding or replacement of an existing dwelling
- 6.5 The application proposes the erection of a bungalow in a countryside location, with the application not submitted on meeting one of the scenarios of Policy GD4 as outlined above.
- 6.6 The application for a bungalow proposes a single dwelling to replace previous piggery buildings on the site, with the proposed bungalow sited at the same location within the site as the previous piggery buildings. The piggery buildings benefitted from permission for conversion to form 2 dwellings (application 17/01436/PDN). This permission allowed for the conversion of the existing building, together with associated operational development, to form 2 dwellings. This conversion did not include any extensions to the existing piggery buildings.
- 6.7 The piggery buildings subject to permission 17/01436/PDN, allowed for conversion to 2 dwellings, were knocked down by the applicant in May 2019. The buildings therefore can not be converted to form dwellings in compliance with permission 17/01436/PDN as the buildings are no longer present on site. The applicant has suggested that the buildings, despite the prior approval permission, were not suitable for occupation; however no evidence has been provided to support this claim.
- 6.8 Were the piggery buildings still present on the site, with an extant prior approval for conversion to form 2 dwellings, this would have been considered as a significant fall back position in determination of this application. This fall back position for 2 dwellings on the site through conversion of existing buildings would have been weighed against the proposed erection of a single dwelling, with a higher quality of accommodation (new build bungalow) and the loss of a dwelling in an unsustainable location. However, the removal of the piggery buildings is considered to remove this fall back position, with this application instead for a dwelling in the countryside with no fall back position for residential development considered.
- 6.9 The site layout plan submitted (Figure 5 above) includes an area of land adjacent to the proposed bungalow shown as 'Existing caravan site'. This is considered to relate to the grant of permission in 2007 for the change of use of land for the siting of residential caravans (07/00230/FUL).
- 6.10 In determining application 17/01436/PDN, Officers sought legal advice as to whether the 2007 permission (07/00230/FUL) for the siting of residential caravans was implemented. Whilst a caravan has previously been brought onto the site there was no evidence at the time of any permanent residential use of the caravan, and pre-commencement planning conditions (landscaping and drainage) related to permission 07/00230/FUL were not discharged.
- 6.11 The Council legal advice in 2014 concluded that as the pre-commencement conditions had not been discharged, and that no residential use had taken place on the land related to the granting of the 2007 consent, the 2007 consent (07/00230/FUL) had therefore not been implemented. This point was also raised by the Council in obtaining the current injunction on the site in June 2019.
- 6.12 Should Planning Committee wish to approve this application for the erection of a bungalow on the site it is recommended that the site layout plan submitted, showing

an area for an existing caravan site is not approved. This can be controlled through planning conditions to be for a bungalow only and no consent for caravans on the adjacent land.

- 6.13 In summary, it is considered that the removal of the piggery buildings removes a fall back position for residential use on the land by the applicant. No evidence has been provided by the applicant as to why these buildings were removed despite an extant consent to convert to residential use. As there is no fall back position for residential use, the application for a dwelling is considered to be assessed through Local Plan Policy GD4 for residential development in the countryside. The site is remote from access to services and facilities, with limited benefits considered to weigh in favour of the application of providing a dwelling for the applicant only, together with the potential of this application to allow residential development to be controlled and assist in preventing any other development on the site.
- 6.14 The application is not considered to meet the criteria of Policy GD4 as a local need has not been evidenced, the proposed bungalow is not required to serve the needs of a rural worker and rural business or enterprise, the proposed bungalow is not re-use of an existing building, subdivision of an existing dwelling, a design of exceptional quality nor the rebuilding or replacement of an existing dwelling. The proposal is therefore considered unacceptable in principle, providing unsustainable development in the countryside with limited access to services and facilities. The application is therefore considered contrary to Local Plan Policies SS1 and GD4.
- 6.15 It is noted that several objections have been received from members of the public claiming that the site will be used for Gypsy and Traveller provision and that the proposed bungalow will also be used as such, for a day room building serving a Traveller site.
- 6.16 This application proposes a single bungalow only, with a floorplan provided, and no Gypsy and Traveller provision is proposed elsewhere on the site (19/00934/FUL pending consideration for equestrian use), nor is the bungalow proposed to serve a Traveller site. These objections are noted but such a use of the wider site is not proposed through this application nor application 19/00934/FUL. Considerations of Policy H6 for Gypsy and Traveller provision are therefore not considered relevant in the consideration of this application, nor neighbouring application 19/00934/FUL.

## **c) Technical Considerations**

1. Scale, appearance and landscaping
- 6.17 The site is a greenfield site, with open fields to all sides and further residential uses at a distance of approx. 96m from the centre of the site (Woodway Lodge). The site is open in appearance with hedge and tree boundaries to all sides of the wider field (with pending application 19/00934/FUL).
- 6.18 The application site does not have any formal landscape designation and is not located within a green wedge or area of separation. The site is located within the Upper Soar Landscape Character Area as defined by the Harborough District Landscape Character Assessment 2007. The Upper Soar is considered to be characterised by:
- Large wide river basin with high ridges
  - Forms a small part of larger character area



- Lack of woodland
  - Predominantly pasture
  - Visible influences from outside character areas
  - Urban influence apparent in particular around Broughton Astley
- 6.19 The Upper Soar is considered by the 2007 Assessment to have a medium capacity for development, however the rural character which remains undisturbed requires protection and has low capacity to accommodate change.
- 6.20 The Inspector in considering the appeal of the 2014 refusal for two additional Gypsy and Traveller pitches considered the impact the proposed development would have on the landscape. The appeal decision includes:

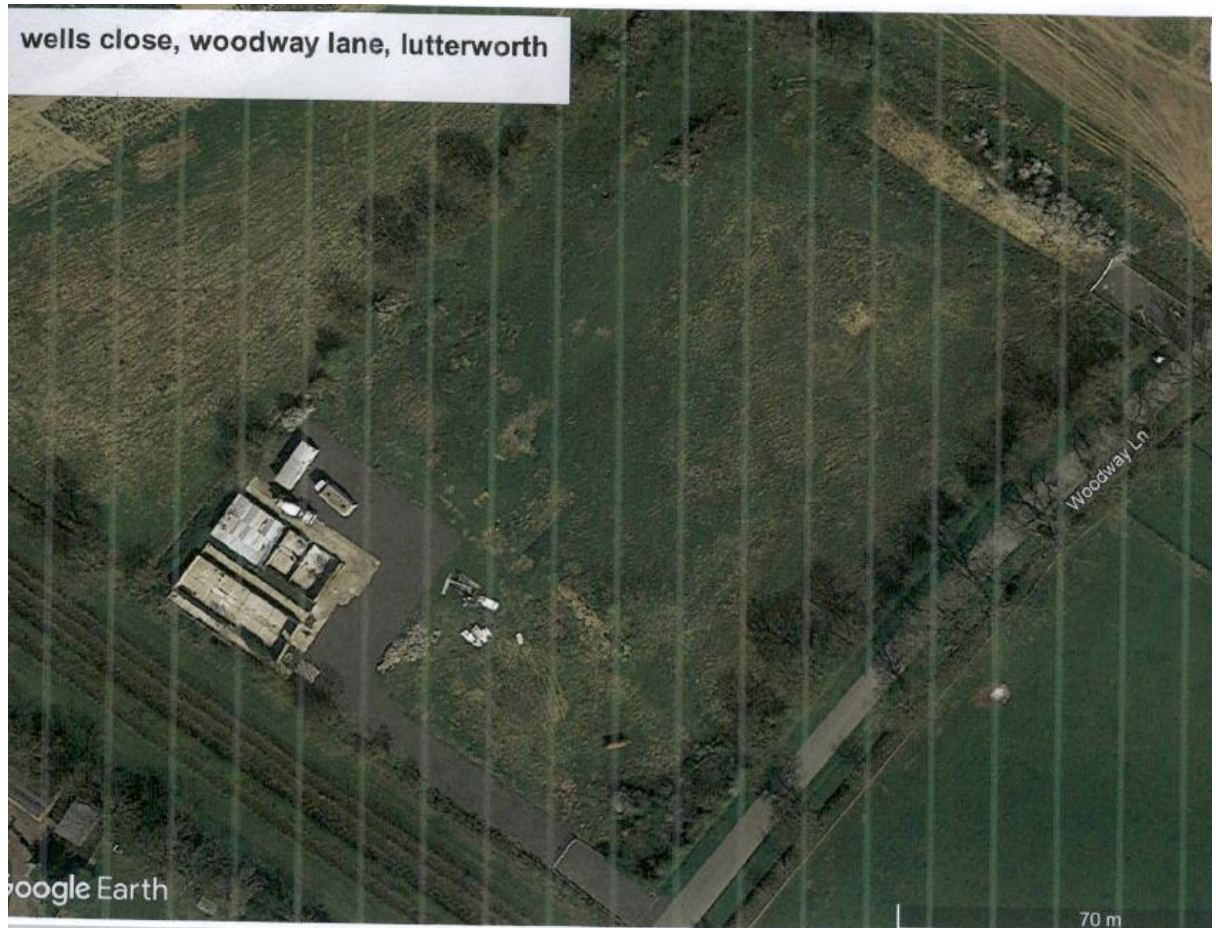
*'12. Although a tall dense hedge provides effective screening along most of the road frontage (at least when the deciduous parts of the hedge are in leaf) the existing unused buildings, the present hardstandings, the 2007 permission caravan and the land for the proposed appeal pitches, are clearly visible from the vehicular access gateway and some other parts of the frontage where there are gaps in the hedge. Allowing 2 new gypsy and traveller pitches here (which the application recognises includes the siting of caravans, the provision of (more) hardstanding and ancillary accommodation) will be bound to intensify the urbanizing impact that the existing development has already had on the rural character of Woodway Lane. This would not conform to national and local countryside protection policies and would be most damaging to the intrinsic character and beauty of the countryside hereabouts and harm a valued (by local inhabitants) landscape. This is sufficient reason to withhold planning permission.*

*13. In forming this opinion I accept that the existing screening, supplemented by additional landscaping, could more effectively hide the development from most public views. But such arguments carry little weight because they can be used to justify almost any development in the countryside and, if accepted, would make it more difficult for the Council to resist other similar schemes. Taken together a number of such proposals could be profoundly damaging to the rural character and beauty of the countryside. ....'*

- 6.21 The proposal considered above is in the context of a proposal for two Gypsy and Traveller pitches (4 caravans), together with ancillary buildings and hardstanding, and located forward (closer to the Woodway Lane) of the piggery buildings on the site which were to remain, and later permitted for change of use to residential.
- 6.22 The layout proposed, showing retention of the hedgerows to the west and south boundaries, and creation of a new hedge and tree planting to form a new boundary around the proposed dwelling and driveway and demarcation within the wider field, is considered in light of the previous buildings on the site. At the time of the appeal above, the piggery buildings were located on site and further development through the siting of caravans proposed forward of this, close to the vehicular access into the site from Woodway Lane. This application instead proposed a single storey bungalow to the rear corner of the site, in place of the previous piggery buildings.
- 6.23 Due to the proposed scale of the building, with a ridge height at approx. 5.70m and eaves at approx. 2.50m, and siting back within the site, approx. 65m from the highway in place of the previous piggery buildings, this proposal is not considered to result in harm to the intrinsic character and beauty of the countryside. No caravans are proposed on site, with the previous 2007 consent not considered by the Council to have been implemented and therefore considered to have expired. The proposal

would replace the previous piggery buildings on the site (first permitted in 1975) with a building considered an enhancement to their previous run down appearance.

- 6.24 The applicant has provided an old google earth view of the site, showing the piggery buildings together with a caravan on the site as shown below:



**Figure 8: Google Earth aerial view provided by the applicant**

- 6.25 The proposed bungalow, sited in place of the previous piggery buildings and therefore only viewable from the direct access and set back approx. 35m from the highway, is considered no more harmful to the countryside than these buildings and, through appropriate landscaping, considered to potentially provide an enhancement to the appearance of the site.
- 6.26 Whilst the proposal for a bungalow is not considered contrary to Local Plan Policy GD5 Landscape Character in that it respects landscape setting, avoids harm or loss of landscape features and does not impact on important views, with nearest public rights of way approx. 225m to the north (footpath W84), this lack of conflict with Policy GD5 is not considered to outweigh the harm identified through unsustainable development in the countryside as set out in Policies SS1 and GD4.

## 2. Drainage

- 6.27 The application proposes the erection of a single dwelling only. As the site is located within flood zone 1 no drainage strategy is required for the application, with drainage for a single dwelling considered to be assessed through building regulations. The

applicant has proposed the use of a soakaway for surface water drainage and a package treatment plant for foul sewerage.

- 6.28 The 2014 appeal decision for siting of 2 Gypsy and Traveller pitches in addition to the piggery buildings did not previously state any reasons for refusal with regards to drainage or flood risk. It is therefore considered that the proposed development would comply with Policy CC4 and the aims and objectives of the Framework.
- 6.29 The Council has received correspondence from both the Parish Council and a member of the public that some of the site near to the highway is sinking. This was put to the Council as due to the previous dumping of soil and waste material on the site and following heavy rainfall. The Planning Enforcement team visited the site on receipt of this information and did not witness any substantial level changes, and whilst the site was covered in thick low level vegetation, no obvious movement from previous visits to the site (for the serving of enforcement notices and in relation to the injunction) were noticed. Figure 9 below was taken by the Planning Enforcement team looking north into the site from the existing access the w/c 5<sup>th</sup> August.



**Figure 9: view north into the site to the rear of the Woodway Lane hedge boundary**

### 3. Ecology

- 6.30 LCC Ecology have no objections to the proposal, subject to the retention of existing hedgerows and trees to the southern boundary. Further, the planting of a new hedge in native species is welcomed.
- 6.31 Objections received regarding a potential impact on wildlife are noted, however LCC Ecology have no objections, with the proposal a single bungalow on a site that has previously been in agricultural use and since cleared, resulting in a site considered to be of low ecological value with the exception of the retained hedgerows. The

proposal is therefore considered to be in conformity with Policy GI5 and does not result in any ecological harm.

#### ■ 4. Highways

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- 6.32 As this application proposes 1 additional dwelling only, no transport statement has been provided with the application. The proposed dwelling would use the existing access to Woodway Lane, previously approved (in 2007) for the siting of residential caravans on the site, and in 2017 for the conversion of the piggery buildings to form 2 dwellings.
- 6.33 Woodway Lane is unrestricted (60mph) at the point of access to the site, with new accesses to unrestricted highway not considered favourably by the Local Highway Authority. However, as the site has previously had permission for a more intensive residential use than currently proposed, with no accident record in the vicinity on Woodway Lane, no objections have been received from LCC Highways.
- 6.34 The access is an existing access that is gated and with sufficient space forward of the gates to allow a vehicle to fully come off the highway prior to stopping to open the gates. Proposed parking spaces are not shown on the proposed layout, with 2 stated in the application form only. Due to the proposed 4 bedroom dwelling, 3 parking spaces would be required and LCC Highways suggest this as a planning condition. This is considered to be able to be accommodated within the site and ensure no parking off site on the highway.
- 6.35 Highway safety was considered by the Inspector for the 2014 appeal for 2 Gypsy and Traveller pitches on the site, including an assessment of the junction with Woodway lane and the A5 in addition to use of the existing access from Woodway lane into the site. The Inspector concluded:
- ‘Taking all this into account, especially the relatively small amount of extra traffic that the appeal proposals would be likely to generate, I do not consider that any minimal, and mostly theoretical, extra risks concerning the use of the A5 junction would be material in regard to its existing levels of road safety’.*
- 6.36 The application is therefore considered to be in compliance with Local Plan Policies GD8 and IN2 with regards to highway safety, subject to provision of 3 parking spaces.

#### ■ 5. Residential Amenity

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- 6.37 The application proposes 1 single storey dwelling, located approx. 96m from the nearest neighbouring dwelling (Woodway Lodge) and approx. 225m from the next nearest dwelling (Laurel Bank Farm). Existing hedgerow boundaries are proposed to be retained and further hedgerow boundaries proposed to form a new northern boundary to the site and split the existing open field.
- 6.38 As the proposed dwelling is single storey, with retention of existing and creation of new hedgerow boundaries together with the distance to neighbours as above, no overlooking or overbearing impact is considered to result to neighbouring dwellings. The application is therefore considered acceptable in this regard.

#### ■ 6. Heritage

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- 6.39 The proposed dwelling is located approx. 789m from the edge of the Claybrooke Parva Conservation Area, and approx. 991m from the nearest listed building – Grade 1 Listed St Peter's Church.
- 6.40 Due to the distances from heritage assets, the existing boundary treatments to the site and the change in landscape from more formal historic settlement of Claybrooke Parva to more open fields leading to the A5, no harm is considered to result from the proposal to the setting of heritage assets. The 2014 appeal for 2 Gypsy and Traveller pitches considered conservation of the countryside only, not any impact or harm to heritage assets (the conservation area or listed buildings). This proposal, for a single storey dwelling in place of previous piggery buildings and with no additional Gypsy and Traveller pitches proposed, is considered to be less visually harmful than the scheme considered at appeal.

## **7. Contaminated Land**

- 6.41 Many objections have raised potential ground contamination on site, alleging that the applicant or previous owners have moved demolition waste to the site together with soil and other materials. This waste is now considered to be buried within the site from previous groundworks undertaken, and includes demolition waste from the demolition of the piggery buildings.
- 6.42 Whilst potential ground contamination is noted, should Planning Committee wish to approve this application it is considered that suitable planning conditions requesting a risk based land contamination assessment and a verification investigation report as pre-commencement conditions are suitable to ensure that future occupants are not at unacceptable risk from soil pollution.

## **d) Sustainable Development**

- 6.43 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  
Provides economic development in the building of 1 dwelling, including an additional dwelling towards the Council's 5yr supply and total Plan requirement.
  - Social  
Provides a new dwelling, which contributes 1 additional dwelling to housing need. The site can not be accessed by sustainable modes of transport, and is not located within a reasonable distance to services and facilities, instead providing a reliance on car travel.
  - Environmental  
Additional planting and retention of existing hedges and trees will help to improve bio-diversity and enhance the environment. It is therefore considered that it will not have a negative impact on the environment, and is not considered to be harmful to the landscape through siting and massing replacing previous built form on the site.

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

- 7.1 Overall it is considered on balance that the proposed dwelling, by virtue of its siting, appearance, scale and massing, the proposal would be acceptable in visual terms

and would not adversely affect local highway safety or give rise to a road safety hazard. LCC Highways have no objections to the application, subject to conditions regarding parking provision.

- 7.2 The proposal is not considered to have a detrimental effect upon neighbouring amenities, green infrastructure or ecological interests, and will not have a significant harmful impact on the character and appearance of the countryside. However, the proposed dwelling is located remote from the nearest settlement, and remote from access to services and facilities. The application is therefore considered to be contrary to policies SS1, GD4 and IN2 of the Harborough Local Plan and para 79 of the Framework.
- 7.3 The site has previously benefitted from residential use on the site, both for Gypsy and Traveller provision and for conversion of existing buildings to residential use. However, it is considered that the previous Gypsy and Traveller use has expired and is therefore no longer a lawful use of the site, and the buildings proposed for conversion have been demolished. The applicant has not submitted sufficient evidence to justify the demolition of these buildings.
- 7.4 As the piggery buildings have been demolished, the site is not considered to benefit from a consent for residential use of the site, with the 2017 prior notification consent previously providing a significant fall back position to the applicant. With a fall back position no longer considered, this application is considered to be additional development in the open countryside, outside of the built form of nearby settlements with residential development only permitted subject to criteria.
- 7.5 Outside sustainable settlements new residential development is controlled for the purposes of supporting rural workers in agriculture, horticulture, woodland management or other similar uses appropriate to a rural area, including uses which would help to diversify the rural economy, as well as for providing dwellings to meet needs evidenced through a rural housing needs survey or a Neighbourhood Plan. The proposal is not for any of the above purposes. The proposal is not within or physically and visually connected to a settlement and is remote from services and facilities with limited opportunities for sustainable transport choices. The proposal is unacceptable in principle in this countryside location. While the proposal would contribute to the Council's 5 year housing land supply, the harm in principle significantly and demonstrably outweighs the benefits of the proposal. The proposal does not accord with Policies SS1, GD4 and IN2 of the Harborough Local Plan. No other material considerations indicate that the policies of the Development Plan should not prevail. The proposal also conflicts with the National Planning Policy Framework's presumption in favour of sustainable development.



## Planning Committee Report

**Applicant:** Mr Michael Maloney

**Application Ref:** 19/00934/FUL

**Location:** Wells Close, Woodway Lane, Claybrooke Parva

**Proposal:** Erection of barn and manure store, extension of stable yard and construction of manege

**Application Validated:** 11/06/19

**Target Date:** 06/08/19

**Consultation Expiry Date:** 18/07/19

**Site Visit Date:** 20/06/19

**Case Officer:** Chris Brown

## Recommendation

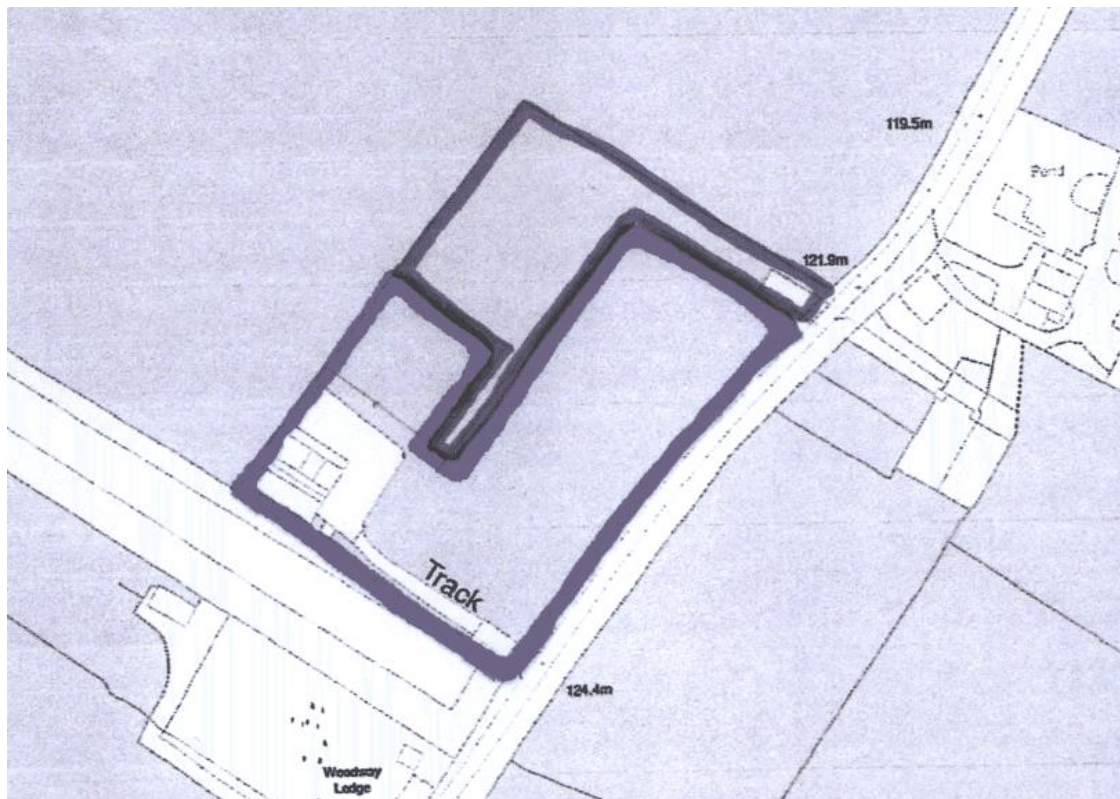
Planning permission is **APPROVED** for the reasons set out in the report together with planning conditions set out in Annexe A to this report.

### Recommended justification statement

The development hereby approved, by virtue of its design, size and positioning, would not adversely affect the amenity of local residents, not adversely affect local highway safety and is of harmonious design, form and materials. The proposal is therefore considered to accord with the Harborough Local Plan Policies GD3, GD5 and GD8 and no other material considerations indicate that the policies of the development plan should not prevail, furthermore the decision has been reached taking into account paragraph 38 of the National Planning Policy Framework.

## 1. Site & Surroundings

- 1.1 The application site is located 700m to the south west of Claybrooke Parva, 400m from the junction of Woodway Lane and the A5. The site is located within open countryside, with open fields to all sides. The site is currently open in appearance and with earthworks undertaken to the site in May 2019. There is an existing access to the site from Woodway Lane associated with a previous stables permission and a further access to the south subject of neighbouring application 19/00888/FUL. The site is outside of the existing built form of Claybrooke Parva, and not located within a conservation area.



**Figure 1: Site Location**



**Figure 2: View south west into the site, with site clearance works having taken place**





**Figure 3: View across the site from the access point showing the remainder of the field linked to application 19/00888/FUL**



**Figure 4: aerial view of the site (2018)**

- 1.2 The site is open in appearance, with direct access on to Woodway Lane. The site has landscaping to all boundaries of the site, with established hedgerows and trees to all boundaries. The site is largely flat, with a later change in levels dropping from

south east to north west across the site. The red line site is approx. 0.33ha, and the wider field approx. 1.52ha.

## 2. Site History

2.1 The wider site has an existing permission as a travelling showpeople site, with this application proposing an extension to this.

- **LR/00405/LRDC** – Erection of a dwelling (Refused 19/01/73)
- **75/01164/3O** - Erection of pig building and feed store and siting of caravan (Approved 26/11/75).
- **76/00887/3R** – Establishment of pig breeding and rearing unit (Approved 06/10/76)
- **77/01002/3R** – Erection of a pig building and feed store and siting of a caravan (Approved 2/02/78)
- **78/02139/3T** – Renewal of permission for siting of residential caravan (Approved 23/05/79)
- **80/00785/3P** – Erection of pig fattening building (Approved 11/06/80)
- **80/01220/3P** – Erection of a pig fattening unit (Approved 16/12/80)
- **80/01218/3O** – Erection of a bungalow (Refused 19/08/80)
- **80/02143/3T** – Renewal of permission for siting of caravan (Approved 10/03/81)
- **83/01248/3T** – Renewal of permission for siting of caravan (Refused 08/11/83)
- **87/01584/3T** – Renewal of permission for siting of caravan (Approved 17/12/87)
- **88/01701/3O** – Renewal of permission for siting of caravan (Approved 17/12/87)
- **88/01701/3O** – Erection of a dwelling (Refused 01/12/88)
- **90/00632/3T** – Renewal of permission for siting of caravan (Refused 13/07/90)
- **07/00230/FUL** – Change of use of land for the siting of residential caravans (Approved 18/04/07 – not within red line boundary of this application)
- **13/01655/FUL** – Change of use of land from agricultural to equestrian, erection of building to provide 2x stables and tack room, and installation of gates (Approved 14/01/14)
- **14/00603/FUL** – Change of use of land for the provision of two Gypsy / Traveller pitches (to include the siting of caravans, the provision of hardstanding and ancillary accommodation) (Refused 03/07/14 and Appeal dismissed 28/10/14)
- **17/01436/PDN** – Prior Approval for the proposed change of use of two agricultural buildings to two dwellinghouses (C3) and for associated operational development (Class Qa and b) (Approved 13/10/17)
- **19/00888/FUL** – Erection of one dwelling – Pending consideration

2.2 In addition to the above planning history there has been a number of planning enforcement cases related to the site. These include 3 investigations in 2014 and one in 2015 relating to the creation of 2 access to the field and siting of caravans and trade vehicles on the site and investigations in 2017 related to temporary storage of construction vehicles on the site and importing of soil and hardcore to the site.

2.3 In May 2019 the Planning Enforcement team opened an investigation that works to demolish the piggery buildings had started on site and that hard core and soil was

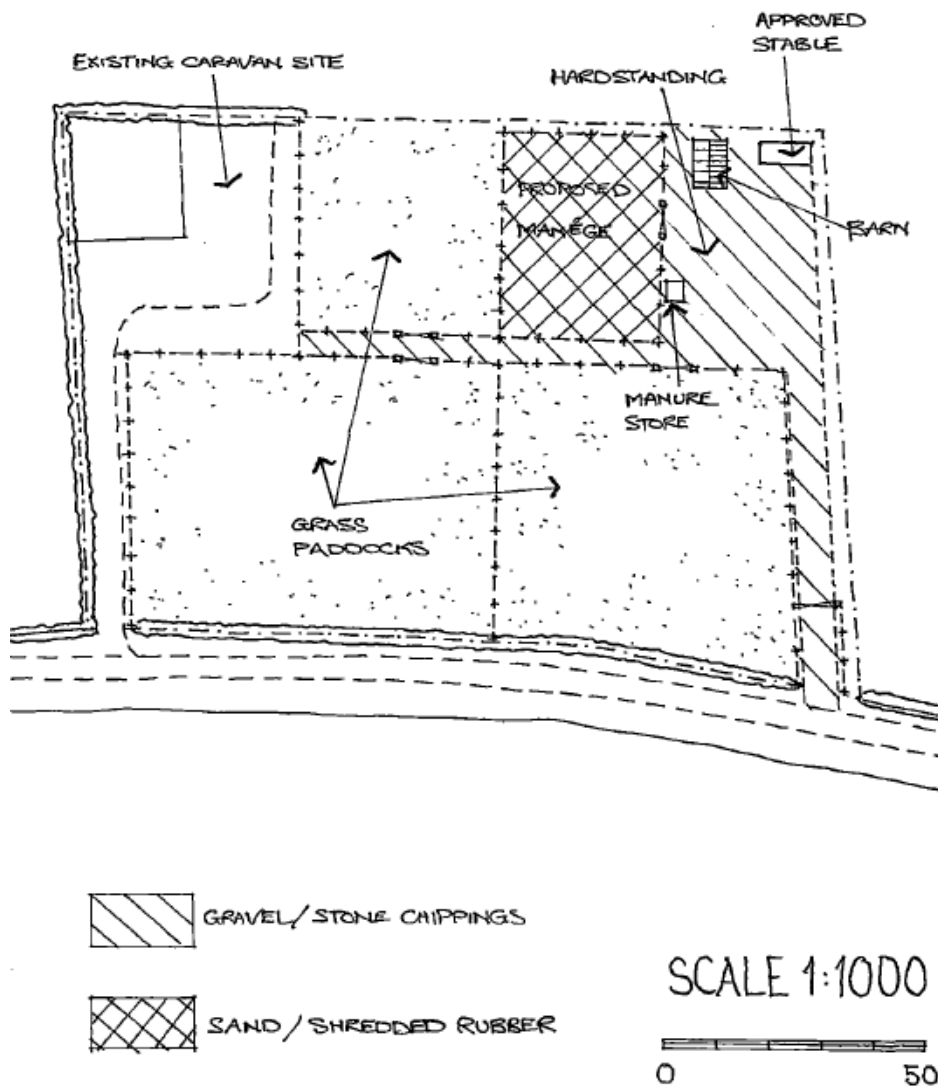
being imported on to the site. A temporary stop notice was served on the site and a court injunction obtained to prevent any further work on the site. The injunction remains in place and subsequently this application and neighbouring application 19/00888/FUL were received by the Council. To date the applicant has complied in full with the terms of the injunction and paid the Councils costs immediately following the hearing.

### **3. The Application Submission**

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

- 3.1 The proposal seeks the proposed erection of a barn, manure store, stable yard and manege on the site. The proposed site layout plan (Figure 5 below) shows the proposed siting of the barn, previously approved stable, manure store and manege and siting of a new fence to delineate the site from neighbouring application 19/00888/FUL for residential use. The site will be accessed from the existing access into the site. The proposed layout also includes an existing caravan site, and this is discussed in the report accompanying application 19/00888/FUL in paras 6.9-6.12 and is not located within the red line for this application.

# SITE LAYOUT PLAN



**Figure 5: Proposed Site Layout**

- 3.2 The proposed barn building is approx. 9.0m in length and approx. 6.0m in width, at a ridge height of approx. 3.20m and eaves at approx. 2.30m. Materials are proposed as grey render to approx. 1.00m in height, continuing with Yorkshire boarding and a metal sheet roof. The barn is shown as open side to one side and containing a hay store and two loose boxes/hay stores.



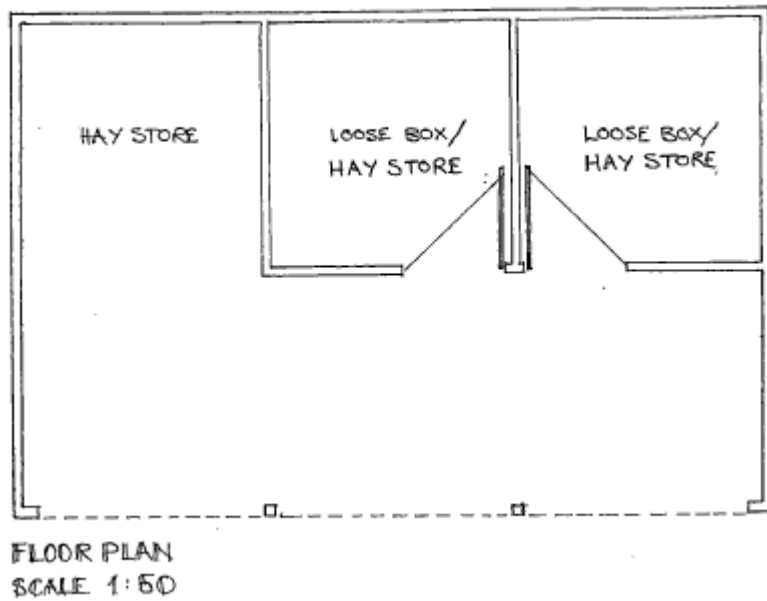


Figure 6: Proposed floorplan

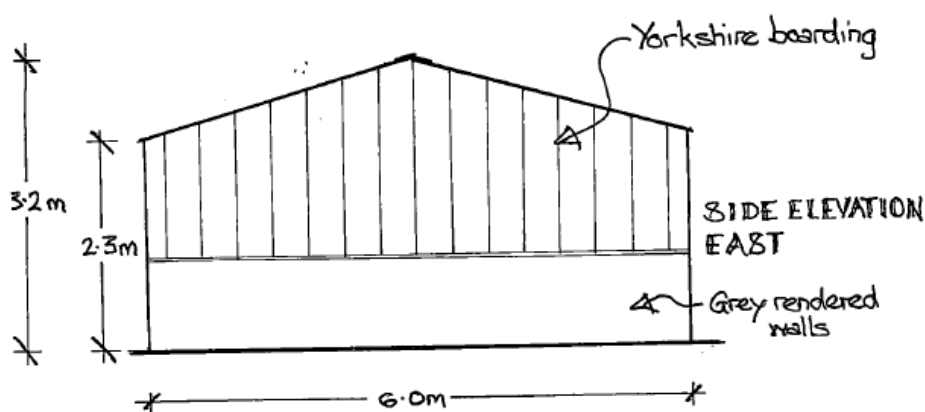
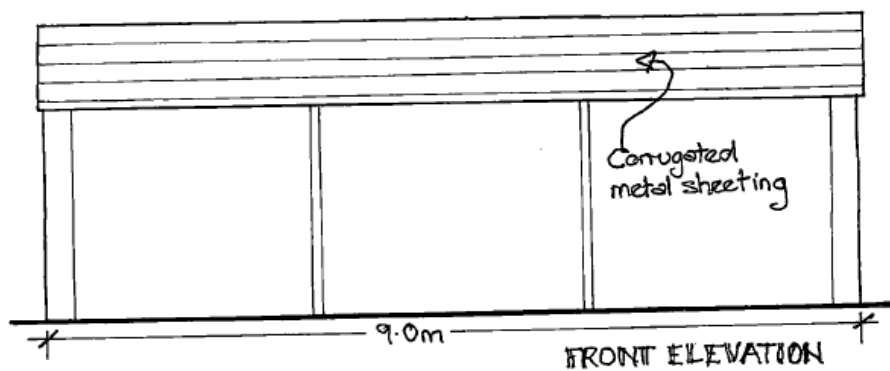


Figure 7: proposed elevations

- 3.3 The proposed barn is shown in addition to a proposed manege of approx. 40.00m x 30.00m and a manure store of approx. 4.00m x 3.00m. No elevations are shown for the manure store but this is considered to be an open wooden structure on this floorplan.

- 3.4 The proposed site layout plan also shows a previously approved stable building. This building, subject of permission 13/01655/FUL was permitted 14/01/14 and approx. 3.5m in height, with a pitched roof (approx. 2.3m to the eaves), and approx. 9.7m in length by 4.2m in depth. The stable block was permitted to be constructed of timber cladding with a slate roof. Outside of the red line 3 grass paddocks are shown, with sand/shredded rubber proposed to the manege and gravel/stone chippings to the access and around the barn. Use of a soakaway for surface water drainage is proposed.

## **b) Documents submitted**

### **i. Plans**

- 3.5 The application has been accompanied by the following plans –

Site Location Plan  
Site Layout Plan  
Proposed elevations  
Proposed floorplans  
Design and Access Statement

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

- 3.6 Prior to submitting the planning application the site has not been subject to a pre-application.

## **4. Consultations and Representations**

- 4.1 Consultations with technical consultees and the local community were carried out on the application. This occurred on 17<sup>th</sup> June 2019 and included a site notice put up on 20<sup>th</sup> June 2019 and advertisement in the Harborough Mail on 27<sup>th</sup> June 2019. The consultation period expired on 18<sup>th</sup> July 2019.
- 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 ***Claybrooke Magna Parish Council (objection to this application and neighbouring application 19/00888/FUL)***  
Claybrooke Magna Parish Council strongly objects to these applications on the grounds of both safety and loss of open countryside.
- 4.4 The entry and exit to the site is onto an unrestricted road notorious for speeding. It is leads onto this busy derestricted road which feeds on to the main A5 at a single carriage way point. Thus, further traffic at this pinch point will only add to an already dangerous part of this main arterial road. Also, extensive vehicle movements, associated with an equestrian centre, would be unsafe for occupants and other road users.
- 4.5 As for the proposed dwelling, there is no footpath linking to any amenity such as the school or bus stop. In addition, the dwelling is proposed in an open countryside

location and would be overbearing and detrimental to the local landscape. The site is in very attractive open countryside and its loss will have a major impact on the area. The fact that development has commenced against the law, further impacts upon the vital importance of protecting our open countryside.

- 4.6 In addition, the site is on a single track road on a bend, without any safe walking area, making it a highly dangerous place to undertake any development.

4.7 **Claybrooke Parva Parish Council**  
Object to the application.

- 4.8 The site of the proposed Development has recently been developed through the Applicants extensive dumping and spreading of uncontrolled Construction Demolition Waste (CDW) to an approximate depth 200mm to 400mm. There is now a repository of several thousand tonnes of CDW covering the site which has not been screened at point of collection for removal of hazardous materials, examples; asbestos, silica, bitumen, oil, and metal. It is understood this CDW has been transported and dumped in contravention of The Waste (England & Wales) Regulations 2011, also The Environment Agency Procedures for the Management of Land Contamination. The current exposed condition of the dumped CDW is a genuine risk of causing both soil and airborne contamination, which represents a health hazard to residents within the surrounding villages. Beyond the recent dumping of CDW, the site is also unlikely to have been cleared of waste previously known to have existed on the site. This waste included asbestos, metalwork, & timber, which will now exist as contaminated waste buried below the 200mm to 400mm covering of uncontrolled Construction Demolition waste.

- 4.9 The Applicants recent development in dumping several thousand tonnes of Construction Demolition Waste is not conducive with the stated intention within the Planning Application. Setting aside the minor areas of the Plot intended for siting a Barn, Stable Yard, & Manure Store, the majority of the Plot is stated within the Application plans as intended for Grass Paddocks & Manege. To provide suitable Paddocks for Equine pasture & grassing, also exercise of horses within a Manege, the existing extensive (potentially contaminated) ground cover of Construction Demolition Waste would need to be removed.

- 4.10 The Application of a Barn, Manure Store, Stable Yard, & Manege is also predicated on an erroneous claim (elaborated by the Applicants Agents) of an existing Planning entitlement to site Gypsy Caravans. Reviewing previous Planning Applications for this site it seems clear that this entitlement has been removed at an earlier stage. Further it is local knowledge that while a scrapped caravan may have at some stage been dumped on the site, at no time has gypsy residence ever been taken-up. The Applicant while applying for a Barn, Manure Store, Stable Yard & Manege also seems to be applying in parallel for use of the site as a Gypsy Caravan Site, this is clearly annotated within the Site Plan. Claybrooke Parva Council understands that Leicestershire currently meets the Government recommend quota for providing Gypsy facilities and is therefore not in need of considering this Application. It cannot be ignored that the proposed Barn, Manure Store & Stable positioning on the plot is also well suited to provide ample opportunity for development of an access from the proposed drive on to the wider part advised as Grass Paddocks & Manege. When considering these possibilities together with the fact the site has already been covered with 200mm to 400mm of Construction Demolition Waste hardcore typically used in the development of permanent Gypsy Caravan Site hardstanding. It can reasonably be determined that this Planning Application is part of a wider ambition

over a period of time to convert Wells Court into a large Gypsy Caravan Site on what is Agricultural land and as such not suited to this tranquil Rural location.

***Cllr Page – Ward Member (objection to this application and neighbouring application 19/00888/FUL)***

- 4.11 I object to these applications on the grounds of it being a unsustainable location and development in the open countryside against policy.
- 4.12 The entry and exit to the site is onto an unrestricted road which feeds on to the main A5 at a single carriage way point. Extensive vehicle movements, associated with an equestrian centre would be unsafe. There is a reliability to a car and no footpath linking to any amenity rendering this as location as unsustainable. A previous application was refused for this reason and upheld at appeal.

***LCC Highways***

- 4.13 The Local Highway Authority 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 Local Highway Authority is unable to provide final highway advice on this application.
- 4.14 The Local Highway Authority (LHA) is in receipt of a full application for the erection of a barn and manure store, extension to stableyard and construction of manege. Woodway Lane is a classified C road subject to a 60 mph speed limit. The applicant is proposing to use the existing access off Woodway Lane. A detailed site access plan should be submitted which shows the following:
- Access Width (minimum of 6 metres)
  - Hard bound surfacing (for at least 10 metres from the Highway Boundary)
  - Radii (minimum of 7.5 metres)
  - Gate set back distance (minimum of 11 metres from the Highway Boundary)
  - Gradient (no more than 1:12 for a distance of at least 10 metres)

In addition, vehicular visibility splays should be drawn fully on the site access plan. Information on access requirements can be found on Part 3 of the Leicestershire Highways Design Guide.

- 4.15 The LHA has reviewed personal injury collision data for the most recent 5-year period. There have been no recorded personal injury collisions along in the vicinity of the site access in this period. There are no provisions for parking shown for this development, the LHA requests that the applicant clarifies the intended parking arrangements for this development proposal.

***HDC Environmental Health***

- 4.16 No comments received.

**b) Local Community**

- 4.17 25 objections received from 21 addresses. Of the objections received, 15 are from Claybrooke Parva, 2 from Claybrooke Magna and the remainder from elsewhere including Lutterworth, Broughton Astley, Frolesworth and Ullesthorpe. The objections received raise the following points:
- Contaminated land due to dumping of waste materials on site
  - Applicant will use the site for a Traveller site

- Development in open countryside
- Unsafe access to Woodway Lane
- No pavement to access Claybrooke Parva or street lighting
- Site has no previous residential or equestrian use
- No gas, water, electricity services to site
- Removal of hedgerows on site
- No bus service to site
- Primary school is full
- Impact on wildlife
- Previous permission for Traveller pitches no longer valid
- A business management plan should be submitted
- Paddocks not large enough for number of horses

4.21 Of the objections received, 12 are anonymous, with therefore less weight to be applied to anonymous objections; however points raised in all objections received are included above.

## **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 Relevant Policy of GD3 – Development in the Countryside is considered most relevant to this application. Further policies considered to be relevant are:

- SS1 – The Spatial Strategy
- GD8 – Good design in development
- CC3 – Managing flood risk
- IN2 – Sustainable transport

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

- *National Planning Policy Framework*

5.3 The Framework published February 2019, replaces previous national guidance set out set in Planning Policy Guidance and Planning Policy Statements.

5.4 The overarching policy objective of the Framework is the 'presumption in favour of sustainable development'. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 8). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system. The presumption in favour of sustainable development is seen as the 'heart of the Framework' running through plan-making and decision-taking (para.10). For decision-taking this means:  
– approving development proposals that accord with the development plan without delay; or

– where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- *National Planning Practice Guidance*

5.5 The National Planning Practice Guidance (hereafter referred to as the PPG) published 6th March 2014 replaces a raft of previous planning guidance documents that have been cancelled as part of the Government's drive to simplify the planning process.

- *Supplementary Planning Guidance*

5.6 The Supplementary Planning Guidance Note that is relevant to this application is Note 6 – Agricultural and Equestrian Buildings and Development for Sport and Recreation in the Countryside.

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

- *Reason for Committee Decision*

5.7 This application is to be determined by Planning Committee as the Council has obtained an injunction on the site. It is therefore considered to be in the public interest for determination by Planning Committee.

### **6. Assessment**

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

6.1 The principle of residential development is assessed through Policy GD3 of the Harborough Local Plan together with the National Planning Policy Framework.

6.2 Policy GD3 allows for non residential development in the countryside for agriculture, horticulture, woodland management or other similar uses appropriate to a rural area, including uses which would help to diversify the rural economy, such as equestrian uses.

6.3 This proposal is for a barn, manure store and manege, for equestrian use of the site. The red line boundary overlaps with that of permission 13/01655/FUL for the change of use of land from agricultural to equestrian, erection of building to provide 2 x stables and tack room, and installation of gates. This permission, on a smaller red line site, permitted an equestrian use in this location including a stables building and gates to an access.

6.4 The proposed barn, manure store and manege are considered to be low key in appearance, with retention of the existing north and west boundary hedges, and with further appearance details, such as further landscaping and demarcation of paddocks and the manege considered suitable to be covered through appropriate planning conditions. The proposed equestrian use, together with surrounding paddocks, is considered to be an acceptable use of land in the open countryside,



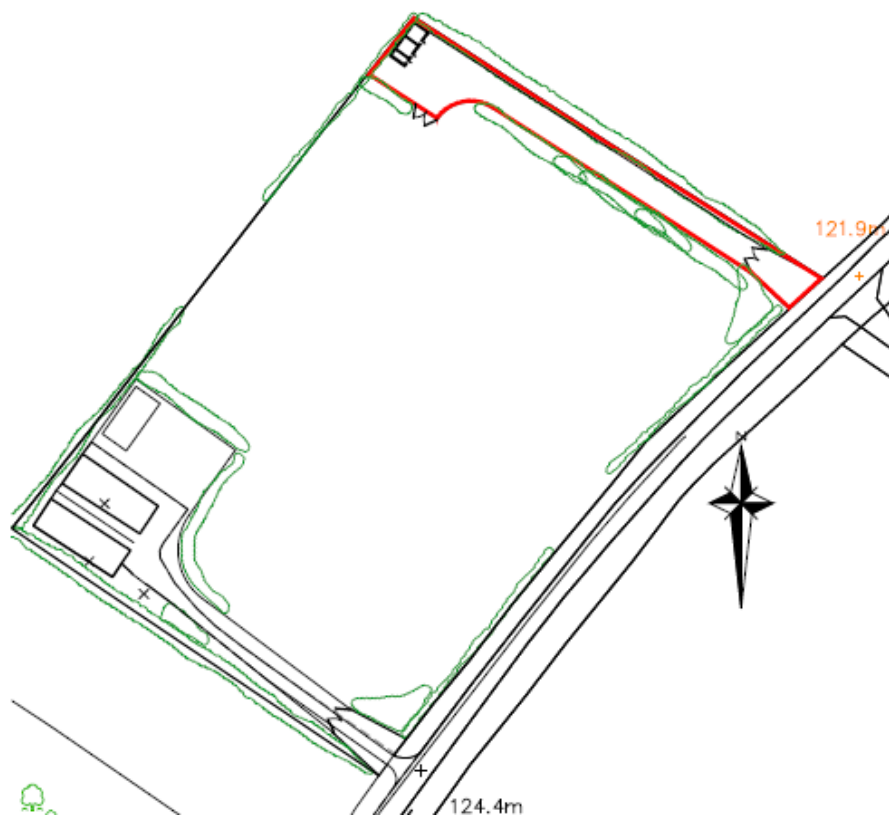
with an existing equestrian centre to the east boundary of Claybrooke Parva. The proposed equestrian use is considered to be in accordance with Local Plan Policy GD3 and is considered acceptable in principle.

- 6.5 The applicant also claims that the 2014 permission for equestrian use (13/01655/FUL) is extant as development commenced. Officers consider that with regards to this permission, for a change of use of land from agricultural to equestrian, erection of a stables building and gates, has not commenced. The applicant considers that the erection of gates commenced this permission and Officers agree with this view, with the gates not present at the time of determination of the application as shown in Figure 8 below:



**Figure 8: 2013 picture taken at the location of the current gated access to the site**

- 6.6 As such, consent for the change of use, within the red line plan for permission 13/01655/FUL, together with the proposed stable building is considered extant.



**Figure 9: Location Plan for permission 13/01655/FUL**

- 6.7 The site layout plan submitted (Figure 5 above) shows an area of land adjacent to the proposed equestrian use shown as 'Existing caravan site'. This is considered to relate to the grant of permission in 2007 for the change of use of land for the siting of residential caravans (07/00230/FUL). This is not included within the red line boundary for this application.
- 6.8 In determining application 17/01436/PDN (adjacent to this red line site), Officers sought legal advice as to whether the 2007 permission (07/00230/FUL) for the siting of residential caravans was implemented. Whilst a caravan has previously been brought onto the site there was no evidence at the time of any permanent residential use of the caravan, and pre-commencement planning conditions (landscaping and drainage) related to permission 07/00230/FUL were not discharged.
- 6.9 The Council legal advice in 2014 concluded that as the pre-commencement conditions had not been discharged, and that no residential use had taken place on the land related to the granting of the 2007 consent, the 2007 consent (07/00230/FUL) had therefore not been implemented. This point was also raised by the Council in obtaining the current injunction on the site in June 2019.
- 6.10 It is noted that several objections have been received from members of the public claiming that the site will be used for Gypsy and Traveller provision and that the proposed bungalow proposed through application 19/00888/FUL will also be used as such, for a day room building serving a Traveller site.
- 6.11 This application proposes a equestrian use only, with a plans provided, and no Gypsy and Traveller provision is proposed elsewhere on the site (19/00888/FUL pending consideration for erection of a bungalow), nor is the barn, stable or manege

proposed to serve a Traveller site. These objections are noted but such a use of the wider site is not proposed through this application nor application 19/00888/FUL. Considerations of Policy H6 for Gypsy and Traveller provision are therefore not considered relevant in the consideration of this application, nor neighbouring application 19/00888/FUL.

## **c) Technical Considerations**

### **1. Scale, appearance and landscaping**

- 6.12 The site is a greenfield site, with open fields to all sides and further residential uses at a distance of approx. 145m from the centre of the site (Laurel Bank Farm). The site is open in appearance with hedge and tree boundaries to all sides of the wider field (with pending application 19/00888/FUL).
- 6.13 The application site does not have any formal landscape designation and is not located within a green wedge or area of separation. The site is located within the Upper Soar Landscape Character Area as defined by the Harborough District Landscape Character Assessment 2007. The Upper Soar is considered to be characterised by:
- Large wide river basin with high ridges
  - Forms a small part of larger character area
  - Lack of woodland
  - Predominantly pasture
  - Visible influences from outside character areas
  - Urban influence apparent in particular around Broughton Astley
- 6.14 The Upper Soar is considered by the 2007 Assessment to have a medium capacity for development, however the rural character which remains undisturbed requires protection and has low capacity to accommodate change.
- 6.15 The Inspector in considering the appeal of the 2014 refusal for two additional Gypsy and Traveller pitches on land adjacent to this application considered the impact the proposed development would have on the landscape. The appeal decision includes:

*'12. Although a tall dense hedge provides effective screening along most of the road frontage (at least when the deciduous parts of the hedge are in leaf) the existing unused buildings, the present hardstandings, the 2007 permission caravan and the land for the proposed appeal pitches, are clearly visible from the vehicular access gateway and some other parts of the frontage where there are gaps in the hedge. Allowing 2 new gypsy and traveller pitches here (which the application recognises includes the siting of caravans, the provision of (more) hardstanding and ancillary accommodation) will be bound to intensify the urbanizing impact that the existing development has already had on the rural character of Woodway Lane. This would not conform to national and local countryside protection policies and would be most damaging to the intrinsic character and beauty of the countryside hereabouts and harm a valued (by local inhabitants) landscape. This is sufficient reason to withhold planning permission.*

*13. In forming this opinion I accept that the existing screening, supplemented by additional landscaping, could more effectively hide the development from most public views. But such arguments carry little weight because they can be used to justify almost any development in the countryside and, if accepted, would make it more*

*difficult for the Council to resist other similar schemes. Taken together a number of such proposals could be profoundly damaging to the rural character and beauty of the countryside. ....'*

- 6.16 The proposal considered above is in the context of a proposal for two Gypsy and Traveller pitches (4 caravans), together with ancillary buildings and hardstanding, and located forward (closer to the Woodway Lane) of the piggery buildings on the site which were to remain, and later permitted for change of use to residential.
- 6.17 This application proposes the erection of a barn, set back at the rear of the site approx. 95m from the highway, a manure store and a manege together with a previously approved stable building. No structures proposed are above 3.50m in height to the ridge and the buildings will be equestrian in appearance. No residential development is proposed, and together with the surrounding paddocks will result in development considered to be seen in a rural context out side of village boundaries. .
- 6.18 Due to the proposed scale of the buildings, proposed equestrian use and siting back within the site, this proposal is not considered to result in harm to the intrinsic character and beauty of the countryside, with equestrian uses permitted in the open countryside and not considered to result in any visual harm. Landscaping is to be conditioned and will include retention of existing hedge boundaries. The proposal is therefore considered to be in conformity with Local Plan Policy GD5.

## ■ 2. Drainage

- 6.19 The application proposes the erection of a barn and construction of a manege only. As the site is located within flood zone 1 no drainage strategy is required for the application, with drainage for such equestrian uses considered to be assessed through building regulations. The applicant has proposed the use of a soakaway for surface water drainage. On the ground, sand and shredded rubber is proposed for the manege and gravel and stone chippings for the access and land around the equestrian buildings, both considered permeable surfaces.
- 6.20 The 2014 appeal decision for siting of 2 Gypsy and Traveller pitches in addition to the piggery buildings on land adjacent to this site did not previously state any reasons for refusal with regards to drainage or flood risk. It is therefore considered that the proposed development would comply with Policy CC4 and the aims and objectives of the Framework.
- 6.21 The Council has received correspondence from both the Parish Council and a member of the public that some of the site near to the highway is sinking. This was put to the Council as due to the previous dumping of soil and waste material on the site and following heavy rainfall. The Planning Enforcement team visited the site on receipt of this information and did not witness any substantial level changes, and whilst the site was covered in thick low level vegetation, no obvious movement from previous visits to the site (for the serving of enforcement notices and in relation to the injunction) were noticed. Figure 10 below was taken by the Planning Enforcement Team looking north into the site from the existing access the w/c 5<sup>th</sup> August.



**Figure 10: view north into the site to the rear of the Woodway Lane hedge boundary**

### 3. Ecology

- 6.22 LCC Ecology have no objections to the neighbouring proposal 19/00888/FUL, subject to the retention of existing hedgerows and trees to the southern boundary. This application is for a small barn building and construction of a manege, with bordering hedgerows to be retained through a landscaping condition.
- 6.23 Objections received regarding a potential impact on wildlife are noted, however LCC Ecology have no objections to an adjacent proposal, with the proposal equestrian use and buildings on a site that has previously been in agricultural use and since cleared, resulting in a site considered to be of low ecological value with the exception of the retained hedgerows. The proposal is therefore considered to be in conformity with Policy GI5 and does not result in any ecological harm.

### 4. Highways

- 6.24 As this application proposes equestrian use and associated buildings only, no transport statement has been provided with the application. The proposed dwelling would use the existing access to Woodway Lane, previously approved (in 2014) for a change of use from agricultural to equestrian use on the site.
- 6.25 Woodway Lane is unrestricted (60mph) at the point of access to the site, with new accesses to unrestricted highway not considered favourably by the Local Highway Authority. However, the site has previously had permission for an equestrian use on the site and associated stables building.
- 6.26 LCC Highways have requested a further access plan to be submitted showing the following:



- Access width of 6m;
  - Hard bound surfacing for 10m from highway;
  - Radii of 7.5m;
  - Gates to be set back 11m from highway boundary; and
  - Gradient of no more than 1:12 for 10m from the highway
- 6.27 The access is an existing access that is gated. The existing access is approx. 6.50m in width and the gates set back approx. 16.00m from the highway, both above the requirements of LCC Highways set out above. Further the site is flat in nature, with no gradient at the access point into the site. With regards to hard bound surfacing, this is considered to be acceptable through conditions, requiring hard bound surfacing for at least 10m from the highway, or to the existing gated access.
- 6.28 LCC Highways had no objections to application 13/01655/FUL for equestrian use on the site and erection of a stable, subject to conditions. Of these conditions, the gates have been constructed an acceptable distance from the highway, and surfacing and turning areas are considered to be carried through as conditions for this application. Both suitable hard bound surfacing at the access and provision of sufficient turning space within the site are considered to be deliverable by the applicant within the scope of the site layout plan submitted.
- 6.29 Highway safety was considered by the Inspector for the 2014 appeal for 2 Gypsy and Traveller pitches on the adjacent site, including an assessment of the junction with Woodway lane and the A5 in addition to use of the existing access from Woodway lane into the site. The Inspector concluded:
- ‘Taking all this into account, especially the relatively small amount of extra traffic that the appeal proposals would be likely to generate, I do not consider that any minimal, and mostly theoretical, extra risks concerning the use of the A5 junction would be material in regard to its existing levels of road safety’.*
- 6.30 Access visibility is considered to be sufficient, and will be conditioned to ensure the visibility splay is maintained, with nothing to grow above 0.60m within the visibility splay. The access and visibility to both directions is shown below:





**Figure 11: Access to the site**



**Figure 12: Visibility splay looking south towards A5**





**Figure 13: Visibility splay looking north towards Claybrooke Parva**

- 6.31 The application is therefore considered to be in compliance with Local Plan Policies GD8 and IN2 with regards to highway safety, subject to conditions.

#### 5. Residential Amenity

- 6.32 The application proposes equestrian buildings and a manege located approx. 145m from the nearest neighbouring dwelling (Laurel Bank Farm) and approx. 175m from the next nearest dwelling (Woodway Lodge). Existing hedgerow boundaries are proposed to be retained and further landscape details secured through conditions.
- 6.33 As the proposed buildings are single storey and low in height to approx. 3.50m, with retention of existing hedgerow boundaries together with the distance to neighbours as above, no overlooking or overbearing impact is considered to result to neighbouring dwellings. The application is therefore considered acceptable in this regard.

#### 6. Heritage

- 6.34 The proposed equestrian use and buildings are located approx. 670m from the edge of the Claybrooke Parva Conservation Area, and approx. 830m from the nearest listed building – Grade 1 Listed St Peter's Church.
- 6.35 Due to the distances from heritage assets, the existing boundary treatments to the site and the change in landscape from more formal historic settlement of Claybrooke Parva to more open fields leading to the A5, no harm is considered to result from the proposal to the setting of heritage assets. The 2014 appeal for 2 Gypsy and Traveller pitches on the adjacent site considered conservation of the countryside only, not any

impact or harm to heritage assets (the conservation area or listed buildings). This proposal, for an equestrian use and associated buildings is considered to be less visually harmful than the scheme considered at appeal and rural use that can be expected in a countryside location.

## **7. Contaminated Land**

- 6.36 Many objections have raised potential ground contamination on site, alleging that the applicant or previous owners have moved demolition waste to the site together with soil and other materials. This waste is now considered to be buried within the site from previous groundworks undertaken, and includes demolition waste from the demolition of the piggery buildings.
- 6.37 Whilst potential ground contamination is noted, the proposal does not include any residential use of the site being equestrian in use and buildings only and as such relevant conditions are not considered required. However, should Planning Committee consider that suitable planning conditions are necessary for an equestrian use a risk based land contamination assessment and a verification investigation report as pre-commencement conditions are suitable to ensure that the site is not at unacceptable risk from soil pollution.

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

- 7.1 Overall it is considered on balance that the proposed equestrian use of the land and proposed erection of a barn, manure store and creation of a manege, by virtue of their siting, appearance, scale and massing, the proposal would be acceptable in visual terms and would not adversely affect local highway safety or give rise to a road safety hazard.
- 7.2 The proposal is not considered to have a detrimental effect upon neighbouring amenities, green infrastructure or ecological interests, and will not have a harmful impact on the character and appearance of the countryside.
- 7.3 The development hereby approved, by virtue of its design, size and positioning, would not adversely affect the amenity of local residents, not adversely affect local highway safety and is of harmonious design, form and materials. The proposal is therefore considered to accord with the Harborough Local Plan Policies GD3, GD5 and GD8 and no other material considerations indicate that the policies of the development plan should not prevail, furthermore the decision has been reached taking into account paragraph 38 of the National Planning Policy Framework.

## Annexe A – Planning Conditions

### 8. Planning Conditions

8.1

1) **Planning Permission Commencement**

The development hereby permitted shall be begun before the expiration of three years from the date of 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) **Approved Plans**

The development hereby permitted is in accordance with the approved plans: 'Site Layout Plan', 'Proposed Floorplans' and 'Site Elevations'

REASON: For the avoidance of doubt.

3) **External Lighting**

No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site and to accord with Harborough Local Plan Policies GI5 and GD8.

4) **Manege fencing**

Notwithstanding the submitted details, before the installation of any boundary treatment, details of the proposed fencing of the manege, including height, style and location, shall be submitted to and agreed in writing by the Local Planning Authority and the development carried out in accordance with the approved details and thereafter so retained.

REASON: To safeguard the visual amenities of the locality, having regard to Harborough Local Plan Policy GD3 and GD8, coupled with the requirements of paragraphs of the National Planning Policy Framework 2019.

5) **No commercial use**

The riding arena/sand and barn/stable building hereby permitted shall be used for private equestrian purposes only and not for any commercial riding, livery or other business use.

REASON: In the interests of and for the safety of persons and vehicles using the premises and/or adjoining road, having regard to Harborough Local Plan Policy GD3 and GD8, coupled with the requirements of the National Planning Policy Framework.

6) **Visibility splay**

Before first use of the development hereby permitted, visibility splays of 2.4 metres by 120 metres shall be provided at the junction of the access with Woodway Lane. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

REASON: In order to provide visibility for vehicles entering and leaving the site in the interests of and for the safety of persons and vehicles using the development and the adjoining road having regard to Harborough Local Plan Policy GD8 and IN2, coupled with the National Planning Policy Framework.

7) **Vehicle Turning**

Before first use of the development hereby permitted, turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of highway safety and to ensure that vehicles enter and leave the site in a forward direction, having regard to Harborough Local Plan Policy GD8 and IN2, coupled with the National Planning Policy Framework.

8) **Surfacing**

Before the first occupation or use of the development the access drive shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 10 metres behind the highway boundary and shall be so maintained at all times, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of vehicles using the premises and/or the adjoining road, having regard to Harborough Local Plan Policy GD8 and IN2, coupled with the National Planning Policy Framework.

9) **Retention of hedgerows**

The existing boundary hedgerows on site shall be retained and in no way disturbed.

REASON: To ensure that the existing hedgerows on the site can be retained, to enhance the development and to safeguard the appearance of the area and to accord with Harborough Local Plan Policies GD8 and GI5.

**Notes to applicant:**

- 1) The applicant is advised that there should be no burning of manure on site and that it should be regularly removed to avoid accumulation which could lead to smell, flies or vermin.
- 2) If manure is to be stored on an impermeable surface a tank will need to be provided for the collection of contaminated run-off. Such a tank must comply with the standards laid down in the 'Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations'. The disposal of manure should be carried out in accordance with the MAFF 'Code of Good Agricultural Practice for the Protection of Water 1998'.
- 3) The premises shall not be used as a Riding Establishment (as defined by the Riding Establishments Acts 1964 & 1970) unless licensed by Harborough District Council Health & Enforcement Services tel. 01858 828282.
- 4) A watching brief for all protected species must be maintained at all times throughout the development. In the event of any protected species being discovered works shall cease, whilst expert advice is sought from Natural England.

- 5) All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001).

## **Planning Committee Report**

**Applicant:** Mr B. Trystram

**Application Ref:** 19/00760/FUL

**Location:** Land adjacent 26, The Green, Great Bowden

**Proposal:** Erection of a single storey commercial unit (B1(a) use.

**Application Validated:** 13.05.2019

**Target Date:** 08.07.2019 (extn. of time agreed)

**Consultation Expiry Date:** 13.08.2019

**Site Visit Date:** 06.06.2019

**Case Officer:** Naomi Rose

### **Recommendation**

Planning Permission is to Approved subject to conditions.

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

1. The application site is located in the centre of Great Bowden on the north side of The Green, adjacent to Weltons a shop, Post office and café. The Green is opposite the site. The application site consists of an overgrown grassy area with a wall and fence to the front boundary with a pedestrian gate that provides access to the rear of No. 30 and 31 The Green.
- 1.2 The rear boundary is defined by a very low boundary treatment, not visible in the tall grass. To the west boundary is the side wall of No.26 The Green and the high boundary wall. The eastern boundary is undefined to the pedestrian access to No.30 and 31 The Green. In front of the southern boundary is a bus shelter, bus stop, bin and telecommunication box.
- 1.3 The site is surrounded by residential properties except to the east where there is the garage to Weltons, and there appears to be residential accommodation above.
- 1.4 Immediately adjacent to the application site are No.26, 30 and 31 The Green residential properties that are all Grade 2 listed buildings.
- 1.5 The site is within the village boundary and conservation area of Great Bowden.





**Site location plan**



**Application site (Google street view Aug 2018)**

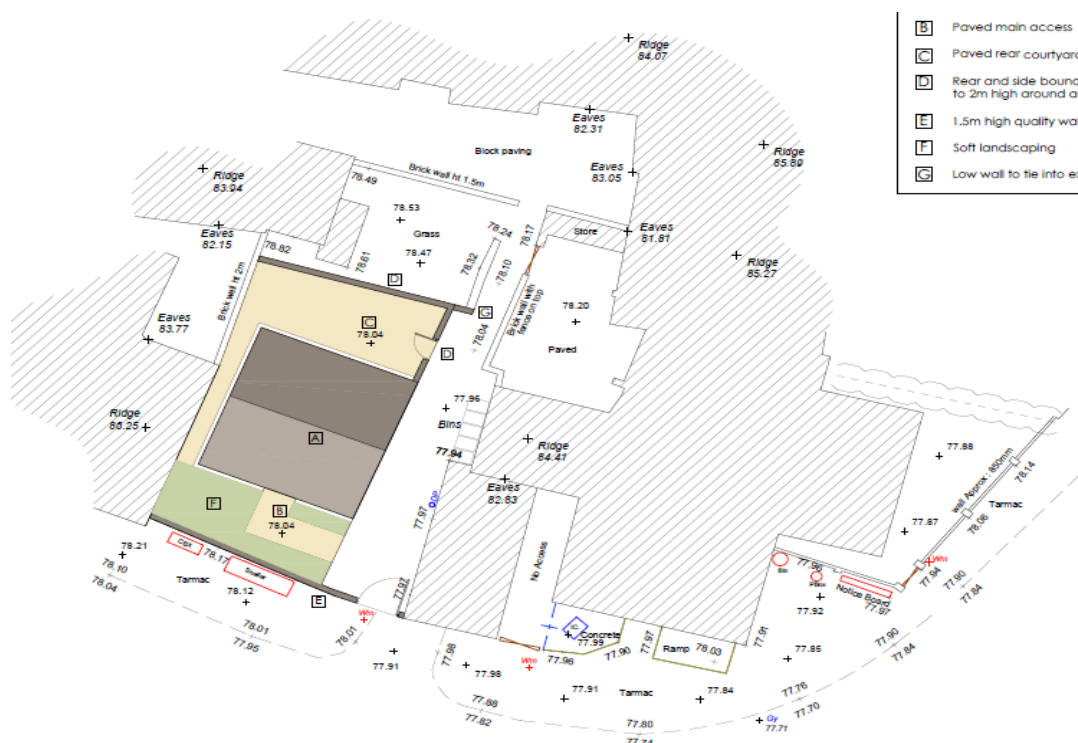
## 2. Site History

2.1 The Site has no recent planning history.

### 3. The Application Submission

### a) Summary of Proposals

- 3.1 The proposal is to erect a single storey building to be used as office space (B1(a). The proposal as been amended to omit Use Classes A1 (shop), A2 (financial) and A3 (hot food take away) on residential amenity and conservation area grounds. Plus the building was reduced in size on residential amenity ground. The building was reduced in width from 6.7m to 5.6metres and consequently moved away from No.30 The Green.
- 3.2 The building is proposed to be brick with a tile roof. The levels vary very slightly across the site. It is proposed to lower the ground levels from 78.43-78.47reduced to 78.04. The building measures 3.85 m to the roof ridge and 2.15m to the eaves, by 6m deep and 5.6m wide (as revised). The internal floor area including the WC and kitchen is 5m by 5.4metres, with an internal floor area of 27 sq.m.
- 3.3 A 1.5m high boundary wall is proposed to replace the brick/fence front boundary treatment. Access to the site is via a pedestrian gate (as revised). The frontage to the site is open with a paved access to the front door. There is a high 1.5m wall to the rear and side boundaries enclosing the yard, with 2m around access.
- 3.4 The proposed opening hours are 7 days a week 8am-6pm on Monday-Saturdays and Sundays 10-4pm.



### Amendment A proposed site plan



### Amendment A Proposed floor and elevation plans

#### b) Documents submitted

- 3.2
- Planning, Design and Access Statement
  - Transport Technical Note July 2019

#### c) Pre-application Engagement

- 3.3 Pre-application discussions took place with the applicant/Agent on two occasions the initial scheme was for a two storey building, however, there were concerns relating to heritage assets and existing residents amenity. Subsequently a revised scheme was submitted for a single storey building, which was found to be generally acceptable.

### 4. Consultations and Representations

- 4.1 Consultations with technical consultees and the local community were carried out on the application.
- 4.2 A summary of the technical consultee responses received are 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 *Highways*: No objection (01.08.19) subject to a condition relating to the implementation of the pedestrian access.

*Holding Objection 10.06.19*

### **Background**

The LHA is in receipt of a full application for the erection of a single storey commercial unit (A1, A2, A3 and B1) in Great Bowden. The development site is currently vacant.

### **Site Access**

The site frontage abuts The Green, which is a C class road subject to a 30mph speed limit. There is an existing pedestrian access to the site from The Green.

The applicant has stated that there will be no vehicular access to the site. The replacement pedestrian access gate as shown on the *Street Elevations* plan (drawing no. 119989-113B) is approximately 2.3m in width. The LHA is concerned that an access of such width may encourage

vehicular access to the site and which subsequently could result in vehicles reversing into the highway, which would not be in the interests of highway safety. A revised plan should be submitted which shows a site access design whereby vehicular access to the site cannot be gained.

The LHA notes the applicant's intention to rebuild the site's southern boundary wall. A bus stop and shelter, which are valuable highway assets, abut this wall; their loss would not be acceptable and it should be ensured that the replacement wall does not impact these assets.

### **Parking**

There is no inclusion of on-site parking provision for this application. As such, the proposal is likely to lead to on-street parking. The LHA would normally seek to resist a proposal that would fail to provide appropriate off-street car parking.

The general prevalence of on-street parking in the vicinity of the site is well-established. The applicant has indicated that the site will be reliant on on-street parking; as such this development proposal is likely to exacerbate existing concerns with on-street parking in the locality.

Whilst some element of linked-trip discounting may be appropriate for some of the proposed land uses, this application has not been supported by any detailed trip generation data. In order to determine the proportionate impact of this development proposal within the context of the surrounding highway network, the LHA requires the following trip generation information to be submitted:

- The number of two-way vehicle trips the site is expected to generate. This should include peak hour trips (i.e. 8-9am and 5-6pm). The various land class uses proposed each have different levels of associated trip generation and trip profiles. In order to ensure a robust assessment, trip generation data should be provided for each of the proposed land use classes and all trips associated with each use should be included.
- A parking survey of the surrounding highway network, which identifies the baseline scenario and the expected impact of development site traffic for each land use proposed.

In the absence of the above data being provided which satisfactorily indicates otherwise, the LHA is concerned that this development proposal could lead to indiscriminate parking on the surrounding network, which would be detrimental to the free flow of traffic, would create additional dangers to road users and would not be in the interests of highway safety.

The Local Planning Authority may consider if a positive way forward could be to limit the permitted land use in order to mitigate the site's impact on the surrounding highway network.

- 4.4 *LCC Archaeology*: No objection subject to a condition relating to a written scheme of investigation.
- 4.5 *LCC Ecology*: no objection/no requirement for a survey.

- 4.6 *HDC Environment Health*: comments A1 use, the external areas could be used as just a storage area and pose no significant issues to local residents. However, A3 use, the external area could be used for outside seating which may result in some disturbance to local residents. In addition, cooking smells could be created.

## **b) Local Community**

- 4.7 46 letters (including emails) of objection were received from 43 separate households in response to the initial consultation process. A summary of the representations received is outlined below:

- Impact upon the surrounding setting of the Grade 2 listed buildings;
- Adverse impact upon the conservation Area;
- commercial unit will not contribute to the character and vitality of the local area;
- no local need for commercial and community unit, vague justification;
- generate significant numbers of traffic movement/client/staff/customers/deliveries;
- significant demand for on-street parking unacceptable burden upon the existing difficult on-street parking situation.
- inadequate space to construct the unit and provide parking, manoeuvring, loading and un-loading;
- Inaccuracies on DA&S and application form;
- The uses are not adding to community and supporting the vitality of the village and is in fact profit driven;
- Potential adverse noise (café with outside seating, refrigeration units, air conditioning), smell (waste/storage from butchers & hairdressers) and pollution (traffic);
  - café would have significant number of pedestrians, in direct competition with neighbouring businesses;
- Not a brownfield site, greenfield never been previously developed;
- Parking a problem day and night, no evidence of parking levels in the locality;
- impact upon the amenity of neighbours;
- Retain access/right of way to existing properties;
- loss of the wall of 8 courses of hand made bricks;
- Risk to pedestrians due to increase in traffic amidst an already challenging parking area;
- the junction is dangerous, cars speed around the corner, numerous parked cars and you take your life in your hands crossing the road, particularly difficult for the elderly and children;
- Already a PO, café, Church and village hall and bus stop at this junction, with all the new housing things can only get worse;
- No on-site parking provision for employees and visitors;
- Bus service is not frequent;
- No provision for unloading and loading;
- Building is out of character with the area;
- Sited at the heart of a beautiful village;
- Existing businesses provide all the villagers need and further facilities are in Market Harborough;
- Treatment and surface water and sewerage;
- Loss of daylight to kitchen, dining room and garden at No.30 The Green;
- Overlooking, loss of privacy and overbearing impact to No.30 The Green;
- Current business do not have sufficient parking now;
- The proposed use classes require 2-6 on-site car parking;
- Contrary to Policy GBNP business and employment section EMP2 (e) and (h);



- Close proximity of commercial property to rear gardens of 26, 30 and 31 The Green, they have small garden and little privacy;
- Overdevelopment of the site;
- Refusal of wall at No.23 The Green;
- Dilute/damage trade away from existing amenities;
- All day opening for seven days/week adversely affects residential area;
- Important open space with a lot of history around it any building would block the view of this history;
- Will not be well integrated into and complement existing businesses;
- Access difficult due to Bus stop;
- Archaeology considerations;
- Ownership issues;
- Not a subservient building to Welton's garage; and
- Concerned about bin and cycle storage; Great Bowden village is a daily rat-run for local traffic.

4.8 11 Responses from 10 separate households in response to revised plans, description and highway report:

- do not accept the high level of parking this document claims;
- many modes of public transport are irrelevant as people are lazy;
- Survey does not represent what actually happens on the ground, it does not take into account narrow village roads where parking will not/can not take place;
- traffic, residential amenity, and GBNP policy concerns still relevant;
- MP Neil O'Brien has sent a survey to local residents on the traffic in the village, responses are requested by 23/8/19 (from a local resident, HDC has had no contact from the MP); and
- To allow an incremental increase in parking, however minor will be intolerable.

## **5. Planning Policy Considerations**

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

### **a) Development Plan and material planning considerations**

5.2 Please find the relevant policies in the front of the Agenda.

- *The Framework Sections:*

12: Achieving well design places

16 :Conserving and enhancing the historic environment

- *Harborough Local Plan*

BE1 Provision of new Business Development

GD8 Good design of development

HC1 Built heritage

- Conservation Areas - Planning (Listed Buildings & Conservation Areas) Act 1990, Section 72(1).

- Listed Building Planning (Listed Buildings & Conservation Areas) Act 1990, Section 66(1).

- Great Bowden Neighbourhood Plan (Made)
- H6 Design Standards
- EMP2 New employment Opportunities

## **b) Other Relevant Information**

- 5.3 This application is to be determined by Planning Committee as Cllr Knowles called in the application on the grounds of impact on the surrounding area, properties and infrastructure.

## **6. Assessment**

### **a. Principle of office development**

- 6.1 As this application is for the erection of a building for office use within the settlement boundary of Great Bowden a selected rural village, Policies BE1 Provision of new business development in the Harborough Local plan and Policy EMP2 New employment opportunities in the Great Bowden Neighbourhood Plan are relevant.
- 6.2 Policy BE1 Subsection 2 regarding rural economic development states that on site within or well-related to selected rural villages sustainable development which delivers local employment opportunities, supports and diversities the rural economy or enables the expansion of business and enterprise will be permitted where it: comprises of a well designed new buildings of a size and quality to cater for identified local needs.
- 6.3 Policy EMP2 requires new employment development to within the limits of development, be of a size and scale that does not adversely affect the character, infrastructure and environment of the village, does not involve the loss of a dwelling, does not increase noise, odour and fumes, does not generate severe levels of traffic movement and provides on-site car parking for all employees and visitors, contributes to the character and vitality of the area, and be well integrated into and complement existing businesses. The other sections in the report and the revised description, plans and additional highways report have addressed most of the above points and these are addressed later in the report.
- 6.4 The building is well within the limits of development of Great Bowden a sustainable rural village where additional employment, services and housing are directed, due to the provision within the village of school, public houses, post office and food shop amongst other services, and sustainable modes of transport, including a bus stop outside the application site.
- 6.5 The provision of a small scale office will make a very small yet positive contribution to local employment opportunities and the vitality of the village, providing a modest office space for a small local business to expand. The small size of the unit reflects the size of the village. The proposal therefore due to it siting, small scale and use is acceptable in principle.





**View of the application site and the side wall of 26 The Green**



**View of the application site, pedestrian access and No.31 The Green (side kitchen window)**

#### **b. Impact upon the Conservation area and setting of the Listed Buildings**

- 6.6 As this application is for the erection of a building for office use within the conservation area and settlement boundary of Great Bowden a selected rural village, GD8 Good design in development and HC1 Built heritage of the Harborough Local Plan are relevant in the consideration of the above proposal.

- 6.7 Policy GD8 states that development will be permitted where it achieves a high standard of design, by ensuring development is inspired by, respects and enhances the local character and distinctiveness of the settlement, is sympathetic to local vernacular, and respects the context and characteristics of the individual site, street scene and wider local environment.
- 6.8 HC1 Built Heritage states that development affecting heritage assets and their setting will be permitted where it protects, conserves and enhances the significance, character and setting of the asset. Development within or affecting a conservation area will be permitted where it preserves and enhances the character and appearance of the conservation area.
- 6.9 Policy H6 (a) and (b) on Design in the Great Bowden Neighbourhood Plan states that new development should enhance and re-inforce the local distinctiveness and character of the area and follow a consistent design approach in the use of materials, fenestration and roofline.
- 6.10 The Council has a legislative obligation under Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of listed buildings. The site also lies within the Conservation area and Section 72 of the Act, involves the preservation or enhancement of the character or appearance of this designated heritage Asset.
- 6.11 The County Archaeologists informs the Council that the proposal site is adjacent to a Neolithic/Bronze age flint find (HER Ref : MLE21631) and medieval and post medieval finds on the Green (HER Ref :MLE21613). Historic mapping and aerial photographs indicate that the application site has remained largely undisturbed since at least the 19th century, therefore any archaeological remains present on the site are likely to be preserved in situ. Consequently, there is a likelihood that buried archaeological remains will be affected by the development. Therefore conditions (see 5 and 6) for a written scheme of investigation prior to commencement is requested.
- 6.12 A number of third party concerns related to the impact of the proposal on the street scene and heritage assets of conservation area and listed buildings. This was carefully considered by the Conservation Officer. The application site is partially obscured by a low brick wall with a timber close-boarded fence above running along the front boundary. The application site is also partially obscured by a bus stop and services box and is not currently being maintained. The Conservation Officer concluded given the above that overall the site has a neutral impact on the character and appearance of the area.
- 6.13 The proposed single storey detached building is set back 2.5-3 metres from the front wall. The wall would be re-built to a height of 1.5 metres with a timber single pedestrian gate to serve the application site and the rear of No.30 and 31 The Green. It is considered that the proposed building has the form of an outbuilding or small workshop with brick walls, slate roof, simple windows and a solid timber door. The design and massing of the proposal is considered subordinate to the main buildings in the area. The design and siting of the proposed building respects the existing surrounding buildings, being close to the road frontage, constructed of brick with a roof that has dual pitched roof with gable ends.
- 6.14 The Conservation Officer was concerned about the Uses Class A3 as this leads to the installation of flues and chiller units, such units could have an impact on local heritage assets and as such the officer requested this element was removed. The revised plans/description addresses this aspect of the officers concerns.
- 6.15 The Conservation Officer advises that the proposed building would be read in context of its immediate neighbours, which are of similar materials and forms, therefore the proposal would not look out of place or cause harm to its immediate or wider setting. The Officer goes on to explain that the adjacent listed building No.26 The Green has a blank gable wall to the application site (see photo) and as such, its setting would not be harmed through the current proposal. While there are many other listed buildings within the village, none are close enough to be affected by a proposal of this scale.

- 6.16 In terms of the re-construction of the front boundary wall/fence. The Conservation Officer explains that *'the existing wall is made from red bricks approximately 8 courses high, with a header-soldier course and broken canted bricks as partial copings. The bricks likely date from the 19th century and the wall does not have any particular decorative interest in its own right as does not form a particular group with adjacent buildings. The close-boarded fencing above is a negative feature within the conservation area.....There are higher brick walls in the area and the removal of the close-boarded fencing would be a positive step. As such I do not consider this would harm the character of the conservation area or adjacent listed buildings providing it is executed well with re-used or reclaimed bricks, laid in a decorative course with suitable mortar and coping stones.'* This can be secured by a condition (see Condition 8).
- 6.17 The Conservation Officer has also requested that all external materials are conditioned to ensure that the building sits well within its sensitive locality (see Condition 3). Therefore the proposal would not cause harm to the character and appearance of the conservation area or the setting of adjacent listed buildings. The application is therefore considered to be in accordance with Policy HC1 and GD8 of the Harborough Local Plan and Policy H6 (a) and (b) of the Great Bowden Neighbourhood Plan.

### **c. Residential amenity**

- 6.18 Policies GD8 states that development will be permitted where it is designed to minimise impact on the amenity of existing and future residents. Policy H6 (e) Design standards of the Great Bowden Neighbourhood Plan states that proposal should minimise the impact on general amenity and give careful consideration to noise, odour and light.
- 6.19 The revised proposal omits Use Class A3 (hot food take away) thereby omitting concerns relating to potential noise and odour. Office use can co-exist close to residential properties, as office hours are usually 9-5pm, 5 days a week, and it is also a quite activity. A Condition (9) is added to ensure that reasonable office hours are maintained.
- 6.20 The proposal is in close proximity to neighbouring residential properties. No.31 The Green has side facing kitchen window and patio doors and outdoor amenity space to the rear of the dwelling. It is considered that although the proposal is to the south, the single storey height and siting 12metres away does not result in an overbearing structure to existing residents. There is no loss of privacy as there is only a door and rooflight to the rear elevation. The rear yard would have very limited use by the employees and any bins, bikes and views when siting down are obscured by the proposed 1.5metre high wall and gate. A higher wall wasn't considered necessary and at 1.5metres is more sympathetic to other walls in the locality.
- 6.21 No.30 The Green has a kitchen window in the rear elevation and small yard. The proposal is not directly in front of the habitable room window and outdoor amenity space. Also the residents of this property are already adversely affected by Weltons two storey structure on the southern boundary. It is not considered that a single storey structure set 3metres away, from the rear boundary will adversely affect existing residents amenity.
- 6.22 The proposal is not considered to adversely affect the residents at No.26 The Green as it is single storey structure, set 300mm off the side boundary and only extends 2metres beyond the rear wall of No.26. The Green.
- 6.23 The proposal therefore does not adversely affect neighbours amenity. The application is therefore considered to be in accordance with Policy GD8 of the Harborough Local Plan and Policy H6 (e) of the Great Bowden Neighbourhood Plan.





**View from the rear yard of No.30 The Green**



**View from No.31 The Green's rear yard of the application site**

**d. Highways:**

- 6.24 As explained in section 4 (b) of the report the public have raised a number of highway concerns. Highways initially responded with a holding objection requiring additional assessment work to identify the highway impact (see paragraph 4.3 for further

details). The Applicant carried out a further highway assessment and submitted a Transport Technical Note (July 2019) to address concerns.

- 6.25 The Technical Note advises that the proposed development (29sqm, B1a office) *“is likely to be a maximum increase of circa 5 two-way movements in the busiest peak hour, and 10 two-way movements across the day. Paying due regard to Paragraph 109 of the NPPF, this is considered to be a negligible increase and the impacts would not be ‘severe’.”*
- 6.26 The proposals do not include any car parking provision, and any staff/visitors would be required to utilise the existing on-street parking provision. Given the size of the proposed office, this is likely to generate space for circa 5 employees. Assuming that all employees owned cars, this would result in 5 vehicles requiring to park on-street. A parking survey\* undertaken by the Applicant's Transport Consultant confirms that there are plenty of opportunities to park on-street throughout the day. Furthermore, an office use would not generate many visitors (unlike a shop/café), Finally, the site offers good opportunities for staff/visitors to travel by non-car modes which will reduce the expected level of parking.
- \*Survey undertaken during school term, the scope of the survey was agreed with Highways.
- 6.27 The Highway Officer has reviewed the additional information submitted and his comments are outlined below:

### **Background**

Following initial LHA comments dated 10 June 2019 which requested additional assessment work to identify the proportionate highway impact of this development proposal, the applicant has submitted further information in the form of a transport technical note. The applicant has also clarified that approval for B1 land use is sought.

### **Site Access**

A revised plan (drawing no. 119989-200D) details an amended pedestrian access onto The Green which measures approximately 1.5m in width, and which shows gates opening into the site away

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from the highway. This access arrangement will not encourage vehicular access to the site and as such is acceptable to the LHA.

### **Parking**

As no onsite parking is proposed, all development trips will park on the highway. The submitted parking survey demonstrates that on-street parking is well-established on the surrounding highway network and has also shown that there is sufficient capacity to accommodate vehicles associated with this development proposal.

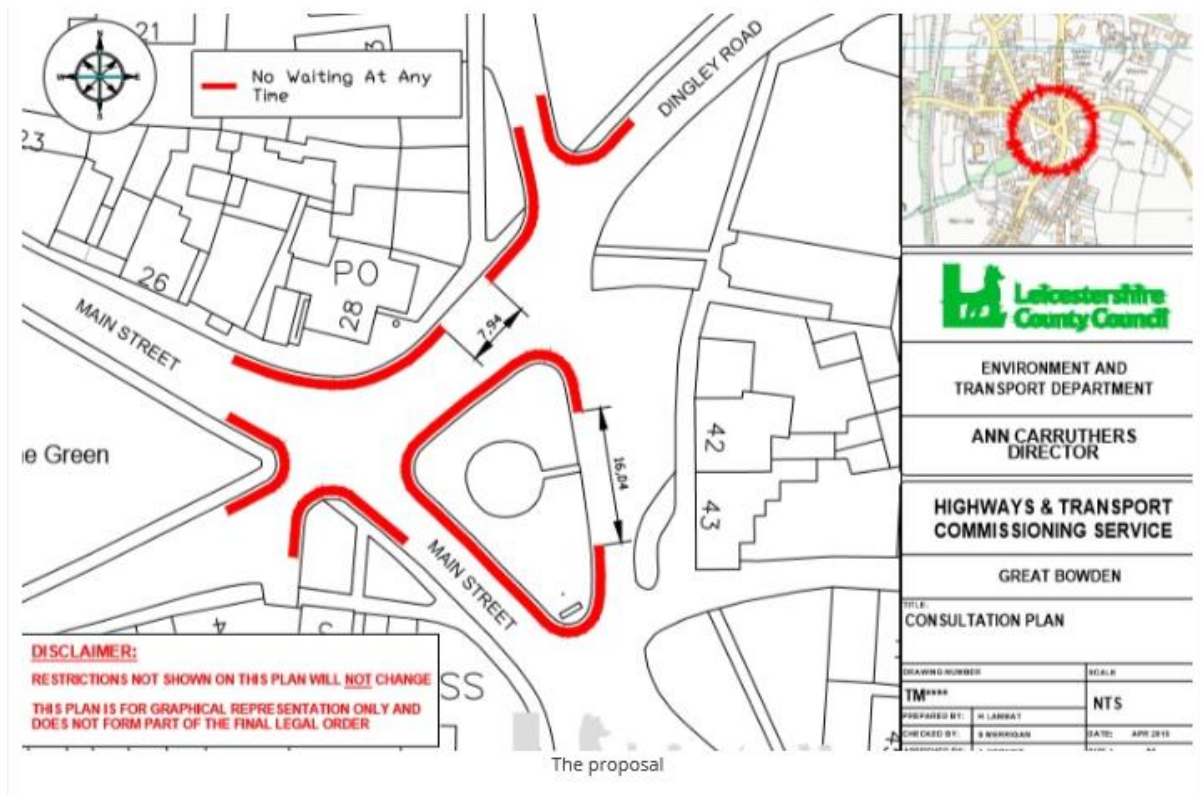
The site's gross floor area is 33sqm (as stated on the submitted application form); as such it is considered unlikely to generate a significant number of trips. This is supported by the applicant's TRICS interrogation. Sustainable travel options are also available to employees, including a bus stop directly to the site frontage, which may serve to reduce development trips.

While the LHA would typically seek to resist development proposals which would lead to additional on-street parking, for the reasons outlined above it cannot be demonstrated in this instance that a minor intensification would be considered severe or unacceptable within the context of the NPPF.

The LHA would however advise that alternative land uses may result in associated different trip rates and profiles and would therefore require a re-assessment of the proportionate highway impact of development.

- 6.28 As the Highways Officer has no objection to the scheme subject to the condition relating to the revised plan 200D showing revised pedestrian access, there are no substantive highways safety issues to base a reason for refusal and substantiate it at appeal. The application is therefore considered to be in accordance with Policy GD8 of the Harborough Local Plan. Whilst it does not wholly comply with Policy EMP2 (e) of the Great Bowden Neighbourhood Plan as it does not provide on-street parking for employees and visitors, it has been demonstrated that the additional on-street parking does not have a severe or unacceptable impact upon the highway network in Great Bowden.
- 6.29 Just prior to the publication of this report, Officers were notified that Leicestershire County Council will be undertaking a public consultation on the introduction of parking restrictions in the centre of Great Bowden, around The green, Main Street and Dingley Road:





- 6.30 Highways have been asked if the above proposal affects their final comments. Members will be updated via the Supplementary Paper accordingly.

## 7. Conclusion

- 7.1 The revised proposal and limited use of the building as office space only, does not adversely affect the character and appearance of the conservation area, preserves the setting of the listed buildings, and does not adversely affect residential amenity and highway safety. The proposal therefore complies with Section 12 and 16 of The Framework, Policies BE2, GD8 and HC1 of the Harborough Local Plan and Policies H6 and EMP2 Great Bowden Neighbourhood Plan.

## 8. Conditions

### Commencement

1. 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 in accordance with the following approved plans

- 119989-200D (Block Plan as Proposed)
- 119989-114B (Proposed Elevation and Floor Plans)
- 119989-102 (Site Location Plan as Existing)

REASON: For the avoidance of doubt.

**Materials**

2. No development shall commence on site until a schedule indicating the materials to be used on all external elevations of the approved building has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details and shall be retained as such in perpetuity.

REASON: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough Local Plan Policy HC1.

**Restricted use class**

3. The site shall be used for office use only and for no other purpose (including any other purpose in Class B1(a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010, (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.

**Archaeology-WSI**

4. No development shall commence on site until a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The development shall only take place in accordance with the detailed scheme approved pursuant to this condition and shall be retained as such in perpetuity. The archaeological works shall be carried out by a suitably qualified body acceptable to the Local Planning Authority.

REASON: To ensure satisfactory archaeological investigation and to accord with the Harborough Local Plan Policy HC1.

**Archaeology-PIA**

5. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 5 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

REASON: To ensure satisfactory archaeological investigation and to accord with the Harborough Local Plan Policy HC1.

**Conservation Rooflights**

6. The proposed rooflights shall be conservation type and installed so they do not project forward of the general roof surface. The works shall be carried out in accordance with the approved details and retained as such in perpetuity.

REASON: In the interests of preserving the character and appearance of the heritage asset and to accord with Harborough Local Plan Policy HC1.

**Front wall design**

7. No above ground work shall commence on site until details of the design, including the mortar mix, brick bond and coping of proposed walls have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details and shall be retained as such in perpetuity.

REASON: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough local Plan Policy HC1.

**Opening hours**

8. The building hereby permitted shall only be in use as an office between the hours of 8:00 and 18:00 from Mondays to Fridays and at no time on Saturdays, Sundays and Bank or Public Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area and to accord with Harborough Local Plan Policy GD8.

**Pedestrian access**

9. No part of the development hereby permitted shall be brought into use until such a time as the pedestrian access arrangements shown on plan ref: 119989-200D have been implemented in full.

REASON: In the interests of general highway safety and in accordance with National Planning Policy Framework (2019).

## Planning Committee Report

**Applicant:** Mr and Mrs Polito

**Application Ref:** 19/00832/FUL

**Location:** Field off Drayton Road, Medbourne, Leicestershire,

**Proposal:** Change of use of land from agriculture to dog day care with dog play field & walking area, erection of building for up to 8 dogs including ancillary office/storage space

**Application Validated:** 23/05/2019

**Target Date:** 18/07/2019

**Consultation Expiry Date:** 17/07/2019

**Site Visit Date:** 05/07/2019

**Case Officer:** Emma Baumber

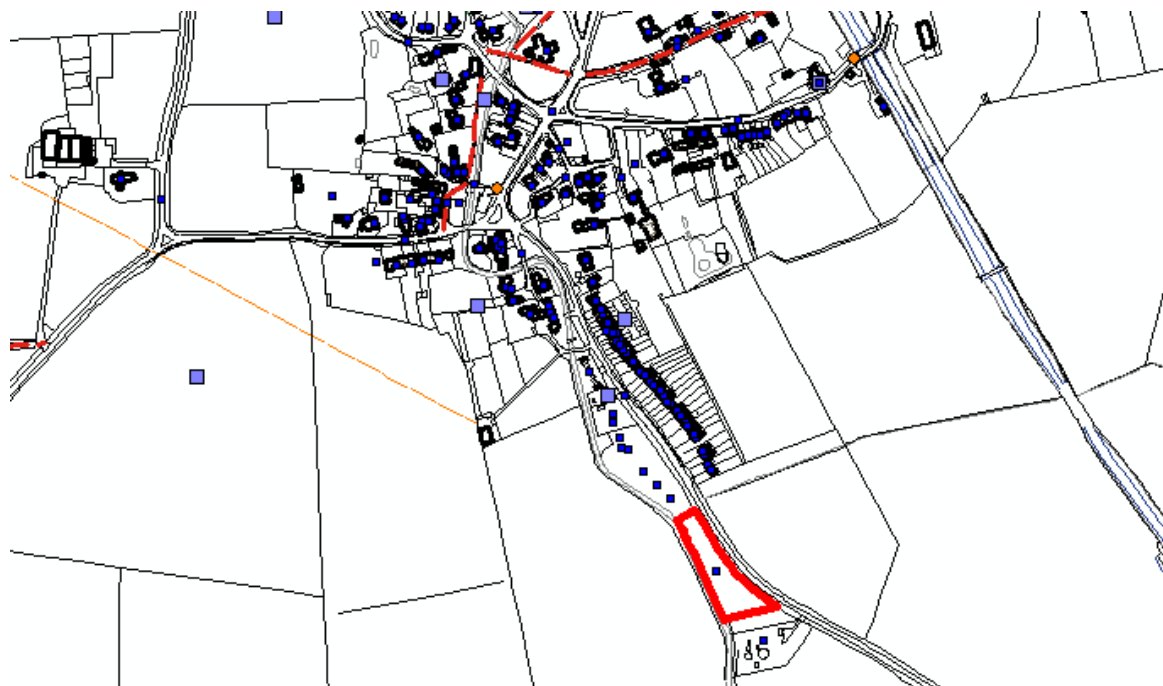
## Recommendation

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

1. On balance, it has not been demonstrated that the development has been designed to minimise impacts from noise and disturbance to existing and future residents. Therefore, the scheme is not considered to comply with Policy GD8 of the Harborough Local Plan 2011 to 2031, Policy E2 of the Medbourne Neighbourhood Plan 2017 to 2031 nor Paragraph 127(f) of the National Planning Policy Framework.
2. The proposed carpark and fencing is sited within the required five metre buffer associated with Medbourne Brook. As such the development fails to safeguard the integrity and effectiveness of this locally designated wildlife corridor. The proposal does not comply with Policy GI5 of the Harborough Local Plan 2011 to 2031, Policy ENV4 of the Medbourne Neighbourhood Plan 2017 to 2031 nor Chapter 15 of the National Planning Policy Framework.

## 1. Site & Surroundings

- 1.1 The application site relates to a parcel of land, approximately 0.39 Ha. in extent, located to the western side of Drayton Road, located outwith, albeit physically adjacent to, the Development Limits to the settlement of Medbourne (as established under Policy H2 of the Medbourne Neighbourhood Plan) within the open countryside.



*Figure 1. Site Location*

- 1.2 The submitted documents suggests that the existing use of the application site has an agricultural use (as stated within Question 6. on the Application Form and within the Planning and Justification Statement); however, the exact agricultural-related use of the application site is unclear. The site appeared vacant during the time of the site visit.
- 1.3 The site is adjoined by a small parcel of paddock land to the northern boundary of the application site, separated by a post and rail fence with evidence of a hedge having being planted at the time of the site visit. Beyond this are residential properties including six new build properties (originally approved under application 14/01411/FUL), the closest 17 Drayton Road is located approximately 45m from the application site boundary. There are further residential properties to the east of Drayton Road, the closest (No.54) is approximately 42m to the north east of the northern boundary of the application site. Medbourne Brook runs to the east of the application site with a post and wire fencing along the eastern boundary with a number of dispersed semi-mature trees along the top of the bank. A small coppice of trees forms the boundary between the application site and sewage works to the south and a mature hedge forms the boundary between the site and Drayton Road to the east. Agricultural land lies further to the east, south and west of the application site.



*Figure 2. View of site looking south*

- 1.4 Access to the site is currently achieved off Drayton Road via an existing field gate access (approved under planning permission reference 16/00318/FUL). At this point Drayton Road is a derestricted C Classification road, however, there is a change of speed limit to 30 mph when entering the village which is in close proximity to the proposed site (100m).
- 1.5 At the time of the site visit and as referenced in some neighbour representations, a pedestrian gate leading to a set of steps into Medbourne Brook, a wooden pontoon/platform into the bank of Medbourne Brook and a brick BBQ were present within the site. These features have not been granted planning permission and these matters have been referred to the Planning Enforcement Team- these features are not included within the current application.

## **2. Site History**

- 2.1 The application site has previously been the subject of the following relevant planning history:
  - 16/00318/FUL - Installation of a new access with associated gate and fencing – Approved (27.04.2016);
  - PREAPP/17/00222 - Erection of Dwelling - Pre-Application Advice Provided (29.08.2017);
  - 17/01834/OUT - Outline application for the erection of a dwelling and associated access (access, layout and scale to be considered) - Refused (05.03.2018);
  - 18/00722/OUT - Outline application for the erection of a dwelling and associated access (access, layout and scale to be considered) Revised scheme of 17/01834/OUT – Refused (13.06.2018);
  - 18/01318/FUL- Erection of a brick barn – Refused (02.10.2018)



### 3. The Application Submission

#### a) Summary of Proposals

- 3.1 The proposal includes the change of use of the land from agriculture to a dog day care facility including an outdoor dog walking area and field. The proposal includes the erection of a building to house the dogs indoors, an indoor dog play area, office and storage area.
- 3.2 The building is proposed to be sited in the south-west corner of the site. It is proposed to be T-shaped in form with a ridge height of 5m. The shape and layout of the building is designed to have a stable like appearance and is proposed to be timber clad with a corrugated-style roof.
- 3.3 Vehicular access would be taken from the existing access for Drayton Road and six parking spaces are proposed for employees and customers. The parking area is proposed to the north of the building with a dog walking area beyond this which extends to the northern boundary of the site.
- 3.2 The business is proposed to accommodate up to 8 dogs, with only daytime provision of care to be provided, there is no proposal to keep dogs on the premises overnight. Hours of operation are proposed to be between 07:00am and 19:00pm, Monday to Friday, and between 10:00am and 16:00pm on Saturdays to accommodate likely requirements of customers looking for dog care during the working day. The business is proposed to employ one full-time member of staff and up to three part-time employees.

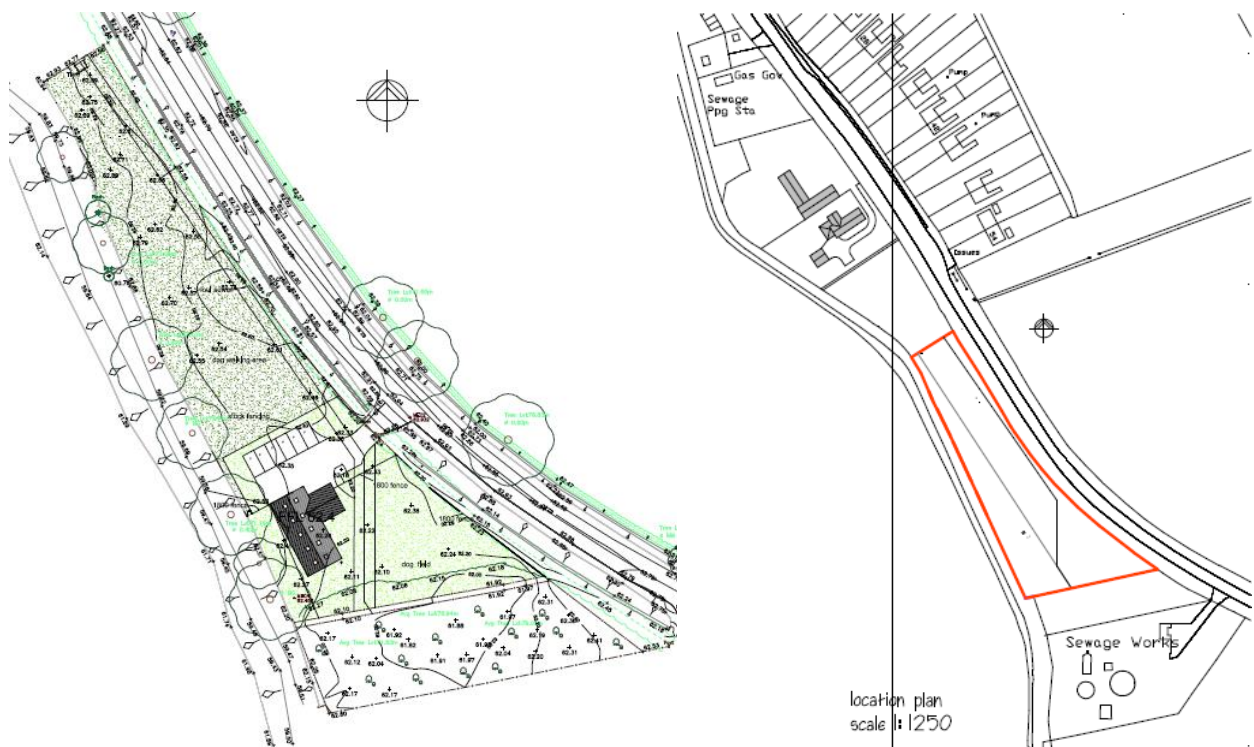


Figure 3. Proposed site plan (left) and location plan (right)



Figure 4. Proposed elevations and floorplans

## b) Documents submitted

### i. Plans

3.2 The application has been accompanied by the following plans –

- 'Site location and site plan'
- 'Proposed elevations and floorplans'

### ii. Supporting Statements

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

- 'Planning and Justification Statement'

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

3.4 No additional information or amended information has been submitted as part of this application.

## d) Pre-application Engagement

3.5 Pre-application advice was given following the refusal of application 18/01318/FUL, advice was initially specific to the reasons for refusal for the agricultural barn. Following this the applicant outlined their interests in developing a dog day care facility on the site. Several meetings and emails were exchanged relating to the use of the site as a dog day care facility. To summarise the advice was heavily related to the design, scale and positioning of the dog day care building as well as a suitable justification for the scale of the business.

3.6 The applicants were advised to position the building in the southern corner of the site to reduce potential harm to neighbouring amenity and that matters of noise and

disturbance would be addressed as part of the consultation with the Environment Team. The scale of the business has been reduced as part of the pre-application discussions from 16 to 8 dogs, the design and scale of the building has also been reduced.

- 3.7 The pre-application advice concluded that in the officers opinion the principle of the business in the countryside was considered acceptable. That the design/scale of the building was in the right direction providing it could be supported within the supporting information submitted with a planning application. Matters of noise/disturbance, flooding, ecology and highways would be addressed through consultation as part of a planning application.

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

- 4.1 Consultations with technical consultees and the local community were carried out for the application. This first occurred on 30<sup>th</sup> May 2019, additional consultations were carried out on the 10<sup>th</sup> June and 26<sup>th</sup> June 2019 and on the 26<sup>th</sup> June 2019. This initial consultation period expired on 16<sup>th</sup> July 2019.
- 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 Medbourne Parish Council**

Medbourne Parish Council strongly objects to the planning application.

##### **1.Plannning History**

This is the 4<sup>th</sup> application on this sited filed in the space of approximately 17 months all seeking to change the use of land and building on this agricultural site. The three previous applications, two for a house and one for a barn have been refused.

##### **2. Ecology**

The planning application says that the development is not in the vicinity of any important ecological site, whereas in fact it is bounded by Medbourne Brook.

Sue Timms at County Hall Ecologist has said categorically that there should be a 5m buffer zone from the top of the bank of the river, on any future riverside sites. This has not been addressed. At the moment all the dog pens open onto the buffer zone which is clearly unacceptable. The dog walking area includes the 5m buffer zone which again is unacceptable and contrary to the previous planning decision. There is no indication as to where the dog play field is to be situated.

##### **3. Visual Amenity**

The design is not attractive for the entrance to the Medbourne conservation village and has a similar block form to the two refused applications. The Parish Council does not accept that powder coated sheeting, and vertical timber cladding on a brick base are "indigenous construction materials". At present there are attractive houses on either side of the Drayton Road. The proposed building will not enhance the landscape setting or the entrance to the settlement of Medbourne.

Rather it would be harmful to the character and appearance of the local area, including the street scene of Drayton Road - given that it is literally right next to the first house in the village, sharing a boundary fence.

##### **4. Access/Traffic**

The site is outside the 30mph limit, in a 60mph limit, on a bend, on a busy route to the local school. The applicants have stated that it will be open 7am - 7pm, and that therefore traffic would not coincide with rush hour traffic, but this cannot be

guaranteed and would be impossible to enforce. There is no pedestrian access via a footpath or pavement to the site.

#### **5. Noise/Smell/Waste**

The site is within 150m from the nearest residences, and therefore the noise of dogs barking could be very irritating to those living nearby, especially if they were in the dog walking area which is even nearer.

There is no proposal regarding collection or disposal of waste, which is important given the amount of waste it is expected that a significant number of dogs would produce each day, in this location next to residential properties and to the Brook.

#### **6. Inappropriate Location**

The people of Medbourne spent months developing and designing the Neighbourhood Plan to reflect the desires of the village, including the village boundaries. After months of careful consideration it was determined - and voted by the village through the NP referendum process in June 2018 - that this site should not be included in the village boundary and should not be developed.

To totally ignore the newly adopted Neighbourhood Plan boundaries and to allow this land to be built upon and developed is totally contrary to the wishes of the community (as demonstrated by the referendum results in favour of the Neighbourhood Plan) and would be contrary to the intention of the Neighbourhood Plan process. It is expected that where possible the District Council will support and abide by the Neighbourhood Plan. The applicants has not addressed the essential need for development within the open countryside. To place commercial dog kennels in the proposed location - right next door to existing residential dwellings is totally inappropriate and shows a total disregard for the wellbeing of local residents in terms of noise pollution and smell pollution. This form of business would be far better located in a more rural setting away from residential properties and is certainly not suited to be situated on the edge of any village bordering residential dwellings.

### **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).

### **LCC Highways**

#### **Advice to Local Planning Authority**

The Local Highway Authority Advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 109 of the National Planning Policy Framework (2019), subject to the conditions and/or planning obligations outlined in this report

#### **Background**

The Local Highway Authority (LHA) is in receipt of a change of use application (19/00832/FUL) from agriculture to dog day care and for the erection of a building for up to 8 dogs including ancillary office/storage space. The site benefits from existing planning permission for the installation of a new field access with associated gate and fencing (16/00318/FUL).

#### **Site Access**

The site is adjacent to the highway at Drayton Road, which is a derestricted C Classification road. It is worth noting that there is a change of speed limit to 30 mph in close proximity to the proposed site. Given this proximity it is likely that vehicle speeds along the site frontage would not be 60 mph. The access width is in accordance with the Leicestershire Highway Design Guide (LHDG) and should have

hard-bound surfacing and appropriate gradient and drainage. There have been no reported Personal Injury Collisions in the vicinity of the proposed development in the past five years.

#### Internal Layout

Parking facilities are provided on site through the designation of six car spaces for employees and customers. The LHA also notes it is proposed that a local morning pick up and afternoon drop off service will be utilised to minimise the total number of daily traffic movements in and out of the site. The LHA is satisfied that the current plan shows sufficient parking and turning provision in line with the LHDG.

Conditions recommended

#### **HDC Environment Team**

I understand that there have been a number of concerns raised by local residents on the impact of noise (dogs barking) that the granting of this proposal may have.

Noise from dog barking is very difficult to quantify in terms of requesting an acoustic report from the applicant – for example, some breeds tend to bark more than others, some dogs are louder than others, etc. From an acoustic perspective, it is difficult to prepare anything robust. In addition, whether a dog barks is likely to be dependent on how the animal is managed by the carer.

Should planning approval be granted, the site will require a dog day care licence which is issued by this department. We have a number of home boarders / dog boarding establishments, some in quite built up residential environments. To the best of my knowledge, we have not received a noise complaint concerning any of these establishments.

There are various requirements that the applicant will require to demonstrate prior to obtaining a licence. This includes number of animals permitted, staff numbers, environment (including suitable fencing), diet and monitoring of behaviour.

#### **LCC Ecology**

I have no objections to this in principle, but the fencing around the carpark appears to be too close to the brook. To maintain the value of the brook as a wildlife corridor, there should be a 5m buffer zone of natural vegetation along the Brook. PLEASE NOTE THAT THIS SHOULD BE MEASURED FROM THE TOP OF THE BANK. There should be no structures within this zone, such as fencing, and that it should be managed in future as natural vegetation - i.e native trees, scrub and shrubs, native tall herbs and long grass. Amenity or close-mown grassland is not acceptable. This should be a planning condition.

A minor amendment to the site plan is required, to ensure the fenceline around the carpark is outside the 5m buffer zone from the top of the Medbourne brook bank. There is plenty of room on the site to accommodate this.

I also recommend a condition requiring retention of the roadside hedge, retention of existing vegetation within the 5m buffer zone along the brook, and retention of other boundary hedges. It is acceptable to create a small gap in the hedgerow sufficient for vehicle access.

The grassland habitat in the field was surveyed in 2013, for another application in this area, and found to be species-poor. It is unlikely to have changed in the interim, therefore there is no need for further surveys.

#### **Lead Local Flood Authority**

The site is partly located within Flood Zone 2 and 3, as such being at medium to high risk of fluvial flooding on some areas of the site. The site is also at high risk of surface water flooding. Although it is noted within the application that the proposed building lies within Flood Zone 2, on review of the flood mapping it appears that this area is predominately Flood Zone 3 being at the highest risk of fluvial flooding, While

the application is deemed a minor application and the LLFA is not a statutory consultee. it is recommended that the applicant consider a flood warning system as well as planning evacuation routes in the case of severe weather.

### Environment Agency

We have no objection to the proposal as submitted. We have taken this stance on the basis the applicant is proposing to raise finished floor levels of the built development to a height of 62.57mAOD. The applicant hasn't included this in a formal Flood Risk Assessment (FRA) so we recommend that, should you be minded to approve the application, you secure this finished floor level by way of a suitably worded planning condition to mitigate flood risk to the development and future occupants.

## b) Local Community

- 4.4 Objection comments have been received from 39 households. Most objection comments have been received from households within Medbourne itself, comments have also been received from properties in Nevill Holt and Slawston. These comments are summarised by topic below, full objection comments can be read online.

Noise/Disturbance	<ul style="list-style-type: none"> <li>• Barking dogs may cause noise and disturbance as they arrive/leave and during the length of their stay</li> <li>• Medbourne has a low level of ambient noise, therefore perceived noise will be greater and the peaceful, rural location will be ruined</li> <li>• Prevailing wind comes from the site towards the village, leading to greater noise pollution</li> <li>• Much of Medbourne village is within 500m of the site</li> <li>• Increased noise from increase road traffic using the site</li> <li>• Objections to opening hours of 7am to 7pm.</li> <li>• As the applicants have other dogs there may be more than 8 dogs onsite</li> <li>• Concerns regarding public health as a result of noise</li> <li>• The EHO provides no guidance on possible conditions; the consultation response implies that control of operation effects of the development should solely be done through the licensing process. This approach is inadequate.</li> <li>• There is no demonstration that such adverse noise impacts could be controlled adequately or mitigated satisfactorily therefore the development would be in conflict with Harborough Local Plan policy GD8 (e) (ii) in that the proposed development would cause significant disturbance and have an unacceptable impact on the living conditions of occupiers of adjacent residential properties</li> </ul>
Conflict with Policy/Principle of Development	<ul style="list-style-type: none"> <li>• Is outside village boundary and if allowed would set a precedent and undermine NP policy</li> <li>• Conflicts with Policy H2 of the NP, no indication that developments of the type proposed should be allowed outside of limits</li> </ul>



Highways	<ul style="list-style-type: none"> <li>• Danger for road traffic safety due to increased vehicle movements.</li> <li>• Extra volume of traffic outside the 30mph zone</li> <li>• Visitors may use residential on road parking if no space onsite, causing issue with residents parking</li> <li>• There is no footpath access to the site nor any streetlighting</li> <li>• If all dog owners and employees arrive at once the scheme may result in on verge parking</li> <li>• Access is on a blind bend</li> </ul>
Design/Impact on the Countryside/Visual Amenity	<ul style="list-style-type: none"> <li>• Building is larger than required for 8 dogs</li> <li>• Development does not respond to local character nor promote and reinforce local distinctiveness</li> <li>• Lighting in winter months would cause visual harm and potentially harm to wildlife</li> <li>• Object to a commercial building on agricultural land</li> <li>• Impact on open countryside/loss of green space</li> <li>• Size, design, materials and location of the development will have an unacceptable adverse effect on the openness/visual amenity of residents</li> </ul>
Flooding/Drainage	<ul style="list-style-type: none"> <li>• Has been no rigorous application of a Sequential Test or Flood Risk Assessment</li> <li>• Site is within flood zone 3 and in an area that does not benefit from flood defences</li> <li>• May be ponding and site drainage issues</li> <li>• No water treatment/drainage details shown</li> <li>• Concerns about excrement disposal and contamination to watercourse and surface water</li> </ul>
Ecology	<ul style="list-style-type: none"> <li>• 5m wide fence buffer to Medbourne Brook not shown</li> <li>• Conflicts with Policy ENV2 of the Medbourne NP which identifies Medbourne Brook as a Biodiversity Asset and Policy ENV4.</li> <li>• It should be noted that the eight open dog runs would directly face the wildlife corridor on the south-west elevation of the building. There has been some (if limited) research on the negative effect of the presence of domestic dogs on wildlife in protected sites.</li> <li>• Applicants have erected a flight of concrete steps and a pontoon/platform in the river what is the need/not part of current application.</li> <li>• Noise disturbance to wildlife</li> <li>• Lighting in winter months would cause harm to wildlife</li> </ul>
Business Need/Case	<ul style="list-style-type: none"> <li>• No market need/evidence the business would be viable</li> <li>• There is already a dog day care business in the village on Old Holt Road, kennels in Stockerston (two miles away) closed</li> </ul>

	<p>recently as it was no longer viable. There are many dog walking and sitting services that are operating in the village/locally</p> <ul style="list-style-type: none"> <li>• If applicants were serious about running a dog day care it would be their 1<sup>st</sup> application not the 3<sup>rd</sup> onsite</li> <li>• Is the size of the paddock big enough for walking dogs where there are no public footpaths nearby</li> <li>• Employment benefits are low eg 3 part time and one full time staff, may impact on local tourism</li> </ul>
Future Development	<ul style="list-style-type: none"> <li>• Applicants will change the unit to a dwelling</li> <li>• Applicants should find another site further away from residents</li> <li>• Could be further extensions/changes leading to kennels 24 hrs, 7 days a week</li> </ul>
Loss of privacy	
Increased air pollution due to additional traffic	

4.5 Support comments have been received from 7 households. The majority of these households are within Medbourne, one comment was received from Desborough and another from Market Harborough. These comments are summarised by below, full supporting comments can be read online.

- Site is on edge of village with plenty of open space between neighbouring properties
- It is outside of the village so shouldn't impact neighbouring properties
- There are no other such facilities in the area
- Camping facility in area has up to 15 dogs at one time and this hasn't caused disturbance
- Applicants are responsible dog owners
- A low numbers of dogs are proposed
- Have been no complaints from dogs using the paddock previously
- There would be procedures to minimise disruption
- Employment opportunities for local people
- Should support an emerging business opportunity
- The business would be a purpose built facility for dog owners
- All waste would be disposed of correctly
- Site is next to sewerage plant so additional smells unlikely
- Adequate parking onsite

## **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
- GD3 Development in the countryside
- GD5 Landscape character
- GD8 Good design in development
- BE1 Provision of new business development
- 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.

- *The Medbourne Neighbourhood Plan 2017-2031*

- Policy H2- The Limits to Development
- Policy ENV2- Protection of other sites and features of environmental significance
- Policy ENV4- Biodiversity and wildlife corridors
- Policy TR1- Transport, roads and parking
- Policy E2- Support for new employment opportunities

These are detailed within the relevant aspects of the report

## **b) Material Planning Considerations**

- 5.3
- *The National Planning Policy Framework* ('the Framework')
  - *Supplementary Planning Guidance*  
Note 6- Agricultural and equestrian buildings and development for sport and recreation in the countryside
  - *The National Planning Policy Guidance*

## **c) Other Relevant Information**

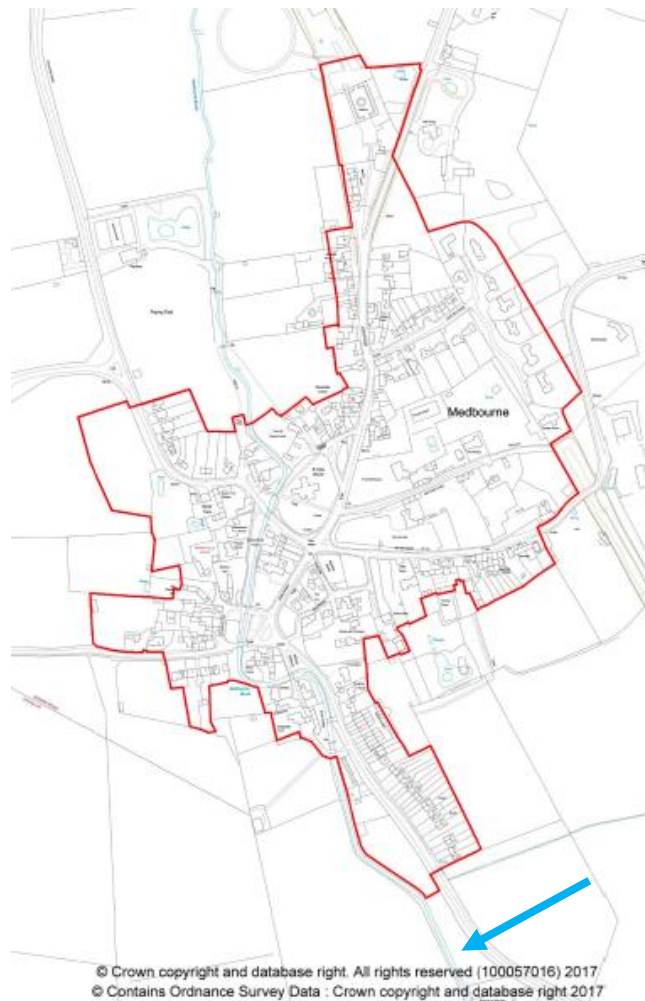
- *Reason for Committee Decision*
- 5.4 This application is to be determined by Planning Committee as the application has been called-in by Cllr Rickman for the following reasons: visual amenity, loss of privacy, adequacy of parking, noise and disturbance, planning history, ecology and as the site is outside limits to development.

## **6. Assessment**

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

- 6.1 The application site is adjacent to but outside the built form of Medbourne, separated by the small area of paddock between the site and No. 17 Drayton Road. The site is outside but adjacent to the Limits to Development identified within Policy H2 of the

Medbourne Neighbourhood Plan (MNP). Therefore, the site is deemed to be within open countryside and not considered a wholly sustainable location for development, at the bottom of the settlement hierarchy outlined in Policy SS1 of the Harborough Local Plan (HLP).



*Figure 5. Medbourne limits to development (site identified with blue arrow)*

- 6.2 It is important that the countryside is protected from unsustainable development and development which may harm the intrinsic rural character, however, policy GD3 of the HLP recognises that certain forms of development are necessary to support rural life and maintain or enhance the rural economy. Policy GD3 states that development will be permitted where it is required for the purposes of agricultural, horticulture or similar uses, outdoor sport and recreation, minerals and waste and also GD3i) 'other uses which justify and are compatible with a countryside location'. The NPPF (paragraph 83) emphasises that planning decisions should support a prosperous rural economy through supporting the sustainable growth and expansion of rural businesses and enterprise, promoting the development and diversification of agricultural and other land-based rural businesses, and supporting sustainable rural tourism that respects the character of the countryside. Paragraph 84 states that planning decisions should recognise that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not served by public transport. In these circumstances' developments should be sensitive to its surroundings, not have an unacceptable impact on the road network and exploit opportunities to make the site more sustainable.

- 6.3 The site is outside of the 'limits to development' outlined in Policy H2 of the MNP, outside of the 'limits' development will be carefully controlled. Policy H2 of the MNP states that appropriate development in the countryside includes a) for the purposes of agriculture- including farm diversification and other land-based rural business. The explanatory text of the MNP does not include an explanation as to the definition of land-based rural businesses however this issue is addressed below. Policy E2 of the MNP does not prohibit support for new employment opportunities outside of the 'limits to development' where it relates to development and diversification of agricultural and other land based rural business or sustainable rural tourism and leisure developments that benefit business in rural areas (other criteria relating to residential amenity and parking are addressed elsewhere).
- 6.4 In relation to the issue of whether a dog day care business is considered to justify or be compatible with a countryside location (Policy GD3), whether the use is a land-based rural business appropriate outside of sustainable settlements attention is drawn to a relevant appeal decision within Kimcote (Harborough District).
- 6.5 APP/F2415/A/11/2165756 (HDC reference 11/00814): Appeal allowed for Erection of dog boarding kennels and siting of temporary residential accommodation, Land OS 2373 And 3589, Kilworth Road, Kimcote. Cost award against HDC.
- 5. For reasons of ease of access and to reduce greenhouse gas emissions associated with car use, the Framework identifies that the proximity of services and facilities to where people live is an important aspect of deciding whether a development is sustainable. Policies CS7 and CS17 of the Harborough Core Strategy seek to direct services to towns and rural centres within the District where they can be readily accessed by walking, cycling or public transport. Certain land uses the Core Strategy recognises, however, require a rural location. Whilst the boarding kennels would be insulated barking is likely to be an issue when dogs arrive, or depart, and possibly when they are exercised. As a consequence, a boarding kennel is an example of a service which requires a rural location, away from residential areas.*
- 6. In terms of distance, the appeal site at approximately 2 miles from Husbands Bosworth, the nearest rural centre identified by the Core Strategy, is not close to a population centre. However, even if it was closer it is unrealistic to expect that dogs would be taken to, or collected from, the kennels by public transport, cycling or walking. Furthermore, on the basis of the market research carried out by the appellant, the boarding service is likely to attract customers from nearby towns. As a consequence, whether the site was within a few hundred metres of a centre of population or 2 miles away would make little material difference in terms of sustainability.*
- 7. Several appeal decisions have been cited against the proposal. However, those decisions are materially different to the appeal proposal as they relate to commercial and residential development, which unlike the appeal proposal do not require a rural location .*
- 8. Taking all these matters into account, I therefore conclude that the kennels would be in a sustainable location for development and would comply with the objectives of policies CS7 and CS17 of the Core Strategy and the Framework.*
- 6.6 This appeal is for a different proposal to 19/00832/FUL and was assessed against the old Core Strategy but notwithstanding this, carries similarities of some relevance to the current proposal. The proposal is a unique scheme and it is recognised that a rural location is justified due to the potential of noise and disturbance from dogs. In

accordance with the NPPF and GD3 of the HLP the proposal also provides opportunities to enhance the rural economy.

#### **b) Design and Visual Amenity**

- 6.7 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. Developments should be sympathetic to local character and history, including the surrounding built environment. 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 design in such a way that it is sensitive to its landscape setting. Policy H5 of the MNP requires development proposals to respect local character having regard to scale, landscaping, materials etc.
- 6.8 Concerns have been raised from local residents that the development does not respond to local character, that the design is commercial in nature and larger than required which would have an unacceptable adverse effect on the openness/character of the area.
- 6.9 The site is deemed to be within the open countryside and is visually separate from the main built form of Medbourne, although is close in proximity. Due to its location in the countryside the building has been designed to appear as an agricultural/equestrian style building. In rural villages such as Medbourne the presence of agricultural or equestrian buildings on the edge of villages is common; a mixture of large modern and more traditional agricultural buildings can be seen on the approach to Medbourne from Manor Road and Ashley Road for example. Therefore, this design approach is considered acceptable and reflects the rural character of the area.
- 6.10 The building is significant in scale having a total length of 16m and width of 7.5m with a further protrusion to the front. However, the massing of the building is broken up owing to the T-shaped form and the subordinate 'extension' with a reduced ridge height and building width to the front. The scale is not considered to be unduly large in relation to other agricultural style buildings which are intrinsic features of the surrounding rural landscape. Furthermore, much of the site would remain undeveloped as part of the proposals, forming the outdoor exercise areas which would be retained as grassland. As the built form is concentrated in the southern corner of the field and the remaining land is undeveloped the proposals impact on the openness of the area is limited.
- 6.11 The material choice of timber cladding and a corrugated metal grey roof accords with Supplementary Planning Guidance Note 6. Whilst this guidance relates to agricultural and equestrian buildings in the countryside the principles carry similarities to the current proposal in that HDC encourages the use of wooden constructions and dark grey, green or brown roofs in the countryside to help developments blend to the rural surroundings. Buildings constructed wholly of stone, brick or blockwork which may be more similar to the residential dwellings in Medbourne are normally resisted within the countryside as due to their visual impact and incongruity in the rural scene.
- 6.12 The proposed building and hardstanding is concentrated in the southern part of the site, where it is visually associated with the sewage works immediately to the south. The site also benefits from some screening from the hedge along Drayton Road (proposed to be retained). Views of the building from the south of Drayton Road



would be significantly limited due to the significant number of trees surrounding the sewage works, therefore the proposal is unlikely to harm the visual amenity of the approach to Medbourne village.

- 6.13 In the current submission landscaping is kept to a minimum, the existing boundary treatments are proposed to be retained including the hedge along Drayton Road. Full details of the fencing throughout the site has not been submitted but it is likely to be 1.8m high stock fencing, consisting of wooden posts with wire mesh between. This is likely to be acceptable in the rural context but a condition providing full details of hard and soft landscaping would be recommended.
- 6.14 There are no designated nor non-designated heritage assets adjoining the site. The Medbourne Conservation Area is over 200m from the northern boundary of the site and over 270m from the proposed building. There are also numerous dwellings between the site and Conservation Area, due to the physical separation between the site and Conservation Area no harm to the special character of the Conservation Area is likely.
- 6.15 Overall the scheme is considered to respect its rural setting, the design is considered to reflect an agricultural/equestrian style building which is not considered to harm the visual amenity of the rural location. The design is considered to comply with policies GD5 and GD8 of the HLP.

#### **c) Highways**

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- 6.16 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. Policies TR1 and E2 within the MNP state that developments which generate additional on-road parking will not be supported.
- 6.17 Concerns have been raised from local residents relating to highways safety, namely that the additional traffic outside the 30mph zone may lead to dangers for road traffic safety. Concerns have also been raised regarding the level of parking and potential for on street parking and visibility from the access.
- 6.18 The proposal utilises the existing agricultural access approved under reference 16/00318/FUL on to Drayton Road, which is a derestricted C Classification road. There is a change of speed limit to 30 mph in close proximity to the proposed site. Given this proximity, in the opinion of the Local Highway Authority (LHA) it is likely that vehicle speeds along the site frontage would not be 60 mph. The access width is in accordance, gradient and visibility is in accordance with LCC standards as required as part of application 16/00318/FUL, recommended conditions relating to surfacing and drainage would also prevent deleterious material and surface water from draining to the highway.



*Figure 6. View from access looking south*



*Figure 7. View from access looking north*

- 6.19 It is clear that the proposal business will lead to intensification of the access in comparison to its current use. The proposed business would accommodate up to 8 dogs, therefore there is likely potential for up to 8 vehicles to drop off and pick up dogs per day. Due to the nature of the business and differing working hours it is unlikely all these vehicles would arrive at once. Furthermore, a local morning pick-up and afternoon drop off service is proposed which would further minimise the total number of daily traffic movements in and out of the site. Alongside customers one full time and up to three part time employees are proposed, although would not be working at the same time. The LHA is satisfied that when considered cumulatively

with other developments in the area the impact of additional traffic to the road network would not be severe.

- 6.20 Concerns are raised that the designation of six car parking spaces is not sufficient. It is likely that up to two spaces may be occupied by employees at one time, the remaining four spaces would therefore be available for customers. It is unlikely considering the proposed number of dogs that these spaces would be fully occupied considering the likely staggered nature of drop off and pick up. The LHA is satisfied that the current proposal shows sufficient parking for a business of this scale, the proposal is therefore unlikely to lead to additional on-street parking.
- 6.21 Whilst the proposed site is located close to Medbourne there is no pedestrian footpath nor cycleway to the site, therefore reducing opportunities for sustainable means of transport. However, as outlined in similar appeals, given the nature of the business it is unrealistic to expect that dogs would be taken to, or collected from, the kennels by public transport, cycling or walking. Therefore the provision of pedestrian or cycle routes to the site is not considered necessary or reasonable for the development.
- 6.22 The impacts of the development on highway safety are not considered to be unacceptable and therefore the scheme complies with Policy GD8 and IN2 of the HLP. Furthermore, the development is not considered likely to generate additional on-street parking which accords with MNP policies TR1 and E2. Should members be minded to approve the scheme they are reminded that the LHA have requested conditions which should be placed on any such approval.

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

- 6.22 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. Policy E2 of the MNP supports new employment opportunities providing the development does not adversely affect residential amenity.

##### *Loss of Privacy, Light and Overdominance*

- 6.23 The proposed building is sited over 135m away from the residential curtilages of the two closest residential properties No.17 and 54 Drayton Road. Considering this separation distance, the proposal will not cause a loss of light or sense of overdominance to surrounding residential properties. The separation distance will also mitigate a loss of privacy between the dog day care building and residential properties, the distance is well in excess of 21m required between residential properties for reference. Concerns have been raised that the use of the northern part of the site for dog walking may lead to loss of privacy for surrounding residential properties. Due to the large boundary hedge along Drayton Road, views from the site to No.54 Drayton Road are limited. Views between the site and No.17 Drayton Road are more open as the boundary treatment consists of a post and rail fence and estate fencing. However, owing to the presence of the paddock between the garden of No.17 Drayton Road and the application site there is a separation distance of 37m which is considered to mitigate loss of privacy to future residents. No adverse loss of privacy, light or sense of overdominance is likely.





Figure 8. View from site looking north to No. 17 Drayton Road

#### *Noise disturbance*

- 6.24 The most significant concern raised by residents is the potential for the proposal to cause noise resulting in unacceptable disturbance to nearby residents. The application site is within a rural area, the site is adjacent to Drayton Road and noise from passing traffic occurs, especially at peak times- however the noise generated from passing traffic is not significant. Other noise generators in the area are considered to be very intermittent agricultural machinery and noise generated from domestic properties which is likely to include some noise from dogs at their own residential properties. However, overall surrounding residents experience low background noise levels characteristic of the rural location.
- 6.25 The dog day care building itself has been sited in the south of the site, as far as practicable from the nearby residential properties therefore the building itself is over 135m away from No.17 and No.54 in an effort to reduce potential noise disturbance. However, the potential for noise and disturbance arises from the site as a whole with the northern areas of the site being used for dog exercise/walking. No.17 and No.54 Drayton Road are located approximately 45m and 42m from the northern boundary of the application site respectively. There are a number of other residential properties to the north of the site on Drayton Road.
- 6.26 The business is proposed to accommodate up to 8 dogs, with only daytime provision of care to be provided, there is no proposal to keep dogs on the premises overnight. Hours of operation are proposed to be between 07:00am and 19:00pm, Monday to Friday, and between 10:00am and 16:00pm on Saturdays. Other information regarding the operation of the site, for example details of how often and for how long the outdoor exercise areas are to be used and day-to-day noise management measures have not been submitted.
- 6.26 The Councils Environment Team has reviewed the application and objection comments and have provided the following comments: 'Noise from dog barking is very difficult to quantify in terms of requesting an acoustic report from the applicant – for example, some breeds tend to bark more than others, some dogs are louder than others, etc. From an acoustic perspective, it is difficult to prepare anything robust. In

addition, whether a dog barks is likely to be dependent on how the animal is managed by the carer. Should planning approval be granted, the site will require a dog day care licence which is issued by this department. We have a number of home boarders / dog boarding establishments, some in quite built up residential environments. To the best of my knowledge, we have not received a noise complaint concerning any of these establishments.'

- 6.27 As referred to above there is no standard planning guidance on assessing noise from dog day care or kennels and approaches differ between local authorities. HDC has no supplementary guidance relating to this issue and for the above reasons no noise assessment has been submitted. It is acknowledged that several dog day care businesses, boarding establishments or home boarding businesses are present within the district, some of which are within built up residential environments and the Environment Team are unaware of noise complaints. This suggests noise and disturbance from other establishments has not led to complaints, however, each application must be assessed on its own merits and circumstances relevant to the specific site.
- 6.28 Although noise data has not been provided it is a matter of common sense that several dogs kept within one site are more likely than not to generate more noise than would usually be associated with individual dogs within their dwellinghouse/home environment. Dog barking is unpredictable, it is likely to be intermittent with peak barking occurring when dogs become excited or agitated, for example, when entering or exiting the site or when being taken outside for play/exercise. Inspectors have previously stated that as one dog starts to bark others may join in.
- 6.29 As referred to within the Environment Teams comments noise from dog barking is also difficult to quantify. Different breeds of dogs have contrasting temperaments with some dogs being more susceptible to barking or howling when they are separated from their owners, and others become nervous and restless in the company of other dogs, especially within unfamiliar environments such as kennels. The variety of pitch and sounds from different dogs barking further adds to this. It would not be reasonable for the operation of the business nor enforceable to condition the breed or size of dogs permitted on the site. Whilst dog barking is likely to be intermittent and will vary dependent on the type of dogs onsite, the nature of additional noise is likely to be noticeable from nearby properties considering the rural nature of the site and low level of ambient noise in the area.
- 6.30 An aspect of particular concern is the use of the dog exercise area to the north of the site which is closest to residential properties. In the absence of information regarding the operation of the site it is unclear on the number of dogs which would be exercised at one time, nor on the amount of time and time of day dogs may be outside. Clearly the maximum number of dogs which may be outdoors at one time is eight, whilst this is unlikely, no evidence to the contrary has been provided. The planning and justification statement refers to additional landscaping to reduce potential disturbance, however, details of this have not been submitted with the application. It is also acknowledged that acoustic fencing has been used in other circumstances to reduce noise and disturbance, however, such fencing is likely to be a substantial structure which would have other implications for the character and appearance of the area and is not proposed within the application.
- 6.31 The applicants have not submitted any mitigation measures that guarantee that noise would be reduced to an acceptable level. Sound proofing of the building may assist in the mitigation of noise to some extent especially when the dogs are housed inside.



However, there is no evidence of such mitigation. Furthermore, there is insufficient evidence at this time that any other mitigating measures would reduce the noise levels outside the kennels to a satisfactory degree.

- 6.32 In making this assessment regarding noise/disturbance the small-scale nature of the business (eight dogs) has been taken into consideration, alongside the potential for on site management to reduce noise and that the building has been sited as far as practicable from residents. However, in the absence of detail regarding mitigation and considering the close nature of the site to the residential properties to the north of the site (No.17 and 54 Drayton Road) it is considered that there could be periods of loud and sustained barking throughout the day which could lead to disturbance to the residential amenity of surrounding residents. Therefore, on balance, it has not been demonstrated that the development has been designed to minimise impacts from noise and disturbance to existing and future residents. Therefore, the scheme is not considered to comply with GD8 of the HLP nor policy E2 of the MNP.

#### *Odour*

- 6.33 Concerns have been raised regarding potential odour from excrement on the site if this is not disposed of correctly. The site is immediately adjacent to the sewage works, as such it is unlikely that additional harmful odour will occur. Should the scheme be approved a condition requesting a waste management plan is recommended to ensure satisfactory storage of waste.

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

- 6.34 Part of the site is located within Flood Zone 2 and 3 (Figure 9), a site-specific flood risk assessment has not been submitted. The EA have provided comments on the application and raise no objection to the proposal as submitted providing finished floor levels of the development are to a height of 62.57mAOD. As a formal flood risk assessment has not been submitted the EA recommend this requirement is secured by way of a suitably worded condition. This is considered satisfactory to mitigate flood risk to the development and future occupants.

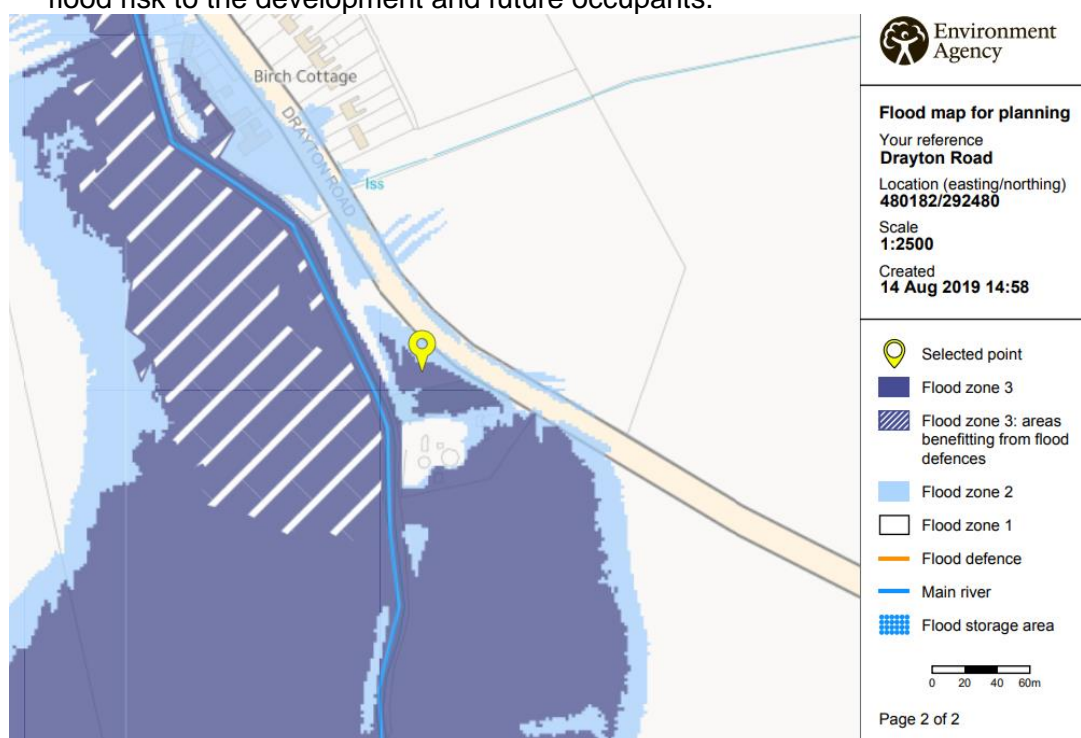


Figure 9. EA Flood Map

- 6.35 Therefore subject to a suitable condition the proposal is considered to comply with Policy IN4 and CC3 of the HLP. Despite being minor development the LLFA have also recommended that it is recommended that the applicant consider a flood warning system as well as planning evacuation routes in the case of severe weather- this is recommended to be addressed by way of a planning condition. Alongside an additional condition ensuring a suitable drainage system is submitted to the LPA prior to commencement of development which would also address concerns regarding run off to the adjacent water course.

#### **f) Ecology**

- 6.35 The application site lies to the east of Medbourne Brook. The area of Medbourne Brook to the north is identified as a biodiversity asset within Policy ENV2 of the MNP and the entirety of Medbourne Brook is identified as a biodiversity and wildlife corridor in Policy ENV4 of the MNP. As such this asset should be safeguarded and proposals must demonstrate they will not harm the integrity and effectiveness of the corridor.
- 6.36 No objections to the principle of the site have been raised by LCC ecology, this includes the housing of dogs within the building facing the brook. Nor have objections been raised with regards to the grassland habitat within the field which is deemed to be species-poor.
- 6.37 However, LCC ecology have requested amendments to the scheme as the fencing and carpark encroaches into the 5m buffer zone of vegetation which is necessary to maintain the value of the brook as a wildlife corridor. The 5m buffer should be measured from the top of the bank and no structures should be within the zone, the area should be managed as natural vegetation and not amenity or close-mown grassland. Amendments to the siting of the carpark and fencing have been requested, as yet these amendments have not been submitted as such at present the scheme does not comply with Policy ENV4 of the MNP nor Policy G15 of the HLP which seeks no adverse impact on local designated biodiversity sites.

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

- 7.1 The principle of development is considered to be acceptable. The proposal is a unique scheme and it is recognized that a rural location is justified due to the potential of noise and disturbance from dogs. In accordance with the NPPF and GD3 of the HLP the proposal provides opportunities to enhance the rural economy, however, this does not outweigh or negate concerns relating to noise and disturbance to neighbouring residents. Furthermore, as the car park and fencing area encroaches into the 5m buffer for Medbourne Brook the proposal does not safeguard this locally designated biodiversity asset.

## Planning Committee Report

**Applicant:** Davidsons Developments Ltd

**Application Ref:** 19/00906/FUL

**Location:** Land Part OS 8797, Uppingham Road, Houghton On The Hill

**Proposal:** Substitution of house types and garage types and amendments to siting of garages (49 plots in total) (Amendments to 17/00257/REM and 18/00912/FUL)

**Application Validated:** 17.06.2019

**Target Date:** 16.09.2019

**Consultation Expiry Date:** 25.07.2019 (Weekly List)

**Site Visit Date:** 25.06.2019 and 08.08.2019

**Case Officer:** Nick White

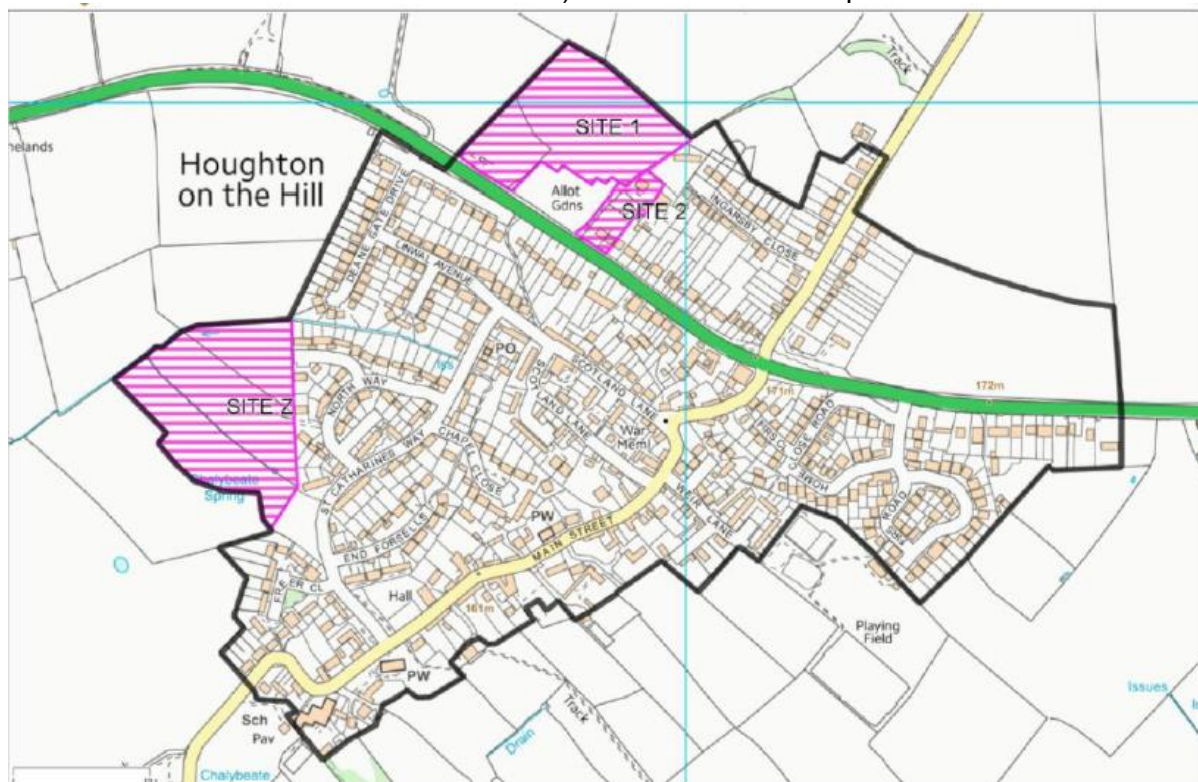
## Recommendation

Planning Permission is **APPROVED** for the reasons set out in this report and subject to:

- The Planning Conditions and Informative Note detailed in Appendix A.

## 1. Site & Surroundings

1.1 The application relates to a Neighbourhood Plan allocated housing site ("Site 1", on the north side of the A47 trunk road). Permissions are in place for 70 houses.



(Source: Houghton on the Hill NP; Figure 4-3. Map showing consented housing sites)





(Source: Uniform Maps)

## 1.2 Construction is underway.



## 2. Planning History

### 2.1 The following planning history is judged to be relevant. In chronological order:

- 15/01975/OUT – Erection of up to 70 dwellings (access only to be considered) – Approved 02.08.2016.
- 17/00257/REM – Erection of 70 dwellings (reserved matters of 15/01975/OUT) – Approved 19.07.2017.
- 17/01557/PCD – Discharge of planning conditions 5 and 6 (drainage), 7 (levels), 9 (Green Travel Plan), 10 (Cycle Parking Details), 13 (Construction Method Statement), 14 and 15 (Land Contamination Assessment), 16 (Pedestrian Crossing),

17 (Archaeology), 18, 19 (WSI) and 20 (Access) of 15/01975/OUT – Approved 31.10.2017.

- 18/00580/PCD – Discharge of Condition 13 (construction method statement) of 15/01975/OUT – Approved 26.04.2018.
- 18/00793/PCD – Discharge of Conditions 8 (refuse and recycling), 11 (tree protection) and 14 (contamination assessment) of 15/01975/OUT – Approved 06.06.2018.
- 18/00912/FUL – Amended house types on 19 plots, the repositioning of a further 6 plots and alterations to the estate road to remove a turning head (The re-plan of 25 plots from Reserved Matters permission 17/00257/REM) – Approved 26.09.2018.
- 19/01205/ADV – Installation of 12 freestanding flags and 2 non-illuminated free standing signs – Valid from 30.07.2019. Pending determination. Amendments have been requested to reduce the number of flags to 2 in total.

### **3. The Application Submission**

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

- 3.1 The applicant wishes to make minor design amendments, generally to enhance the marketability of the dwellings. 49 plots are affected. The house size (bedroom numbers) mix remains as approved.
- 3.2 The amendments involve changes to dwelling types on 39 plots (small external and internal alterations) and minor changes to garage types & garage positions on a further 10 plots. Garage floorspace dimensions and parking provisions remain in accordance with extant approvals.
- 3.3 During the application process, the applicant has also put forward a S106 'draft Supplemental Agreement'. At Schedule 1 of this draft SA, a variation to Clause 2.6 of the original (15/01975/OUT) Section 106 agreement is proposed; the purpose of this is to avoid the need for further supplemental deeds on this site if further plot substitution, or similar, applications are submitted/approved. The varied clause proposes that the original agreement is automatically applied to future consents unless the District Council or the County Council require a deed to be entered into.
- 3.4 HDC's Legal team has been instructed to move this draft forward. This should ensure that the major application is determined within its 13 week target (if approval of planning permission is resolved by Committee), which is positive in terms of Government-set LPA performance statistics.

#### **b) Schedule of Plans / Documents Submitted with Application**

- 3.5 The application has been submitted with a Drawing Schedule which lists the house types and plans approved under 17/00257/REM and 18/00912/FUL alongside those now proposed.



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

- 3.6 Amended site boundary plans have been submitted to resolve a boundary issue alongside to the allotments. Amended Drawing Schedule Rev A (dated 22.08.19) addresses the 3x plans which are affected by this issue.

This amendment has arisen following an issue which the Parish Council raised directly with the developer. The Applicant has confirmed:

“The areas in question do not form part of the POS to be transferred to the Management Company so we aren’t changing anything agreed with the LPA with regards to that. They also do not affect any areas such as those close to the road.

It’s purely where over time the boundaries on the ground have changed over a long period of time and because it’s been more than 12 years the Parish Council have stated they wish to apply their right to now own the land.

Davidsons have met with the Parish Council and agreed not dispute the land in question and so have agreed to amend boundaries to suit what’s on the ground. It is now a case of the legal documents being amended to reflect the new titles.

The red lines plans of the current application have been amended at this late stage so that Davidsons would not need to submit a further planning application just to amend the boundaries.”

The amended plans are not judged to have a material impact on the acceptability of the scheme.

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

- 3.7 No pre-application advice has been sought.

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

- 4.1 Consultations with technical consultees and the local community have been carried out on the application.
- 4.2 A summary of the technical consultee and local community responses which have been received is set out below. If you wish to view comments in full, please request sight or search via: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

- 4.3 *Leicestershire County Council Ecology*  
Confirmed “no comments”.
- 4.4 *Lead Local Flood Authority (LLFA)*  
The “proposals are considered acceptable to the LLFA and we advise the following planning conditions are attached to any permission granted”.
- 4 planning conditions (and respective condition notes) are recommended by the LLFA.

[Planning Officer Note: Drainage matters are judged to have been resolved by 15/01975/OUT and subsequent planning condition discharge (PCD) applications. It is not considered to be reasonable or necessary to revisit these matters, or to add new/duplicate Conditions to this FUL permission. Development has commenced on site and a range of drainage installations are complete.]

- 4.5 *Houghton On The Hill Parish Council*  
“It was resolved to submit a has NO COMMENTS response.”

- 4.6 *Leicestershire Police*  
A range of designing out crime measures is recommended. As this is effectively an approved development, with layout, landscaping and other such matters already determined, there is limited scope for amendment. However, the pragmatic and feasible Police recommendations are proposed to be incorporated into an Informative Note to applicant.

- 4.7 No consultee responses from:
- Severn Trent Water
  - LCC Highway Authority;
  - LCC Archaeology
  - LCC S106 consultees
  - HDC S106 consultees
  - HDC Drainage
  - Ward Councillor
  - Primary Care Trust

[Planning Officer Note: The absence of these responses does not give rise to concerns.]

## **b) Local Community**

- 4.8 No comments received.

## **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 The policies relevant to this application are set out below. More detail is provided in the “Common Planning Policy” section above.

## **a) Development Plan**

- 5.3 The DP for Harborough relevant to this application includes:

*Harborough Local Plan, adopted April 2019.*

Key policies:

- *Policy GD2 (Settlement development)*
- *Policy GD5 (Landscape character)*
- *Policy GD8 (Good design in development)*
- *Policy H5 (Housing density, mix and standards)*

- *Policy GI5 (Biodiversity and geodiversity)*
- *Policy CC4 (Sustainable drainage)*
- *Policy IN1 (Infrastructure provision)*
- *Policy IN2 (Sustainable transport)*
- *Policy IN4 (Water resources and services)*

*Houghton on the Hill Neighbourhood Plan (approved at Referendum 29 March 2018)*

Key policies:

- *Policy D2 (Sustaining the character of Houghton outside the Conservation Area)*
- *Policy D3 (Sustaining the rural character of Houghton through the use of green spaces)*
- *Policy H1 (General housing provision)*
- *Policy S3 (Provision of high-speed broadband)\*\**
- *Village Design Statement*

\*\*Although the primary layout and infrastructure of the development was considered under the 2015 Outline and 2017 Reserved Matters permissions, the applicant has confirmed that they have incorporated high speed broadband options in to the development.

## **b) Material Planning Considerations**

Primary national policy & guidance and other material considerations:

- 5.4 *The National Planning Policy Framework (The Framework / NPPF)*
- 5.5 *National Planning Practice Guidance*
- 5.6 *HDC Supplementary Planning Guidance*
- 5.7 *Circular 11/95 Annex A - Use of Conditions in Planning Permission*

## **c) Other Relevant Information**

- 5.8 *Reason for Committee Decision*

It is a major application type.

## **6. Assessment**

### **Technical Considerations**

- 6.1 The main material considerations are judged to be:

1. Design and Visual Amenity
2. Residential Amenities
3. Highway Safety
4. Section 106 Infrastructure Provisions
5. Planning Conditions

## 1. Design and Visual Amenity

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6.2 The approved 17/00257/REM and 18/00912/FUL layout and dwelling/garage type plans have been compared to the proposed plans. The differences are all minor in nature and would not affect the character and appearance of the development as already approved.

6.3 The proposal is judged to be acceptable in design and visual amenity terms.

## 2. Residential Amenities

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6.4 The proposed plans would not degrade the amenity relationships established by 17/00257/REM and 18/00912/FUL.

## 3. Highway Safety

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6.5 The alterations to garage types and positions would not reduce car parking. The proposal is not judged to harm highway safety interests.

## 4. Section 106 Infrastructure Provisions

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6.6 The applicant has drafted a supplemental S106 agreement which would ensure the development is linked to extant agreements.

6.7 If Members resolve to grant approval, the supplemental agreement would be completed before the planning permission is issued.

6.8 The intended resolution of S106 matters is considered to be satisfactory.

## 5. Planning Conditions

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6.9 The 15/01975/OUT, 17/00257/REM and 18/00912/FUL Decision Notices have been reviewed to identify Conditions which should be applied to the current application. Planning Condition Discharge applications are also noted.

6.10 It is proposed to repeat Conditions in general accordance with these Decision Notices, primarily 18/00912/FUL, as outlined below in Appendix A.

6.11 As development is underway, it is not judged to be necessary to add a “development to commence within X years” Condition.

6.12 The “existing vehicular access” mentioned in Condition 15 of 18/00912/FUL has been closed and the verge reinstated. Therefore, this Condition is no longer necessary.

## 7. The Planning Balance / Conclusion

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7.1 The proposal would maintain the standard of design and visual amenity of the development established by the Reserved Matters application and subsequent FUL application on this site.

7.2 Other material interests would not be affected by the proposed amendments. It is recommended that approval is granted.

## **APPENDIX A – Recommended Conditions and Informative Notes**

### **Recommended Conditions:**

#### **1. Approved Plans**

The development is hereby approved in accordance with the plans and details stipulated in the following document:

--Full Planning Application Drawing Schedule Rev A - 22.08.19.

REASON: For the avoidance of doubt.

#### **2. Ecology**

The development hereby approved shall be implemented in accordance with the mitigation measures detailed in the Ecological Survey approved under Outline planning permission 15/01975/OUT.

REASON: In the interests of biodiversity and to accord with Harborough Local Plan Policies GD8 and GI5.

#### **3. Foul and Surface Water Drainage**

The foul water and surface water drainage for the site shall be constructed and operated in accordance with the engineering layout plan reference number 9022R-100A and the engineering plan reference number 9022R-102A approved for all 70 dwellings under Planning Condition Discharge application 17/01557/PCD on 31.10.17.

REASON: To ensure the satisfactory drainage of the site and to accord with Harborough Local Plan Policies GD8, CC4 and IN4.

#### **4. Levels**

The dwellings shall be constructed in accordance with the land levels shown in plan reference number 9022R-100A approved for all 70 dwellings under Planning Condition Discharge application 17/01557/PCD on 31.10.17.

REASON: To ensure a satisfactory form of development that is compatible with the character of the surrounding area and to accord with Harborough Local Plan Policy GD8.

#### **5. Wheelie Bin Storage**

Wheelie bin storage areas for each dwelling shall be implemented prior to the occupation of each related dwellinghouse in accordance with the details shown on the Planning Layout plan (Dwg Number 1118\_100\_PL; Rev: PL02; Dated 22.08.19).

REASON: To ensure the adequate provision of wheelie bin storage areas, in the interests of visual/general amenity and to accord with Harborough Local Plan Policy GD8.

## **6. Travel Plan**

The recommendations of the Travel Plan (approved under Planning Condition Discharge application 17/01557/PCD on 31.10.17) shall be implemented from the occupation of the 35th dwelling on the total site of 70 dwellings as approved under Outline planning permission 15/01975/OUT and Reserved Matters 17/00257/REM.

REASON: In the interests of road safety, to encourage vehicular traffic reductions and to accord with Harborough Local Plan Policies GD8 and IN2.

## **7. Cycle Storage Provision**

Cycle storage provision shall be provided on site prior to the occupation of the 35th dwelling of the 70 dwellings approved for the site, in line with the details as contained in plan reference number 1118\_102\_CH approved under Planning Condition Discharge application 17/01557/PCD on 31.10.17.

REASON: To ensure that satisfactory facilities for the parking of cycles are provided and to accord with Harborough Local Plan Policy GD8.

## **8. Tree Protection**

The trees on the site shall be enclosed by protective fencing for the duration of construction, in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction – Recommendations' and the details contained in plan reference number GLO495 03 approved under Planning Condition Discharge application 18/00793/PCD on 06.06.18. No storage of vehicles, plant, temporary buildings or materials, including raising and/or lowering of ground levels, is allowed within the fenced off areas.

REASON: To enhance the development, safeguard the appearance of the area and protect biodiversity interests and to accord with Harborough Local Plan Policies GD5, GD8 and GI5.

## **9. Hedgerow Retention**

The existing hedgerows on the site shall be retained and in no way disturbed.

REASON: To enhance the development, safeguard the appearance of the area and protect biodiversity interests and to accord with Harborough Local Plan Policies GD5, GD8 and GI5.

## **10. Construction Method Statement**

The development shall be constructed in accordance with the details contained in the Construction Method Statement approved for all 70 dwellings under Planning Condition Discharge application 18/00580/PCD on 26.04.18.

REASON: To minimise detrimental effects to neighbouring amenities, the general amenities of the area, the natural environment through risks of pollution and highway safety during the construction phase and to accord with Harborough Local Plan Policy GD8.



## **11. Risk Based Land Contamination**

The development shall be carried out in accordance with the recommendations of the risk based contaminated land report by GRM Development Solutions approved for all 70 dwellings under Planning Condition Discharge application 18/00793/PCD on 06.06.18.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity.

REASON: To ensure that the land is suitable for purpose and to accord with Harborough Local Plan Policy GD8.

## **12. Verification Investigation**

Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development. Prior to occupation of any part of the completed development, a report showing the findings of the Verification Investigation shall be submitted to and approved in writing by the Local Planning Authority.

The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

REASON: To ensure that the land is suitable for purpose and to accord with Harborough Local Plan Policy GD8.

## **13. Highway Works and Crossing**

No dwelling on any part of the site (either those approved here, or the remainder of the 70 dwellings approved under Reserved Matters 17/00257/REM) shall be occupied until the proposed access and highway works are constructed and a controlled pedestrian crossing of the A47 is installed and operational in accordance with the details contained in plan reference number P15-254-503D approved under Outline planning permission 15/01975/OUT.

REASON: In the interests of highway safety and to accord with Harborough Local Plan Policies GD8 and IN2.

**14. Gates Set Back**

If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as to not open outwards.

REASON: In the interests of highway safety, to enable a vehicle to stand clear of the highway while the gates/obstructions are opened/closed, in order to protect the free and safe passage of traffic in the highway and to accord with Harborough Local Plan Policies GD8 and IN2.

**15. No Surface Water Drainage into Highway**

No dwelling on any part of the site (either those approved here, or the remainder of the 70 dwellings approved under Reserved Matters 17/00257/REM) shall be occupied until drainage has been provided within the site to ensure that surface water does not drain into the Public Highway, including from private access drives, and shall thereafter be so maintained.

REASON: In the interests of highway safety, to reduce the possibility of surface water runoff being deposited in the highway and to accord with Harborough Local Plan Policies GD8 and IN2.

**16. Car Parking & Turning Provisions**

The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided, hard surfaced and made available for use before the dwelling is occupied and shall thereafter be so maintained.

REASON: In the interests of highway safety, to ensure that adequate off-street parking provision is made, to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to accord with Harborough Local Plan Policies GD8 and IN2.

**17. Materials & Boundary Treatments**

The development hereby approved shall be constructed of the materials and boundary treatments as detailed in the Materials & Boundary Treatment Plan (Dwg Number 1118\_200\_PL; Rev: PL02; Dated 22.08.19).

REASON: In the interests of visual amenity and the character and appearance of the development and locality and to accord with Harborough Local Plan Policy GD8.

**Recommended Informative Notes:**

**1. Leicestershire Police Recommendations**

The Applicant is encouraged to consider the following Leicestershire Police Recommendations:

--Street lighting columns to BS 5489;

- Appropriate planting should be used to enclose the perimeter, 1.8m or more in height.
- Key access points leading into the development should be considered for CCTV coverage supported by lighting to allow identification during day and night. This would allow vehicle and facial recognition in key areas. Appropriate signage should be in place to be compliant with the Data Protection Act.
- Lampposts at vehicle entry points to have electrical spur to allow power supply for CCTV (Section 38 Agreement).
- Natural surveillance is increased when ground level foliage is trimmed to 1 metre high and trees to have no foliage lower than 2 metres from the ground to allow a clear field of vision.
- Communal parking should be supported by natural observation, lighting and be set in clearly defined areas to deter unauthorised access.
- Consideration of Secured by Design principles and security hardware or comparable (e.g., door and window sets).
- Dwellings to have an Alarm System to BS7958, with coverage of garages included where applicable.

## Planning Committee Report

**Applicant:** Mr S Mistry

**Application Ref:** 19/01027/FUL

**Location:** Land rear of 14 High Street, Market Harborough, Leicestershire

**Proposal:** Erection of six dwellings

**Application Validated:** 25/06/2019

**Target Date:** 20/08/2019 Extension of time agreed

**Consultation Expiry Date:** 15/08/2019

**Site Visit Date:** 25/07/2019

**Case Officer:** Emma Baumber

## 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 to the rear of 14 High Street in Market Harborough. The site currently forms part of the private car park for Mistry's Pharmacy which occupies No.14.



*Figure 1. Site Location*

- 1.2 The site adjoins Mistry's Pharmacy to the east alongside other retail/town centre shops, there is a private car park to the south as well as 1 and 2 Talbot Yard a two-storey office building. Hind Yard is to the west and the rear elevations of No. 14 and

16 School Lane face the application site. There is a shared access road to the north, further parking for HSBC bank and the Three Swans Hotel.



Figure 2. Photo of the site looking east

- 1.3 The site is located within the Market Harborough Conservation Area. Whilst there are no listed buildings immediately adjacent to the site there are number of listed buildings on the High Street and those which can be viewed from the site include The Maltings to the west (Grade II), St Dionysius Church (Grade I) and the Symington Building (Grade II) to the east.
- 1.4 The site is accessed via an existing access on Hind Yard which is located to the rear of the High Street and serves the existing carparks. Presently the site is laid out as a car park, there are some semi-mature trees along the southern boundary.

## **2. Site History**

- 2.1 The application site has previously been the subject of the following relevant planning history:
  - 17/02046/TCA- Works to trees (fell weeping ash to rear) (Approved)

## **3. The Application Submission**

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

- 3.1 The proposal seeks the erection of six, two bed dwellings. The proposal is for a row of 1.5 storey mews houses constructed from brick with slate roof tiles.
- 3.2 The row of dwellings is proposed to sit centrally within the plot with the front elevation facing north and small gardens to the rear (south). The shared access road is to be

retained with seven parking spaces provided to the west of the site, one parking space is provided per dwelling with one additional non-allocated/visitor space provided. A pedestrian link through the site is retained for customers visiting Mistrys.

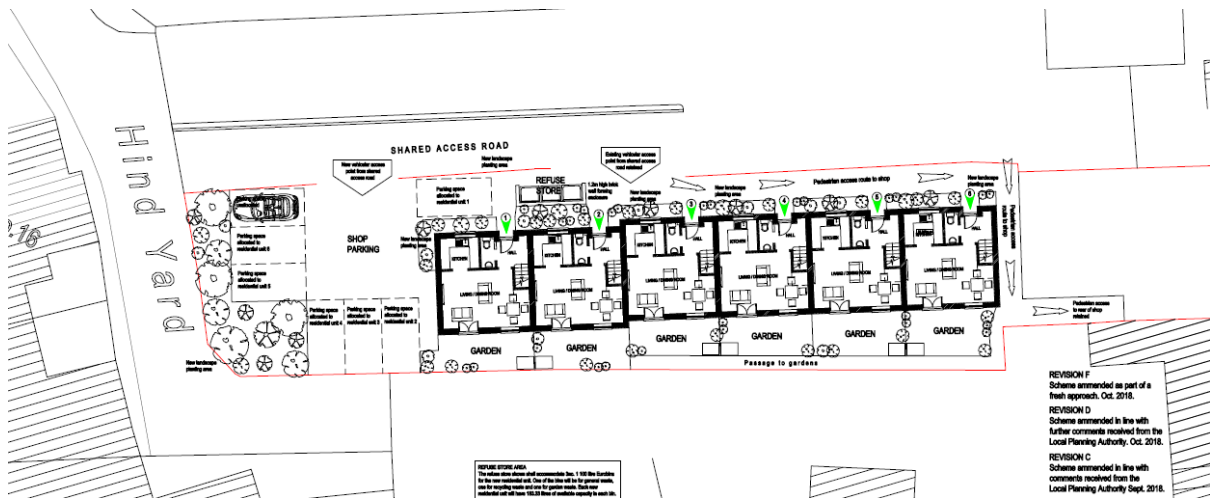


Figure 3. Proposed site plan

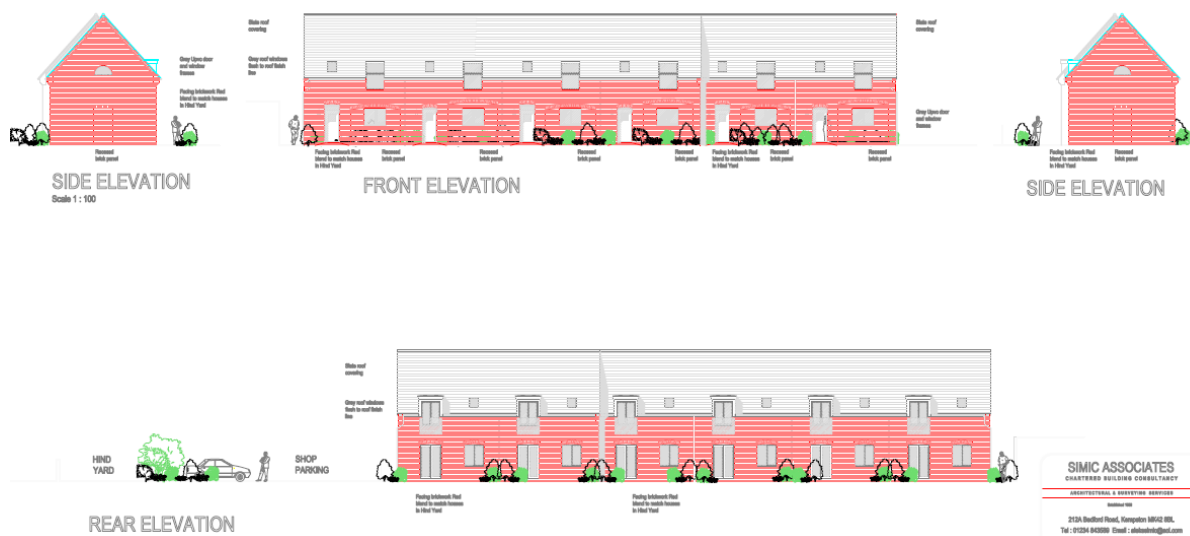


Figure 4. Proposed Elevations





Figure 5. Proposed CGI image looking east

## **b) Documents submitted**

### **i. Plans**

3.2 The application has been accompanied by the following plans –

- 'Site location and existing site plan'
- 'Proposed site/block plan'
- 'Proposed elevations'
- 'Proposed floor plans and roof plan'

### **ii. Supporting Statements**

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

- 'Planning and Heritage Statement'
- 'Phase I Geo-environmental Risk Assessment'
- 'Desk based archaeology assessment'
- 'Proposed views'

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

3.4 An amended site plan has been submitted as part of the application. The amendment was made as a result of LCC Highways comments which sought for the parking to serve the future residents as opposed to being for customers of Mistrys.

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

- 3.5 Pre-application advice was provided for the development of dwellings on the site (PREAPP/17/00339). The scheme has been amended as part of extensive pre-application discussions with the agent which considered the principle of development, access/transport matters but most extensively the design of the dwellings.
- 3.6 The pre-application discussions concluded that the site was considered to be a highly sustainable location for housing however, the applicants would need to address the principle of residential use in the area in light of the sites allocation for retail and town centre uses in Policy RT1 of the Harborough Local Plan (HLP). Significant alterations were made regarding the scale and design of the proposed dwellings from a three storey building with 12 flats and undercroft parking to the mews style dwellings proposed currently.

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

- 4.1 Consultations with technical consultees and the local community were carried out for the application. This first occurred on 2<sup>nd</sup> July 2019 and this consultation period expired on 15<sup>th</sup> August 2019.
- 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**

Objects for the following reasons:

1. The proposal is contrary to the newly adopted Local Plan- the land use is wrong and it does not bring forward a comprehensive plan envisaged.
2. Not an acceptable environment for housing as it is surrounded by access roads and car parks
3. Overdevelopment of the site, it is not acceptable to omit car parking for the houses
4. Inadequate parking provision for the existing chemists shop

*Following amended plans:*

This amendment does not overcome the objections raised by the Civic Society to the original application. It is contrary to the policies in the Local Plan. Also, if the parking spaces are reserved for the residents where do the visitors to the shop park. This is a chemists and there needs to be parking at the site for the disabled and customers who are not always well. The public car parks are too far away. Also, where do the shop owners park their own vehicles.

##### **LCC Archaeology**

The proposal falls within the Conservation area and Historic settlement core of Market Harborough (HER Refs : DLE615 and MLE1959). It is opposite The Church of St Dionysius listed grade I (HER Ref : DLE4817) and 67 and 68 High Street (HER Refs : DLE4860 and DLE4861). The area is located to the rear of the main street of the settlement and as such has potential to reveal buried archaeological remains and features.

The development proposals include works (e.g. foundations, services and landscaping) likely to impact upon those remains. In consequence, the local planning authority should require the developer to record and advance the understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance (NPPF Section 16, paragraph 199).

In that context it is recommended that the current application is approved subject to conditions for an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording.

Conditions recommended.

## **LCC Highways**

### Advice to Local Planning Authority

The LHA is in receipt of a full application for the erection of six dwellings in Market Harborough. The development site is currently in use as informal parking.

The submitted site plan (drawing no. 17729:03F) details a provision of seven parking spaces for customers to access local amenities, such as a nearby pharmacy. No onsite parking provision is proposed for residents.

The parking arrangements as shown in the plan may lead to conflict between residents and other vehicle users parking onsite to access local amenities, and may result in additional parking along the shared access drive. It would be preferable in highway terms for the parking spaces to be allocated for residential use. Owing to the presence of numerous public car parks in close proximity to the development site and to the town centre's amenities, the loss of customer parking in this location would not be considered severe. The applicant is therefore requested to submit a revised plan detailing these parking spaces to be allocated to the residents of this development proposal.

### *Following amended plans:*

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. Based on the information provided, the development therefore does not conflict with paragraph 109 of the National Planning Policy Framework (2019), subject to the conditions outlined in this report.

Following initial LHA comments dated 25 July 2019, the applicant has submitted a revised plan (drawing no. 17729 : 03G) which details a provision of seven parking spaces. This is in general accordance with Leicestershire Highway Design Guide (LHDG) standards. Six of these spaces have been allocated, with a remaining unallocated space.

The parking spaces measure 4.8m x 2.4m, which is below the minimum typical dimensions of 5.5m x 2.4m as stated in Part 3, Figure DG16 of the LHDG. However, parking space dimensions of 4.8m x 2.4m are considered to be the minimum acceptable and as such this shortfall is not seen as severe.

The site is proposed to be served internally via an existing private drive. No amendments are proposed to the junction of the private drive where it meets the adopted highway at Hind Yard.

Conditions recommended.

## **HDC Environment Team**

Due to the findings of the Applied Geology Desk Study Report for Land to the Rear of 14 High Street, Market Harborough Report Number AG2981-19-AH58 dated March 2019. The permission should be conditioned to carry out further contamination assessments.

Owing to the size of the development and its close proximity to neighbouring residents and business a Construction Method Statement is recommended by condition.

### **LCC Ecology**

I have no objections to this, and there is no need for an ecology report.

The new properties are in a Swift Alert Area, where swifts are known to have nested recently. They are a threatened species, and a local Biodiversity Action Plan priority, and this is an opportunity to create some additional nesting features for them in Market Harborough.

As a planning condition, I therefore recommend a minimum of 12 swift boxes/bricks to be placed in suitable locations on the property, such as high under eaves or in a gable. I have uploaded guidance on this.

### **HDC Conservation Officer**

Awaiting comments

### **Historic England**

Awaiting comments

## **b) Local Community**

4.4 Two objection comments have been received from the adjacent businesses No.13 (WHS Smith). Concerns raised include:

- The access for 6 houses is very tight.
- Although the plans provide for zero parking, in reality for a town like Market Harborough it is logical that some of the residence will own motor vehicles, unless it is illegal for them to do so. For example the temptation to drive to the development to unload shopping and block the adjoining private roadway leading to Hind Yard and rear of nos 10, 11, 12 and 13 will be too great and this will cause blockages, congestion and temptation to park on private property allocated to owners and their leaseholders who have legal title. Unauthorised parking may hamper deliveries via Hind Yard.
- Emergency vehicle access may also be compromised and in particular access for large Fire Engines.
- Potential residents should be made aware that there will be noise throughout the day from deliveries and the commercial nature of the area.
- The impact on our existing trees along Hind Yard has not been taken into account or assessed. The site layout doesn't show the trees; however, they would have an impact on the proposed houses as they run along the boundary between your access road in Hind Yard and the application site.

## **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
- 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')
  - *Supplementary Planning Guidance*  
SPG3 Note 3
  - *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 application has been called-in by Cllr Fosker for the following reasons, the loss of car parking may lead to more on street parking on surrounding residential streets, adding to existing traffic problems and carbon emissions, concerns regarding access and over intensification.

### **6. Assessment**

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

- 6.1 The site is located within the centre of Market Harborough which is identified as the sub-regional centre within Policy SS1 of the HLP. Market Harborough is relatively self-contained with a wide range of services, facilities, shops, employment opportunities and good public transport. As the site is within the town centre it is therefore deemed to be a highly sustainable location for housing. Policy GD2 of the HLP supports housing developments within Market Harborough providing it respects the form and character of the settlement.

- 6.2 The site is currently used as a private car park, it is therefore considered to be brownfield/previously developed land. Support for the development of previously developed land of low environmental value is found within Policy GD2 of the HLP. Furthermore, paragraph 118 of the NPPF states that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.
- 6.3 The HLP policies map identifies that the application site is within the Town Centre Boundary. Paragraph 85 of the NPPF states that planning decisions should support the role of town centres, promote their long-term vitality and viability and allow them to grow. Decisions should allow a suitable mix of uses (including residential) and recognise that residential development often plays an important role in ensuring the vitality of centres. Policy RT2 of the HLP states that within the town centres of Market Harborough and Lutterworth, development proposals for main town centre uses and residential uses will be permitted providing their scale and design reflects the role, function, distinctive qualities and historic/architectural heritage of the town centre, therefore residential development is not prohibited in the town centre.
- 6.4 However, the site is also identified as being part of a larger area known as 'Land off High Street' which has an allocation for retail and town centre uses under policy RT1 of the HLP. Policy RT1 states that development within the overall site allocated will be permitted where it delivers mixed use development, including a net increase in retail floorspace of at least 2000 sqm. Development should be sensitively designed and any development to the rear of street fronting properties should have suitable, safe and attractive pedestrian access from High St.

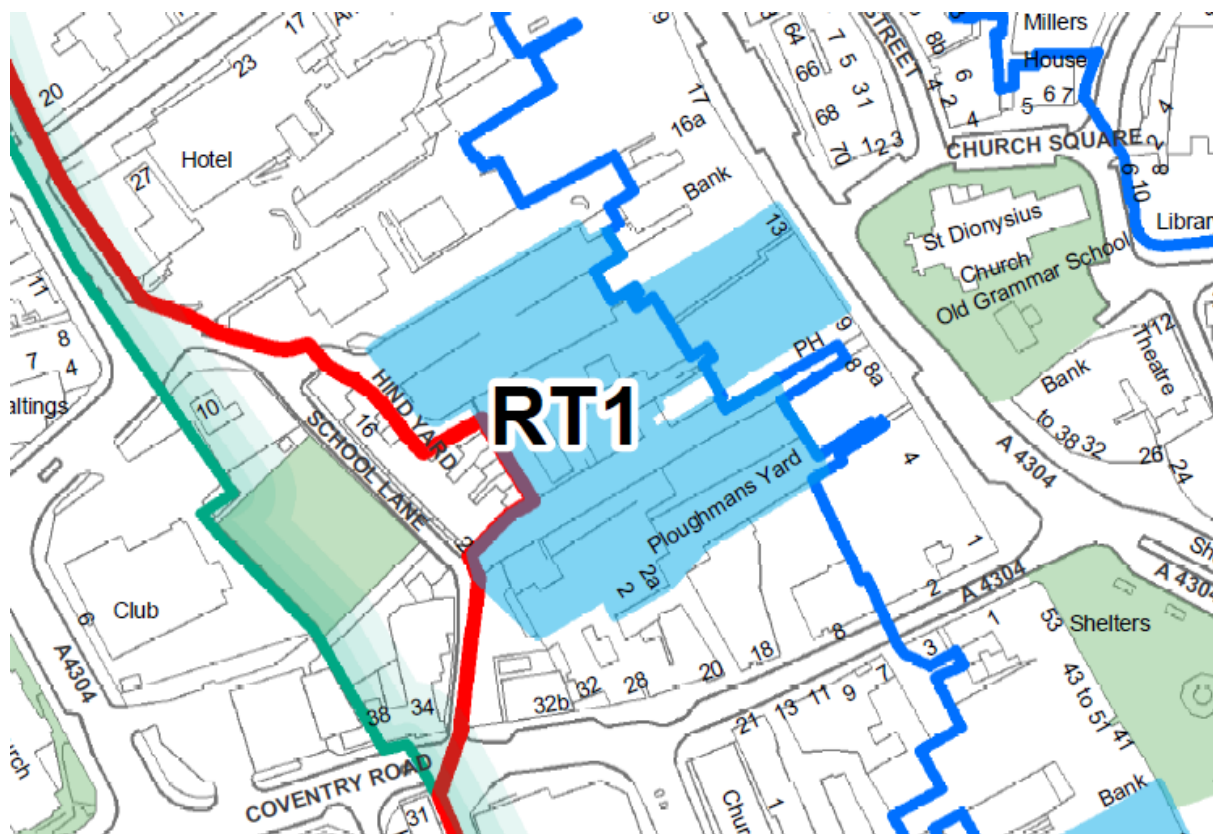


Figure 6. HLP Policies Map (policy RT1 light blue shaded, town centre red line)



- 6.5 Concerns have been raised that the development would not occur with the wider vision for the redevelopment of 'Land off High Street' outlined in policy RT1. Policy RT1 does not exclusively require retail uses within this area as it states that the area is allocated for town centre uses and mixed-use development. Housing is a town centre use supported within the NPPF, and as stated above, policy RT2 states that residential uses are acceptable within the town centre. However, clearly the use of the land for residential would reduce the amount of land available for retail uses and would impact on the design/layout for the remaining land allocated in the future.
- 6.6 It is acknowledged within the explanatory text of policy RT1 that the land allocated as 'Land off High Street' will be complicated to deliver as it is within multiple ownerships. Therefore, should this allocation come forwards it is estimated to be later within the plan period. The planning statement submitted with the application addresses this issue, stating that the landowner did not promote the site for retail use in the Local Plan and did not confirm a commitment to the delivery of the proposed retail element of the allocation. He does not wish to redevelop the site for this purpose and is not in partnership with any neighbouring landowners to deliver this. He is only looking to redevelop his own site and would like to deliver a residential use.
- 6.7 The above statement raises doubt that there would be a reasonable prospect of the site being developed as part of the wider allocation for retail uses. Paragraph 120 of the NPPF states that where an LPA considers there may be no reasonable prospect of an application coming forward then applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need in the area. HDC currently demonstrate a 7.04 years supply of housing land, therefore there is not an unmet need for housing in this area.
- 6.8 Notwithstanding this, the proposed development site is only a portion of the land allocated under policy RT1 and as outlined above this allocation is for mixed-use as well as retail development. As the site is to the north of the total allocated site, land to the south and east would still be available for retail development. The applicant has calculated that the total designated area known as Land Off High Street measures approximately 6000sqm. If the proposal site, HSBC car park to the north and other committed developments are excluded from this total area this still leaves an area of approximately 3,460 sqm available for retail development. This is only the land area, so additional floor space could be created if more storeys are added. It is therefore considered that the proposed development would not prevent the allocation of 2000 sqm of retail floorspace within policy RT1 coming forwards, the designated area is large enough for this to be provided elsewhere.
- 6.9 Therefore the principle of residential development on this site is considered acceptable. The houses would be within a highly sustainable location and residential use is not prohibited within the town centre. The proposal is not therefore in conflict with policy RT1 and RT2 of the HLP.

#### **b) Housing Requirement and Housing Land Supply**

- 6.10 The Council presently has a 7.04 year Housing Land Supply. The proposal of six dwellings will make a modestly positive contribution to further supply.

## c) Technical Considerations

### 1. Design and Visual Amenity and Impact on Heritage Assets

- 6.11 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. Developments should be sympathetic to local character and history, including the surrounding built environment. 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. Policy HC1 of the HLP refers to built heritage. Development affecting heritage assets and their setting will be permitted where it protects, conserves or enhances the significance, character, appearance and setting of the asset. Where a proposed development would lead to less than substantial harm to the significance of a heritage asset tis harm will be weighed against the public benefits of the proposal.
- 6.12 The site is within the Market Harborough Conservation Area. It is also situated behind several Listed Buildings on the High Street, and is in close proximity to the Grade I Listed Church Of St Dionysius, and the Grade II Listed Symington Building which are situated on the opposite side of the High Street. The conservation area covers much of the town centre and historic assets of the town, at the centre of this is St Dionysius. The church spire is considered to be one of the finest in the country and dominates the town centre streets, it is also a landscape feature seen from afar.
- 6.13 The area where the site is located to the rear of the High Street is a commercial service area comprising of parking and storage. This area has a generally untidy appearance, with a mixture of surfacing, signage and boundary treatments and does not make a positive contribution towards the character of the Conservation Area. Therefore, the proposal provides an opportunity to enhance the character and appearance of the area, especially when viewed from School Lane and Fairfield Road.

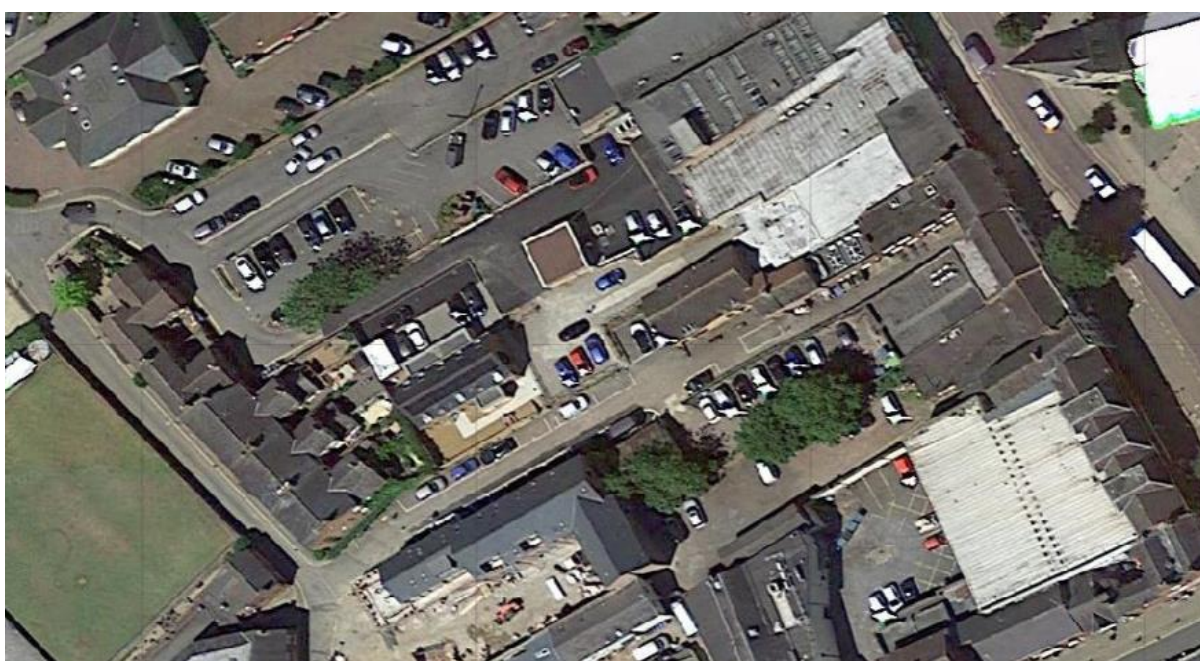


*Figure 7. View of site from Hind Yard*

- 6.14 As part of the pre-application discussions much emphasis was given on the preservation of views of the church spire and Symington Building from School Lane and Fairfield Road. This view is interrupted by the rear elevations of the retail units on High Street which are not highly attractive but nonetheless the scale of the existing buildings allows views to the church spire. Figure 5 shows a proposed CGI image of the proposed dwelling. As shown in the image the building will block elements of the existing view, however, the scale and height of the proposed building is not considered to compete with the significance of the church spire or the

Symington Building beyond this. The proposed will not impact on the longer distance views of these two heritage assets.

- 6.15 As seen in the below aerial image, other developments have occurred in close proximity at the rear of High Street. The layout and form of the proposed building is similar to that found at the two new buildings adjacent to Talbot Yard and the scale of the building is therefore not considered to overdevelop the site. The proposed material choice of red brick with a slate roof is considered to be inspired by the historic buildings within Market Harborough including the terraced properties on School Lane to the west. The proposed dwellings are considered to be well designed with the scale of the building being broken up by the variation in ridge line and the architectural detailing to the eaves and use of the brick relief in the façade is considered good design. The proposal is meant to appear ancillary to those structures on High Street and this is considered to be achieved.



*Figure 8. Aerial image of surrounding area*

- 6.16 The CGI image and site plan shows areas of landscaping to the site entrance and rear which would enhance the appearance of the area further- full details of soft and hard landscaping are recommended to be conditioned should the application be approved. Concerns have been raised regarding the trees to the south on the shared boundary with No.13, whilst the trees are within the conservation area they have limited amenity value. The above condition would address the future management of the trees.
- 6.17 Overall the scheme is considered to be inspired by the surrounding area, the current site does not contribute positively to the character of the conservation area and the proposal has potential to enhance this. The scale, materials and design of the dwellings are considered to respond to the context of the local environment which will enable the building to integrate into the surroundings. Therefore, the proposal is considered to comply with GD8 and HC1 of the HLP.

- 6.18 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.
- 6.19 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. The proposal will use the existing access from Hind Yard which currently serves the site and adjacent car park, it is considered to have sufficient width, access gradient and visibility.
- 6.20 Concerns were raised from consultees including the LHA that the initial plan to not provide parking for future residents would lead to conflict between residents and other vehicle users parking onsite to access local amenities, and may result in additional parking along the shared access drive. The layout has been amended and one residential parking space is now provided per dwelling with one additional non-designated space identified. As the site is within the town centre the provision of one space per dwelling is considered appropriate owing to the opportunities for walking, cycling and using public transport. The parking spaces measure 4.8m x 2.4m, which is below the minimum typical dimensions of 5.5m x 2.4m as stated in Part 3, Figure DG16 of the Leicester Highways Design Guidance. However, parking space dimensions of 4.8m x 2.4m are considered to be the minimum acceptable and as such this shortfall is not seen as severe.
- 6.21 The Market Harborough Civic Society is concerned that the proposal removes customer car parking. The site is a private car park and therefore it is at the landowner's discretion whom can currently use the site for parking. There are multiple public car parks within close proximity to the site which are considered to have ample capacity for the staff or customers of Mistry's Pharmacy to use. The loss of customer and staff parking is therefore unlikely to lead to additional on street parking. In addition, most retail businesses within the town centre do not benefit from private parking as such the loss of parking is unlikely to be detrimental to the viability of the business/town centre.
- 6.22 Policy RT1 states that any developments should provide safe pedestrian access to the High Street. At present there is a pedestrian access from the site into the rear door at Mistrys. This is to be retained with a designate pedestrian link shown on the submitted site plan.
- 6.23 Overall, the site is in a sustainable location and the amendments to the parking arrangements have overcome the LHAs concerns. Subject to conditions, the proposal ensures safe access, adequate parking and safe, efficient and convenient movement for highways users in accordance with GD8 and IN2 of the HLP.

### 3. 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 of unpleasant odour emission which cannot be mitigated to an appropriate standard and so would have an adverse impact on amenity and living conditions.
- 6.25 The closest residential properties to the site are Nos 14 and 16 School Lane, the rear elevation of these properties, which contain habitable windows, face the application site and side elevation of unit 1. The side elevation of unit 1 is blank with the exception of a small semi-circular shaped bedroom window. The separation distance between the closest habitable windows on School Lane and this proposed bedroom window is 21m which accords with the separation distances outlined in the Supplementary Planning Guidance. Therefore, no adverse loss of privacy is likely between the existing properties on School Lane and the proposed dwellings, the separation distance is also considered to mitigate potential loss of light and overdominance to these residents.
- 6.26 The proposed dwellings have small rear gardens and therefore little outdoor amenity space; however, this is not uncommon within the town centre. HDC have no adopted minimum standards for garden space and therefore, whilst limited, the outdoor amenity space is considered to be acceptable. It is acknowledged that future residents would reside in a retail/commercial environment however, the relationship is not dissimilar to the existing properties on School Lane, Talbot Yard or to other first floor flats in the area. Therefore, whilst deliveries may occur to adjoining retail premises this is unlikely to give rise to undue disturbance or complaints considering future residents would have prior knowledge of the surrounding town centre environment.
- 6.27 Some noise and disturbance may occur during construction of the development. The Environment Team have requested a Construction Method Statement be submitted prior to commencement to minimise the disturbance to surrounding residents.
- 6.28 Subject to conditions the development is considered to be designed to minimise the impact on the amenity of existing and future residents in compliance with GD8 of the HLP.

### 4. Flooding/Drainage

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- 6.29 The site is located within Flood Zone 1, at low risk from flooding and no surface water flooding risks are identified for the site as such the proposal is unlikely to lead to additional flood risk. Notwithstanding this, details of foul and surface water have not been provided, therefore a condition recommending submission of this detail prior to commencement is recommended.
- 6.30 Subject to the drainage conditions the proposal is considered to comply with Policy IN4 and CC3 of the HLP.

### 5. Ecology

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- 6.31 The site is within the town centre and is currently hard surfaced therefore does not have high ecological value. The LCC ecology team have raised no objections to the proposal and do not require an ecology report to be submitted.
- 6.32 The site is within a Swift Alert Area and swifts are a threatened species and a local Biodiversity Action Plan priority. The proposal creates an opportunity for additional nesting features in Market Harborough, therefore as a planning condition, it is recommended that a minimum of 12 swift boxes/bricks are placed in suitable locations on the property, such as high under eaves or in a gable.
- 6.33 Subject to the above condition the proposal will have no adverse impact on the conservation of priority species or habitats. The development will contribute towards the protection of swifts through enhancing their habitat/nest availability. As such the scheme complies with policy G15 of the HLP.

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

- 7.1 As outlined within the report the principle of residential development on this site is considered acceptable. The houses would be within a highly sustainable location and residential use is not prohibited within the town centre. As the development will not significantly reduce land availability for retail use within the 'Land off High Street' allocation, the proposal is not therefore in conflict with policy RT1 and RT2 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 reflect good design which is considered to preserve the character of the Conservation Area and designated heritage assets in the town centre.



## APPENDIX A- Planning Conditions and Informatives

8. Conditions
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### 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. Materials

Before construction above ground level a schedule of external materials to be used in the construction of the development hereby approved, shall be submitted to and approved in writing by the Local Planning Authority, and the approved materials shall be used in the implementation of the development and thereafter so retained. The recessed brickwork and eaves detailing shall be carried out in accordance with drawing no. 17729:05D.

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. Landscaping

No above ground development shall commence on site until a Landscape Scheme has been submitted to and approved in writing by the Local Planning Authority.

The Landscape Scheme shall include full details of proposed hard and soft landscape works, including: access, driveway, parking, turning and all other surfacing materials; boundary treatments; retained planting/hedges/trees and new planting/hedges/trees; screened bin store area; and a timetable of implementation.

Thereafter, the landscape works shall be carried out in accordance with the approved Landscape Scheme prior to the first occupation of the dwellings. All planted material shall be maintained and replaced as necessary by the applicant(s) and/or owner(s) of the land at the time for a period of not less than 5 years from the date of planting.

REASON: To ensure that the development includes landscaping, planting, boundary treatments and surfacing materials which are appropriate to the character and appearance of the development and the surrounding area including the Conservation Area and setting of heritage assets, to protect drainage interests (promote sustainable drainage) and highway interests (prevent deleterious material and surface water entering the highway) having regard Harborough Local Plan Policies GD2, GD8 and HC1]

## **5. Access Arrangements**

No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on SIMIC Associates drawing number 17729 : 03G have been implemented in full.

REASON: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2019).

## **6. Parking and turning**

The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with SIMIC Associates drawing number 17729 : 03G. Thereafter the onsite parking provision shall be so maintained in perpetuity.

REASON: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019).

## **7. Risk Based Land Contamination Assessment**

No development (except any demolition permitted by this permission) shall commence on site, or part thereof, until a Further Risk Based Land Contamination Assessment, as recommended by Applied Geology Desk Study Report for Land to the Rear of 14 High Street, Market Harborough Report Number: AG2981-19-AH58 dated March 201, has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- BS10175:2011+A2:2017 Investigation Of Potentially Contaminated Sites Code of Practice;
  - BS8576:2013 Guidance on Investigations for Ground Gas – Permanent Gases and Volatile Organic Compounds (VOCs) and
  - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
  - Or any documents which supersede these.
- Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
  - BS 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings
  - Or any documents which supersede these.
- The Verification Plan shall be prepared in accordance with the requirements of:
- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
  - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
  - BS 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings

- CIRIA C735, “Good practice on the testing and verification of protection systems for buildings against hazardous ground gases” CIRIA, 2014
- Or any documents which supersede these.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity.

REASON: To ensure that the land is fit for purpose and to accord with the aims and objectives of Paragraph 170, 178 and 179 of the NPPF

### **8. Completion/Verification Investigation Report**

Prior to occupation of the completed development, or part thereof, Either

- 1) If no remediation was required by Condition 7 a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development, or part thereof, is received and approved in writing by the Planning Authority, or
- 2) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to the whole development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

REASON: To ensure that the land is fit for purpose and to accord with the aims and objectives of Paragraph 170, 178 and 179 of the NPPF

### **9. Construction Method Statement**

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/unloading and storage of plant, materials, oils, fuels and chemicals;
- c) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- d) wheel washing facilities and road cleaning arrangements;
- e) measures to control the emission of dust and dirt during construction;
- f) a scheme for recycling/disposing of waste resulting from site preparation, demolition and construction works;
- g) measures for the protection of the natural environment;

- h) hours of construction work, including deliveries and removal of materials;
- i) location of temporary buildings and associated generators, compound structures and enclosures
- 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) routing of construction traffic
- m) full details of any floodlighting to be installed associated with the construction of the development

has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period and verified where appropriate.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and to accord with Harborough Local Plan Policy GD8.

#### **10. Foul and Surface Water Drainage**

No development approved by this permission shall commence on site until full details of the means of foul and surface water drainage for the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details and retained in perpetuity.

REASON: To ensure adequate drainage measures are in place to serve the site having regard to Harborough Local Plan Policy CC4.

#### **11. Archaeology**

No demolition/development shall take place/commence until a written scheme of investigation (WSI), informed by an initial stage of trial trenching, has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.
- A more detailed map regression exercise is required, continuing that within the current Desk Based Assessment (DBA). This will help to establish the extent of disturbance the site has undergone previously and will therefore aid a more formulated opinion on archaeological intervention.

Further sources to be consulted are:

- 25-inch Ordnance Survey maps.
- Ordnance Surveyors plans.
- 1:500 Town plan of Market Harborough.
- Goads Insurance Maps.

REASON: To ensure satisfactory archaeological investigation and recording

## **12. Swifts**

Prior to occupation of the dwellings hereby approved, twelve swift boxes/bricks shall be placed in suitable locations on the property, in accordance with LCC 'Planning Advice: Use of Swift Bricks in New Developments in Leicestershire and Rutland'.

REASON: To ensure there will be no adverse impact on the conservation of priority species and to contribute towards protecting and improving biodiversity and to accords with Harborough Local Plan Policy GI5.

## **13. Construction Hours**

Building works, deliveries, clearance or any works in connection with the development shall take place on site between the hours of 08.00 – 18.00 hours Monday to Friday, 08.00 – 13.00 Saturday and at No time on Sunday or Bank Holidays.

REASON: To ensure that as far as possible the proposed use does not become a source of annoyance to the nearby residents and to ensure compliance with Policy IN/1 of the Harborough Local Plan.

## **9. Informatives**

### **Building Regulations**

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.

### **Construction Method Statement**

In terms of Condition 9, criteria e), j), and k), the LPA would advise to the applicant to contact the HDC Environment Team department directly with regards to methodology in ensuring that you comply with the condition.

### **Burning of Waste**

It is recommended that no burning of waste on site is undertaken unless an exemption is obtained from the Environment Agency. The production of dark smoke on site is an offence under the Clean Air Act 1993. Notwithstanding the above the emission of any smoke from site could constitute a Statutory Nuisance under section 79 of the Environmental Protection Act 1990.

### **Mud on the highway**

It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.

## Planning Committee Report

**Applicant:** Mrs A Kane

**Application Ref:** 19/01046/VAC

**Location:** August Cottage, 3 The Lindens, Station Road, Broughton Astley

**Proposal:** Variation of condition 1 (expiry date) of 18/01070/FUL to remove temporary use

**Application Validated:** 28/06/2019

**Target Date:** 23/08/2019 (Extension of time agreed)

**Consultation Expiry Date:** 24/07/2019

**Case Officer:** Faizal Jasat

## Recommendation

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

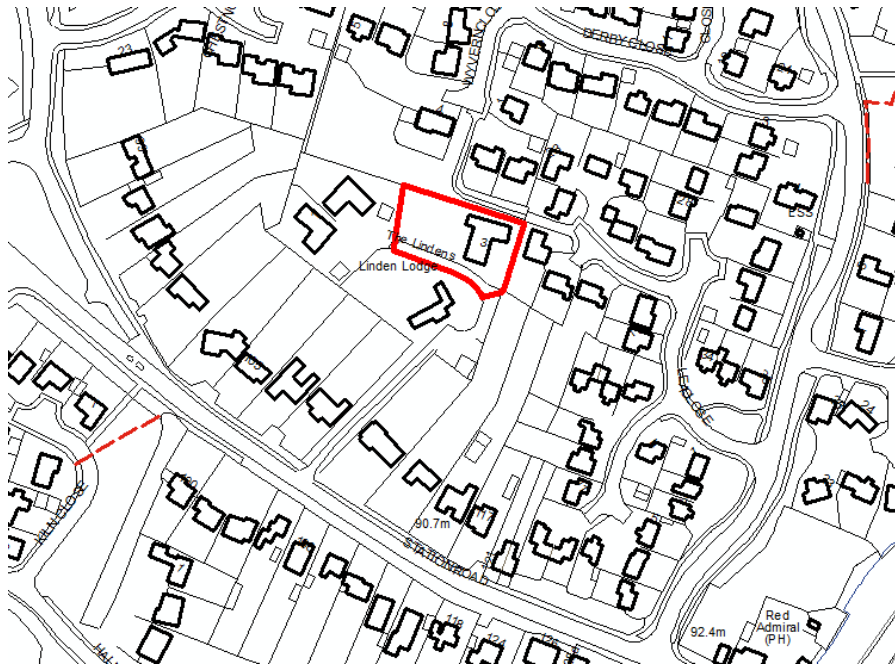
The permitting of the use to a permanent use would result in the continuation in increased levels disruption and disturbance to neighbouring residents, caused by additional activity and visits within a constrained residential area. As a consequence, the amenities of existing and future neighbouring occupiers are adversely affected by the commercial use of the pool. Therefore, the application site is considered unsustainable and incompatible with the character of the residential area and to adversely impact the quality of living conditions in the area. The proposal is therefore contrary to Broughton Astley Neighbourhood Plan SD1, Harborough Local Plan Policy GD8, the NPPF (particularly paragraphs 11 and 127) and Harborough District SPG Note 18.

### 1. Site & Surroundings

- 1.1 The application site consists of a modern backland development comprising of four detached dwellings. The site is accessed off Station Road and via a shared private drive.
- 1.2 The site consists of a detached two storey dwelling house with six bedrooms. The site has a large indoor pool located to the rear of the site and with a single storey link to the main dwelling. The pool and rear garden can be accessed via an entrance gate located to the rear of the house and accessed from Lea Close.
- 1.3 The site has four off-street car parking spaces. The applicant has stated that all on-site parking is for residential occupants and visitors only and that there is a covenant in place that stipulates this. Unrestricted off-street parking is located to the north and east of the site around Lea Close and Croft Way, which are relatively narrow and winding cul-de-sac streets.
- 1.4 The application site is located within a wholly residential part of Broughton Astley and generally characterised by a cul-de-sac street layout. A higher density housing development surrounds the site to the north and east and the remaining houses to



the south comprise of relatively larger houses on larger plots that are positioned in a linear formation fronting Station Road.



**Figure 1: Site Location**



**Figure 2: Shared access to site off Station Road**



**Figure 3: View of house from shared drive**



**Figure 4: Swimming pool building (right) and link to host dwelling (left)**





Figure 5: View of indoor pool



**Figure 6: Rear access from Lea Close**



**Figure 7: View of Lea Close and walkway leading to rear of site (as outlined)**





**Figure 8: View of Croft Way from Station Road – Lea Close junction on left**

## **2. Site History**

- 2.1 18/01070/FUL – Change of use from a dwelling to a mixed use comprising residential use and use of indoor swimming pool and associated areas to provide swimming lessons (retrospective):

Recommended for refusal to Planning Committee by Officers for the following reason:

*Core Strategy Policy CS11 seeks to ensure that the amenities of existing and future neighbouring occupiers are safeguarded and where appropriate, encourage travel by a variety of modes of transport. The change of use of the residential swimming pool for ancillary commercial use for swimming lessons results in a significant increase in the number of people visiting the site and an increase in traffic generation in and around Lea Close. As a consequence, the amenities of existing and future neighbouring occupiers are adversely affected by the change of use and therefore the application site is considered unsustainable and the use considered to adversely impact on the quality and character of the residential area. The proposal is therefore contrary to Harborough District Core Strategy Policy CS11, the NPPF (particularly paragraphs 11 and 127) and Harborough District SPG Note 18.*

The application was subsequently granted one year temporary approval by Committee until 5<sup>th</sup> September 2019, with one condition attached:

*This permission shall be personal to the Applicant (Mrs A. Kane), and is limited to the period expiring on 05/09/2019, and after which date the use hereby permitted shall cease (unless a subsequent application to continue the use has been approved). REASON: In order that the effect of the development can be assessed*

during this period, and that any future application can be decided on this assessment and to accord with Harborough District Core Strategy Policy CS11.

### 3. The Application Submission

#### a) Summary of Proposals

- 3.1 This original application was recommended for refusal by officers as an incompatible commercial use within a residential area. The application was subsequently granted a personal and temporary approval by Planning Committee to monitor the impacts of the use. This application seeks to vary the time limited condition and remove the temporary use to make it permanent.

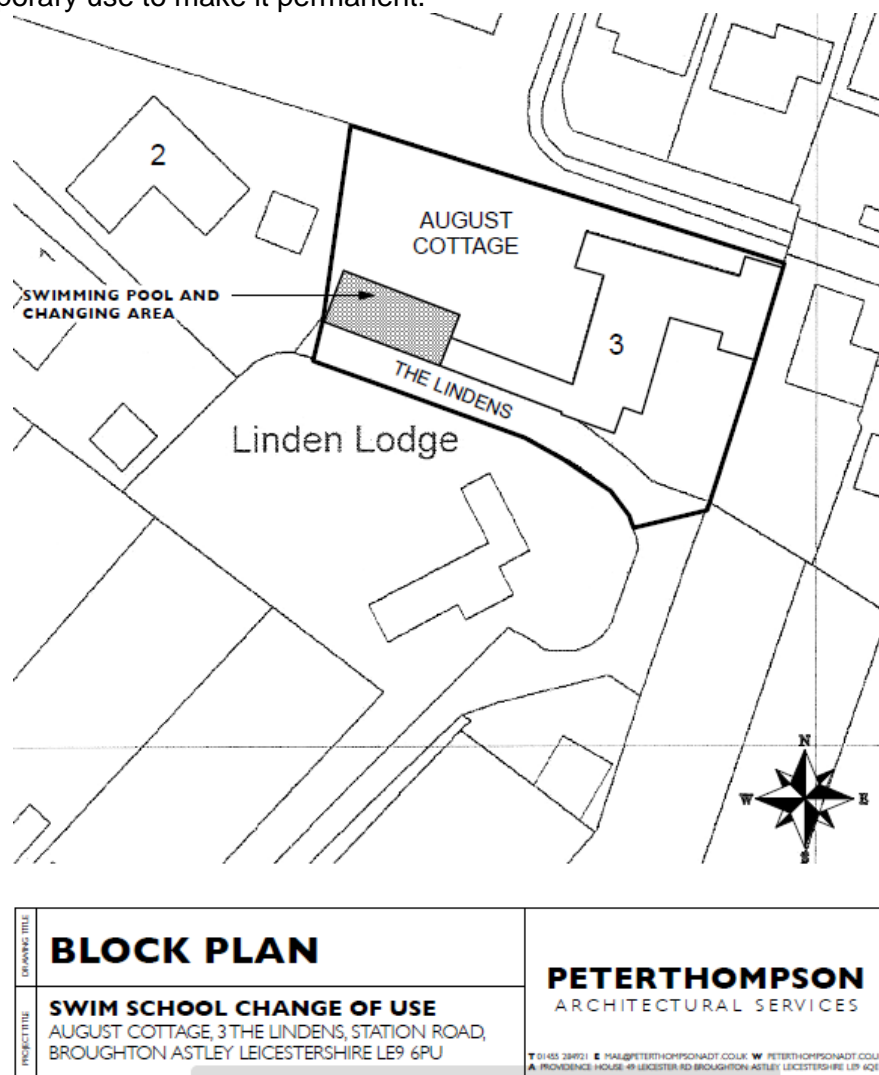


Figure 9: Approved Block Plan – 18/01070/FUL

#### b) Documents submitted

- 3.2 The application has been accompanied by a Planning Statement. A timetable of the hours, days and number of users of the use was also submitted by the applicant, after the application was submitted and on the request of Officers.



Current Timetable - 2019/2020 TERM TIME					KEY	Shared travel		closed				
	8.30	9.00	9.30	10.00	10.30	11.00	11.30	12.00	12.30	1.00	1.30	2.00
Mon			2 X 2 to 3yrs	2 x 18mths	2 x pre school	2 x 9 mths	2 x Pre school	3 X 2 to 3yrs				
Tue												
Wed			2 x 18mths to 2yrs	3 x preschool	3 x 24/30mths	3 x 9mths	SEN X 1					
Thur												
Fri			2 x 12mths	Twins	SCHOOL	SCHOOL	2 x 12mths	SEN x 1				2 x 8mths
Sat	2 x pre school	3 x pre school (sibling x 1)	3 x stage 1 (sibling x 1)	2 x 18 mths	1 x 14 months	2 x 12months	2 x stage 1	2 x siblings	2 x siblings	1 x pre school		
Sun			2 x stage 1 Sibling	1 x stage 3 (2 x siblings)	2 x stage 1	2 x stage 1	2 x preschool	1 X SEN				
				Total Hours								
Hours open				29								
Weekend				8								
After 6pm				1.25								
% hours NOT Mon - Fri				31.90%								

Local School												
2.30	2.45	3.00		3.15	3.30	3.45	4.00	4.15	4.30	4.45	5.00	5.15
			Mon					2 x stage 2		2 x Stage 2		2 x stage 3
			Tue									
	2 X 18mths/2 yrs		Wed	1 x preschool		2 x stage 1		2 x stage 1		1 x stage 1		2 x pre school
			Thur		Adult x 1		2 x stage 2 sibling		2 x preschool sibling		1 x SEN	
2 x 12mths		2 x Preschool	Fri		1 x pre school		1 x Ducklings 4		2 x "Pre stage 1"			
			Sat									
			Sun									

5.30	5.45	6.00	6.15		6.30	6.45	7.00	7.15	7.30
	2 x stage 1		2 x stage 3	Mon		Mum & Daughter			
				Tue					
	sibling x 2			Wed					
2 x preschool				Thur					
				Fri					
				Sat					
				Sun					

Figure 10: Timetable of weekly swim school sessions, as submitted by the applicant

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

- 3.3 Informal pre-application advice was sought by the applicant with regard to how to proceed with applying to vary the condition. It was also highlighted that no formal enforcement enquiries or reports were made regarding the use since the application was approved. No advice was given on the acceptability of varying the condition.

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

- 4.1 Consultations with technical consultees and the local community were carried out on the application. This occurred on 3<sup>rd</sup> July 2019 and this statutory consultation period expired on 24<sup>th</sup> July 2019.
- 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 *Broughton Astley Parish Council***

1. The Parish Council have no objections to the swim school business.
2. The Parish Council cannot trace on either this or the previous application submitted in September 2018 (18/010704/FUL) comments being made from Leicestershire County Council Highways on traffic issues relating to this application. However, the committee resolves to bring the matter of the cars parking on Croft Way to full council. This will enable the Parish Council to submit a formal comment over the increased number of parked cars and where they are parking. For example, within close vicinity to bus stops, directly opposite to street entrances and the issues this causes to other road users.
3. Whilst no material planning considerations were found with this application, the Parish Council would like to record that they are disheartened to have witnessed the discord between neighbours and local residents this application has exposed. The Parish Council would welcome and strongly support any solution that could be obtained or provided to eliminate and prevent any further escalation of conflict to all parties concerned.
4. The Parish Council would like to seek assurance from Harborough District Council that should the application be approved, there is a condition included that customers of the swim school do not use Lea Close for parking.
5. The Parish Council would like to relay concerns relating to the number of vehicles being parked on Croft Way.
6. The Parish Council request whether conditions/restrictions can be put on the swim school if approved:
  - Hours of use
  - Limiting the number of customers
  - Granting temporary consent

#### **4.4 *Local Highway Authority (LHA)***

Condition 1 was not advised by the Local Highway Authority (LHA) who therefore have no comments to make on these details.

Advice on the original application is as follows:

There are 4 existing on-site parking spaces and there are no proposals to provide additional on-site parking to accommodate the additional traffic generated by the site. Given that up to 3 service users can be accommodated on-site at one time it is likely that the proposal will occasionally result in overspill parking into the public highway. However, aside from Station Road the immediate surrounding public highway network is comprised of unclassified, residential estate roads where some degree of on street parking is not uncommon. Furthermore, whilst parking on street is currently observed within the residential estate, there have been no recorded personal injury collisions within the last 5 year period.

Taking this into consideration, and having reviewed the documents submitted in support of this application, it is not reasonable to conclude that the additional traffic generated by the proposal would result in a severe highway impact. As such, the LHA would not seek to resist this application despite the lack of additional on-site parking.

Notwithstanding the LHA's position, noting the shortfall in on-site parking the Local Planning Authority may take a different position when considering any amenity impact associated with this proposal and with regards to the modest increase in on-street parking that could occur.

#### 4.5 ***HDC Planning Enforcement***

Planning Enforcement have not received any complaints in relation to the use of the swimming pool at the property for swimming lesson purposes since the grant of planning permission 18/01070/FUL on 5 September 2018.

Should the application be recommended for refusal, the recommended compliance period allowed for the business to cease is 12 months.

This timeframe has been suggested inline with the likely recommendation of an Inspector in the event that the decision is appealed. Additionally the applicant has been afforded the opportunity to build up the business (subject of this application) lawfully with planning permission, over the course of the previous year. Therefore, it is considered that by allowing a 12 month period for the applicant to locate and acquire alternative premises to fair and reasonable, whilst also taking into account the potential impact of the use on neighbouring properties.

### **b) Local Community**

4.6 A total of 66 representations have been received from a total of 57 households:

- 53 in support: The majority of supporting representations are from parents who have children that use the service:
  - 28 supporters from Broughton Astley, 6 of which are from Lea Close
  - 25 supporters from surrounding areas within the District and County
- 4 objections from 4 neighbouring household on Lea Close:
  - Loss of parking
  - Highways safety impacts

- Noise and disturbance caused by users visiting the site
- Use operating outside of approved hours of use
- Reference to visitors being directed by the Council to the site via Lea Close, to avoid conflict with a covenant restricting parking to August Cottage for domestic use only
- Incidents of antisocial behaviour directed to neighbouring residents by users
- Assumption that the Council would proactively monitor and assess the use
- Health and safety concerns for provision of access for disabled users (non-material objection)

## **5. Planning Policy Considerations**

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

### **a) Development Plan**

5.2 Harborough District Local Plan 2011-2031 (Adopted April 2019)  
Relevant policies to this application are as follow and detailed in the policy section at the start of the agenda:

- GD8 – Good design in development

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

5.3 Material Planning Considerations relevant to this application:

5.4 National Planning Policy Framework (NPPF) paragraphs:

- 11 – The presumption in favour of sustainable development
- 127 – Achieving well-designed places

5.5 National Planning Practice Guidance

5.6 Supplementary Planning Guidance Notes (SPG):

- SPG Note 18 – Working From Home

5.7 Broughton Astley Neighbourhood Plan 2013-2028

- Policy SD1 - Presumption in favour of sustainable development

## **6. Assessment**

### **a) Policy Context**

6.1 Paragraph 11 of the NPPF states:

Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.2 Paragraph 127 of the NPPF states:

Planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

6.3 The part of Local Plan Policy GD8 relevant to this application states:

Development will be permitted where it achieves a high standard of design, including being designed to minimise impact on the amenity of existing and future residents by not generating 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.

6.4 Policy SD1 of the Broughton Astley Neighbourhood Plan states:

The Parish Council will support proposals that accord with the policies in the Broughton Astley Neighbourhood Plan (and, where relevant, with policies in the Harborough District Core Strategy).  
When commenting on development proposals the Parish Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework; and will work proactively with applicants to find joint solutions which mean that proposals can be supported wherever possible; and to secure development that improves the economic, social and environmental sustainability of the area.

6.5 SPG Note 18 on Working From Home states:

Whilst appropriate types of home working will be encouraged by the District Council it is important that the nature of the work carried out at home is compatible with a residential environment and does not lead to problems of noise, disturbance, excessive traffic generation or have a visual impact which would be out of keeping with a residential environment.

## **b) Planning Consideration**

6.6 The application seeks to vary the sole condition attached to the original consent and seeks permission for a permanent consent. This condition was attached when approved by Planning Committee in order to assess the impacts of the use within a year of operation from consent being granted. It is therefore considered that the

assessment of this application is similar to that of the original application and to determine whether the principle of the commercial use for private swimming lessons is acceptable within the specific residential area.

- 6.7 The test for determining whether a business operating from home is considered acceptable or not, is to determine whether the overall character and use of the site remains as primarily residential and is not undermined or adversely impacted upon by the commercial use.
- 6.8 It is acknowledged that Broughton Astley lacks community and leisure facilities. However, the existing pool is not for public use and in addition to any domestic use, is otherwise used for the purposes of private swimming lessons to paying customers. The use is therefore classed as a private and commercial use and not as a public or community facility.
- 6.9 It is acknowledged that no formal complaints have been logged with the Council's Planning Enforcement team. However, objections have been received to this application and state that there was an assumption that the Council would proactively monitor the site over the temporary period, which was not the case. Therefore, no complaints or comments were ever made or logged. The Council's Community Safety Team have confirmed that some instances of conflict between some local residents and customers accessing the site via Lea Close has been identified by the Police. In light of the objections received to this application within the 12 month temporary period and the comments of the Community Safety Team, it is acknowledged that the use is resulting in some conflict within the area between local residents and customers accessing the site.
- 6.10 The original application was assessed on the basis of 2-3 customers taking lessons per session. No details were provided with the original application regarding the duration of each individual session and it was therefore conservatively assumed by officers that each session would equate to 1 hour. The total number of customers was therefore calculated to average around 54 per week. This figure was not taking into account the number of parents/carers/guardians accompanying customers to and from the pool. This figure of 54 customers was considered significant when the application was originally assessed by Officers. It was therefore considered that the change of use was a significant material change in use of the site and incompatible with the overall residential character of the surrounding area.
- 6.11 The applicant has provided a weekly timetable that identifies the days and times of sessions and the total number of customers in a week. The timetable identifies each session as actually being 30 minutes and not 1 hour. Having calculated the total number of customers for each allocated session, the total number of customers is calculated at 109 per week. As was the case with in the assessment of the original application, this number does not take into account the number of any parents/carers/guardians accompanying customers to and from the pool. This figure of 109 customers is over twice the number of customers as originally calculated by officers and averages at over 21 users per day, plus any accompanying parents/carers/guardians.
- 6.12 The applicant stated as part of the original application that there are four off-street vehicle parking spaces solely for domestic users and visitors only and a covenant in place that stipulates this. However, it was acknowledged that covenants are not a planning consideration. It was noted that the applicant directs customers to access the site from the rear and via Lea Close. This has resulted in vehicles parking in and around Lea Close in order to drop off and collect users taking swimming lessons.



- 6.13 The site is located close to bus stops. However, it appears from the number of users outside of Broughton Astley that a fair proportion of users visit the site by car. This is also evident by the representations received in support of the application and therefore supporting concerns relating to additional traffic and parked cars by users.
- 6.14 The LHA have stated that they have no comments to make on the application. In the initial assessment of the application by the LHA, it was considered that the site could adequately accommodate the extra vehicles travelling to and from the actual application site. However, the reality of the situation is that customers are not parking at the application site and instead accessing the site alternatively from Lea Close and Croft Way.
- 6.15 It is noted that the LHA have no comments to make on the current application, nor did the LHA raise any objections to the original application. However, as was considered the case with the original application, the nature of the use results in what is considered to be a high volume of vehicular/pedestrian traffic to and from the site throughout the day. This impact is considered to be further exacerbated by the constraints of the built form of the cul-de-sac location, whereby the free-flow of vehicle and pedestrian traffic is restricted. For comparison, a childminding use, whereby children are dropped off at the start of the day and collected at the end of the day, is considered a far less intensive use and generally results in less disruption than the use that is being considered under this application. Similarly, a home business use on a less restricted thoroughfare and/or close to a local centre, is more likely to have an increased level of footfall and pedestrian traffic than that of a suburban residential and cul-de-sac location.

### c) Conclusion / Planning Balance

- 6.16 Harborough Local Plan Policy GD8 seeks to permit development where:  
*...“it achieves a **high standard of design**, including being designed to **minimise impact on the amenity** of existing and future residents **by not generating 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.”*
- 6.17 It is apparent that while the main dwelling at August Cottage is in residential use, the commercial use of the original domestic swimming pool has resulted in an increased volume of pedestrian traffic and subsequent adverse level of disruption within the residential area. The use of the pool for swimming lessons and intensification of the number of visitors to the site means that the use is not a low-key and discreet home business and is considered incompatible with the predominant residential nature of the area.
- 6.18 It is considered that the higher number of visitors results in an increased level of disruption to neighbouring residents throughout the day, evening and at weekends. This impact is further exacerbated by the restrictions in access to the site by the cul-de-sac arrangement and layout of the surrounding area.
- 6.19 It is acknowledged that there are some economic benefits to what is considered a busy and productive business and also in the teaching of swimming. However, any economic benefits, for what is strictly a private and not a community use, are not considered to outweigh the harm and disruption caused as a result of the use to local residents in this solely residential area.

- 6.20 The permitting of the use to a permanent use would result in the continuation in increased levels disruption and disturbance to neighbouring residents, caused by additional activity and visits within a constrained residential area. As a consequence, the amenities of existing and future neighbouring occupiers are adversely affected by the commercial use of the pool. Therefore, the application site is considered unsustainable and incompatible with the character of the residential area and to adversely impact the quality of living conditions in the area. The proposal is therefore contrary to Harborough Local Plan Policy GD8, the NPPF (particularly paragraphs 11 and 127) and Harborough District SPG Note 18.
- 6.21 In the interests of being reasonable and fair, taking into consideration that the temporary consent expires on 5<sup>th</sup> September 2019 and in line in line with the comments of the Council's Enforcement Officer, it is recommended that a 12 month period free of any enforcement action by the Council is also allowed, in order for the applicant to cease operating from the site and to find alternative and more suitable premises.

## Planning Committee Report

**Applicant:** Miss Candice Osborne

**Application Ref:** 19/01065/FUL

**Location:** 7 Logan Crescent, Market Harborough

**Proposal:** Erection of wooden trellis on top of existing fence

**Application Validated:** 02.07.2019

**Target Date:** 27.08.2019 (Extension of Time agreed to enable Committee determination)

**Consultation Expiry Date:** 08.08.2019 (Weekly List)

**Site Visit Date:** 08.08.2019

**Case Officer:** Nick White

## Recommendation

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

By virtue of its design, siting and height, the proposal would create a prominent and incongruous boundary feature within the street scene and would cause significant harm to the character and appearance of the street scene and visual amenities in the area. The proposal is contrary to Policy GD8 of the Harborough Local Plan and no other material considerations indicate that the policies of the Development Plan should not prevail. The proposal is also contrary to the good design and visual amenity policies of the National Planning Policy Framework.

### 1. Site & Surroundings

- 1.1 The application site relates to an extended bungalow dwelling and its garden. The dwelling dates from the 1960s. The dwelling has recently been extended to create a dormer bungalow, apparently under Permitted Development rights. This has involved a box dormer to the rear, rooflights to the front roof plane and internal alterations.
- 1.2 The area is characterised by open frontages to plots and a spacious, attractive streetscene. Public realm landscaping largely retains its 1960s planned design.
- 1.3 The site occupies a corner plot along Logan Crescent. The majority of the dwelling's garden land lies to the north side of the dwelling. The applicant has fenced and planted around most of this land in order to create additional enclosed garden space.

- 1.4 Uniform Maps; circa 2017 image. Much of the site frontage was open plan (gravel surface) at this time:



- 1.5 Google Maps; 2019 image. Additional land is seen to have been enclosed and grassed in this image:





- 1.6 Google Streetview images show what the site previously looked like, prior to the applicant undertaking any fencing works. It can be seen that part of the site, to the left-hand-side of the garage, was enclosed by a brick & concrete block wall. Note how a large portion of the private property boundary is open to the streetscene, (surfaced in gravel and demarcated by a low post and chain arrangement).









- 1.7 The applicant then erected this fence. It generated a Planning Enforcement complaint/investigation. As an outcome, the applicant retrospectively sought permission for it via planning application 18/00467/FUL – “Erection of a fence and new driveway (retrospective)”. Here are site visit photos taken on 13.04.18:





- 1.8 The 18/00467/FUL fence seen above was to be refused planning permission – the fence structure was judged to be incongruous and to harm the open character and appearance of the streetscene. The applicant opted to Withdraw the planning application and reduce the height of the fence to 1m (the maximum height which is allowed under Permitted Development, Schedule 2, Part 2 “Minor Operations”, Class A “gates, fences, walls etc.”). The applicant also undertook supplementary planting (which does not require planning permission).
- 1.9 Planning Officer Site Visit Photos taken on 08.08.19 show the site as it now looks, with its Permitted Development fencing and planting behind:





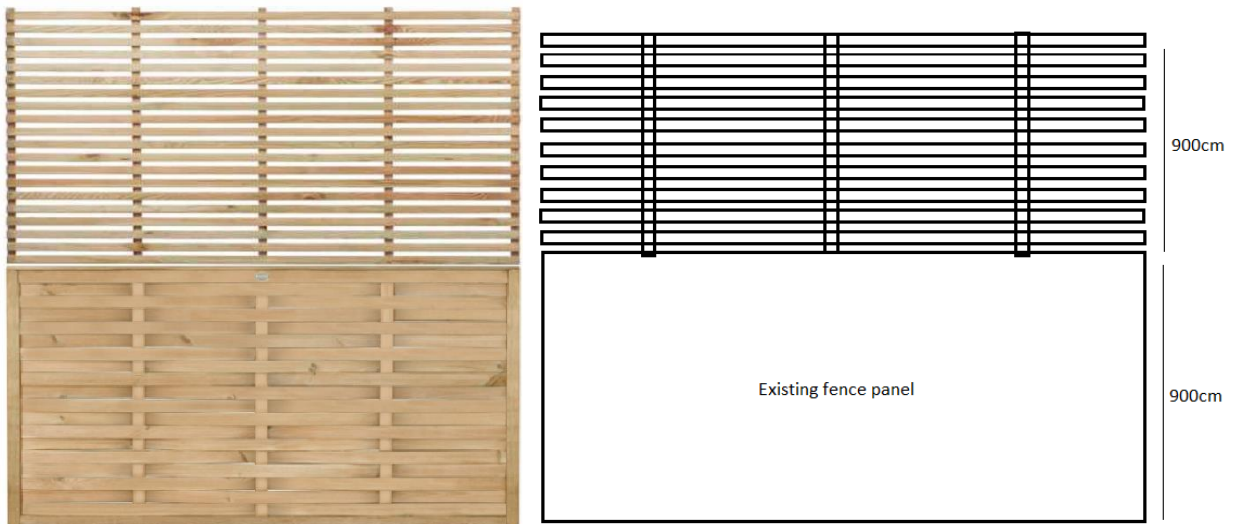




## 2. The Application Submission

### a) Summary of Proposals

- 2.1 Although the applicant withdrew the 18/00467/FUL application and reduced the height of the fence, they now wish to raise the height of the fence to approximately 2.0m (including gravel board). The proposal seeks full planning permission to do this by adding “wooden trellis” above the existing fence panels.
- 2.2 The applicant has provided the following justification:
- “The existing 3ft fence does not provide enough security. We have had items stolen from the garden and also have a 2 year old daughter that cannot play in the garden without constant supervision.”
- 2.3 The applicant has provided the following indicative image and elevation plan. It is noted that these do not show the existing timber gravel board (which is approximately 20cm high):



- 2.4 The applicant has provided the following image indicating where the additional fencing is proposed:



## **b) Pre-application Engagement**

- 2.5 No pre-application advice has been sought.

## **3. Consultations and Representations**

- 3.1 Consultations with technical consultees and the local community have been carried out on the application.
- 3.2 A summary of the technical consultee and local community responses which have been received is set out below. If you wish to view comments in full, please request sight or search via: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

### **3.3 *HDC Enforcement***

Consulted. No comments received.

[Planning Officer Note: It is not considered that there is currently a breach of planning rules.]

### **3.4 *Market Harborough Civic Society***

Consulted. No comments received.

### **3.5 *Ward Councillor Barbara Johnson***

“I was surprised to see that another planning application in connection with boundary treatment has now come from this address. That there is a perceived need to erect a fence of .90m in this area surprises me. I have again been approached by residents in this area who feel strongly against this latest application. The applicant states that the existing 3ft fence does not provide enough security (I was not aware that this area has particularly been targeted for garden theft).

A fence of this height in this location is particularly obtrusive in the street scene. Most residents have chosen to retain the ‘open plan’ character of the development. The site is on a corner of Logan Crescent, and is prominent for this reason. Some similar 60s/70s estates in England have been designated as Character Areas, underlining the distinctiveness and desirability of these developments.

The report in respect of a recent Appeal Decision is I believe particularly relevant and helpful with regard to this application. The Inspector’s ruling in Appeal Decision, APP/F2415/D/19/3326920 (decision date 28 June 2019) for a boundary fence, in a similarly residential area of the town, was that ‘the main issue is the effect of the development on the character and appearance of the area.’ This appeal was in connection with a 5ft fence bounding a residential property in an area where ‘the boundary treatment had maintained a spacious, open feel to the area’.

The Inspector concluded that the development results in unacceptable harm to the character and appearance of the area. ‘As such’, he/she wrote, ‘the development is contrary to Policy GD8 of the Local Plan, which requires, amongst other matters,

development to respect the context and characteristics of the site and the street scene to ensure it is integrated as far as possible into the existing built form. In addition it also conflicts with the National Planning Policy Framework which encourages good design and seeks to promote development sympathetic to local character.’ The application before Committee is for a fence of nearly 6ft!

I had understood a fence fronting this property, adjacent to the highway, should not be more than 1 metre high. An attempt to grow trees at the back of the present fence failed when they ceased to survive. In requesting now permission for a trellis of .90m to be fixed on top of the present .90m fence - thereby doubling the height to 1.80m (close on 6ft) on this corner plot would result in contravening Highways regulations designed to protect the safety of pedestrians on the footpath, and ensure that vehicles crossing the pavement from driveways are able to do this without comprising the safety of pavement users.

A combined fence + trellis of this height in this location would be particularly obtrusive. Most residents have respected the ‘open plan’ character of the development. Some similar 60s/70s estates in England have been designated as Character Areas, underlining the distinctiveness and desirability of these developments. What is proposed, in this prominent position on a bend in the road, the length and height of which would only seek to attract attention as the tallest and longest structure of its kind in the area would be difficult not to notice.

To sum up, I draw the Committee’s attention to the Inspector’s comments in paragraphs 3 and 4 above. In the interests of preserving the character of this area, and also for safety reasons, I wish to object strongly to this application. The residents are right to be concerned. I sincerely hope this application is refused.”

3.6 *Leicestershire County Council Highways Authority (LCC HA)*

Not consulted.

**b) Local Community**

3.7 Two public objections have been received, raising the following concerns:

- General highway safety and convenience concerns.
- It is dangerous for me to drive my car off the driveway. There is a high fence all the way along my drive so I cannot see anything.
- The estate was designed as an open plan area.
- Trellis design is to all intents and purpose another solid fence.
- Surely it is a parental responsibility to be mindful of the safety of very young children at all times fence or no fence.

**4. Planning Policy Considerations**

4.1 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.

4.2 The policies relevant to this application are set out below. More detail is provided in the “Common Planning Policy” section above.



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

4.3 The DP for Harborough relevant to this application comprises:

*The Harborough Local Plan, adopted April 2019.*

Key policies:

- *Policy GD8 (Good design in development)*

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

Primary national policy & guidance considerations:

4.4 *The National Planning Policy Framework (The Framework / NPPF)*

4.5 *National Planning Practice Guidance*

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

4.6 *Reason for Committee Decision*

The applicant is an employee of the Authority.

### **5. Assessment**

#### **Technical Considerations**

5.1 The main material considerations are judged to be:

1. Design and Visual Amenity
2. Neighbouring Amenities
3. Health and Safety and Security
4. Highway Safety

#### **1. Design and Visual Amenity**

5.2 It is considered that the proposed “trellis” appears more like solid fencing than traditional trellis.

5.3 The area is characterised by open frontages. It is considered that the proposal would raise the height of the boundary treatment such that it would become an unacceptably incongruous and intrusive element in the streetscene. The proposal would significantly harm the general character and appearance of the area.

5.4 Contemporary HDC planning appeal decisions for similar proposals are noted, including the following applications:

- 18/00087/FUL – 31 Lea Close, Broughton Astley – Change of use of landscaping area to garden and erection of a fence (retrospective) – Dismissed at Appeal 26 April 2019 on grounds that “the development in question would have an unacceptably adverse effect upon the local street scene”.

- 19/00215/FUL – 62 Fairfax Road, Market Harborough – Erection of a boundary fence (retrospective) – Dismissed at Appeal 12 June 2019 on grounds that “the development results in unacceptable harm to the character and appearance of the area”.

62 Fairfax Road before:



62 Fairfax Road 19/00215/FUL refused scheme:



62 Fairfax Road today:



5.5 These appeal decisions are judged to support the current recommendation that the proposal is refused on grounds of harm to streetscene visual amenity.



## 2. Neighbouring Amenities

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- 5.6 The proposal is not judged to give rise to harm to the amenities of neighbouring residents.

## 3. Health and Safety and Security

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- 5.7 The applicant has cited child safety concerns as a reason behind the proposal. It is unclear whether this relates to potential kidnapping etc., or children escaping from the garden. The existing fencing and shrubbery is considered to be sufficient to prevent access/egress for toddlers/young children (who may lack road sense/safety). Limited weight is attached to this matter. Perceived and real crime risk to unattended children in the private amenity space is also considered to carry only limited weight in favour of the proposal.
- 5.8 The applicant reports that items have been stolen from the garden. It is not clear whether higher fencing would prevent such occurrences, although it is reasonable to assume that it would increase the difficulty of theft / discourage opportunistic theft. However, alternative proposals exist to enhance home security, including, for example, storage of items in a locked & alarmed shed, motion activated LED security lighting and cost-effective CCTV systems (which, for example, include night vision and smartphone alerts).

## 4. Highway Safety

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- 5.9 Given the set back of the proposal from the highway edge and the low traffic speed, and low number of vehicle and pavement movements in the locality, the proposal is not considered to cause significant and demonstrable harm to public highway safety.

## 6. The Planning Balance / Conclusion

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- 6.1 The proposal would create an incongruous and conspicuous high boundary fence in the streetscene. The proposal would significantly harm the character and appearance of the area. The proposal is contrary to Harborough Local Plan Policy GD8; it would not “respect and enhance local character and distinctiveness” (criterion a); would not respect “the context and characteristics of the individual site, street scene and the wider local environment” (criterion d); and it would not “enhance the public realm” (criterion j).
- 6.2 There is an example nearby of conspicuous and harmful boundary fencing at No.52 Northleigh Grove, to the northeast of the application site. That site and fencing is identified here:



- 6.3 The No.52 Northleigh Grove fence lacks planning permission. The above Google Streetview image is dated August 2015. Advice from Planning Enforcement is that if the fence was erected in summer 2015 then it is likely to be immune from enforcement action. Notwithstanding, little weight is attached to the presence of this fence. Rather than providing support for the development in question, it points to a need for development of this nature to be carefully controlled in order to ensure that the character and appearance of the area is safeguarded. This approach is consistent with the approach taken by Inspectors in the planning appeals mentioned above (in para.5.4).
- 6.4 The applicant's health and safety and security arguments in favour of the proposal, whether real or perceived, are not considered to be sufficient to outweigh the harm to public visual amenities which has been identified.
- 6.5 The planting which has been undertaken inside the fencing is becoming established and will, in the near future, fully enclose and screen the garden. Supplementary planting on the inner or outer side of the fence could speed along the process.