

## Planning Committee Report

**Applicant:** Mr and Mrs Michael and Gillian Howkins

**Application Ref:** 16/00681/OUT

**Location:** The Stables, South Kilworth Road, North Kilworth

**Proposal:** Outline application for the erection of 22 dwellings (access to be considered)

**Application Validated:** 03.05.2016

**Target Date:** 02.08.2016 (extension of time agreed)

**Consultation Expiry Date:** 13.07.2016

**Case Officer:** Ruth Meddows-Smith

## Recommendation

Planning Permission is recommended for **REFUSAL** for the following reason:

The proposal will provide additional dwellings at a time when the Local Authority cannot demonstrate a five year supply of housing. Furthermore, the development is within a sustainable location, and technical consultees are satisfied that, subject to condition and reserved matters, the proposal will safeguard residential amenity, cause no harm to the character and appearance of the countryside, not result in the loss of the best and most versatile agricultural land, cause no harm to the setting of heritage assets and satisfactorily addresses flood risk and drainage. In these respects, the proposal complies with CS1, CS2, CS3, CS8, CS9, CS10, CS11 and CS17. However, the applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development and the proposal, if permitted would consequently result in an unacceptable form of development and could lead to dangers for pedestrians and road users; and the applicant has failed to demonstrate that the proposed highway improvements can be reasonably undertaken within the transport network. The proposal is therefore contrary to CS5 (c) and CS11 (c) (i). On balance, the benefits of the scheme, including the provision of 22 dwellings, and including affordable dwellings do not outweigh the clear and demonstrable harm in respect of highway safety and therefore the proposal is not considered sustainable development in the context of the Framework.

## 1. Site & Surroundings

1.1 The application site (hereafter referred to as 'the Site') lies beyond, but adjacent to, the western edge of the Limits to Development of the Selected Rural Village of North Kilworth, west of South Kilworth Road.



Figure 1: Aerial Photo

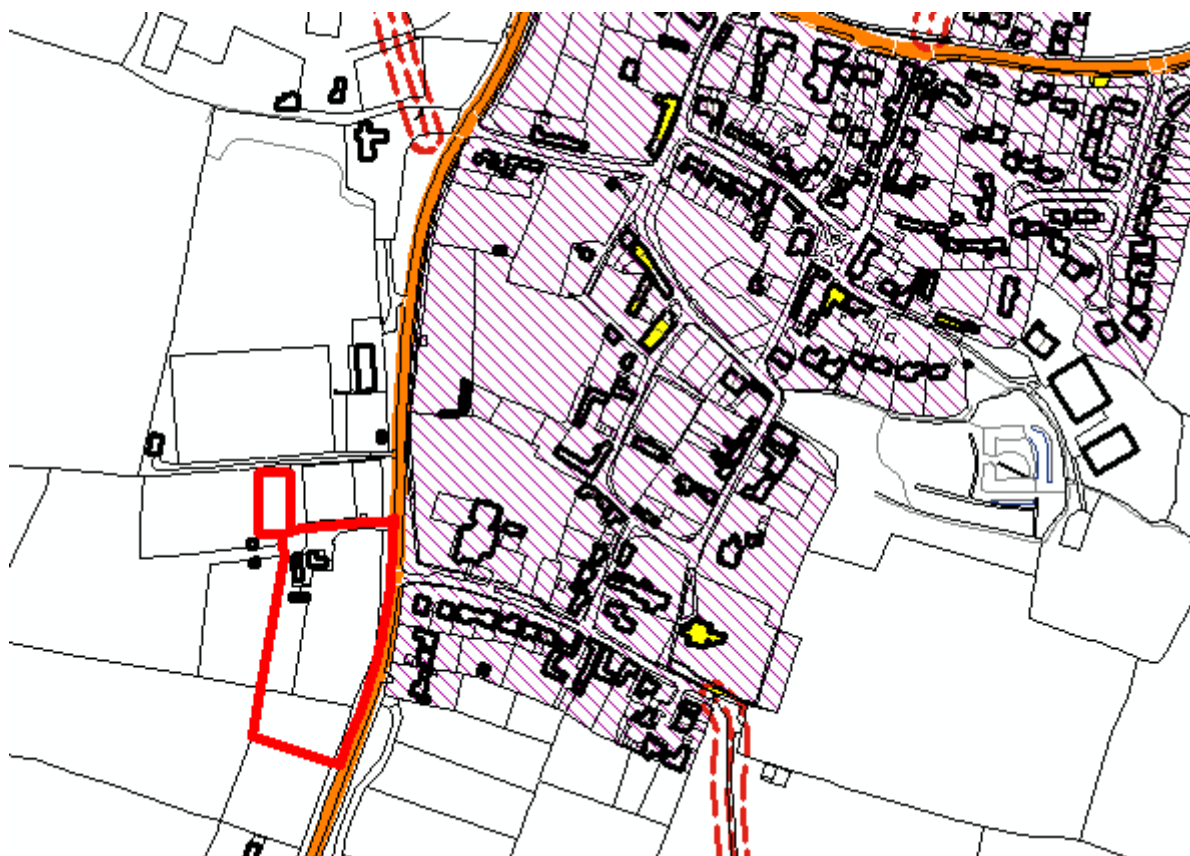


Figure 2: Site Location (Limits to Development shaded purple, rights of way dashed red, Listed Buildings shaded yellow)

1.2 The Site is greenfield land currently used for pasture and partially divided into paddocks for horses. Clear evidence of ridge and furrow field systems is present with two systems meeting in the southern third of the site. Towards the north of the site are field shelters for horses and the existing access (the latter shared with the other uses to the north). There is a further existing field access towards the south of the site from which a metalled but overgrown access track leads westwards. Part of the site is hard-surfaced and used as a manège.

1.3 The south and west boundaries are unmarked. The north and east have mixed hedges (including hawthorn) with trees interspersed. Beyond the site's boundaries, other pasture-land lies to the west and south; to the east is the highway with detached dwellings along part of the east side, Dag Lane and the primary school; to the north is the parking area for the recreation ground and the tennis courts.

1.4 Within the site, the land is generally level (with ridge and furrow as noted above); beyond the site's western boundary the land drops down towards a brook.

1.5 There are no public rights of way running through or immediately adjacent to the site. There are a number of footpaths nearby from which the site can be seen, including Y66 beyond the site's western boundaries, and the footway past the site along the public highway. The site is within the 30mph speed limit.

1.6 The site is adjacent to the Conservation Area of North Kilworth, as shown below. The nearest Listed Building is the church of St Andrew, approximately 190m to the east (grade II\*), Lavender Cottage/The Billet and Ivy House (both grade II) approximately 200m to the north-east.



**Figure 3: site in relation to the edge of the Conservation Area of North Kilworth (shaded green)**

## **2. Site History**

- 2.1 There is one previous planning application on part of the site:
- 93/00098/3O – Erection of detached dwelling O.S.2619 South Kilworth Road North Kilworth – Refused and dismissed at appeal.

## **3. The Application Submission**

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

- 3.1 The application seeks planning permission for residential development of 22 dwellings.
- 3.2 The application is submitted in outline, with access to be considered only.
- 3.3 A proposed site plan has been provided to demonstrate how development on the site could be accommodated.
- 3.4 The proposed housing development will be accessed via a modified existing access to the north of the site, onto South Kilworth Road.
- 3.5 A public car park is proposed to the north of the site, on land that is currently a manège, with highways improvements (pedestrian crossing, raised junction etc) to increase connectivity between the site and the services of the village to the east, including the school.

### **b) Schedule of Plans and Supporting Statements/Documents Submitted with the Application**

- 3.6 The application was accompanied by the following documentation:
- Sketch Appraisal (indicative layout plan) (drawing number 2611/2 dated 30/03-2016);
  - Location Plan (scale 1:1250, Map Data);
  - Block Plan (scale 1:1000, drawing 12212.02);
  - 12 colour photographs relating to the site;
  - Extended Phase 1 Survey Report [ecology] (Lockhart Garratt, April 2016);
  - Copy of HDC's "site assessment companion guide" (SHLAA July 2015);
  - Design and Access Statement with Heritage Statement, Draft Heads of Terms and Landscape and Visual Impact Assessment;
  - Arboricultural Report (Lockhart Garrett, April 2016);
  - Site Specific Flood Risk Assessment and Sequential Test (Wicken Design Associates, April 2016);
  - Schedule of housetypes with associated square footage;
  - Desk-based Archaeological Assessment (PCA, April 2016);
  - Statement of Community Involvement;
  - Minutes of Parish Council and Neighbourhood Plan Steering Group, together with Applicant's email and responses to Parish Council and copy of pre-application advice received.
- 3.7 The valid application form received was for Outline Planning Permission with access, scale and layout to be considered. Officer queried this, as no details of scale were submitted. The applicant then clarified that access was the only detailed matter to be considered at this point, with all other matters being reserved. The application description was amended, and re-advertised on this basis.

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



3.8 Further information has been requested/received by officers, as follows:

- Landscape and Visual Impact Assessment – received 17<sup>th</sup> June;
- Framework Residential Travel Plan (jpp consulting, May 2016) – received 27<sup>th</sup> May;
- Transport Statement (jpp consulting, May 2016) – received 27<sup>th</sup> May;
- Site location plan (scale 1:1000, drawing 12212.02: as above but amended following comment that red lines on plans previously submitted did not match) – received 17<sup>th</sup> June;
- Landscape and Visual Impact Assessment (SJA320.100.Rev.0, Steve Jowers Associates, May 2016);
- 7 additional photographs – received 29<sup>th</sup> June;
- Automatic Traffic Count results (NDC for jpp consulting, dated June 2016) – received 29<sup>th</sup> June;
- Proposed access (jpp consulting, drawing number TA03 Revision A) – received 29<sup>th</sup> June;
- Amended indicative layout/'sketch appraisal' (drawing number 2611/2 dated June 16) – received 29<sup>th</sup> June;
- Paragraph 8.1 (previously missing) from the LVIA – received 22<sup>nd</sup> July;
- Letter from agent with comments on Highways consultee response. Includes copies of correspondence at pre-application stage between Highways and the previous agent, and extracts from the 6 Cs Design Guide. Also an A4 page entitled 'Draft Masterplan' with text and a sketch layout – received 15<sup>th</sup> August;
- Storm Water Drainage Plan (drawing number 2611/3 dated August 16) – received 21<sup>st</sup> August;
- Revised indicate layout/'sketch appraisal' (drawing number 2611/2 dated June 2016, with no revision number but now including landscaping in response to suggestions from the Council's Landscape consultants) – received 1<sup>st</sup> September;
- Revised LVIA received 1st September (Steve Jowers Associates, ref SJA.320.100 Rev A)
- Revised Flood Risk Assessment (Wicken Design Associates) – received 29th September;
- Revised layout received (drawing number 2611/2 Rev A dated June 16<sup>th</sup>, with southern access removed) with covering letter listing some proposed highway mitigation – received 19<sup>th</sup> October 9.52am;
- Further revised layout received (drawing number 2611/2 Rev A dated June 16<sup>th</sup>, with southern access and traffic calming removed, pedestrian crossing and annotation regarding traffic calming still shown) – received 19<sup>th</sup> October 12.12pm.

- 3.9 As evidenced by the above list, information to support the proposal has been submitted over a period of months, and five 'sketch appraisals'/indicative layouts have been submitted.

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

3.10 The applicant had extensive pre-application advice from the case officer. Matters raised were countryside, landscape, neighbour, ecology and highway impacts, heritage assets (including the ridge and furrow, Conservation Area and Listed Buildings), the renewable energy group within the village and the status of the proposed Neighbourhood Plan. The applicant was encouraged to engage in pre-application public consultation and advised on submission requirements.

3.11 The scheme proposed at pre-application stage was for up to 31 dwellings. The understanding of the character and appearance of the area and Conservation Area, together with how the scheme would draw from this and relate to it led to a design concept that was considered excellent: a farmstead, evolving in time, with materials and design reflecting this, including thatch, brick, slate, concrete tile, metal cladding and fibre cement roofs. Based on this high-quality and design-led scheme, officers were happy to support the proposal at pre-application stage.

#### **d) Environmental Impact Assessment**

3.12 The site area of the proposal is 1.2ha. 22 dwellings are proposed. The development is therefore not considered to require an Environmental Impact Assessment or trigger a requirement for a Screening Opinion.

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

4.1 Consultations with technical consultees and the local community were carried out on the original application submission and Amendments/Additional Information where necessary.

4.2 Site Notices were placed on 12.05.16. The Press Notice was published on 26.05.16

4.3 A summary of the technical consultee responses which have been received are set out below. Comments which relate to developer contributions are set out in **Appendix A**. If you wish to view comments in full, please request or go to [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

##### **4.4 *Severn Trent Water***

No objection to the proposal subject to condition requiring the submission of drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the LPA.

##### **4.5 *Leicestershire County Council Highway Authority***

The Local Highway Authority informs the Local Planning Authority that additional information outlined in this response is required, and the Local Highway Authority is unable to provide a detailed response in accordance with article 20(4) of The Town and Country Planning (Development Management Procedure) (England) Order 2010 until after the information requested has been received and considered.

Application 16/00681/OUT seeks outline permission with access, layout and scale to be considered. Unfortunately insufficient information has currently been submitted to enable a full and reasoned consideration to be made and response given which might advise the LPA, in highway terms, the acceptability of the access, layout and scale of the development proposed.

It would be preferable to the CHA for only one point of access to be used and the existing access, improved to cater for the intensification and change of use proposed, would be more desirable and provide a more acceptable form of development in highway safety terms. Vehicle speeds in the vicinity of the existing agricultural access, next to the national speed limit section of South Kilworth Road, will be much higher and given the more rural feel of this part of the network the introduction of turning traffic could present increased safety concerns over an access located closer to the village centre.

A proposal to incorporate a traffic calming / pedestrian crossing feature would be supported by the CHA and utilisation of a single northern access would tie into this and afford a more desirable access strategy, especially given the pedestrian desire line between the proposed development and the primary school and pedestrian footway on the Eastern side of South Kilworth Road.

#### Site Access – Drawing number TA03

Conflicting information is proposed within the application submission concerning the visibility splays achievable at the access. Clarification should be provided and justification made as to the acceptability of splays taking into account recorded 85<sup>th</sup> percentile speeds and utilising industry recognised methodology in calculating visibility required. For example, JPP Transport Statement paragraph 2.3.2 defines visibility splay achieved at the southern access of 2.4x43m in both directions yet Appendix E proposes different figures.

Neither site access currently conforms to LCC 6Cs Design Guide standards which require 2m footway widths to be provided. The extent of footway provision falls short of that required also and as proposed would likely lead to the CHA seeking to resist the application both in terms of highway safety and sustainability grounds whereby adequate and reasonable alternatives to the private car have not been provided.

The southern access is proposed to be a 'gravel / unmade' surface which would not be acceptable to the CHA.

Clarification ought to be provided as to the intention for the existing car park which is currently accessed immediately to the right when entering the existing 'northern' access given that the potential conflict and demand to this will also need to be considered by the CHA.

#### Internal Layout

Drawing number 2611/2 does not provide sufficient detail and accuracy to enable detailed comments to be provided. Given that the application seeks adoption of the internal road layout it would be advisable for this additional design work to take account of the 6Cs Design Guide which can be accessed via the following link - <http://www.leics.gov.uk/index/6csdg>

#### Transport Sustainability

CHA policy would typically necessitate access to an hourly bus service and it is noted that the development proposed is served by a 2hourly service. The application must therefore seek to demonstrate its sustainability credentials on other factors such as excellent walking and cycling provision and access to local amenities and the promotion and improvement of public transport infrastructure. The applicant would be encouraged to consider if the development proposal satisfactorily achieves this.

*Further comments:*

The Local Highway Authority advice is that the residual cumulative impacts of development are severe in accordance with Paragraph 32 of the NPPF and the Local Planning Authority is advised to consider a refusal on transport grounds for the reasons outlined in this report.

The County Highway Authority advises the following reasons for refusal:

**1. The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development and the proposal, if permitted would consequently result in an unacceptable form of development and could lead to dangers for pedestrians and road users.**

**2. The Applicant has failed to demonstrate that improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.**

Further to the CHA's previous formal response of the 19<sup>th</sup> July 2016 it is noted that the applicant has continued to pursue the two access strategy for this residential development of 22 dwellings. The CHA also notes the applicant no longer wishes for layout to be considered at this stage.

The consideration of layout is very important within this application though where the scale of development would not normally require two points of access. Adequate justification should therefore be provided as to why the second point of access is proposed and given that it is located within the rural, unlit, derestricted section of South Kilworth Road provides cause for concern for both vehicles and pedestrians.

The applicant has provided some general comments regarding the potential to implement a pedestrian crossing / traffic calming feature however without any assessment of a proposed scheme that provides the necessary confidence that this might be deliverable, acceptable and supported by a stage 1 Road Safety Audit. The CHA is therefore left with no alternative than to advise the LPA to seek to resist the proposed development on transport grounds whereby its proposed access strategy provides significant and unjustified concerns for highway safety.

As advised previously, a revised scheme which provides a single point of access in addition to an appropriate, assessed and considered mitigation strategy would likely be looked upon more favourably.

#### *4.6 Leicestershire County Council Planning Archaeology*

The submitted Desk-Based Archaeological Assessment (Pre-Construct Archaeology report R12439) is welcomed. However, our pre-application advice (copied below) included recommendations for additional pre-determination work. As no further archaeological reports appear to have been submitted I assume that no Ridge and Furrow survey or trenching have been undertaken.

The application site contains well-preserved earthworks of Ridge and Furrow cultivation, including two separate furlongs and a headland at the proposed southern access. Historic documents indicate North Kilworth was enclosed by Act of Parliament in 1766, therefore the surviving earthworks are likely to date from that period. However their form and layout maintains a much earlier medieval tradition of open field cultivation. Given the site's proximity to the Conservation Area and Grade II\* Listed medieval church we recommend discussing potential setting impacts with your Conservation Officer.

There is a potential that Anglo-Saxon (or earlier) archaeological remains survive below the Ridge and Furrow earthworks, relating to the early development of North Kilworth, as the site borders the Historic Settlement Core. Evaluation trenching will be necessary to ascertain the presence and significance of any such archaeological remains within the application site. However, we feel that this could be undertaken prior to submission of any forthcoming Full or Reserved Matters application if there is enough flexibility in the scheme to allow alterations to the layout or foundation designs to avoid impacts to significant archaeological remains worthy of preservation in situ should they be revealed within the evaluation trenching. This could be secured by an additional condition if you feel it is necessary.

Should you be minded to approve this application despite the setting concerns, we recommend that the following conditions are attached to any forthcoming permission:

- 1 – archaeological mitigation work;
- 2 – deposition and archiving of findings

*Further comment regarding setting:*

The upstanding Ridge and Furrow earthworks make a positive contribution to both the setting of the Grade II\* Listed Church and the Conservation Area. They represent the relationship between the early settlement and its open field cultivation and it would be detrimental to remove the earthworks. However, we feel that your Conservation Officer should be able to provide more detailed advice regarding this potential setting impact.

**4.7     *Leicestershire County Council Planning Ecology***

The ecology survey submitted in support of the application (Lockhart Garratt, April 2016) is satisfactory. The site was assessed as being species-poor semi-improved grassland, with a mature roadside hedgerow. No additional habitat surveys are required at this stage. We would however recommend that the roadside hedgerow is retained and buffered from the development.

No evidence of protected species were recorded on site. We note that the buildings were assessed as having a 'low' potential to support roosting bats and the report recommends that further surveys are completed. However, the Leicestershire and Rutland Bat Protocol (attached) states that further (emergence) surveys will only be required for buildings assessed as having a medium or high potential to support roosting bats. Therefore, based on the information submitted no further bat surveys will be required at this stage.

We are in agreement with the recommendations in section 5.9-5.11 and 5.15 - 5.17 of the report and would request that these are forwarded as a condition of the development.

Ecology surveys are only considered to be valid for a period of 2 years, after which an update should be completed to determine if the site has changed. We would therefore recommend that, should planning permission be granted, a condition is added to require updated ecology survey to be completed and submitted either in support of the reserved matters application, or prior to the commencement of works, whichever is soonest after April 2018. Should evidence of protected species be recorded at this stage, mitigation plans should also be completed and submitted to the LPA.

*Upon receipt of amended plans:*

No further comment. Previous comments still stand

**4.8     *Leicestershire County Council Lead Local Flood Authority***

The planning application does not contain sufficient information to demonstrate that the impact of development at this location will have on the surrounding land, there are no details regarding the management of surface water from the development, including but not limited to the proposed discharge method, the utilisation of SuDS features within the development.



*Further comments upon receipt of amended plans:*

The proposed development will be acceptable if the following planning conditions are attached to any permission granted:

- 1 – surface water drainage scheme
- 2 – Construction surface water Management Plan
- 3 – SUDs Maintenance plan

4.9 *Leicestershire Constabulary*  
No comments received.

4.10 *Leicestershire County Council (Developer Contributions)*

- o Education – No claim. The site is within the catchment area of St Andrew's C of E Primary School. The School has a net capacity of 105 and 98 pupils are projected on roll should this development proceed; a surplus of 7 pupil places after taking into account the 5 pupils generated by the development. There is 1 other primary school within a two mile walking distance of the development. South Kilworth C of E Primary School has a projected surplus of 26 pupil places. There is an overall surplus in this sector after including all primary schools within a two mile walking distance of the development of 33 pupil places. An education contribution will therefore not be requested for this sector.

The site falls within the catchment area of Lutterworth High School and Lutterworth College. The Schools have a joint net capacity of 2818 and 2269 pupils are projected on roll should the development proceed; a surplus of 549 pupil places. A total of 8 pupil places are included in the forecast for these schools from S106 agreements for other developments in this area and have to be discounted. This increases the total surplus at these schools to 557 pupil places. An education contribution will therefore not be requested for this sector. No contribution for Special schools. Total Requirement = £0.00

- o Libraries – No claim. Lutterworth library currently exceeds the threshold in terms of standards for stock provision and will not be affected by the proposed development.
- o Waste – No claim. The nearest Civic Amenity Site to the proposed development is located at Lutterworth and residents of the proposed development are likely to use this site. The Civic Amenity Site at Lutterworth will be able to meet the demands of the proposed development within the current site thresholds without the need for further development and therefore no contribution is required on this occasion.

4.11 *Harborough District Environmental Health*

Owing to the close proximity to existing residential accommodation, and given the size of the development, recommends Construction Method Statement condition.

4.12 *Harborough District Environmental Health Contaminated Land Officer*

Due to the unknown use of the buildings on site, two conditions requested.

[This was questioned by officers, as the buildings are field shelters and will be demolished]

*Further response:*

The fact they are being demolished doesn't matter the unknown use (i.e. we don't now what was stored in them) still applies.

4.13 *Harborough District Housing Enabling and Community Infrastructure Officer*

Our Affordable Housing requirement will be to seek 40% Affordable Housing of the total site yield In accordance with Policy CS3. on a site proposal of 2 units , this will equal 9 AH units. Our tenure split requirements are for the affordable requirement to be provided as 60% rented and 40% to be provided as intermediate or shared ownership. We will not stipulate

our specific unit mix and tenure split for the affordable house types at this point in time. We will provide our exacting requirements if and when a full application is submitted. This ensures greater accuracy in our request for specific unit types and accords more accurately with our housing need profile at a point when the scheme is more likely to be progress.

A wider strategic assessment for delivering AH is currently under review. We may as a result consider other options / ways for delivering AH. I have checked there is a D&A statement committing to the provision of Affordable Housing and an indicative scheme, however my above comments apply at this stage.

#### 4.14 *Harborough District Council Neighbourhood and Green Spaces Officer*

I note from the proposed layout that POS is not including within the site. This may require off site contributions to be paid by the developer towards enhancement of existing open spaces within North Kilworth.

I note the proposal for a car park to be provided as part of the development for school use. The importance that the community place on provision of additional car parking should be weighed against the loss of open space that should be provided on the development site. If the car park is something that the community want to realise then I am happy to support this.

The site is considered to be in a rural location for semi natural and natural greenspace. Where there is an oversupply of a typology of greenspace, provision is not required on site. An off site contribution may be required if a quality issue has been identified by the community on a typology of open space (ie sports provision, amenity greenspace or allotments). All other open space should be provided on site. Where this is not possible the developer should liaise with the LPA to determine whether off site contributions for enhancement of existing sites is acceptable. Off site contributions for semi natural greenspace could be spent at 'The Bogs' for example. Other sites have been identified in the draft North Kilworth Neighbourhood Plan. Developer contributions have been identified in the draft NDP for sustainable footpath and cycle links for the village which is catered for in the greenways contribution.

#### 4.15 *LCC Arboricultural Officer (Peter Kenyon)*

The proposed access appears to use an existing gateway – to the north of this gateway (presumably off-site and under different ownership) stands a large mature sycamore T8. This is categorised as cat. B in the survey and is the best tree along the roadside in the vicinity. This should be protected at all costs – in fact the developer owes a duty of care to the tree owner (if it is under another ownership) to ensure that his operations do not damage the tree including its root system. To this end it may be necessary to adopt a particular and more specialist method of creating the access drive without excavation, building the road on top of the existing levels using a no-dig, cellular confinement system such as Cellweb or Infraweb. The applicant should be informed of this requirement so that an appropriate method statement and design can be developed.

The other significant trees retained in the hedgerow are sycamores T12 – T14, which are in early middle age and healthy and worthy of retention. T15 is a mature ash but shows definite signs of decline in the form of dieback and deadwood in the upper crown; it is also densely covered by ivy which prevents inspection of the main trunk and branch unions. Ideally this tree should be further inspected and if otherwise sound it would need some tree surgery work to retain it in a safe condition.

The limited RPA incursion necessary for the construction of the proposed footpaths is likely to have little effect on trees T14 and T15, and the use of Cellweb or similar would further reduce any effects.

The indicated housing layout shows that the proposed houses are outside the RPAs of the retained roadside trees, but it should be borne in mind that T12, T13 and T14 have the potential for further growth in height and spread.

The other trees on the plot are small and of very limited local significance – the small tree T9 to be removed for the access is of little merit.

*Further comment following receipt of amended plans:*

I note the access road radii of about 5m from the sycamore T8 on the adjacent land at the frontage. The recommended RPA radius is 7.8m (from a tree of 650mm diameter) so the proposed access is within this RPA, albeit across a limited sector. I refer you to the comments I made in my email of 24 May regarding the suggested use of a no-dig road construction – perhaps the applicant's Arb. Consultants, Lockhart Garret, may wish to offer their opinion on this.

[Clarification received from applicant that all of the works are within the existing metalled surface.]

*Further response:*

If as stated the improvement works are on the existing metalled surface, I have no problems with this.

**4.16** *Harborough District Council Parish Liaison and Engagement Officer*

£21,912 for upgrade and/or new build/extension projects (this figure will alter according to the finalised housing numbers and mix. Currently based on the average figure for a 3 bedroom dwelling and for 22 dwellings). Identified projects are the provision of catering and toilet facilities is part of a broader upgrade plan for St Andrew's Church involving structural renovation, electrics, lighting and other matters. Project supported by the primary school and the Parish Council, the former of whom will then use the church for the provision of some classes. The church building is also used by a toddler club, a luncheon club, and frequently for weddings. The upgraded facilities are all subject to applications for Faculty consents from the Diocese. Project to be confirmed at the time of receipt. On receipt, money will be allocated through Harborough District Council's robust grant process

**4.17** *North Kilworth Parish Council*

Application should be put on hold (and not determined) until completion of Neighbourhood Plan, or at least until it's submitted to HDC.

**4.18** *Harborough District Council Conservation Officer*

The application site is located adjacent to the Conservation Area of North Kilworth on an area of land that is on the edge of the built form of the village. On balance it is considered that development on this site would not harm the wider setting of the Conservation Area, however I would suggest that the density currently proposed should be reconsidered to allow for a lower density development which would allow for a more rural feel to be retained, as outlined in the assessment completed by the Landscape Partnership. Of most concern is the impact on the views out of the Conservation Area from Dag Lane and ideally this view should be maintained. There is Ridge and Furrow on this site and the development will result in the loss of some of this, however because the surrounding fields also contain Ridge and Furrow that will not be affected by the development the impact on the setting of the Conservation Area and the Listed Church is considered to be minimal.

Overall in my opinion the development will not harm the significance of the surrounding Heritage assets and therefore complies with Chapter 12 of the NPPF.

**b) Local Community**

- 4.19 24 letters of objection received from 20 addresses, mostly from within South Kilworth, with one from Theddingworth and one from a developer (Francis Jackson Homes)
- 4.20 Officers note that several of the objections are very detailed and whilst regard has been had to these in assessing this application, it is impractical to copy these verbatim and therefore a summary of the key points is provided below.
- Prematurity: should be delayed until Neighbourhood Plan in place/preferred option for housing in place;
  - Desk-top archaeological survey is insufficient to address ridge and furrow;
  - Highway safety/traffic/parking, provision of carpark and crossing will not help, carpark is not wanted or requested by the school;
  - Drainage/flooding, no Flood Risk Assessment;
  - Out of keeping, will destroy rural character, fragmented at approach to village, visually overbearing, sensitive location, need complete design, on plateau, “the end result will be a development on the edge of the village/open countryside, surrounded by a barrier of hedges, shrub and trees required to minimise its detrimental effects and visual impact”;
  - Inappropriate and unsympathetic layout;
  - Loss of privacy/overlooking/noise (from traffic-calming measures, new residents and increased traffic);
  - Planning Inspectorate refused permission for one dwelling on this land in 1993;
  - Village has undergone “unprecedented development in the last 10 years”;
  - Will lead to inappropriate use;
  - Outside building line (Limits to Development);
  - Open aspect deemed important within draft Neighbourhood Plan;
  - Additional village amenities must be secured if approved;
  - School is full;
  - Misleading statements in agent’s correspondence.
- 4.21 3 letters of support from two properties have been received. One refers to the writer being unable to get a house on the Gandy’s Roses site and their desire to remain in the village, and states: “how can North Kilworth be sustained if young people such as me and my friends born in the village cannot afford to live here and have to move away, leaving just an older generation”;

## **5. Planning Policy Considerations**

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 instructs that planning applications must be determined in accordance with the provisions of the Development Plan (DP), unless material considerations indicate otherwise.
- 5.2 Unless stated, an explanation of the development plan policies; material considerations, evidence base and other documents referred to can be found at the beginning of the Agenda under 'All Agenda Items Common Planning Policy'

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

- *Harborough District Core Strategy*
- 5.3 The following aspects of the CS are notably relevant to this application.
- *Policy CS1*
  - *Policy CS2*
  - *Policy CS3*
  - *Policy CS5*
  - *Policy CS8*
  - *Policy CS9*
  - *Policy CS10*
  - *Policy CS11*
  - *Policy CS12*
  - *Policy CS17*
- *The saved policies of the Harborough District 2001 Local Plan*
- 5.4 Of the limited number of policies that remain extant, Policy HS/8 (Limits to Development) should be noted although as this is a restrictive policy it is considered out of date.
- 5.5 Due to their relation to housing supply and seeking to restrict this, other elements of the Core Strategy are also considered to be out of date and may be relevant to this application: parts of CS17 (a), CS1, CS2, CS3, CS9 and CS10.
- 5.6 Development plan policies which are out of date are afforded reduced weight in the determination of the application.

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

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



- *North Kilworth Parish Plan 2013 - 2020*

### **c) Emerging Local Plan Evidence Base**

5.8 The following emerging local plan evidence base is relevant to this application

- *Strategic Housing Market Assessment*
- *Strategic Housing Land Availability Assessment*

The Site was included in the 2015 SHLAA (reference A/NK/HSG/03) and identified as being deliverable within 0-5 years.

- *Settlement Profile (May 2015)*

#### *Overall Summary:*

North Kilworth has the services to support its continued designation as a Selected Rural Village. Limited housing land capacity has been identified through the SHLAA but additional sites may be identified through the neighbourhood planning process. Development should be sympathetic to the existing village form, providing a pedestrian crossing across the A4303, the village's heritage assets, the protection of the aquifer and the Local Nature Reserve and reflect the specific housing needs of the local population.

- *Harborough District Landscape Character Assessment (2007)*

The site is part of the Laughton Hills Landscape character designation within the Harborough District Landscape Character Assessment. The area is rural with low field boundaries and pasture land. The landscape is sensitive and the Assessment states "the rural character would be threatened by development. Any development will need careful siting which is sympathetic to landscape setting and landform in particular...it is the Medieval land use and settlement which has provided the pattern of current small villages. There are a number of small settlements surrounded by agricultural land, often with ridge and furrow earthworks visible indicating the longstanding arable use of the landscape". The Area has low-medium capacity to accommodate development.

### **d) Other Relevant Documents**

5.9 The following documents should be noted

- The Community Infrastructure Levy Regulations 2010, S.I. No.948 (as amended)
- Circular 11/95 Annex A - Use of Conditions in Planning Permission
- ODPM Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System)
- Planning Obligations Developer Guidance Note
- Leicestershire Planning Obligations Policy
- Leicestershire County Council Local Transport Plan 3 (LTP3)
- Leicestershire County Council Highways Authority 6Cs Design Guide

### **d) North Kilworth Neighbourhood Plan and the emerging new Local Plan**

5.10 The Neighbourhood Area was formally designated on 29<sup>th</sup> January 2014. Since then, the Parish, Neighbourhood Plan Steering Group and residents of the village have been working on their Plan. It has been through several drafts. At the time of writing, the Neighbourhood Plan has been received and is about to begin its final

consultation, prior to Examination. It is therefore given very limited weight within the determination of this application.

- 5.11 Of the three housing sites proposed within the Neighbourhood Plan, this (and a site on Station Road) are given 'Reserve' status, with this site being designated "Reserve site 1". The Plan provides for a minimum of 24 dwellings during the plan period to 2031.

Policy NK3 states that the site "will be considered for housing development if:

a) it is required to remediate a substantial shortfall in the supply of housing land due to the failure of existing housing sites in North Kilworth to deliver the anticipated scale of development required; or

b) it becomes necessary to provide for additional homes in the Parish in accordance with any new development plan document that replaces the Harborough Local Plan."

Policy NK3 proposes a number of criteria with which any proposal must comply in order to be acceptable.

- 5.12 The new Local Plan for Harborough, in conformity with the NPPF, and covering the plan period 2011 – 2031, is still in early draft form. Options for Strategic housing allocations have yet to be finalised. Whichever Option is adopted, North Kilworth will be expected to take a number of new dwellings, given its continued status as a Select Rural Village. At the time of writing, this number is likely to be a minimum of 22 dwellings and may exceed this figure. Again, the emerging Local Plan is currently given little weight in the consideration of the application.

- 5.13 In accordance with the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and paragraphs 11 and 12 of the NPPF, the proposal must be determined against the policies of the development plan (in this case the Core Strategy) unless material considerations indicate otherwise.

## **6. Assessment**

### **Principle of Development**

- 6.1 As previously mentioned, the Site lies outside the defined Limits to Development of North Kilworth (as established by the Harborough District 2001 Local Plan, Policy HS/8). For planning assessment purposes the site represents undeveloped countryside. Policy CS17 of the Harborough Core Strategy strictly controls new development within the open countryside:

*"Only development required for the purposes of agriculture, woodland management, sport and recreation, local food initiatives, support visits to the District and renewable energy production will be appropriate in the Countryside subject to compliance with other relevant policies in this Strategy".*

- 6.2 A housing estate does not fall within the above list of development allowed. The location of the proposed development would, therefore, be contrary to this aspect of Policy CS17 in the Development Plan.
- 6.3 Limits to Development were adopted some 14 years ago, in the context of different national planning policy and based on now out-of-date housing need evidence. Policy HS/8, as well as aspects of Development Plan policies which reference HS/8 (e.g. CS2a and CS17a), represent restrictive blanket policies on new housing

development outside Limits; taken literally, such policies limit new housing development to within the 2001 defined Limits to Development of North Kilworth. Policy HS/8 is inconsistent with relevant policies on sustainable housing development contained in the Framework. As a consequence, and having full regard to the advice in paragraph 215 of the Framework, little weight should be given to Policy HS/8.

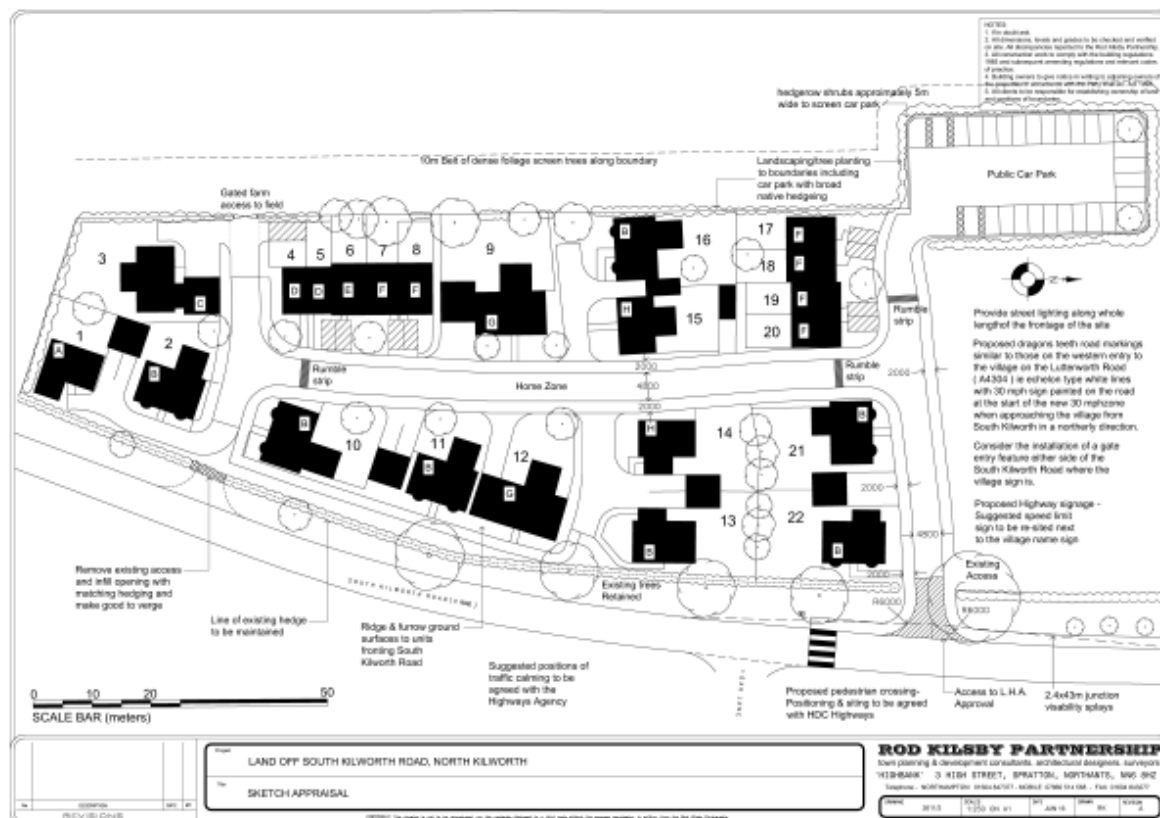
- 6.4 The Core Strategy sets out a housing target of 350 dwellings per annum based on the now revoked Regional Spatial Strategy. The latest evidence of objectively assessed housing need (OAHN) is set out in the SHMA 2014. This recommends a total housing requirement of 9,500 dwellings between 2011 and 2031, or 475 dwellings per annum. Based on the latest SHMA requirement the Council's Five Year Housing Land Supply Position Statement demonstrates a supply of 4.66 years as at 1 April 2016. The Council can not therefore demonstrate a five-year land supply. As a consequence, paragraph 49 of The Framework advises LPAs that "relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites".
- 6.5 In circumstances where relevant policies are out-of-date Paragraph 14 of the Framework advises that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Such policies include those relating to designated heritage assets and protected species, and adopted Neighbourhood Plans (paragraph 198). Nonetheless, in making any such assessment of adverse impacts and benefits, appropriate weight should be attached to all aspects of Development Plan policies which are not out-of-date and which remain in accordance with the Framework.

#### **Locational sustainability / Accessibility**

- 6.6 North Kilworth currently has Selected Rural Village (SRV) status in the Harborough District Core Strategy (2011). This means that any development will be on a small and limited scale, which reflects the size and character of the settlement and its service provision.
- 6.7 The village has a primary school, a pub, a post office and basic food provisions within the garage shop. Distances from the site access to these facilities are approximately 40m, 590m and 369m respectively, which are within the 800m considered to be accessible walking distance within the 6CsDG.
- 6.8 The nearest bus stops are approximately 10m north of the site's northern access, on South Kilworth Road. Further stops are approximately 545m from the site, on the A4304 by the White Lion pub. This is served by route number 58 (Lutterworth – Market Harborough) with six departure/arrivals each day Monday – Saturday. The site is also within cycling distance of key services.
- 6.9 Footways are proposed within the site (although indicative) and shown around the kerb radii of the access. A pedestrian crossing is proposed which would link the site (and also the existing carpark and tennis courts) to services within the village.
- 6.10 The site is therefore considered to possess good locational sustainability.

#### **Design**

- 6.11 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. This is consistent with Policy CS11.
- 6.12 Design (form/layout, mass, scale, proportions, style, materials) is not a matter which is currently for consideration. Notwithstanding this, a Design and Access Statement has been prepared, which together with an Illustrative Masterplan (see below) set out how the site might be developed.



**Figure 3: Proposed site plan (drawing number 2611/2 Revision A dated June 2016, received 19<sup>th</sup> October 12.12pm)**

- 6.13 The existing northern vehicular access will be used, with any necessary improvements. The two accesses lead westwards into the site, with a road linking the two running north-south. Part of this road is labelled “Home Zone” on the plan.
- 6.14 The plans indicate that existing trees and hedgerow on the east boundary will be retained, but also show these ‘moved’ westwards, to provide a suitable visibility splay. Ridge and furrow is shown as retained for two of the plots on the east boundary. Tree and hedgerow planting is proposed for the south, west and north boundaries, including a 10m deep tree belt beyond the west boundary (on land within the applicant’s ownership).
- 6.15 The application proposes the change of use of the existing manège to form a car park/schooling area. The Design and Access Statement suggests that school classrooms could be sited on the land, which would be subject to separate planning approval. Highways improvements including a pedestrian crossing would link the site to the school and wider village.

- 6.16 The number of residential units proposed is 22, which on a 1.2ha site represents a density of 18 dwellings per hectare, although this includes the land proposed to be carpark. If this land is taken out, then the density is approximately 22. Policy CS2 (b) advocates a minimum of 30 dwellings per ha. Given the indicative layout and mindful of the edge-of-settlement location of the site, it is judged that the proposed lower density is appropriate for this site in this instance. However, were a better, high-quality design proposed (such as seen at pre-application stage) then a higher density could be appropriate.
- 6.17 The proposal will deliver a mix of dwelling types shown on the application form as 2 x 1 bedroom flats/maisonettes; 1 x 2 bedroom units, 6 x 3 bedroom units and 13 x 4+ bedroom units. The mix proposed broadly accords with the recent SMHA (2014) findings.
- 6.18 Of the 2 dwellings proposed, 9 will be affordable homes, suggested on the application form as being the 1-bed, 2-bed and 3-bedroomed units (with the 4+ bedroomed units all being for open market housing). As the Strategic Housing Manager notes in his observations, the provision of 9 affordable units meets the Council's requirement of 40% as set out in Policy CS3, although mix and tenure would be confirmed and decided at reserved matters stage.
- 6.19 Although layout and design are reserved matters, the proposed site plan gives an indication of how 22 dwellings could be accommodated within the site. Some of the dwellings seem disproportionately large with others very cramped together. Whilst a 'nod' has been made to retention of some ridge and furrow this is only on two plots and would seem impractical to achieve. There may be opportunity to retain more with a different layout. Important views out of the Conservation Area (for example at the junction of Dag Lane and South Kilworth Road) are not respected with large dwellings restricting any views outward. Dwellings in a 'courtyard' layout (as regarded as desirable within the current Parish Plan) are not shown. No details have been provided of the 'Home Zone', and the layout (including front gardens and driveways with parking) does not indicate a conventional 'home zone'. The indicative size and scale of dwellings proposed is not low key or modest such as might be otherwise acceptable on the edge of the village, where the existing pattern of development is very gradual. No detailed design has been proposed which might outweigh these concerns.

#### **Impact on the character and appearance of the Countryside**

- 6.20 Core Strategy Policy CS11 and CS17(c) advises *"rural development will be located and designed in a way that is sensitive to its landscape setting, retaining and, where possible, enhancing the distinctive qualities of the landscape character area in which it is situated"*.
- 6.21 At a District level, the site is part of the Laughton Hills Landscape character designation within the Harborough District Landscape Character Assessment. The area is rural with low field boundaries and pasture land. The landscape is sensitive and the Assessment states "the rural character would be threatened by development. Any development will need careful siting which is sympathetic to landscape setting and landform in particular...it is the Medieval land use and settlement which has provided the pattern of current small villages. There are a number of small settlements surrounded by agricultural land, often with ridge and furrow earthworks visible indicating the longstanding arable use of the landscape". The Area has low-medium capacity to accommodate development.



- 6.22 The site itself is generally level (notwithstanding the pronounced ridge and furrow) however to the west the levels drop significantly, and public Rights of Way Y66 runs north-south along the lower ground. The site is immediately adjacent to the western limits of the Conservation Area, and there are views out of this across the site to open fields beyond (although somewhat restricted due to hedge and tree screening).
- 6.23 The applicant has submitted a Landscape and Visual Impact Assessment (Steve Jowers Associates), which was revised following comments from the Council's landscape consultants ('The Landscape Partnership', henceforward TLP). The revised LVIA finds the following:

Landscape character sensitivity to proposal	Medium/high
Visual sensitivity to proposal	Medium
Landscape value	Medium
Landscape capacity for proposal (without mitigation)	Medium/low
Landscape capacity for proposal (with mitigation)	Medium

- 6.24 TLP have reviewed the LVIA, both as originally submitted and following the revision. Their most recent comments find the following:

Landscape character sensitivity to proposal	Medium, given visual detractors
Visual sensitivity to proposal	This will vary depending on viewpoint, cannot do an 'overall' summary
Landscape value	Medium, but Conservation Area is Medium/High, especially in historic core
Landscape capacity for proposal (without mitigation)	Medium/low
Landscape capacity for proposal (with mitigation)	Medium/High, dependent on a much-enhanced scheme than shown on the indicative layout

Furthermore, TLP identify Very Significant/Significant effects from some viewpoints: those immediately adjacent to the site itself, along South Kilworth Road; along footpath Y66 on the northern edge of South Kilworth (just past Tollgate Farm); and along Y66 northern section, from where it meets the A4303 to roughly east of the site. They consider that these Major/Moderate effects are dependent on a detailed design and suitable mitigation.

- 6.25 TLP concludes the following:

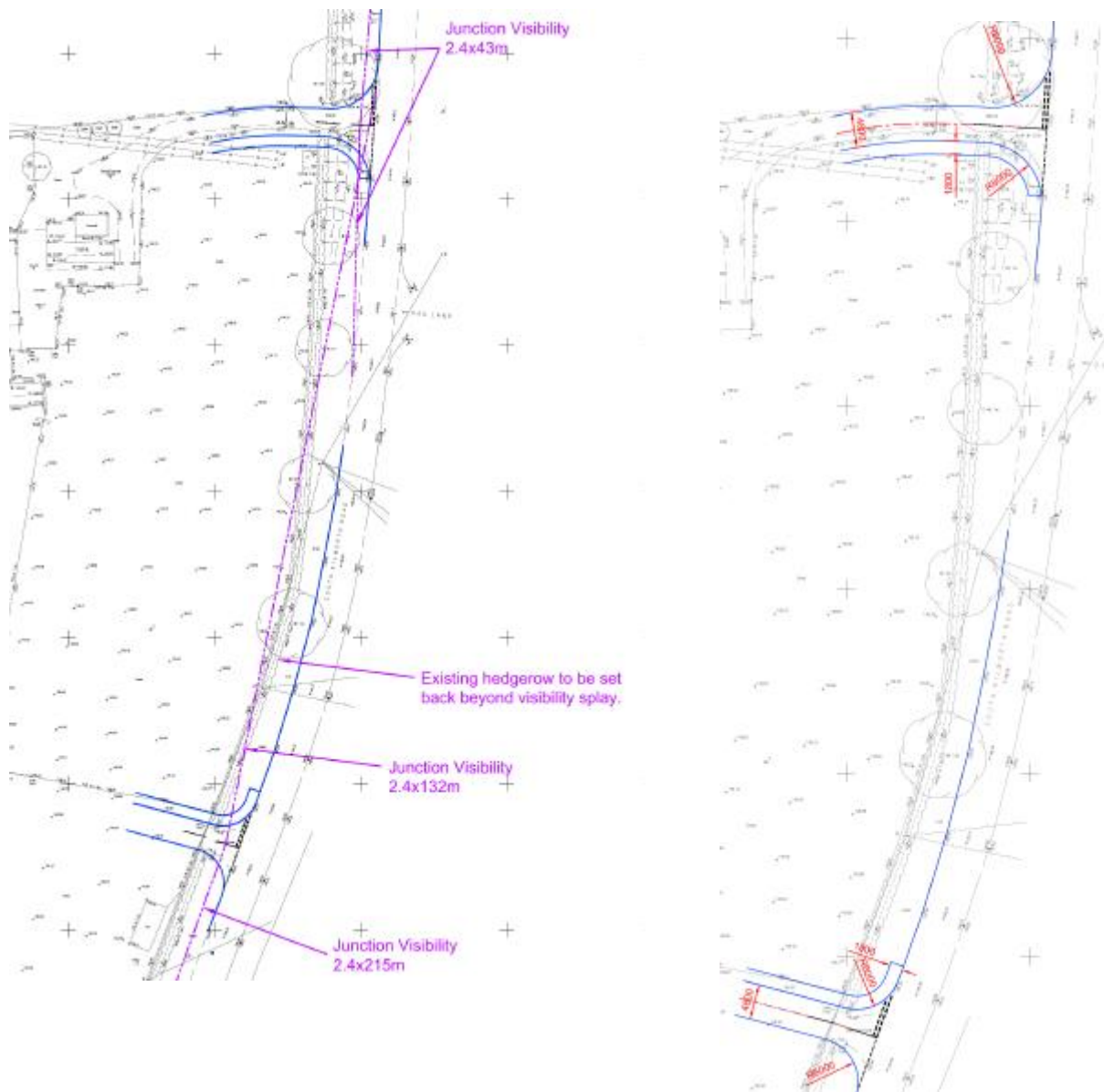
*"TLP made a number of comments about the indicative layout (paragraph 3.13-fourth bullet point. These comments still stand as the internal housing layout has not been adjusted. However, as the application is in outline with a strong landscape framework now indicated, it is considered that a suitable and improved layout could be achieved with a detailed planning application. It is possible that the number of units on the site may not reach the 22 indicated on the current application subject to design and other site requirements, including SuDS.*

*Therefore in summary, TLP consider that some clarifications and improvements have been made to the landscape proposals to respond to the likely significant effects of the scheme. With these in place the principal of development on the site should not cause any unacceptable landscape and effects. A detailed planning application could have a make a more positive response to the relationship with the Conservation Area and the arrangement of units within the site."*

- 6.26 TLPs finding echo officers' concerns regarding the design of the Indicative Layout. However, layout, scale, appearance and landscaping are all reserved matters, for later consideration, and therefore the application cannot be refused on these grounds. The applicant has demonstrated that the site can accommodate residential development, subject to suitable landscaping mitigation which can be controlled by condition. The impact on the countryside is therefore not considered to be harmful.

## Highways

- 6.27 Access is a matter for consideration as part of this application.
- 6.28 South Kilworth Road runs adjacent to the eastern boundary of the site, joining the A4304 to the north with South Kilworth to the south. The speed limit past the site is 30mph, increasing to the national derestricted speed limit of 60mph approximately halfway between the two existing accesses.
- 6.29 Station Road has an approximate carriageway width of 6 metres in the vicinity of the site frontage, with a footway on the eastern side of the road of approximately 1.4m. The western side of the carriageway has a wide grass verge.
- *Public Highway*
- 6.30 Following an Automatic Traffic Count undertaken by the applicant, the access details were revised by the applicant's transport consultants, jpp consulting. The proposal as shown on their plan utilises the two existing accesses on the east boundary of the site, altered and improved.
- 6.31 The junction geometry proposed is shown on the jpp plan below and includes the following elements:
- Carriageway width of 6.5 metres;
  - Widened access driveway (leading westwards from South Kilworth Road into the site) of 4.8 metres;
  - Junction radii of 8 metres;
  - Junction vehicle visibility splays of 2.4 metres by 43 metres both ways for the northernmost access;
  - Junction vehicle visibility splays of 2.4 metres by 132 metres both ways for the southernmost access.



**Figure 4 – junction visibility splays (left) and general arrangement (right) (drawing number TA03 revision A, jpp consulting)**

- 6.32 Based on TRICS data, jpp consulting calculates an additional 29 movements from traffic generated by the proposal in the morning peak hours (0800 -0900) and an additional 21 movements in the evening peak hour (1700 – 1800).
- 6.33 jpp consulting have undertaken an Automatic Traffic Count in the vicinity of the site on behalf of the applicant. The survey was undertaken between 6<sup>th</sup> – 12<sup>th</sup> June 2016. The results show 12707 vehicle movements (6200 northbound, 6507 southbound), with 85th percentile speeds as 44.3mph. Based on their survey results and the Manual For Streets 2 they have therefore calculated the required visibility splays and shown these on the above plan as being achievable (on land either within the applicant's ownership or within public highway).
- 6.34 County Highways were not able to support the proposal based on the submitted information, and required further information. They noted that two accesses are not preferred (for highway safety reasons), that clarification was needed regarding the use of the existing carpark (to avoid any conflict and to allow them to fully assess the

impact of the proposal on the existing northern access), that aspects of the proposal did not comply with the 6Cs Design Guide, that footways were not provided and that excellent sustainability credentials should be demonstrated.

- 6.35 In response, the agent wrote to officers questioning Highways comments, however did not amend the proposed plans or provide any additional information as requested by Highways. The layout was subsequently amended twice (following discussions with the Lead Local Flood Authority, and then again in response to TLP's comments) and Highways were then consulted on the final layout. jpp consulting's detailed drawings were not amended in response to Highways comments.
- 6.36 County Highways initial concerns have not been addressed, and as such, they now recommend refusal. The second (southern) point of access – whilst existing and having a (presumably unrestricted) agricultural use – has not been justified within this scheme. Highways note in their comments that "it is located within the rural, unlit, derestricted section of South Kilworth Road". As the field which it serves is not for crop and the access appears little-used, it is highly unlikely that the vehicular and pedestrian movements generated by the development would be the same or less than the existing use, although again, no evidence has been submitted. Both accesses currently proposed prompt concerns over highway safety at a point where vehicle speeds are recorded well in excess of the 30mph limit, in close proximity to a primary school and beyond the core of the built up extent of North Kilworth. To introduce a significant increase in turning movements in these locations, without an adequately assessed mitigation strategy would be considered contrary to policies CS5 (c) and (d) and CS11 (c) (i), which require a safe design which accords with the current design standards of Leicestershire County Council.
- 6.37 Furthermore, the proposed traffic calming measures and pedestrian crossing, whilst admirable in themselves, have not been detailed, or supported by the necessary evidence to demonstrate that a deliverable scheme exists and noting the uncertainties which also exist with regard to the relevant statutory consultation processes necessary for traffic calming schemes. Such evidence may also have addressed the concerns raised in the representation about the need for such a crossing and traffic-calming measures, and have indicated possible locations/types should a need be demonstrated. The possible future position of these measures and/or crossing may have consequences for the proposed access(es).
- 6.38 Although layout is a reserved matter, Highways have indicated that the indicative layout would not be suitable for adoption as publically maintainable highway. Due to the two proposed accesses and for a development of such a modest scale which would not normally be served by a secondary point of access, the Highway Authority would consider layout to be an essential matter to be considered in unison with access and in consideration of the acceptability of the development proposed. The Parish Plan expresses desire for footpaths to link new development into the village, and (beyond those around the kerb radii) no such footpaths have been provided.
- 6.39 The two revised layouts received since the final comments from Highways (both received 19th October), together with the covering letter detailing highway improvements/mitigation, appear insufficient to overcome Highway's concerns, and have been received with insufficient time for Highways to fully consider them.
- 6.40 Access is the sole matter which is not reserved for later consideration. Although there are two existing accesses, of which one is proposed to be used in this scheme, officers have no confidence that the application shows a design which is safe and suitable for all to access, and accords with the design guidance of the from LCC as

required by CS5 (c). The proposal is therefore considered contrary to CS11 (c) (i) and CS5 (c).

## Noise

- 6.41 The site's eastern boundary is approximately 27m from the facing (west) elevation of residential properties along South Kilworth Road and at the corner of Dag Lane. Given the nature of the proposal and this close proximity, the Council's Environmental Health Officer recommends a Construction Method Statement be submitted prior to commencement. This will require details of hours of working etc and will ensure that no harmful levels of noise or air pollution occur, and thus safeguard residential amenity in accordance with CS11. In addition to planning controls, the Environmental Protection Act provides a variety of safeguards in respect of noise, air and light pollution.

## Ecology

- 6.42 An Extended Phase 1 Ecological Survey (prepared by Lockhart Garratt) accompanied the application.
- 6.43 The Survey assessed the potential for birds, badgers, reptiles, bats, amphibians, otter and water vole to be present or using the site, and considered the ecological credentials of the hedgerow and buildings on site.
- 6.44 The walkover survey was undertaken on 4th April 2016 and the results are summarised as follows:
- **Bats:** desk study indicates bats within 150m of the site, but no evidence found on site. Stable buildings have potential to be night roosts in the summer. Low impact. Single emergence survey recommended, within suitable months;
  - **Badger:** Desk study indicates badger nearby but no evidence within the site was found. Low impact. Watching brief etc recommended during construction;
  - **Birds:** evidence of nesting within the buildings, land used for foraging. Moderate impact. Works should be undertaken outside of nesting season, and a minimum of 10 nesting boxes should be incorporated within the design of the new buildings;
  - **Reptiles:** two records of grass snake identified within the desk study, habitat is suitable with limited potential. Low to moderate impact. Minimum of 7 surveys should be carried out prior to commencement and during optimal season;
  - **Amphibians:** there are no ponds on the site and the habitat is sub-optimal for these species. Negligible impact;
  - **Otter and water vole:** no suitable habitat on site, negligible impact.
  - **Hedgerows:** potential for foraging, breeding and sheltering habitat, should be retained;



- **Amenity Grassland:** this was present in an area to the west of the site but was considered to be of low ecological value.

6.45 County Council Ecology officers are satisfied with the findings of the survey and do not require any further action at present. An emergence survey for bats would not be required. Conditions should be applied to any permission to ensure no harm to protected species results. They request that the “roadside hedgerow” (ie, that on the eastern boundary) should be retained and buffered from development. This is contrary to the indicative layout (drawing number 2611/2 of June 2016), however, as layout is not a matter for detailed consideration within this application, and as officers have concerns regarding the proposed indicative layout, the application cannot be refused on these grounds. Furthermore, County Ecology have been consulted on the revised plans and refer solely to their previous comments.

### **Flooding and Drainage**

6.46 Policy CS10 (Addressing Flood Risk) states that development will be directed towards areas at the lowest risk of flooding within the District, with priority given to land within Flood Zone 1. The EA flood map shows the development site in low risk Flood Zone 1.

6.47 Within the Harborough District Strategic Flood Risk Assessment (2009) (SFRA), North Kilworth is one of a handful of settlements within the District reported at risk of surface water flooding (identified from Parish Council records). The SFRA states “it is therefore important that development of any site does not increase the rate or volume of run-off leaving the site” (paragraph 2.6.2). This is enshrined within later, and current legislation and policy, including CS10 which requires Sustainable Drainage Systems (SuDS) on Major sites. The village sits on a minor aquifer, and HDC have been involved in discussions with residents, the Parish Council, County Highways, Severn Trent and the Lead Local Flood Authority regarding flooding incidents within the village.

6.48 A Flood Risk Assessment (FRA) by Wicken Design Associates has been submitted by the applicant and subsequently revised to the satisfaction of the Lead Local Flood Authority. The following measures are proposed:

- *Proposed Surface Water Drainage*

6.49 Permeable hardsurfacing, water butts, geo-cellular sub-surface layers, French drains/tree pits, attenuation storage and treatment are proposed and detailed within the submitted drainage strategy. Regarding surface water run off from any new roads, Highways have indicated that they will not accept any form of SuDS within any highway adoption agreement, however Severn Trent have agreed that there is sufficient capacity within the existing sewer to accommodate a discharge of 5/l/s/Ha from the site which is sufficient to cope with the discharge from any new highway.

- *Proposed Foul Water Drainage*

6.50 A new foul sewer connection would be made to the existing sewer on Dag Lane. This would be subject to details and agreement with Severn Trent. They do not raise any objections to the development, subject to the receipt of satisfactory details.

### **Loss of agricultural land**

- 6.51 In accordance with paragraph 112 of the Framework, proposals should not lead to the loss of the best and most versatile agricultural land (Grade 3a or above). Information regarding the Agricultural Land Classification (ALC) and soil resources has therefore been sought from the applicant by Officers. No survey has been submitted, however the site does not appear within either the Settlement Profile nor the Magic database of Natural England as grade 3a or above. Furthermore, the site area is under 5 hectares and thus, proportionally, only a modest size.
- 6.52 On balance, officers are therefore satisfied that the development would not result in the loss of best and most versatile agricultural land and as such the proposed development would not be contrary to the Framework Para 112

## Heritage

- *Conservation Area/Listed Buildings/SAMs*
- 6.53 Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 impose a duty on Local Planning Authorities to pay special regard/attention to Listed Buildings/assets and Conservation Areas, including setting, when considering whether to grant planning permission for development. For Listed Buildings/assets, the Local Planning Authority shall “have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses” (Section 66) and for Conservation Areas “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area” (Section 72).
- 6.54 The applicant’s Design & Access Statement includes a “Heritage Statement”, vis copy of HDC’s Conservation Area Character Statement for North Kilworth, a statement that “the site is outside of but adjacent to the Conservation Area”, a written paragraph entitled “Economic History” concluding with the statement “the indicative Site Layout shows that we have endeavoured to keep to the general principals of the Conservation Area Statement”. No assessment of nearby Listed Buildings or the impact the proposal may have on the settings of these has been submitted. A desk-based Archaeological Assessment has been submitted which lists findings through Leicestershire’s Heritage Environment Record, including some Listed Buildings.
- 6.55 The nearest Listed building is approximately 200m to the east of the site, on the edge of the historic core of North Kilworth. This is the Grade II\* Church of St Andrew on Church Street, with its south boundary wall Listed separately at Grade II. Lavender Cottage is the other nearest Listed Building, being approximately 206m north-east of the site at the nearest point, on Green Lane. This is Grade II (now called Ivy Cottage, on Back Street).
- 6.56 Due to the distance of the site from the church building, together with the existing C20th (and arguably occasionally unsympathetic) development between, it is not considered that the proposal will cause harm to the setting of this Listed Building or its Listed wall.



**Figure 5: from South Kilworth Road (near the site) looking eastwards towards the church building (image from Google Streetview)**

- 6.57 Ivy Cottage/Lavender Cottage is sited towards the core of the village, on lower ground than the site. Again, due to the distance between the site and this building, together with the intervening development, the proposal is not considered to harm the setting of this Listed Building.
- 6.58 As the Conservation Area Character Statement notes, the form of the village has many narrow lanes and roads and it is this which gives it its sense of intimacy. There is no central 'green' to the village although a number of open spaces and large gardens. The Statement concludes that "it is the unexpected and difference in each of the road sections of the village together with the open garden spaces or paddock within the village road network and the lack of a cohesive physical or functional form that forms so much of the character of North Kilworth". The development is not seen as contrary to this character, and it is noted that it is the paddocks on South Kilworth Road (included within the Conservation Area) which provide the setting for the village. TLP raise concerns regarding views out of the Conservation Area (from Dag Lane looking westwards) but these could be satisfactorily addressed with a suitable layout.
- 6.59 The County Archaeology officer highlighted the ridge and furrow within the site as contributing to the setting of the Conservation Area (and the church building) but did not comment further, leaving this to the Conservation Officer. She does not object to the principle of development on this site, noting however that the indicative layout gives cause for concern. This could be addressed with the submission of reserved matters.
- *Archaeology*
- 6.60 The applicant's desk-based Archaeological Assessment was considered satisfactory by County Archaeology, who recommended conditions requiring work prior to the submission of a Full or Reserved Matters application, considering that "there is a potential that Anglo-Saxon (or earlier) archaeological remains survive below the Ridge and Furrow earthworks, relating to the early development of North Kilworth, as the site borders the Historic Settlement Core." These conditions are considered necessary and reasonable, given the findings of the desk-based assessment, and the nature of this Outline application.

- 6.61 Subject to condition therefore, and a suitable layout at Reserved Matters stage, the proposal is considered to cause less than substantial harm or no harm to heritage assets, and will preserve the character and appearance of the Conservation Area.

### **Residential Amenity**

- 6.62 Core Principle 4 of the Framework seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings and this is also reflected in CS Policy CS11.
- 6.63 As layout, scale and external appearance of the proposed development is a Reserved Matter, it is not possible to provide a detailed assessment on whether or not the amenity of existing residential areas/properties located adjacent to or within close proximity will be affected in terms of in terms of loss of light (overshadowing), Loss of privacy (overlooking) or over dominant or overbearing structure.
- 6.64 The indicative Site Layout suggests dwellings fronting the site's eastern boundary, and retaining (and/or replanting) the hedge marking the boundary. A number of existing trees will be retained. It appears that a minimum separation distances could be met (particularly given the highway in between) and that residential amenity of existing occupiers safeguarded. In general terms, the proposed development would fundamentally alter the outlook of existing properties, however it is not considered that this impact would be unacceptable given the existing boundary treatments and the indicative separation distances between the existing properties and the dwellings proposed.
- 6.65 As stated above, some of the dwellings shown on the indicative Site Layout appear to have a cramped relationship, whilst others are set in larger plots. Given that layout is a reserved matter, (and that officers have expressed concern about the indicative layout) it is likely that some redesigning will need to be undertaken prior to submission of reserved matters. This should include ensuring minimum separation distances are met between plots, thus safeguarding the residential amenity of future occupiers.

### **Planning Obligations**

- 6.66 Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as S106 agreements, are a mechanism for securing benefits to militate against the impacts of development.
- 6.67 Those benefits can compromise, for example, monetary contributions (towards public open space or education, amongst others), the provision of affordable housing, on site provision of public open space / play area and other works or benefit's that meet the three legal tests.
- 6.68 Planning obligations must be:
- necessary to make the development acceptable in planning terms
  - directly related to the development
  - fairly and reasonably related in scale and kind to the development
- 6.69 These legal tests are also set out as policy tests in paragraph 204 of the Framework.

- 6.70 Policy CS12 provides that new development will be required to provide the necessary infrastructure which will arise as a result of the proposal. More detailed guidance on the level of contributions is set out in The Planning Obligations Developer Guidance Note, 2009 and Leicestershire Developer Guidance Note 2014.
- 6.71 **Appendix A** identifies the developer contribution sought by consultees, an assessment as to whether the requests are CIL compliant and a suggested trigger point to advise when the contribution should be made.
- 6.72 Officers consider that all requests are CIL Regulation 122 and 123 compliant.

## Conclusion / Planning Balance

- 7.1 The Council currently can not demonstrate a five year supply of housing land, therefore CS Policies CS1a and CS2a and elements of CS17 are considered out of date. HS/8 is also considered out of date. Therefore, Paragraph 14 of The Framework makes it clear, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
- 7.2 The provision of 22 dwellings, including some affordable, on a site that could be brought forward relatively quickly (land in single ownership, with no abnormal costs/infrastructure) is a significant benefit of the development.
- *Environmental sustainability*
- 7.3 The proposal is sited in a sustainable location, will not result in the loss of the best and most versatile agricultural land, and, subject to condition, will cause no harm to protected species, flooding/flood risk, archaeology, heritage assets, residential amenity or the character and appearance of the countryside.
- 7.4 By virtue of its design, the indicative layout is not considered acceptable; however this is a reserved matter which is not to be considered in detail at this stage.
- 7.5 The applicant has failed to demonstrate that the proposal provides a safe access which complies with current County Council Highways guidance, thus failing CS5 (c) and CS11 (c) (i) and not achieving environmental sustainability.
- *Economic sustainability*
- 7.6 The development would have economic benefits in the short term arising from the construction of the development and the longer term through residents' expenditure in local services. The completed development will also result in New Home Bonus and Council Tax receipt. The site has been identified in the SHLAA and the draft Neighbourhood Plan as suitable for development.
- *Social sustainability*
- 7.7 The proposal will bring new residents to the village and provide affordable housing for local people who otherwise may have to move away. The site is within walking distance of local services and the future occupiers would have opportunity to contribute to the village's health, social and cultural well-being.
- 7.8 On balance, the benefits of the scheme, including the provision of 22 dwellings (including affordable housing) do not outweigh the harm caused in respect of

highway safety and the proposal is therefore not considered sustainable development in the context of the Framework.

## Appendix A – The Stables, South Kilworth Road, North Kilworth, 16/00681/OUT Planning Obligations

Request By	Obligation	Amount /Detail	Delivery	CIL Justification	Policy Basis
HDC	Affordable Housing	40% of the total number of units to be affordable. Tenure split to be 60% rented and 40% intermediate or shared ownership.	To be agreed	<p>A fundamental objective of the CS is to meet the need for affordable housing (CS Strategic Objective 1 and CS Policy CS2). CS Policy CS3 seeks a proportion of new dwellings within developments to be affordable.</p> <p>The 2014 SHMA indicates that 272 affordable dwellings are required in the District per annum up to 2031. The SHMA also recognises that this is unrealistic. The Council's target is to achieve 90 affordable dwellings per annum.</p> <p>Providing affordable housing on site will result in an inclusive, sustainable development. The size and tenure of the affordable housing is based on the current needs of those on the Council's waiting list.</p>	<p>Core Strategy Policy CS3</p> <p>HDC Guidance Note: The provision of affordable housing on 3 plus units of developments.</p> <p>The Framework (Para 50)</p>
HDC	Community Facilities	<p>Calculation for upgrade and/or new build/extension projects: £21,912</p> <p>This figure will alter</p>	50 % to be paid prior to commencement of development	<p>A development of this scale, a community facilities contribution is required to make this development acceptable in planning terms</p> <p>The requested contribution would be allocated to a project delivering benefit to</p>	<p>Core Strategy: Policy CS12, Appendix 2 (Infrastructure Schedule), <a href="#">Community Facilities and Developer Contributions</a> (Roger Tym and Partners 2010)</p> <p>Leicestershire Planning Obligations</p>

		<p>according to the finalised housing numbers and mix. Currently based on the average figure for a 3 bedroom dwelling.</p>	<p>50 % to be paid on completion of 50% of the total number of dwellings</p>	<p>the North Kilworth community, primarily the new residents of the development.</p> <p>Evidence of need and appropriate projects are:</p> <p>Catering and toilet facilities for St Andrew's Church, North Kilworth to provide a more sustainable community facility, which will ensure that the facility will remain open and available to the residents of the Stables development.</p> <p>The calculation is based on HDC Assessment of Local Community Provision and Developer Contribution (Roger Tym Report), which highlights a need for more and improved community facilities within the area to increase capacity.</p>	<p>Policy Adopted 3rd December 2014</p>
HDC	Open Space	<p>Minimum Area (ha) provided; together with commuted maintenance for minimum area of POS if HDC adopts*</p> <p>Parks &amp; Gardens = 0.0253ha and £14,541.35; off-site contribution of £4,503.40. However, subsequent</p>	<p>To be agreed</p>	<p>CS Policy CS8 refers to open space standards and the need for new residential development to make provision to meet the needs generated where there is a local deficiency. The Developer Guidance note also provides detailed requirements for open space.</p> <p>A commuted sum for maintaining the open space over the first 15 years (if transferred to the Council) is necessary to ensure the continued delivery and upkeep of the open space.</p>	<p>Core Strategy: Policy CS12, Appendix 2 (Infrastructure Schedule)</p> <p><a href="#">Planning Obligations Developer Guidance Note</a> 2009,  <a href="#">Provision for Open Space Sport and Recreation 2015</a></p> <p><a href="#">The Framework (Para 73)</a></p>



		<p>statement says no sites within 4km, so should not be sought unless a site is provided.</p> <p>Outdoor Sports Facilities – off-site contribution £35,926.00</p> <p>Amenity Greenspace – off-site contribution of £3,542.00. Project: enhancement of the Millennium Green in North Kilworth, or another suitable site within 800m.</p> <p>Natural and Semi Natural Greenspace 0.4301ha £111,876.32; off-site contribution of £62,288.60. project: possibly North Kilworth Bogs or another suitable site in North Kilworth.</p>			
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		<p>Children and Young People = 0.01518 and £46,326.37; off-site contribution of £1,872.20. Project: enhancement of the children's playground in North Kilworth</p> <p>Allotments – off-site contribution £1,062.60. However, subsequent statement says no sites within 4km, so should not be sought unless a site is provided</p> <p>Greenways – off-site contribution £7,994.80. Project: for the provision of signage and links to the existing sustainable travel network in and around North Kilworth, eg additional signage and way markers or access points.</p>			
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		Cemeteries – off-site contribution £121,610.72. Project: additional burial spaces or access to burial spaces at St Andrews Churchyard North Kilworth, or other burial ground within 2km of site.			
HDC	Performance Bond			In the event of payments required at some future date, the applicant may be required to enter into a bond with a bank or insurance company in order to prevent any default in payment through bankruptcy, liquidation or refusal to pay.	<a href="#">Planning Obligations Developer Guidance Note</a> 2009
HDC	Monitoring Fee	District contribution – 15% of application fee or £250 per contribution		It is appropriate for the Council to recover costs associated with the negotiating, production and subsequent monitoring of developer contributions. This covers the legal costs of creating agreements, any costs associated with obtaining independent or specialist advice to validate aspects of the contributions and the costs of monitoring the payment and implementation of schemes and funding.	<a href="#">Planning Obligations Developer Guidance Note</a> 2009

\* If the developer elects to maintain the POS there will be no commuted sum to pay. It is unlikely HDC will adopt the open space on site and an option should be given in the S106 to allow the developer or Parish Council to maintain whichever is preferable.

## Planning Committee Report

**Applicant:** Mr Adrian Briggs

**Application Ref:** 16/01168/FUL

**Location:** Land Rear of The Courtyard, Gaulby Lane, Stoughton, Leicestershire

**Proposal:** Erection of a dwelling (revised scheme of 06/01550/FUL)

**Application Validated:** 26.07.2016

**Target Date:** 20.09.2016 (Extension of Time Agreed)

**Consultation Expiry Date:** 08.09.2016

**Site Visit Dates:** 16.08.2016 and 31.08.2016

**Case Officer:** Anisa Aboud

## Recommendation

Planning Permission is **APPROVED**, for the reasons set out in the report and subject to the appended Planning Conditions (Appendix A).

### Recommended Justification Statement:

The development hereby approved, by virtue of its siting and design, is sustainable development which does not have an adverse effect on the character and appearance of the countryside, the character of the immediate area, the amenities of surrounding occupiers, the setting of nearby heritage assets and would not be detrimental to highway safety or protected species. The proposal therefore complies with Policies CS11, CS17, CS8 and CS5 of the Harborough District Core 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 paragraphs 186-187 of the National Planning Policy Framework. The decision has been reached taking into account, inter alia, Paragraphs 186 and 187 of the Framework and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## 1. Site & Surroundings

- 1.1 The application site (hereafter referred to as the 'site') is located on the south west edge of the settlement predominantly within the defined limits to development for Stoughton village. Bridleway D15 runs alongside the west boundary of the site along the access way and beyond. The site lies within the Conservation Area.



Figure 1. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Harborough District Council, License Number 100023843 (2016)  
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- 1.2 The Limits to Development also define the edge of the Conservation Area in this part of the village. The site lies within the Conservation Area and as such special regard is to be paid to this matter.
- 1.3 The site lies within some proximity to Listed Assets, namely from the Ancient Scheduled Monument (ASM) to the north of the site (Moated Grange) approximately 78m away. Approximately 117m away from the Churchyard Cross (ASM) and grade II listed building St. Marys and All Saints Church (see figure 2).
- 1.4 The site is visible from Gaulby lane on one of the main approaches in to the settlement. It is set back approximately 25 metres from the highway to the rear (north) of a number of converted office units which are the first buildings within the settlement when approaching from the west.
- 1.5 To the west of the site is open countryside; to the south is a treed parcel of land with agricultural buildings beyond. To the east are a number of residential barn conversions.
- 1.6 View along the shared driveway off Gaulby Lane towards site access (looking south). The existing substation is seen in the image:



(Figure 3. Source: Case officer Site Visit Photo 16.08.16)

- 1.7 Figure 4. Application site frontage, looking south. Public Footpath D15 is set to left of the access (Source: Case Officer Site Visit Photo 16.08.16):





1.8 Figure 5. Site viewpoint looking east, existing office development can be seen on the left and the residential barn development perpendicular to the office. (Source: Case officer Site Visit Photo 18.08.16):



1.9 The office development off Gaubly Lane can be seen, the residential barn development as well as the spire St.Mary's and All Saints Church (grade 2 star listed building), (Source: Case officer site visit 18.08.2016):





1.10 View from Gaulby Lane, note that the site is set back from the main road. (Source: Google images Streetview):



## 2. Site History

2.1 The site has the following planning history:

Application No.	Decision / Date	Nature of Development
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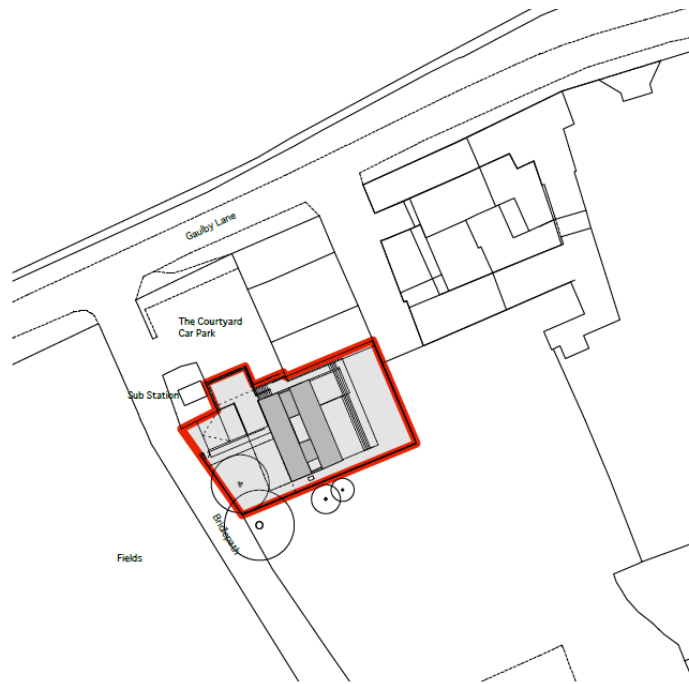


06/00197/FUL	Withdrawn 27.03.2006	Erection of a dwelling
06/01550/FUL	Refused Committee: 12.01.2007 <b>APPEAL ALLOWED:</b> 25.02.2008	Erection of a dwelling (resubmission 06/00197/FUL)
10/01530/ETF	Permitted. 31.12.2010	Extension of time to 06/01550/FUL for the erection of a dwelling
13/01732/PCD	Permitted 20.12.2013	Discharge of Condition 2 (Materials), 3 (Landscaping), 6 (Archaeology) and 7 (Access) of 10/01530/ETF
16/00387/NMA	Refused 26.04.2016	Alteration to fenestration including alterations to chimney; addition/alteration of roof lights; installation of solar panels and roof terrace (Proposed Non-Material Amendment to 10/01530/ETF)

### 3. The Application Submission

#### a) Summary of Proposals

- 3.1 The proposal seeks planning permission for the erection of a 2.5 storey contemporary dwelling with associated landscaping and underground car parking.
- 3.2 The ground floor of the property would comprise of a living room, a snug, and a kitchen/diner. The first floor would incorporate a three en-suite bedrooms and a playroom. The second floor would include the master bedroom and en-suite with access to the roof terrace.
- 3.2 Access to the site would be from a shared driveway off Gaulby lane.
- 3.3 The proposed Site Layout remains the same as approved under 13/01732/PCD:



Location Plan 1:2000

- 3.4 The positioning and the layout of the dwelling in relation to the plot have not been amended.
- 3.5 The following amendments to the plans are sought:
- Widening of access to the garage to allow parking for two cars
  - Internal amendments to the layout of the basement garage, including the addition of basement rooms within the footprint of the existing permission in order to provide a plant room, store room and shower room.
  - Replacement of the glazed opening to the north elevation with a roof terrace.
  - Installation of electronic sliding rooflights to flat (ridge) of the roof.
  - Addition of two rows of solar panels on the eastern elevation roofslope.
  - Minor amendments to the fenestration in line with floor levels.
  - Increase in ridge height of 100mm (10cm).
- 3.6 The design of the property: Proposed front elevation (west) (Facing edge of village)

- 3.5 The following amendments to the plans are sought:
- Widening of access to the garage to allow parking for two cars
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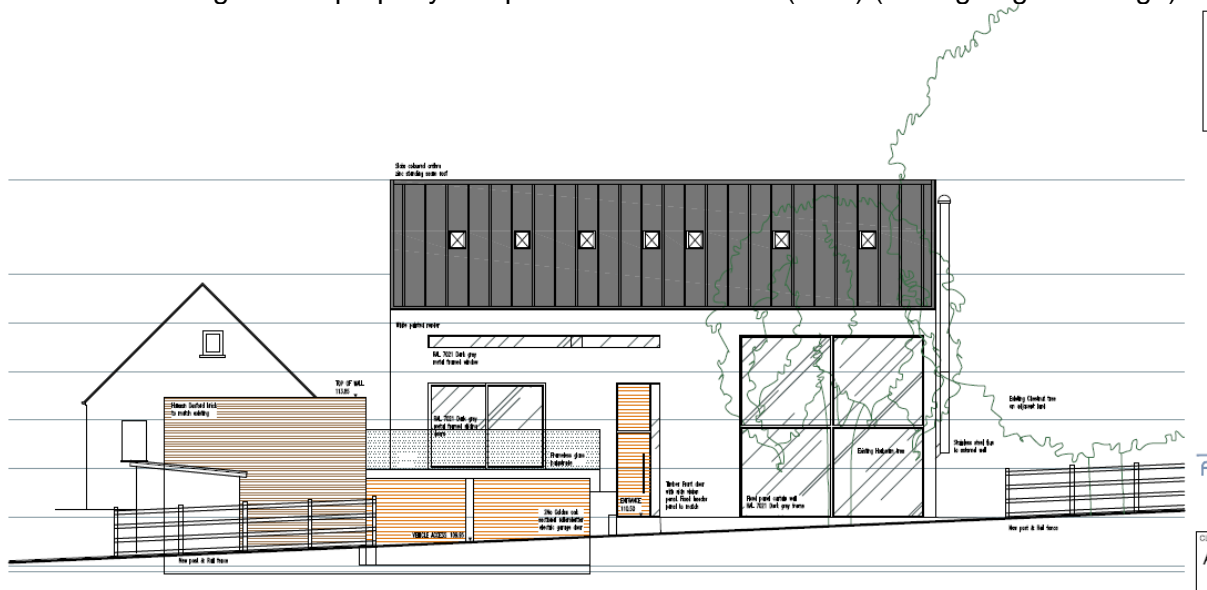
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- Addition of two rows of solar panels on the eastern elevation roofslope.

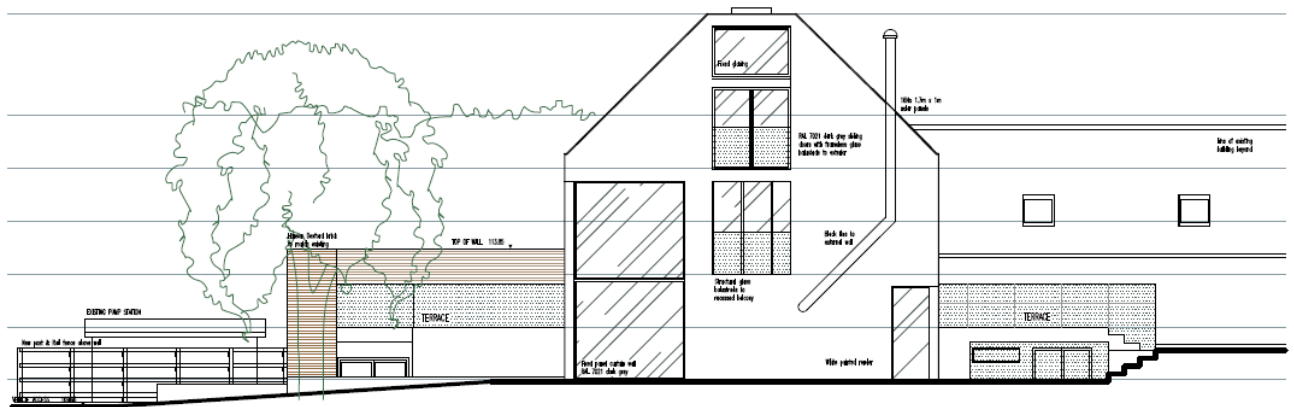
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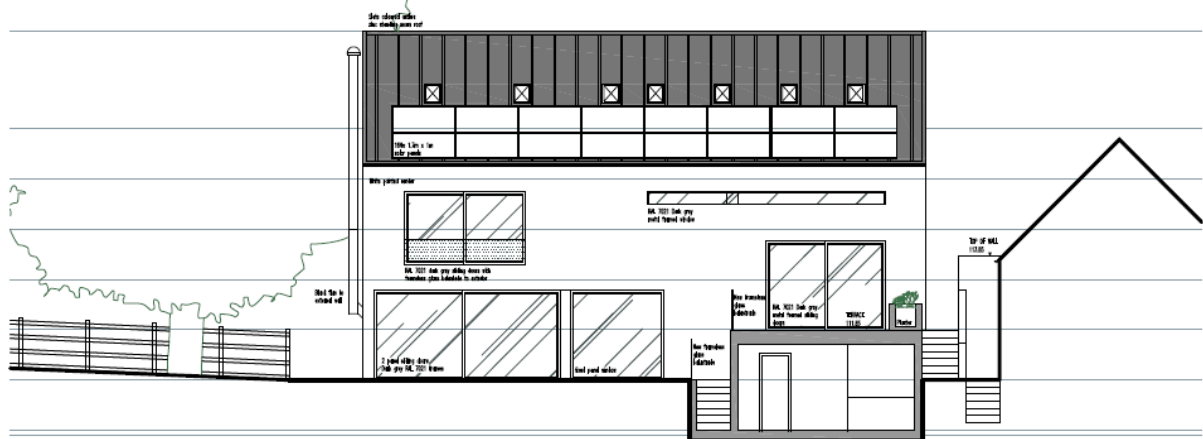
- 3.6 The design of the property: Proposed front elevation (west) (Facing edge of village)



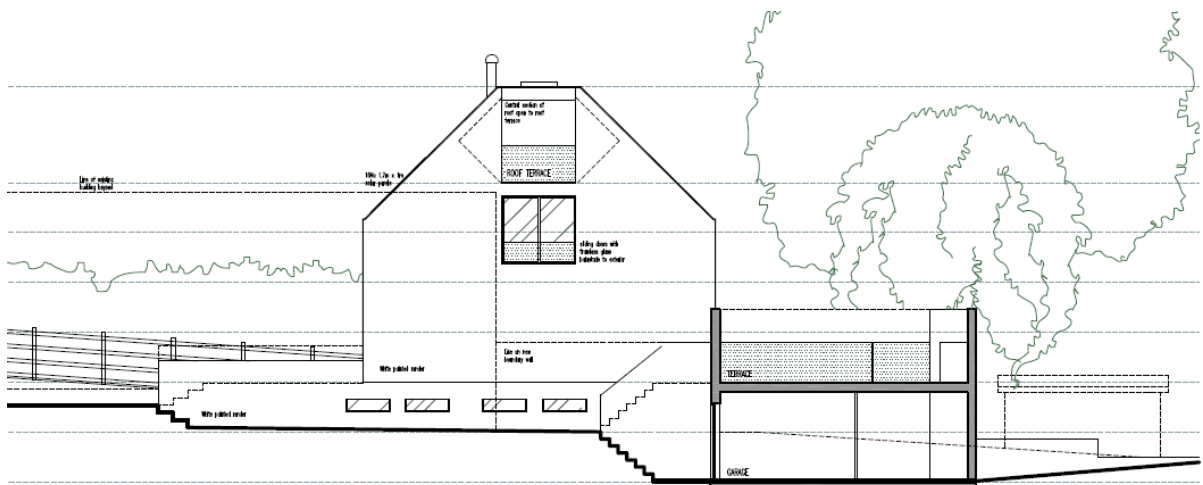
### 3.7 Proposed South elevation plan (Facing open countryside):



### 3.8 Proposed East elevation (facing The Byways residential development)



### 3.9 Proposed north elevation (facing The Courtyard office development):



## **b) Plans and Statements / Documents For Assessment**

### **i. Plans**

- 3.10 The Applicant has submitted the following plans:
- North Elevation (Drawing Number: 16-209 PL13 REV A, dated Jul 2016);
  - East Elevation (Drawing Number: 16-209 PL14 REV A, dated Jul 2016);
  - South Elevation (16-209 PL15 REV A, dated Jul 2016);
  - West Elevation (Drawing Number: 16-209 PL16 REV A, dated Jul 2016);
  - Section C-C (Drawing Number: 16-209 PL17, dated Jul 2016);
  - Soft Landscape proposals (Drawing 1350-PL1-02 Soft Landscape Proposals Prepared by Keary/Coles 1:100@A1);

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

- 3.11 An amendment to the style and positioning of the chimney was made; from stainless steel to matt black. Accordingly updated plans have been received to reflect this change.

### **ii. Supporting Statements / Documents**

- 3.12 The Applicant has submitted the following supporting documents:
- Supporting Statement (RM James 18/07/16);
  - Solicitor's letter of advice (Howes Percival, Date: 14 September 2016);

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

- 3.13 No formal pre-application advice has been provided.

## **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 HDC Technical Services (Drainage Engineer)
- Consulted. No comments received.
- 4.4 HDC Environmental Services
- Consulted. No comments received.
- 4.5 Leicestershire County Council Highways Authority (LCC HA)
- "The Local Highway Authority refers the Local Planning Authority to current standing advice provided by the Local Highway Authority dated September 2011." (19/08/16)

#### 4.6 Leicestershire County Council Ecology

“Dear Sir,

Planning Application Number: 16/01168/FUL - Erection of a dwelling (revised scheme of 06/01550/FUL) - Land Rear Of The Courtyard, Gaulby Lane, Stoughton.

Thank you for your letter of 1st August 2016 regarding the above planning application.

It appears from the plans that this proposed development will impact an area of overgrown ground which provides potential habitat for badgers. There is therefore a strong possibility that badgers may be present in or adjacent to the application site and may be impacted by the development.

For these reasons, in accordance with Trigger C of our local validation criteria, we recommend that a badger survey of the site is carried out and submitted before the planning application can be determined. This should involve a suitably experienced ecologist surveying the site, identifying any badger setts or badger activity on site.

Should evidence of badgers be found on site, a mitigation plan must also be submitted with the application.

If, however, the site has been cleared since our aerial photographs were taken, there may be no need for this survey. Photographs of the site may help to make this assessment.” (15/08/16)

#### 4.7 Stoughton Parish Council

Comments received for the current application (16/01168/FUL) state:

“Stoughton Parish Council make the following comments on the above planning application.

Our major concerns are: -

The sheer size and height of dwelling and the unbroken roof position so prominently in the landscape of the main approach to the conservation village. Possibly disguised by trees in the summer, but open to full view during Autumn/Winter. The view from surrounding properties including 'The Courtyard Development' will have this property dominating their outlook all year.

1. It must be no higher than the previous consent. Which the plans show this is not the case. This new proposal stands much higher than acceptable for properties surrounding the plot.

2. The roof covering should absolutely not be in 'ZINC' sheets, even if they are called 'Slate Blue' they will bleach out in the sunlight and turn into a large off-white reflective panel standing out in the rustic setting of the surrounding properties and village backdrop. Possible 'flat black slate' tiles in place of Zinc sheeting would be more acceptable, and would weather more gracefully into the village fabric.

3. However, on the entrance to Stoughton Village you are greeted with truly beautiful, sympathetically designed 'Courtyard and Byways Development. Unfortunately, this design of house will not nestle into the developments already surrounding the plot of land which should be taken into consideration, sitting of the edge of the Conservation Area.

4. If this planning application is approved, our village will definitely lose an important area of character and charm which has been praised and admired for many years. Let's hope it continues to do so." (06/09/16)

## **b) Local Community**

4.8 14 Objections have been received. The following synopsis of objection comments summarises the objections raised:

- The proposed dwelling has an overbearing and unsuitable, negative visual impact on the area.
- The site is in a conservation area in which the buildings have a certain rural character.
- It will harm the visual aspect of approaching the village from Gaulby Lane.
- Building on this undeveloped area will fail to enhance or preserve the character or appearance of this site/area.
- Stoughton is a conservation village and this development, being right on the edge of this, the proposal would 'badly affect the character and appearance of the area'.
- It will extend the village boundary and the field opposite would then be ripe for development also.
- The proposed building does not respect or reflect the vernacular of the surrounding barn.
- "Most adjacent buildings are single-storey (only part of Hayloft Barn is two storey). With the exception of the Church, all buildings on Gaulby Lane are built of brick and have a slate or tiled roof and timber windows".
- "In contrast, the proposed dwelling appears to have four storeys, a zinc roof, solar panels, metal windows, an abundance of glazing and an external stainless steel chimney".
- "Materials proposed are 'completely inappropriate, especially the roof'.
- Edge of the village boundary for permitted development. If granted will form a precedent for further development of the village.
- Proposal would overlook garden and amenity of The Hayloft, Gaulby Lane and other residential properties to the east.
- Reduce property value of The Byways, Gaulby Lane.

## **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**

5.2 Section 38(3)(b) of the 2004 Act defines the DP as the DP documents (taken as a whole) that have been adopted or approved in that area.

5.3 The DP for Harborough comprises:

- The Harborough District Core Strategy adopted November 2011;
- The saved policies of the Harborough District Local Plan (HDLP) adopted April 2001.

5.4 Material considerations include any consideration relevant to the circumstances which has a bearing on the use or development of land. The material considerations to be taken in to account when considering the merits of this application include the DP referred to above, the National Planning Policy Framework (hereafter referred to as 'The Framework' or 'NPPF'), the national Planning Policy Guidance, further materially relevant legislation, together with responses from consultees and representations received from all other interested parties in relation to material planning matters.

5.5 *Harborough District Core Strategy*

The Core Strategy (hereafter referred to as the 'CS') was adopted in November 2011 and covers the period from 2006 to 2028. The following Policies of the CS are relevant to this application.

- Policy CS1 (Spatial Strategy)
- Policy CS2 (Delivering New Housing)
- Policy CS5 (Providing Sustainable Transport)
- Policy CS8 (Protecting and Enhancing Green Infrastructure)
- Policy CS9 (Addressing Climate Change)
- Policy CS10 (Addressing Flood Risk)
- Policy CS11 (Promoting Design and Built Heritage)
- Policy CS17 (Countryside, Rural Centres and Rural Villages)

5.6 *The saved policies of the Harborough District Local Plan*

- Policy HS/8 (Limits to Development)

## **b) Material Planning Considerations**

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

The Framework, published March 2012, replaces previous national policy/guidance set out in Planning Policy Statements and Planning Policy Guidance documents.

5.8 *National Planning Practice Guidance*

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

5.9 *Planning (Listed Buildings and Conservation Areas) Act 1990, Section 72*

Section 72 imposes a duty on Local Planning Authorities to pay special regard/attention to Conservation Areas, including setting, when considering whether to grant planning permission for development. For Conservation Areas "special

attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area” (Section 72). Core Strategy Policy CS11 and the NPPF also apply in this respect.

5.10 *New HDC Local Plan*

5.11 *Supplementary Planning Guidance*

The following SPGs are considered to be most relevant:

- SPG Note 1: Design Principles to be Applied in Harborough District
- SPG Note 2: Residential Development
- SPG Note 3: Single Plot Development and Development of Small Groups of Dwellings and Residential Development within Conservation Areas
- SPG Note 4: Residential Development in the Countryside
- SPG Note 9: Landscape and New Development
- SPG Note 19: Development and Flood Risk

5.12 *Leicestershire County Council Highways Authority Local Transport Plan 3*

5.13 *Leicestershire County Council Highways Authority 6Cs Design Guide*

5.14 *5 Year Housing Land Supply Statement*

The Council produces bi-annual monitoring reports on the level of housing supply within the District. These reports include a five year housing land supply calculation and a housing trajectory for the remainder of the DP period.

The most up-to-date report covers the period from 01 April 2016 to 31 March 2021 and demonstrates that the Council has a 4.66 year supply.

Paragraph 49 of the NPPF states that where local planning authorities cannot demonstrate an up-to-date five year supply (5YS) of deliverable sites they should consider planning applications for housing “in the context of the presumption in favour of sustainable development”.

This proposal would make a contribution, albeit a single dwelling contribution, towards addressing the shortfall in the District’s housing supply. This adds a commensurate amount of positive material weight to approving the proposal.

5.15 *ODPM Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System)*

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Weight to be attached to the Development Plan & Material Considerations

5.16 The identified 5YS shortfall and Paragraph 49 of the Framework indicate that the Local Planning Authority’s relevant Development Plan policies for the supply of housing “should not be considered up-to-date”. Therefore, the Framework advises that a reduced amount of material weight should be attached to Development Plan policies which are not in accordance with the Framework. Paragraph 14 of the NPPF is relevant, which states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.



- 5.17 The aspect of Policy CS2 which permits development outside Limits when there is less than a five year supply, but automatically rules it out when there is a five year supply, is judged to be out-of-date and superseded by Paragraph 14 of the Framework. The overarching guidance, advocated by both Policy CS2 and the Framework, is that new housing shall be provided in a sustainable manner and proposals shall be in keeping with the scale and character of the settlement concerned.
- 5.18 It is judged that blanket restriction policies, such as saved 2001 Local Plan Policy HS/8 (Limits to Development), are presently not up-to-date and in accordance with the Framework. The current Limits to Development of those settlements in the District which possess Limits were implemented in 2001; 15 years ago. The background work leading to the establishment of these Limits is even older; the Limits were established based on now out-of-date housing needs evidence. As such, Paragraph 14 of the Framework is pertinent; the overarching presumption in favour of sustainable development takes precedence.
- 5.19 “Annex 1: Implementation” to the Framework advocates how the Framework should be applied. In particular, Paragraph 215 qualifies that:
- “due weight should be given to relevant policies in existing plans [*the Development Plan*] according to their degree of consistency with this Framework (the closer the policies in the Plan to the policies in the Framework, the greater the weight that may be given).”
- 5.20 Further materials considerations are evaluated in the “Assessment” Section 6 of this report, below.

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

- 5.21 *Circular 11/95 Annex A – Use of Conditions in Planning Permission*
- 5.22 *Harborough Housing Requirements Study and Leicester and Leicestershire SHMA*

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

- 5.23 *Reason for Committee Decision*

This application is to be determined by Planning Committee owing to the number of counter-representations received.

### **6. Assessment**

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

- 6.1 The District's 5 year housing supply shortfall adds material weight in favour of approving this proposal, albeit tempered by the fact that the proposal is for only one dwelling.

#### **b) Principle of Development**

- 6.2 The proposal has an existing consent in the form of application reference 10/01530/ETF and originally application reference 06/01550/FUL. The principle of the development has already been established by the site history.
- 6.3 This current application seeks minor amendments to the design of the dwelling as outlined in section 3.6.

### **c) Technical Considerations**

#### **1. Design and Visual Amenity, Including Impact on the Setting of the Conservation Area**

- 6.11 Stoughton village has origins of an estate village which is supported by the Council's Conservation Area Statement.
- 6.12 The dwelling would have a flat-roof element, which would be visible mainly as part of the northern elevation above The Courtyard office development, but overall it would read as a pitch-roof building.
- 6.13 The choice of materials has already been considered and established by the appeal decision (06/01550/FUL and 10/01530/ETF). The Inspector concluded that the dark colouring of the roof and the white-washed render reflects those found within the village.
- 6.14 The use of extensive glazing on the main west-facing elevation which would be glimpsed through the existing substations, vegetation and The Courtyard office development would help to reduce the visible presence of the built form and reduce the perceived scale and massing of the dwelling.
- 6.15 The appeal decision (Appendix 1) recognises that the proposal represents a "departure from the arrangement of relatively small window openings in relation to the mass of the brickwork found in the former estate dwellings. However, it would reflect the large glazed frontages of typical farm buildings in a novel way."
- 6.16 The proposed dwelling would be set back from Gaulby Lane by approximately 25m and will be viewed in context with the existing single storey office development, The Courtyard and its associated car park and the residential development known collectively as The Byways (both involving former farm buildings).
- 6.17 The Inspector has assessed the design and visual impact of the proposal (see Appendix 1- para 21) and has found the form, scale, massing of the dwelling acceptable. It is stated: "the proposal would be an innovative and interesting development, which would respect its village setting and would preserve the character and appearance of the conservation area."
- 6.18 The Appeal recognises the "unashamedly contemporary" design and states: "the building would present a contrast, as a modern take on a traditional form, but on e which would be attractive and of interest in its detailing and fenestration. Its colouring would tie it, visually, to its setting and reflect the interplay of contrasting white and black in the former estate dwellings, rather than in the textural qualities of their external materials or points of external detailing." (see Appendix 1- para 20)
- 6.19 Objections have been raised regarding the use of zinc roof. However, this material has been assessed and established in the Appeal decision (see Appendix 1- para 19).

19. As regards materials, I accept that a standing seam zinc cover for the roof and rendered blockwork for the walls of the dwelling would depart from the typical arrangement of whitewashed brickwork and slate roofs. However, I consider that to use whitewashed or light-coloured brickwork would be to seek to copy earlier styles, which would be alien to the design approach. A smooth render would lack the texture of brickwork but would produce a clean finish more suited to the recognisably modern form of the building. The evidence on the use of zinc at the hearing was that it would not bleach or lighten over time, as is claimed by objectors. For similar reasons, the use of concealed gutters, rather than overhanging eaves and gutters supported by brackets, would be better suited to a dwelling of modern appearance.
- 6.20 In regards to the roof terrace. The previous consents have already established a covered platform area. The previous consents show the north elevation with two large windows overlooking the car park associated with The Courtyard office development.
- 6.21 The current proposal seeks to amend this to an open roof terrace accessed from the master bedroom. It would not significantly alter the viewpoint afforded from the existing consent. Moreover, representations have been received that claim this area to be an 'extra floor'. However, as explained above that is not the case.
- 6.22 The additional rooflights proposed will be conservation style and would lie flush within the roof planes using recessing / rebating kits.
- 6.23 Representations received raised concerns over the dwelling appearing to have either four or five storeys. However, the dwellings remain 2.5 storeys and notwithstanding the matter of the height of the dwelling has been dealt with and established by the Inspector (See Appendix 1- para 15)
15. I note the design guidance set out in the Parish Plan relating to the height of new development on the edge of the village, though its aim is to minimise the impact on the countryside. For the reasons I have given, I do not consider that the dwelling would have a dominant presence when viewed from the approach to the village, in spite of its height. I note also that, purely in relation to height, a number of the whitewashed buildings within the village are characterised by tall main elevations, of three storeys in height or of two storeys but raised above the level of the street, often with a vertical emphasis. The former main Byways farmhouse is one such example. I do not consider that the dwelling would have a harmful presence simply because of its height.
- 6.24 Extensions, alterations and other GPDO Permitted Development works (e.g., outbuildings under Class E) could appear cramped or unsightly within the site and be visually harmful to the locality and cause harm to the setting of the Conservation Area. A GPDO (2015) Schedule 2, Part 1, Permitted Development Restriction (PDR) Condition is therefore recommended; Classes A and E.
- 6.25 The proposal is judged to be well designed. The proposal would be in keeping with the character and appearance of the site and its surroundings, which includes the public right of way green infrastructure assets. The proposal would preserve the setting of the Conservation Area and special regard has been given to this matter. The proposal is judged to accord with Policies CS1, CS2, CS8, CS11 and CS17 of the Harborough District Core Strategy in the above respects.

## 2. Ecology

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- 6.26 LCC Ecology has reviewed the resubmitted proposal and advises that “Planning Application Number: 16/01168/FUL - Erection of a dwelling (revised scheme of 06/01550/FUL) - Land Rear Of The Courtyard, Gaulby Lane, Stoughton.

It appears from the plans that this proposed development will impact an area of overgrown ground which provides potential habitat for badgers. There is therefore a strong possibility that badgers may be present in or adjacent to the application site and may be impacted by the development.

For these reasons, in accordance with Trigger C of our local validation criteria, we recommend that a badger survey of the site is carried out and submitted before the planning application can be determined. This should involve a suitably experienced ecologist surveying the site, identifying any badger setts or badger activity on site.

Should evidence of badgers be found on site, a mitigation plan must also be submitted with the application.

If, however, the site has been cleared since our aerial photographs were taken, there may be no need for this survey. Photographs of the site may help to make this assessment.”

- 6.27 This can be achieved by way of an appropriate condition if necessary.
- 6.28 The proposal is judged to comply with Policy CS8 of the Harborough District Council Core Strategy in this respect.

## 2. Flooding and Drainage

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- 6.29 No Flood Risk Assessment or drainage details have been provided for this application.
- 6.30 The site is within Flood Risk Zone 1, identified as at Low risk of flooding. CS10 directs development towards Flood Risk Zone 1.
- 6.31 No comments have been received from HDC engineers.
- 6.32 Details of surface water drainage and foul drainage would be subject to necessary permissions/consents from Building Control and Severn Trent Water.

## 4. Highways

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- 6.33 The Landscape Scheme Condition has already been discharged as part of application reference 13/01732/PCD. The application has been permitted and the type of surfacing material for the driveway and turning area has been judged to be both visually appropriate and negate the possibility of harmful material being deposited on the highway.
- 6.34 Condition 7 (access) of application 10/01530/ETF has been permitted and the details have been judged to accord with all relevant policies and considerations.

- 6.35 The proposal is judged to accord with Policies CS5 and CS11 of the Harborough District Core Strategy in the above respects.

## 5. Conservation area and Heritage Assets

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- 6.36 Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 impose a duty on Local Planning Authorities to pay special regard/attention to Listed Buildings/assets and Conservation Areas, including setting, when considering whether to grant planning permission for development. For Listed Buildings/assets, the Local Planning Authority shall “have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses” (Section 66) and for Conservation Areas “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area” (Section 72).
- 6.37 Paragraph 17 of the Framework lists the appropriate conservation of heritage assets as a Core Planning principle. Chapter 12 goes on to provide detail on this, specifically paragraphs 131 (when determining planning applications, LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation); 132 (great weight should be given to an asset’s conservation, that the significance of an asset can be harmed or lost through development within it, and that any harm or loss should require clear and convincing justification); and 133-134 (harm to the significance of an asset weighed against public benefits of a proposal).
- 6.39 As noted in paragraph 1.1, the site lies within the Stoughton Conservation Area and it is within relatively close proximity of a Listed Building and a Scheduled Ancient Monument. The impact of the proposal on the setting of these must therefore be considered. The site lies to the south of these heritage assets however any loss of views to them, or harm to their setting has already been considered and found satisfactory by the Inspector (see appendix 1). Furthermore, the minor revisions this application seeks is not considered to be a significant material change from the previously approved scheme.
- 6.40 Subject to conditions regarding suitable materials, the proposal is judged to accord with Policy CS11 in respect of impact on heritage assets and Section 12 of the Framework.
- 6.41 It is noted that archaeological work was required as part of the previous permission (06/01550/FUL). No works within the Scheduled Ancient Monument are proposed. Subject to conditions regarding relevant archaeological assessment, the proposal is judged to accord with Policy CS11 in respect of impact on heritage assets and Section 12 of the Framework.

## 6. Residential & General Amenities

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- 6.42 The proposal is very similar to the previously approved scheme under application 06/01550/FUL and 10/01530/ETF.
- 6.43 The positioning and siting of the dwelling has not changed from the previous consent. The Inspector assessed the relationship between the proposed dwelling and the neighbouring buildings and found the relationship to be acceptable.

- 6.44 Whilst the majority of the buildings are sited to the side of the existing office development known as The Courtyard or away from the boundary with the site. One window within the closest corner of the barn conversions to the site (The Hayloft) has a habitable room window approximately 7.5m from the boundary and approximately 21m from the proposed dwelling itself.
- 6.45 The nearest windows to the converted property (The Hayloft) is a full height opening at ground floor level and a post box opening for the first floor bedroom.
- 6.46 Given the nature of the first floor windows and the separation distance it is not considered that the proposed development would unduly harm the residential amenities of the neighbouring dwellings.
- 6.47 This view is echoed in the Inspectors decision:

22. Concerns were expressed at the hearing, on behalf of occupiers of properties in the Byways development, regarding harm to their outlook and possible loss of daylight and sunlight, and harmful overlooking principally from the proposed

main bedroom on the first floor. I was able to view the site from Horseshoe Barn, one of the dwellings. Taking impact on the outlook first, I accept that the proposed dwelling would have a visible presence, as viewed from this dwelling and The Hayloft but it would not itself be a visually overbearing feature. The present outlook from The Hayloft is in any event dominated by The Courtyard buildings. Any loss of sunlight and daylight to either property would, in my judgment, be marginal.

23. With regard to overlooking, I am mindful that the dwelling would be set back from the rear boundary and that the site rises towards the rear, offering the scope for landscaping to provide screening to neighbouring gardens. The rear elevation of the dwelling would be some distance away from main habitable rooms to both properties, and I note that the garden to The Hayloft is in any event overlooked from Horseshoe Barn. Overlooking to gardens is for consideration in relation to landscaping details at the rear of the site. On the basis that satisfactory landscaping can be achieved, I see no grounds for concluding that the proposal would give rise to harm to the living conditions of occupiers of these properties, with regard to these matters.

- 6.48 The proposed dwelling would be viewed alongside the single storey Courtyard office development and with The Byways residential development as a backdrop with the public bridleway D50 running alongside the site would allow close-up views.
- 6.49 Whilst the majority of the existing buildings are sited to the side of the existing office units or away from the boundary with the site. One window within the closest corner of The Byways development to the site has a habitable room approximately 7.5m away from the boundary and approximately 21m from the proposed dwelling itself.
- 6.50 The resident of this property has written in to object to the proposal on a number of grounds, one of those grounds being that the proposal would overlook their property at close proximity, as seen in the following east elevation plan:



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

- 7.1 The proposal is judged in context of the existing consent and is considered to be very similar to the approved scheme.
- 7.2 The amendments proposed are minor and do not alter the existing scheme to an extent that warrants refusal of the application.
- 7.3 The proposal would preserve the special character and appearance (the setting) of the Conservation Area.
- 7.4 The proposal accords with Policies CS1, CS2, CS5, CS8, CS9, CS10, CS11 and CS17 of the Harborough District Core Strategy and no other material considerations indicate that the policies of the Development Plan should not prevail.
- 7.5 The decision has been reached taking into account, inter alia, Paragraphs 186 and 187 of the Framework and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **8. Planning Conditions**

- 8.1 If Members are minded to Approve the application, a list of recommended Planning Conditions and Informative Notes follows in **Appendix A**.

## **Appendix A**

### **Recommended Conditions**

#### **1. Development to Commence Within 3 Years**

The development hereby approved shall begin within 3 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. Approved Plans Reference**

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

- North Elevation (Drawing Number: 16-209 PL13 REV A, dated Jul 2016);
- East Elevation (Drawing Number: 16-209 PL14 REV A, dated Jul 2016);
- South Elevation (16-209 PL15 REV A, dated Jul 2016);
- West Elevation (Drawing Number: 16-209 PL16 REV A, dated Jul 2016);
- Section C-C (Drawing Number: 16-209 PL17, dated Jul 2016);
- Soft Landscape proposals (Drawing 1350-PL1-02 Soft Landscape Proposals Prepared by Keary/Coles 1:100@A1);

REASON: For the avoidance of doubt.

#### **3. Materials Schedule**



The development hereby approved shall be constructed entirely of the materials as detailed under application reference 13/01732/PCD, namely:

Bricks - Ibstock Birtley;  
Roof Materials - Slate coloured ANTHRA-ZINC;  
Render - White Painted Sto Render G1,0mm;  
Window frames - factory finished with RAL 7021;  
Front door - natural solid oak.

Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity.

REASON: In the interests of the character and appearance of the development and the surrounding area (which includes green infrastructure PROW), to preserve the setting of the Conservation Area and to accord with Policies CS1, CS2, CS8, CS11 and CS17 of the Harborough District Core Strategy.

**4. Conservation Rooflights, Fitted Flush**

The rooflights to be used shall be specialist conservation style rooflights (dark metal external finish, with central vertical glazing bar) and shall be fitted using 'recessing / rebating' kits so that they are fitted flush (externally) within the roof plane/s.

REASON: In the interests of the character and appearance of the development and the surrounding area (which includes green infrastructure PROW), to preserve the setting of the Conservation Area and to accord with Policies CS1, CS2, CS8, CS11 and CS17 of the Harborough District Core Strategy.

**5. Landscaping Scheme**

All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development, whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years from the date of first occupation of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall also be carried out in accordance with the approved details submitted under planning permission 13/01372/PCD (including Drawing 1350-PL1-02 Soft Landscape Proposals Prepared by Keary/Coles 1:100@A1), prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features and to accord with Harborough District Core Strategy Policy CS11

**11. Access and Car parking**

The details of the access to Gaulby Lane of the development hereby approved; including the means of surfacing the bridleway and any necessary additional works to maintain adequate visibility at the junction with Gaulby Lane will be carried out in accordance with details shown on the "Gaulby Lane Visibility and Construction Specification" (Reference CIV\_NO\_L\_002AA.dwg; amended 11.12.13). Submitted under planning permission 13/01732/PCD.

The dwelling shall not be occupied until the access has been completed in accordance with the approved details.

Thereafter, the parking and turning spaces so provided shall be maintained as such in perpetuity.

REASON: In the interest of highway safety, to ensure provision of adequate off-street parking and turning facilities, to reduce the possibility of the proposed development leading to on-street parking problems in the area and to accord with Policies CS5 and CS11 of the Harborough District Core Strategy.

**12. GPDO Restriction – Schedule 2, Part 1, Classes A and E**

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order, with or without modification), no development within Schedule 2, Part 1, Classes A and E shall take place to the hereby approved dwelling and its curtilage, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of the character and appearance of the development and the surrounding area (which includes green infrastructure PROW), to preserve the setting of the Conservation Area and to accord with Policies CS1, CS2, CS8, CS11 and CS17 of the Harborough District Core Strategy.

**14. Archaeology**

No development shall commence on site until the applicant has secured the implementation of a programme of archaeological works in accordance with the written scheme of investigation referenced as trigpoint conservation & planning ltd; "WRITTEN SCHEME OF INVESTIGATION FOR ARCHAEOLOGICAL ATTENDANCE FOR INSPECTION AND RECORDING"; Land to the rear of The Courtyard, Gaulby Road, Stoughton, Leicestershire, LE2 2FL; November 2013 (rev. A). Submitted and approved by the Local Planning Authority under planning permission 13/01732/PCD.

As per the agreed Written Scheme of Investigation, all groundworks associated with the development shall be undertaken under archaeological supervision. 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 District Council Core Strategy Policy CS11.

**12. Bridleway clear at all times**

Construction works in connection with the development hereby permitted shall be carried so as to ensure that, at all times, the bridleway adjoining the site remains free from obstruction in the form of stored materials, or parked plant or vehicles.

**12. Hard landscaping and external lighting**

All hard landscape works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority, and soft landscape works shall be carried out during the first available planting season following occupation of the dwelling: any trees which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced by others of similar size and species unless the local planning authority gives its written consent to any variation. The details of the external lighting shall be in accordance with the submitted details under planning permission 13/01732/PCD (Gala L OK LED Wall Light Detail.)

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features and to accord with Harborough District Core Strategy Policy CS11.

**12. No landscaping works encroach on bridleway**

Notwithstanding the details of landscaping and fencing to the front of the site as shown on the submitted plans, no landscaping works shall encroach on to the bridleway adjoining the site and works shall remain within the site boundary as shown on the proposed site and location plan drawing number SH/1021 2/100 REV C dated OCT 13 submitted and approved under planning permission 13/01732/PCD.

REASON: To ensure the bridleway remains free from obstruction.

Appendix 1:



# Appeal Decision

Hearing held on 19 February 2008

Site visit made on 19 February 2008

by **Chris Hoult** BA(Hons) BPhil MRTPI

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
25 February 2008

**Appeal Ref: APP/F2415/A/07/2049272**

**Land To Rear Of The Courtyard, Gaulby Lane, Stoughton, Leicestershire, LE2 2FL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Bebbington against the decision of Harborough District Council.
- The application Ref 06/01550/FUL, dated 23 October 2006, was refused by notice dated 12 January 2007.
- The development proposed is "the erection of a new single family dwelling house for residential use".

Appeal



## Decision

1. I allow the appeal, and grant planning permission for the erection of a dwelling and formation of an access on land to the rear of The Courtyard, Gaulby Lane, Stoughton, Leicestershire, LE2 2FL, in accordance with the terms of the application, Ref 06/01550/FUL, dated 23 October 2006, and the plans submitted therewith (and as listed under the heading "Plans" at the end of my decision), as amended by the revised site and location plan ref. SH/1021/2/100, and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) No development hereby permitted shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 3) No development hereby permitted shall take place until full details of both hard and soft landscape and associated works have been submitted to, and approved in writing by, the local planning authority and these works shall be carried out as approved. These details shall include: proposed finished floor levels, including for the basement-level car park; all means of enclosure and associated boundary treatments, to include all internal walls, fences and balustrades; car parking layouts within the basement-level area and vehicle and pedestrian access and circulation areas, so as to ensure that vehicles are capable of entering and leaving the site in forward gear; details of all trees to be retained and proposed additional tree planting, to include species and plant sizes and measures

- to protect retained trees in accordance with good arboricultural practice; hard surfacing materials; and all external lighting.
- 4) Notwithstanding the details of landscaping and fencing to the front of the site as shown on the submitted plans, no landscaping works shall encroach on to the bridleway adjoining the site and works shall remain within the site boundary as shown on plan ref. SH/1021/2/100 Rev B.
  - 5) All hard landscape works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority, and soft landscape works shall be carried out during the first available planting season following occupation of the dwelling; and any trees which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced by others of similar size and species unless the local planning authority gives its written consent to any variation.
  - 6) No development hereby permitted shall take place until the applicants, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been approved in writing by the local planning authority.
  - 7) No development hereby permitted shall take place until details of the access to Gaulby Lane have been submitted to, and approved in writing by, the local planning authority. The details shall include the means of surfacing the bridleway and any necessary additional works to maintain adequate visibility at the junction with Gaulby Lane. The dwelling shall not be occupied until the access has been completed in accordance with the approved details.
  - 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no further extensions or additions to the dwelling, or the provision of any additional building within its curtilage, shall be undertaken except with the prior written approval of the local planning authority.
  - 9) Construction works in connection with the development hereby permitted shall be carried so as to ensure that, at all times, the bridleway adjoining the site remains free from obstruction in the form of stored materials, or parked plant or vehicles.

#### **Application for costs**

2. At the Hearing an application for costs was made by the appellants against the Council. This application is the subject of a separate Decision.

#### **Procedural matters**

3. The description of the proposal on the application form is as set out above. The Council's decision notice describes it, more simply, as the erection of a dwelling. Since the proposal involves a new access from the plot on to an existing bridleway that provides access from Gaulby Lane, I have amended the description to refer to the erection of a dwelling and formation of an access.

4. At the hearing, I sought clarification regarding the appeal plans, in the light of a number of revisions. These deal with the encroachment of the proposal on to the adjoining bridleway and also amend the proposed materials for the external walls and roof of the dwelling. With regard to the former, the Council confirmed at the hearing that it determined the application on the basis of the revised location and site plan showing that there would be no encroachment on to the bridleway. As to materials, the appellants confirmed that revised plans had been submitted to the Council for discussion purposes following the decision but both parties agreed at the hearing that the appeal should proceed on the basis of the originally submitted plans.
5. I therefore deal with the appeal on the basis of the revised site and location plan, ref. SH/1021/2/100 Rev B and dated 8 January 2007, and of the unrevised elevation plans, refs. SH/1021/2/106 – 109, dated 10 October 2006. However, I note that, although the site and location plan has been revised, other layout and elevation plans, and the plan showing Section A-A, show the original configuration of the site, as encroaching on to the bridleway. I consider that these errors are not fundamental, since landscaping and proposed boundary treatments at the front of the site, as shown on these plans, are largely indicative. They are capable of being rectified through the submission of further details in relation to these matters, which can be required by a condition. The appeal plans are listed in full at the end of this Decision.

### **Main issue**

6. The appeal site is a vacant plot on the edge of the settlement limit to Stoughton. In the wording of its sole reason for refusal, the Council sets out its concerns regarding the proposal in some detail. To my mind, these come down to its effect on the character and appearance of its surroundings. The focus of the historic and architectural interest within the village is within the designated Stoughton Conservation Area and the site is principally viewed together with buildings which are within the area. Formerly, the conservation area boundary skirted the northern edge of the site but in a revision, adopted by the Council in 2007, it was re-drawn to include it, principally to align with the settlement limit boundary. I therefore consider the main issue to be the effect of the proposal on the character and appearance of the conservation area.

### **Reasons**

#### *Effect on conservation area*

7. At its core, Stoughton is an estate village, and both the Council's Conservation Area Statement and the Stoughton Parish Plan helpfully explain its evolution, latterly as part of the Cooperative Wholesale Society's agricultural estate. As viewed from the south west, along Gaulby Lane, the church and its grounds is the focal point of what the Council, in its statement, fairly describes as a quintessential village setting. The original estate farms and dwellings are either in whitewashed brickwork, with dark-coloured (mainly slate) roofs, or in a variety of shades of red brick. They share common detailing, with regard to fenestration and overhanging eaves and gutters supported by brackets.
8. The village presents an impressive face on the approach from this direction, first glimpsed on passing through the outer edge of the built-up area of Oadby. A number of factors combine – its location on rising ground, the setting of the



church itself, framed by grazing land and a cluster of dwellings, and the surrounding remnant parkland landscape. The appeal site forms part of this vista and I agree with both the Council and third parties that it is an important site in the context of its setting. However, I note that there is a variety of styles of dwellings in the village, with modern detached houses of a more suburban character further east along Gaulby Lane and a more recent similar development along Old Charity Farm.

9. The proposed dwelling is intended to be read as an unashamedly modern building, in its appearance and use of materials, but one which incorporates a series of visual clues that relate it to its village setting. The design concept underpins the arrangement of rooms around a central stairwell and explains its most noticeable external features, the extensive areas of glazing and asymmetrical fenestration. Vertically, it would step up through a series of half-levels from a basement level car park, and it would appear as a two storey dwelling cut into existing ground levels at the rear. It would incorporate a flat-roofed element along the main ridge, with skylights.
10. The plot is adjacent to a single storey office development, The Courtyard, and its associated car park, and to a recently-completed residential development, Byways, both involving the conversion of former farm buildings. Both these developments, which the Council considers have integrated successfully into the village setting, are visible in views on the approach to the village from the south west. Accordingly, I consider that the effect of the proposal should be assessed on a series of levels: (i) in relation to initial long and medium distance views of the village; (ii) with regard to its relationship with nearby buildings; and (iii) regarding the extent to which its appearance complements those of other buildings which make an important contribution to the overall character.

#### *Views of the village*

11. It is without doubt the imposing built form of the church that immediately draws the eye in long distance views of the village. From closer, however, individual dwellings come into play, notably the whitewashed dwelling at 2 Church Lane, and the existing group of buildings at Byways and The Courtyard, the former seen behind the latter. The proposed dwelling would introduce a new component into these views. I note the appellants' comment that the intention is that its ridge height and overall stature should match that of the dwelling known as The Hayloft (part of the Byways conversion). It would be a bulkier building and have a more substantial presence.
12. However, the dwelling would be set back within the plot from the frontage to the bridleway and that offers the opportunity to break up the appearance of mass through landscaping, notably the planting of trees, to the front garden. Photomontages show the likely effect in both summer and winter. In long and medium distance views, the fenestration, even the full height window to the main elevation, would not be a noticeable feature and the filtering effect of the trees would reinforce this impression. The proposed materials would not be recognisable and the dwelling would, to all intents and purposes, appear as a splash of white-coloured built form, to add to those that can be viewed around the church. I do not agree with the Council that it would be an especially dominant presence in these views.

### *Relationship with neighbouring buildings*

13. The dwelling would be viewed alongside The Courtyard, and with Byways as a backdrop, and the public bridleway running alongside the site would offer close up views. Opinions were divided at the hearing as to the degree of use it attracts but it appears to me to be reasonably well-used, judging from the footprints on the ground. It would fill much of the width of the plot and would encroach close to the nearer of the two buildings comprising The Courtyard development. I considered whether, on account of these factors, it would have an overbearing presence when viewed in conjunction with this building.
14. However, I am mindful that it would also be read against the taller buildings of Byways behind and be viewed against an already informal grouping of buildings of various heights. It is plain that it would impose its presence on these arrangements but not to a degree that I would find dominant or overbearing, or visually jarring. It would stand forward of The Courtyard, but not noticeably so, being set back and set down within the site, and its presence would be to an extent offset by the proposed landscaping to the frontage to the bridleway.
15. I note the design guidance set out in the Parish Plan relating to the height of new development on the edge of the village, though its aim is to minimise the impact on the countryside. For the reasons I have given, I do not consider that the dwelling would have a dominant presence when viewed from the approach to the village, in spite of its height. I note also that, purely in relation to height, a number of the whitewashed buildings within the village are characterised by tall main elevations, of three storeys in height or of two storeys but raised above the level of the street, often with a vertical emphasis. The former main Byways farmhouse is one such example. I do not consider that the dwelling would have a harmful presence simply because of its height.

### *Form and detailing*

16. This seems to me to be at the heart of the third party objections to the proposal and I acknowledge that the form, design and appearance of the building could be viewed as challenging in this particular setting. If I have one criticism of it, it is that the design focuses too much on the users of the internal spaces looking out and its functional, pared-down form could pay more recognition to its particular setting. I accept, however, the appellants' view that to seek more overtly to reflect the form and detailing of the key dwellings within the conservation area could amount to pastiche and lack integrity, as a design approach.
17. In coming to a view, I take my cue from the guidance in paragraph 4.17 of Planning Policy Guidance Note 15 (PPG15): *Planning and the Historic Environment*, that the development of gap sites, of which I would class this as an example, should be a stimulus to imaginative, high quality design. This does not mean that new buildings should directly imitate earlier styles but that they should be designed with respect for their context, as part of a larger whole which has a well-established character and appearance of its own. The relationship of the proposed dwelling to the conservation area seems to me fit those circumstances aptly.
18. The dwelling would have a flat-roofed element, visible mainly as part of the northern elevation above The Courtyard, but it would read overall as a pitch-



roofed building. The roof material would reflect the dark colouring of roofs within the village, as would white render the whitewashed walls. The extensive use of glazing on the main west-facing elevation would reduce the visible presence of built form, enabling glimpses through the full height window into the rooms on the ground floor and through to the rear garden. It would, I accept, represent a departure from the arrangement of relatively small window openings in relation to the mass of brickwork found in the former estate dwellings. However, it would reflect the large glazed frontages of typical farm building conversions in a novel way.

19. As regards materials, I accept that a standing seam zinc cover for the roof and rendered blockwork for the walls of the dwelling would depart from the typical arrangement of whitewashed brickwork and slate roofs. However, I consider that to use whitewashed or light-coloured brickwork would be to seek to copy earlier styles, which would be alien to the design approach. A smooth render would lack the texture of brickwork but would produce a clean finish more suited to the recognisably modern form of the building. The evidence on the use of zinc at the hearing was that it would not bleach or lighten over time, as is claimed by objectors. For similar reasons, the use of concealed gutters, rather than overhanging eaves and gutters supported by brackets, would be better suited to a dwelling of modern appearance.

#### *Conclusion on issue*

20. Overall, it seems to me that the proposal would bring further diversity in terms of built form into a village setting which has shown itself capable of accommodating a range of styles, but in a way that would be sympathetic to the key determinants of its character and appearance. The building would present a contrast, as a modern take on a traditional form, but one which would be attractive and of interest in its detailing and fenestration. Its colouring would tie it, visually, to its setting and reflect the interplay of contrasting white and black in the former estate dwellings, rather than in the textural qualities of their external materials or points of external detailing. To that extent, I do not see it as intruding into the setting, as the Council fears, nor do I consider that any failure to imitate earlier styles necessarily amounts to harm to the setting.
21. Accordingly, and notwithstanding my earlier reservations, I conclude that the proposal would be an innovative and interesting development, which would respect its village setting and would preserve the character and appearance of the conservation area. It would comply with the requirements of criterion 2 of Policy EV/11 of the adopted Harborough District Local Plan in relation to the materials, design and detailing of development in conservation areas and with the more general requirements of Policy HS/8 on design and layout. As an example of good design, it would meet the requirements of criteria (A) – (C) of Policy IN/1 in having regard to the site characteristics, the relationship with neighbouring buildings and the character of the surrounding area.

#### *Other issues*

22. Concerns were expressed at the hearing, on behalf of occupiers of properties in the Byways development, regarding harm to their outlook and possible loss of daylight and sunlight, and harmful overlooking principally from the proposed

main bedroom on the first floor. I was able to view the site from Horseshoe Barn, one of the dwellings. Taking impact on the outlook first, I accept that the proposed dwelling would have a visible presence, as viewed from this dwelling and The Hayloft but it would not itself be a visually overbearing feature. The present outlook from The Hayloft is in any event dominated by The Courtyard buildings. Any loss of sunlight and daylight to either property would, in my judgment, be marginal.

23. With regard to overlooking, I am mindful that the dwelling would be set back from the rear boundary and that the site rises towards the rear, offering the scope for landscaping to provide screening to neighbouring gardens. The rear elevation of the dwelling would be some distance away from main habitable rooms to both properties, and I note that the garden to The Hayloft is in any event overlooked from Horseshoe Barn. Overlooking to gardens is for consideration in relation to landscaping details at the rear of the site. On the basis that satisfactory landscaping can be achieved, I see no grounds for concluding that the proposal would give rise to harm to the living conditions of occupiers of these properties, with regard to these matters.

### **Conditions**

24. I largely follow those suggested by the Council, but with some re-ordering and re-wording, in the interests of precision. Aside from the standard time limit, a condition regarding prior approval of samples of materials is necessary, given the sensitivities to which I have already referred. I extend the scope of the Council's landscaping condition to require details of finished floor levels, including at basement level, and, given my earlier comments regarding the plans, that there should be no encroachment on to the bridleway. Controls should extend to external lighting, given the site's location on the edge of the settlement. Given the importance of landscaping to the site frontage, it is necessary to require tree protection measures in accordance with best practice and 5 years' maintenance of newly-planted trees.
25. The parties were agreed regarding the requirement for a scheme of archaeological investigation, given the proximity of the scheduled ancient monument, and, given the design, that controls should be imposed in relation to possible extensions or additions to the dwelling. With regard to access, a condition dealing with the surfacing of the bridleway and any additional visibility requirements at the junction is necessary in the interests of highway safety. It is similarly necessary to ensure that provision is made within the curtilage of the dwelling for vehicles to turn round. Finally, it is necessary to ensure that no obstruction to the bridleway occurs during construction works.

### **Conclusions**

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

*C M Hoult*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Mr A Blee FRIBA IHBC	Anthony Blee Consultancy, 180 Highbury Hill, London, N5 1AV
Mr and Mrs Bebbington	14 Westcotes Drive, Leicester, LE3 0QR

### FOR THE LOCAL PLANNING AUTHORITY:

Mr A Eastwood	Area Planning Officer
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### INTERESTED PERSONS:

Miss K Bouch	"Horseshoe Barn", The Byways, Gaulby Lane, Stoughton, Leicestershire, LE2 2FL
Miss A Hollingworth	36 Gaulby Lane, Stoughton, Leicestershire, LE2 2RC
Mr W Richmond	34 Stoughton Lane, Stoughton, Leicestershire, LE2 2FH

## DOCUMENTS

- 1 Copy of Council's letter of notification giving date, time and place of hearing and associated circulation list
- 2 Background details for Mr Blee
- 3 Background correspondence regarding saving of policies of the Leicestershire, Leicester and Rutland Structure Plan 1996-2016 pursuant to Schedule 8 of Planning and Compulsory Purchase Act 2004
- 4 Photomontage of site, with frontage landscaping in winter
- 5 Plan showing relationship of proposal to Byways development

## PLANS

- A SH/1021/2/100 Rev B: Proposed Site and Location Plan
- B SH/1021/2/101: Proposed Lower Ground Floor Plan
- C SH/1021/2/102: Proposed Ground Floor Plan
- D SH/1021/2/103: Proposed First Floor Plan

- E SH/1021/2/104: Proposed Second Floor and Roof Plan
- F SH/1021/2/105: Proposed Section A-A
- G SH/1021/2/106: Proposed North Elevation
- H SH/1021/2/107: Proposed South Elevation
- I SH/1021/2/108: Proposed East Elevation
- J SH/1021/2/109: Proposed West Elevation

**Applicant: Mrs J Bailey**

**Application Reference: 16/01206/OUT**

**Location: Charlie Brown's Garden Centre Adjacent 80 Dunton Road, Broughton Astley**

**Proposal: Outline permission for the demolition of the existing garden centre buildings and erection of up to 11 dwellings (all matters reserved)**

**Application Validated: 18/08/16**

**Target Date: 17/11/16**

**Consultation Expiry Date: 03/10/16**

**Site Visit Date: 20/09/16**

**Case Officer: Louise Finch**

### **Recommendation**

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

1) The proposed development by virtue of its isolated location, would appear as a discordant and out of character feature, and would detrimentally affect the character of this part of the village. This harm is not outweighed by the housing land supply shortfall. The proposal would be contrary to Core Strategy Policies CS2 (b) and CS11 (b and c) and BANP Policy H3. Collectively, the harm that would be caused to the built environments justifies a conclusion that the housing proposed would not be sustainable development contrary to the aims and objectives of the Framework, including paragraphs 7, 14 and 49

2) The applicant has failed to demonstrate that an acceptable sustainable drainage strategy can be provided to mitigate for the proposal. The application therefore fails to comply with Core Strategy CS10, Paragraphs 104 and 110 of the National Planning Policy Framework and Written Ministerial Statement (HCWS 161).

Note: The decision has been reached taking into account paragraphs 186-187 of the National Planning Policy Framework.

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





1.1 The application site, relates to the site of Charlie Brown's Garden Centre which includes various functional buildings, including glasshouses. No public footpath cross the site. The application site is outside the defined Limits to Development (shown below) of Broughton Astley (and also outside any designated Conservation Area) and there are no other specific policy or land use designations.





The site is relatively flat with no significant changes in levels. There is one large detached dwelling (as per photo above) located to the north which is currently the first dwelling seen when entering the village from the South (Dunton Bassett direction), whilst on the opposite side of the road there are properties in linear form but not directly fronting the road at this point.



## 2. Site History

2.1 Outline permission for the demolition of the existing garden centre buildings and erection of up to 11 dwellings (all matters reserved) at Charlie Brown's Garden Centre Adjacent 80 Dunton Road, Broughton Astley (withdrawn prior to determination).

### 3. The Application Submission

#### a) Summary of Proposals

The application seeks outline consent for the demolition of the existing garden centre buildings and the erection of 11 dwellings. Whilst all matters are reserved, an indicative site plan has been submitted which shows a mix of 3 and 4 bedroom properties, 2 of which front onto Dunton Road and a new central access, whilst use is made of the existing access to serve one of the frontage plots. The average height is given as approximately 8m.

It is noted that the design and access statement refers to 10 dwellings but the application form and indicative plan (below) show 11.



#### b) Documents submitted

- Design and Access Statement
- Site and indicative layout plan
- Outline drainage strategy.

#### c) Pre-application Engagement

3.6 No pre-application advice was given.

### 4. Consultations and Representations

4.1 Consultations with technical consultees and the local community were carried out on the application.



- 4.2 Firstly, a summary of the technical consultee responses received are set out below. Where comments relate to developer contributions, these will be discussed in more detail within the main body of the report. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

##### Highways (LCC):

The Local Highway Authority advice is that, in its view the residual cumulative impacts of development can be mitigated and are not considered severe in accordance with Paragraph 32 of the NPPF, subject to the Conditions outlined in this report.

Review of recorded accident data demonstrates that the vehicular access to the existing garden centre operates satisfactorily and when considering the existing use and trip generation the proposed development is unlikely to lead to a demonstrable increase in vehicular movements onto Dunton Road.

Given that the application seeks only outline permission for a residential development the CHA has not considered a specific access or layout strategy for the development site. Specific details such as these will be considered by the CHA at the full application or reserved matters stage and will need to be designed in accordance with the Leicestershire County Council's design guide.

The CHA does however note the indicative layout drawings which appear to show a proposed access relocated further south along Dunton Road. This proposal is likely to be acceptable in principle however would have to be designed with appropriate geometry and visibility to maintain a safe vehicular access to the site, especially given the inevitably higher recorded vehicle speeds closer to the end of the 30mph section.

The potential adoptability of the internal layout may also be affected by the design of the vehicular access and its proximity with the junction of Dunton Road opposite. If the applicant's intention is to seek adoption of the internal roads then this might be something they would wish to contact the CHA proactively about.

##### Environment Agency:

No comments received (FRA not required on a site of this size/location).

##### Lead Local Flood Authority (LLFA):

When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment and will not put the users of the development at risk.

The proposed development is not acceptable and we would advise refusal on the following grounds. recommend refusal:

The submitted Outline Drainage Strategy does not attempt to assess the greenfield run-off rates for the site and subsequently does not conform to the guidance contained within the non-statutory technical standards which states:

**S3** *"For developments which were previously developed, the peak runoff rate from the development to any drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event must be as close as reasonably practicable to the greenfield runoff rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development prior to redevelopment for that event."*

**S5** *“Where reasonably practicable, for developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 1 in 100 year, 6 hour rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but should never exceed the runoff volume from the development site prior to redevelopment for that event.”*

Furthermore, the Applicant has not attempted to assess any existing on-site drainage to identify restrictions to current run-off rates, instead using the modified rational method which typically overestimates flows.

#### Overcoming Objection

The Applicant should assess greenfield run-off rates for the development site and indicate how the development could accommodate matching the greenfield run-off rates for the site. The Applicant should also submit an assessment of the development sites existing surface water drainage system to identify any restrictions to current discharge rates. If this information cannot be submitted, the LLFA expect the development site to proposed equivalent greenfield run-off rates or the practical minimum.

#### Water authority (Severn Trent Water):

No objection subject to drainage condition.  
Recommend note to applicant regarding public sewers.

#### Environmental Services (HDC):

No objections subject to conditions requiring contaminated land assessment and to control hours of construction

#### Leicestershire County Council Archaeology:

No archaeological work required.

#### Leicestershire County Council Ecology:

The application site appears to currently be built up and covered with hardstanding, with no areas of vegetation. Additionally, it appears that the buildings on site fall into the category of when a bat survey is not required, as detailed in the attached Bat Survey Protocol. Based on this we have no survey requirements for this application. However, should any of the buildings on site comprise brick buildings with tiled roofs/traditional barn structures a bat survey may be required. If further information could be provided on the existing buildings on site we would be pleased to advise further if required.

#### Housing Manager

The proposal for 11, units on this site means there will be a requirement for the applicant to make a provision for affordable housing. Our 30% on 11 units equates to 3.3 units rounded down to 3. Given the size of this scheme, We will request 3x2 bed units to be provided as affordable to be transferred to a preferred RP partner. Our preference is for on site provision in the first instance.

We would request the 2 units to be provided as two bed houses. At this point, I am prepared to be flexible on our tenure requirement

#### LCC.

Education:

Contributions towards secondary and Post 16 sector schools.

#### Libraries:

No contribution required.

## NHS

Comments awaited

## HDC

Parish Liaison Officer;

Community facility contribution required.

Evidence of Need submitted by the Broughton Astley Scouts to support a project proposal for a financial contribution to a new build/ building purchase for a Community Scout facility.

## Neighbourhood and Green spaces Officer:

Suggests that a small on site POS would be beneficial given the location of the development and the in accessibility of a Local Area for Play for young people. The POS should not have equipped play area but the interest for young people or children should come from mounding or other natural play structures.

Off site contribution required if the above not provided.

## **b) Local Community**

### Ward Councillor

No formal comments received

### Broughton Astley Parish Council:

No Objection:

Although this is an isolated plot, it is an existing 'Brownfield' site with access to the main road, within a 30 mph speed limit and providing good visible splay from the road. Members considered the flow of traffic from the site and concluded that this would be reduced compared to the current movement of traffic visiting the pre-existing Garden Centre.

The Broughton Astley Neighbourhood Plan (3.4 Windfall and Backland Development pages 17 To 18) allows for small well designed residential sites to be built. Although this application exceeds 5 dwellings it was considered by members that its status as a 'Brownfield' site was acceptable.

The impact on neighbouring properties is considered to be minimal and would not have any Further negative impact and there would be no detrimental effect on the street scene.

The objections received from Property numbers 61 and 67b were reviewed regarding flooding.

At present the site is covered with greenhouses and tarmac which will be replaced with new properties. Gardens and street site infrastructure will improve the drainage.

Members also felt that the inclusion of 3 affordable houses on this site would assist towards the needs of the village.

### Representations

4 letters of individual objection and petition with 27 signatures from 25 households asking Council to reject proposal and fully consult with residents on future proposals.:

1. Plots 1 and 11 will result in overlooking and loss of privacy.
2. Overbearing impact/loss of light.
3. Adverse impact on character of countryside-current buildings single storey and low key..
4. Impact on ecology-barn owl, badgers and other wildlife.
5. Increase in traffic.
6. Increase in noise and disturbance.
7. Impact on drainage and severe flooding-ongoing flooding issue in area.

8. Highway safety concerns regarding new access.
9. Concerned about anti-social behaviour/crime.
10. Not in accordance with Village Plan.
11. The garden centre is well used and important part of village amenities.
12. Inadequate bus service.
13. This site not included in the Neighbourhood Plan and would result in random development.

One letter of support:

## **5. Planning Policy Considerations**

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires 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**

- 5.2 Section 38(3)(b) of the 2004 Act defines the DP as the DP documents (taken as a whole) that have been adopted or approved in that area.

- 5.3 The DP for Harborough comprises:

The Harborough District Core Strategy adopted November 2011; and  
The retained policies of the Harborough District Local Plan adopted April 2001.

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

- *Harborough District Core Strategy*

- 5.5 The Core Strategy (hereafter referred to as the 'CS') was adopted in November 2011 and covers the period from 2006 to 2028.

Policy CS1 sets out the spatial strategy for Harborough which is to "maintain the District's unique rural character whilst ensuring that the needs of the community are met through sustainable growth and suitable access to services" to, among other things, enable the development of 7,700 dwellings across the District during the period 2006–2028.

CS1 – Spatial Strategy for Harborough (parts (a), (b), (h), (i) and (l) are relevant)  
CS2 – Delivering New Housing  
CS3 – Delivering Housing Choice and Affordability  
CS5 – Providing Sustainable Transport  
CS8 – Protecting and Enhancing Green Infrastructure  
CS9 – Addressing Climate Change  
CS10 – Addressing Flood Risk

CS11 – Promoting Design and Built Heritage  
CS12 – Delivering Development and Supporting Infrastructure  
CS16 – Broughton Astley

#### Broughton Astley Neighbourhood Plan 2013-2028

The site is not allocated in the Neighbourhood Plan for residential development; however it would fall with Policy H3 which refers to “Windfall and back land development.”

- i. It is accepted that there may be some windfall developments over the life of the Neighbourhood Plan on previously developed ‘brownfield’ or unallocated sites with direct highways access. Small, well designed residential sites which do not have a detrimental effect on the surrounding area and neighbouring properties will be supported. The impact of such windfall development will be incorporated into the ongoing monitoring and review process.
- ii. In principle development will be supported on sites of less than 5 dwellings on previously developed land.
- iii. In respect to back land and tandem development in gardens of existing properties; such developments will be resisted where they have the potential for loss of amenity of neighbouring properties; through loss of privacy, loss of daylight, visual intrusion by a building or structure, loss of car parking, loss of mature vegetation or landscape screening and additional traffic resulting from the development.
- iv. Any windfall, back land or tandem development must have a direct highway frontage.

#### Retained Local Plan Policy:

Policy HS/8 (Limits to Development) is relevant to this application. However the *Richborough Estates Partnerships LLP v Cheshire East Borough Council and Secretary of State for Communities and Local Government* concludes “All local planning authorities in England are required to have a minimum five-year supply of housing land. The policy in Paragraph 49 of the NPPF requires all decision makers across the country who are determining planning applications and appeals to treat “[r]elevant policies for the supply of housing as not up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.” Thus, in the current absence of a 5 year supply, policy HS/8 is considered out of date

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

#### ○ *National Planning Policy Framework*

- 5.6 The Framework published March 2012, replaces previous national guidance set out set in Planning Policy Guidance and Planning Policy Statements.
- 5.7 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 7). 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 (para. 8). The presumption in favour of sustainable development is seen as the ‘golden

thread' running through plan-making and decision-taking (para.14). For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- 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; or
- specific policies in this Framework indicate development should be restricted.

Paragraphs 6 – 9, 13, 14, 17 (presumption + core planning principles), 18–20 (economy), 29–36 (transport), 47, 49, 50, 52 (housing), 56–66 (design), 69, 70, 75 (healthy communities), 93–104 (climate change and flooding), 109–125 (natural environment), 126–139 (historic environment), 186 – 206 (decision taking)

- *National Planning Practice Guidance*

- 5.9 The National Planning Practice Guidance (hereafter referred to as the NPPG) 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*

- 5.10 A series of guidance notes were adopted as Supplementary Planning Guidance (SPG) to the Harborough District Local Plan in March 2003. They cover a range of topics relating to layout and design issues. Council agreed to retain the said SPGs and link them to CS policies as applicable, until a new Supplementary Planning Document is produced.

Relevant local Supplementary Planning Guidance Notes:

SPG Note 1: Design principles

SPG Note 2/5 – New residential development, etc.

- *The national Planning Practice Guidance Suite (06.03.14)*
- *Appendix A to Circular 11/95 – Use of conditions in planning permission*
- *Circular 06/2005 – Biodiversity including statutory obligations within the planning system*
- *5 Year Housing Land Supply Statement*

Broughton Astley Neighbourhood Plan 2013-2028

Broughton Astley Landscape Character Assessment and Landscape Capacity Study (2011)

## **c) Other Relevant Information**

- 5.11 S106 Policy - There is clear government advice set out in the Framework concerning Section 106 Agreements and contributions required of developers, which must be necessary in relation to local and national planning policy and directly and fairly related in scale and kind to the proposed development. Section 106 Agreements

impose obligations on both the Developer and the Council. The Council's Planning Obligations Developer Guidance Note and supporting document Provision for Open Space Sport and Recreation were adopted by the Council's Executive on 21st September 2009.

- *Reason for Committee Decision*

- 5.13 This application is to be determined by Planning Committee because it is for more than 10 dwellings.

## 6. Assessment

### a) Principle of Development

#### 6.1 Sustainable Development

- 4.5 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 up to 11 dwellings, including a number of affordable units which would contribute towards the Council's 5yr supply shortfall and the provision of affordable housing. As well as the direct economic benefits related to employment generation and investment, the proposal will deliver 11 dwellings. However, this needs to be balanced against the loss of the existing business (3 part time employees are listed)

- **Social**

Provides 11 new dwellings, which contribute to housing need, including a number of affordable housing units. The site can also be accessed by sustainable modes of transport, which may contribute towards health and well being and is accessible to the town centre. A negative impact would be the loss of the local business which provides a local service in the form of the garden centre.

- **Environmental**

The proposal is not in keeping with the character and appearance of the surrounding area, and would appear as an isolated and incongruous development which would not relate well to the existing built form of the settlement. It is therefore considered that it will have a negative impact on the environment and thus fails to be sustainable development. Further, adequate Sustainable Urban drainage mitigation measures have not been put forward.

- 4.6 The site comprises brownfield or previously developed land in the form of the garden centre and its associated buildings, located on the southern entrance of the village (from Dunton Bassett). The site has not been put forward as a SHLAA site but the land to the north and south has been put forward.  
The Broughton Astley landscape appraisal refers to this site and adjoining land to the north as Land Parcel 2

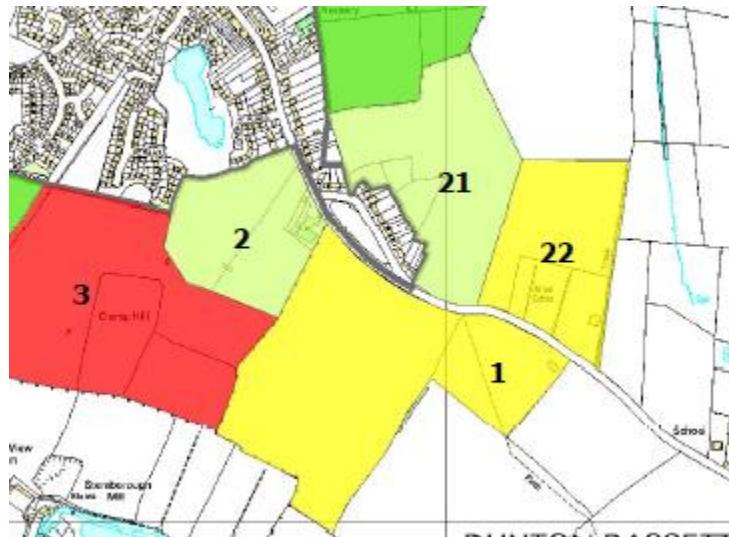
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The Land Parcel consists of 2 medium to small sized fields currently used for grazing. The internal definition between the two fields has diminished over time and a severely fragmented hedgerow with trees remains. The grazed land is of poor quality with the remains of a derelict agricultural building on the higher ground to the south. In the north east corner adjacent to the Dunton Road is the Charlie Browns Garden Centre.

Views into the site are variable, in some areas it is relatively well contained from views due to the tall vegetation on its boundaries, but fragmented hedgerows do allow glimpses in. There are views of the Parcel from residential properties off Foxglove Close and Orchid Place to the north-west of the site and from properties off Dunton Road to the north east.

The Land Parcel is in a location where built development would form some close associations with the existing urban fabric. This Parcel could be seen as a potential extension to the existing residential development, due to road networks and housing patterns. Any new development would not cause any coalescence between Broughton Astley and nearby towns or villages.

The overall capacity for development is given as medium high but this refers to the whole parcel



The rest of the parcel immediately adjoins existing residential development to the north whilst the application site is physically separate from existing development (except for the standalone detached property to the north).

The development proposed would be viewed as an isolated and detached development which would be out of keeping with the surrounding pattern of development at the southern entrance of the village.

Further key considerations are thus: (1) the proposal's impact on the living conditions of neighbouring residents and (2) highway safety, and (3) the resultant effects, including visual, landscape and wildlife, and other material technical considerations, such as drainage.

## **b) Technical Considerations**

### **1. Impact on the character of the area**

Core Strategy Policy CS2(b) states, in respect of new housing development, that the critical considerations are (1) the need for the highest design standard (in conformity with Policy CS11), (2) a layout that makes the most efficient use of land and that is compatible with the built form and character of its surroundings, and (3) an appropriate mix of housing types.

Core Strategy CS11(b) requires that all new development should be integrated as far as possible into the existing built form and this is further emphasized in the Framework.

It is considered that the development would appear poorly related to the existing built form and would not be well integrated as required by Core Strategy Policy CS11 (b). Policy H3 of



the BANP requires that such sites are “well designed and do not have a detrimental effect on the surrounding area.” In this case the existing garden centre is relatively low key and provides a rural edge of village feel and even if well designed and landscaped a development of the nature proposed would be quite high density and appear isolated in its context

## **2. Flooding/drainage;**

Whilst the applicants submitted an outline drainage strategy at the request of the Leics Lead Flood Authority (LLFA) this is considered inadequate at the current time in respect of its detailing and fails to comply with adopted guidance would comply with Core Strategy Policy CS10 and the aims and objectives of the Framework.

### Surface water strategy:

The proposed drainage strategy will utilise Sustainable Drainage technique for all parking and road way areas to reduce surface water run off to levels less than pre-developed condition. There will be an increase in permeable areas.

### Foul Water Strategy

The strategy for the disposal of foul water drainage is via a connection to existing sewer in Dunton Road.

Relevant conditions 5 and 6 will be imposed to ensure that the approved drainage strategy is implemented/maintained accordingly.

## **3. Residential amenity**

All matters are reserved, although an indicative plan has been provided. There is one adjoining property (80) directly to the North which would be most affected as other properties are located on the other side of the Dunton Road (nearest properties 67a and 67b are @34m from front of side to nearest point on house). No 80 is a substantial 2 storey property see photo under site description section. It has principal windows to the side boundary and there is a conifer hedge. The indicative plan indicates how a dwelling could be accommodated to reduce impact (Plot 11) but this would require further detailed assessment at detailed reserved matters stage. A smaller property may well be required on this sensitive plot. In conclusion, a design could come forward which would safeguard the living conditions of existing and future residents, and as such the application accords with Core Strategy Policy CS11(c)(iv).

## **4. Highway safety and parking**

The current indicative scheme includes a proposed access relocated further south along Dunton Road (it is not clear whether a separate access to Plot 11 also proposed) but full details would be considered at reserved matters stage. This proposal is likely to be acceptable in principle however would have to be designed with appropriate geometry and visibility to maintain a safe vehicular access to the site, especially given the inevitably higher recorded vehicle speeds closer to the end of the 30mph section.

There is adequate space on the site for parking and other highway requirements to be met.

## **5. Impact on Archaeology:**

Given the previously developed nature and site history, no archaeological issues raised.

## **6. Impact on wildlife**

Overall, subject to suitable conditions being imposed the proposal would not likely cause harm to protected species and thus accords with Policy CS8 and paragraph 117 of the Framework.

## **7 Affordable Housing Provision:**

The affordable housing on site comprises 30% (3 units, or equivalent) and smaller 2 bedroom properties are the preferred mix. Given that this is an outline scheme, these can

### **8. S106 Agreement or similar**

As the site is for ten or more units, the proposal triggers Section 106 contributions towards community, educational, health and off site green space provision in order to mitigate for the impact of the development. (see Annex A for full details)

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

The proposal would contribute additional housing, including affordable housing, that would help to reduce the Council's five year housing land supply deficit, and in a generally sustainable and accessible location It would not have an adverse effect in respect of highway safety, residential amenity, ecology or archaeology. However, the proposed development by virtue of its isolated location, would appear as a discordant and out of character feature, and would detrimentally affect the character of this part of the village. This harm is not outweighed by the housing land supply shortfall. The loss of the garden centre and associated low key employment associated with it is a further negative impact but given that it is so low key and not identified as a key facility or community asset it would be difficult to justify this as a reason for refusal. It is recognised that the technical drainage issue may well be overcome and further information may come forward to this effect.

### **8.0 Appendix A:**

S106 requirements:

Request By	Obligation	Amount /Detail	Delivery	CIL Justification	Policy Basis
LCC	Civic Amenities	Not required			Core Strategy: Policy CS12, Appendix 2 (Infrastructure Schedule),  Leicestershire Planning Obligations Policy Adopted 3rd December 2014
LCC	Education	Primary School Sector Requirement £0 sector is justified. There is an overall surplus in this sector after including all primary schools within a two mile walking distance of the development of 8  Secondary school requirement; £32,892.15  Post 16 requirement: £6,958.04.	10% of the education contribution prior to commencement of development then  45% of the education contribution prior to first occupation of 50% of the dwellings comprising the development  Remaining 45% of the education contribution prior to the first occupation of 75% of the dwellings comprising the development	Email from Paul Limb dated 05/09/16  The nearest 11-16 education provider is Broughton Astley Thomas Estley Community College. The College has a net capacity of 900 and 1122 pupils are projected on roll should this development proceed; a deficit of 222 pupil places. A total of 40 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have been discounted. This reduces the total deficit for this school to 182 (of which 180 are existing and 2 are created by this development). There are no other 11-16 schools within a three mile walking distance of the site. A claim for an education contribution in this sector is therefore justified. In order to provide the additional 11-16	Core Strategy: Policy CS12, Appendix 2 (Infrastructure Schedule),  Leicestershire Planning Obligations Policy Adopted 3rd December 2014

			<p>The contribution would be spent within five years of receipt of final payment.</p>	<p>school places anticipated by the proposed development, the County Council requests a contribution for the 11-16 school sector of £32,892.15. Based on the table above, this is calculated the number of deficit places created by the development (1.84) multiplied by the DFE cost multiplier in the table above (£17,876.17) which equals £32,892.15. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Broughton Astley Thomas <u>Estley</u> Community College.</p> <p>The nearest school to the site is <u>Countesthorpe Leysland</u> Community College. The College has a net capacity of 1795 and 1823 pupils are projected on roll should this development proceed; a deficit of 28 pupil places. A total of 23 pupil places are being funded at this school from S106 agreements for other developments in this area which reduces the total deficit for this school to 5 pupil places (of which 4 are existing and 1 is created by this development). There are no other post 16 schools within a three mile walking distance of the site. A claim for an education contribution in this sector is therefore justified.</p> <p>In order to provide the additional post 16 school places anticipated by the proposed development, the County Council requests a contribution for the post 16 school sector of £6,958.04. Based on the table above, this is calculated the number</p>	
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				<p>of deficit places created by the development (0.36) multiplied by the DFE cost multiplier in the table above (£19,327.90) which equals £6,958.04. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at <u>Countesthorpe Leysland</u> Community College.</p> <p>The contributions would be spent within five years of receipt of final payment.</p>	
LCC	Highways	Not requested.			<p>Core Strategy: Policy CS12, Appendix 2 (Infrastructure Schedule),</p> <p>Leicestershire Planning Obligations Policy Adopted 3rd December 2014.</p> <p>To comply with Government guidance in NPPF the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use :</p>
LCC	Libraries	No claim from Library Services. Broughton Astley library currently exceeds upper threshold in terms of standards for stock provision and will not be affected by the proposed development.			<p>Core Strategy: Policy CS12, Appendix 2 (Infrastructure Schedule),</p> <p>Leicestershire Planning Obligations Policy Adopted 3rd December 2014.</p>

LCC	Monitoring Fee	tbc	Prior to occupation of first dwelling		Core Strategy: Policy CS12, Appendix 2 (Infrastructure Schedule),  Leicestershire Planning Obligations Policy Adopted 3rd December 2014.
HDC	Community Facilities	£10,956 for new build/extension/upgrade projects  (this figure will alter according to the finalised housing numbers and mix. Currently based on the average figure for a 3 bedroom dwelling of 996.00)	50 % to be paid prior to commencement of development  50% on completion of  50% of total number of dwellings.	Memo from Hayley Cawthorne dated 06/09/16  New Community Sports Facility in Broughton Astley.  Evidence of Need for this facility has been provided by Broughton Astley Parish Council, and attached to this obligation request.  The Broughton Astley Neighbourhood Plan consultation and background papers offer valuable evidence of community support and need for the New Community Sports Hall project.  The Parish Council have carried out thorough feasibility and project planning work streams, to support their chosen approach to deliver the new Community Sport Facility in the parish.  <b>Community Facility managed by the Broughton Astley Scouts</b>  Evidence of Need submitted by the Broughton Astley Scouts to support a project proposal for a financial contribution to a new build/ building	Core Strategy: Policy CS12, Appendix 2 (Infrastructure Schedule), <u>Community Facilities and Developer Contributions</u> (Roger Tym and Partners 2010)  Leicestershire Planning Obligations Policy Adopted 3rd December 2014

## Planning Committee Report

**Applicant:** Linden Homes

**Application Ref:** 16/01208/VAC

**Location:** Land North of Lubenham Hill, Market Harborough

**Proposal:** Variation of Condition 2 of 2/00044/FUL to substitute approved plans

**Application Validated:** 29.07.2016

**Target Date:** 28.10.2016 (Extension of Time Agreed)

**Case Officer:** Nicola Parry

## Recommendation

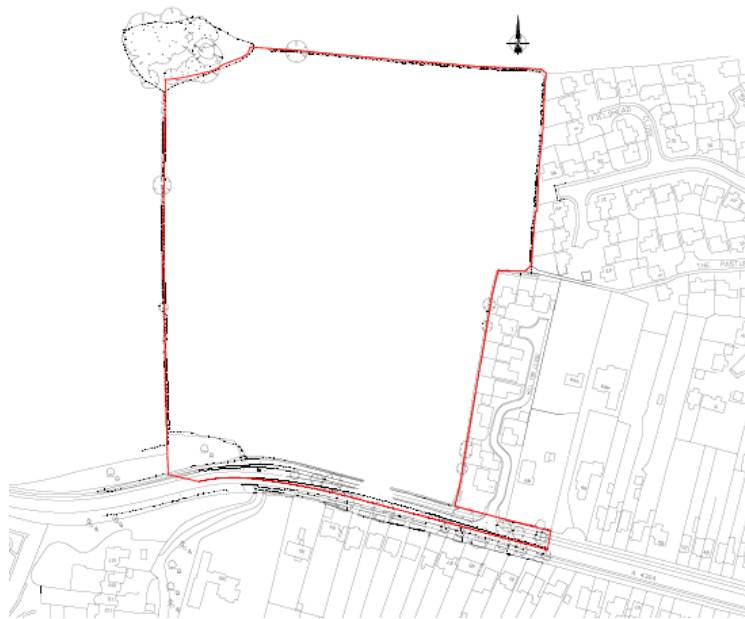
Planning Permission is **APPROVED**, for the following reason and subject to the appended Planning Conditions (Appendix A) and the signing of a Deed of Variation to the original Unilateral Undertaking dated 18<sup>th</sup> January 2016.

*The Site has an extant consent to deliver a residential development that will provide a modest quantum of housing which will contribute to meeting the District's 5 year land supply. On balance, the benefits of the scheme are not significantly or demonstrably outweighed by any adverse impacts. The development therefore complies with the relevant policies contained within The Harborough Core Strategy, the approved SDA Masterplan and the Framework.*

### 1. Site & Surroundings

- 1.1 The application Site (hereafter referred to as the 'Site'), was formerly a single arable field; it is currently being developed to create a residential estate of 119 dwellings (12/00044/FUL). The Site is situated on the northern side of Lubenham Hill and is accessed off the A4304, within approximately 1.3km (1 mile) west of the centre of Market Harborough and 1km from Lubenham (see **Figure 1**, below)

**Figure 1: Site Location**



- 1.2 The Site is broadly rectangular in shape and extends to approximately 5.60ha (13.84 acres). The land slopes down towards to the north-east with a fall of approximately 9 metres.
- 1.3 The northern boundary of the Site is defined by a field boundary hedge with a small woodland copse in the north-western corner; beyond the Site boundary to the north, is Manor Farm, which has planning consent for 450 dwellings (REF: 13/01483/OUT).
- 1.4 The eastern boundary of the Site is defined by a mature hedgerow with residential gardens associated with Brookfield Road; Field head close / Spinney Close and Hill Top Close.
- 1.5 The southern boundary of the Site is defined by a dense hedgerow and the A4034 (Lubenham Hill). A small woodland copse is located in the south western corner.
- 1.6 The western boundary of the Site incorporates a ridgeline and is defined by a hedgerow with agricultural land beyond.
- 1.7 Access to the application Site was formerly through a gap in the southern hedge. A new roundabout is currently being installed on the A4304 (Lubenham Hill) which will provide access into the site.
- 1.8 A public footpath (A26) runs cross the middle of the Site from east to west. This connects with the Brookfield Road residential area to the east, and Lubenham to the west
- 1.9 The Site lies outside of the Defined Limits to Development of Market Harborough, but is within an area designated identified as the Market Harborough Strategic Development Area (MH SDA).

## 2. Site History

2.1 The Site has the following relevant planning history:

- 12/00044/FUL: Erection of 119 dwellings - APPROVED 18.01.16
- 13/00583/OUT: Outline application for 126 dwellings (access only to be considered) - WITHDRAWN
- 16/00150/PCD: Discharge of conditions 4 Discharge of conditions 4 (land contamination assessment), 5 (contamination), 6 (materials), 15 (repeat ecological survey), 17 (archaeology) and 19 (archaeology) of 12/00044/FUL - APPROVED 22.04.15
- 16/00431/PCD: Discharge of Conditions 3 (Phasing Programme), 7 (Boundary Treatments), 8 (Refuse Storage), 9 (Cycle Parking), 12 (Surface Water Drainage Scheme), 13 (Foul Water Strategy), 27 (Footpath Improvement Works), 31 (CEMP), 32 (Footbridge Design) of 12/00044/FUL – APPROVED 20.10.16
- 16/01071/PCD: Discharge of conditions 10 (landscape management plan), 30 (western hedgerow enhancement) and 33 (additional tree planting) of 12/00044/FUL – PENDING CONSIDERATION

## 3. The Application Submission

### a) Summary of Proposals

3.1 The application seeks consent to vary a number of the drawings listed in Condition 2 of 12/00044/FUL, see below

Approved	Proposed
Planning Site Layout - 258-SK-01 Rev P	258-SK-01T Planning Site Layout
BWB Drawing NTW 1267 HD 101 P5 Isopachyte Contours 17231-2001A	17231-SK010 E- Revised Site Layout Levels

3.2 For completeness and in order for a full assessment to be made, the Applicant submitted a full pack of site plans, sections and indicative street scenes

3.3 The changes are requested as the Planning Layout approved through application (12/00044/FUL) was not implementable when assessed in accordance with Condition 20:

*“All details of the proposed development shall comply with the design standards of the Leicestershire County Council as contained in its current design standards document. Such details must include parking and turning facilities, access widths, gradients, surfacing signing and lining (including that for cycle ways and shared use footway/cycle ways) and visibility splays and be submitted for approved by the LPA before development commences”*

3.4 The changes, which have been agreed with LCC Highways, therefore make minor layout amendments, including closing off the loop roads along the Eastern boundary along with minor changes to the levels across the site in order to meet the LCC gradient standards.



## **Pre-application Engagement**

- 3.5 Prior to the application being submitted, several meetings have been held with the Case Officer, Applicant and LCC Highways.

## **4. Consultations and Representations**

- 4.1 The Council has undertaken consultation in respect of this application. Technical consultees and the local community have been consulted. The application was also advertised in the local press (Harborough Mail) and through the posting of a site notice.
- 4.2 Firstly, a summary of the technical consultees 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 Environment Agency – No comments
- 4.4 Lead Local Flood Authority - The LLFA have not advised the implementation of the condition (2), as such the LLFA feel it would be inappropriate for us to advise on the discharge of this condition. We recommend that the LPA seek advice from the consultee that advised the original condition to advise if this is to be discharged.
- 4.5 LCC Highways – The County Highway Authority (CHA) has been consulted by Harborough District Council for a Variation of Condition Application, Section 73 Town and Country Planning Act, associated with application 12/00044/FUL.
- There are approved S38 drawings and as such, the CHA Development Control Management will be able to discharge the condition subject to this final technical approval. The CHA request that conditions 20 and 34 of the original planning permission remain and will be discharged subject to final approval from the CHA following a discharge of condition application. The CHA are proactively working with the developer to ensure the issues on-site do not lead to unnecessary delays in planning and problems when a discharge of condition application is forthcoming.
- 4.6 LCC Ecology – The amendments to the layout do not appear to alter the potential impact on the biodiversity of the area from that previously agreed and we therefore have no comments on this application.
- 4.7 Market Harborough Civic Society –

The Civic Society was opposed to the development of this land. The unsuitability of this site for development is emphasised by the layout now submitted.

The development is too dominated by road systems. The development will be very linear and lacks pockets of interest and character. It is not a good example of a community and design that the Government are promoting.

The “Relief Road” will provide little or no solutions to the traffic problems in the Town.

- 4.8 ARUP – Based upon the information provided, we do not have an objection to the scheme with regards to flood risk and drainage.

## **b) Local Community**

4.9 5 letters of objection have been received from separate households. A summary of the representations received is outlined below:

### **5, 6 & 7 Fieldhead Close**

- The revisions to these plans do not diminish the risk of flooding to properties which lie on the eastern side of this proposed development
- Rainwater falling onto road surfaces, pavements, parking areas and driveways will flow downhill from the west on gradients ranging from 1 in 12 to 1 in 30 to the east at a rapid speed.
- On plan 17231-SK010 C, road 4 travels down a gradient of 1 in 12 across the Link Road through a parking area to the swale at the rear of No 4 Fieldhead Close. Road 3 will deliver excess water from the Link Road down road 6 to Brookfield Road. Road 2, the link Road and parking areas will repeat the process towards the south eastern corner of the estate. This whole layout is a recipe for another "Glebe Road" disaster.
- The swales along the eastern boundary do not have sufficient capacity to cope with periods of abnormally heavy rainfall. The swale at the north east corner of the site has been reduced in size by approximately 25% and offers no protection from run-off water to No 5 Fieldhead Close.
- The use of the ditch alongside Fieldhead Close, Brookfield Road should be prohibited for surface water run-off from the site. It is a boundary ditch and never designed or intended to handle huge volumes of run-off water from a building site
- It is a material planning consideration to ensure that a new development does not put existing properties at risk of flooding.

Applicant's Response to the above objections:

1. *The revisions to the plans have not affected the ability for the proposed surface water drainage system to convey surface water runoff from impermeable areas within the development to the outfalls without increasing the flood risk to the wider catchment area.*
2. *Road gullies have been placed to intercept surface water runoff along the roads including low points. Any overland flow along the roads during storm events will be contained within the road corridors and directed into the swales located along the eastern boundary.*
3. *Any overland flow along the roads during storm events will be contained within the road corridors and directed to the swales located along the eastern boundary. These swales and the linked underground storage crates have capacity to attenuate surface water runoff from the impermeable areas up to the 100 year storm event including 30 % for climate change.*
4. *Any overland flow along the roads during storm will be contained within the road corridors and directed to the swales located along the eastern boundary.*
5. *Sufficient surface water storage is provided within the site to allow the development to discharge at the greenfield runoff rate given in the approved FRA report, up to and including the 100 year storm event plus 30% for climate change. The size of the swales have been reduced through the detailed design process to allow for existing trees along the boundary to remain, alternative surface water storage has been provided with the combination of oversized pipes and underground storage crates.*
6. *The surface water storage has been sized to include a 30% increase on the 1 in 100 year storm event to allow for climate change, as per the approved FRA report.*
7. *The revisions to the plans have not affected the ability for the proposed surface water drainage system to convey surface water runoff from impermeable areas within*

*the development to the outfalls without increasing the flood risk to the wider catchment area.*

### **High Brinks, 107 Lubenham Hill**

- How we are supposed to get out of our drive on the brow of the Hill. We share a private drive with numbers 109, 111, 113 and 115 which exits directly onto Lubenham Hill - we don't even get a mention on these plans.

Officer comment – I met with this neighbour 25/08/16. I raised their concerns directly with the Highway Authority. The HA sent one of their engineers to meet with the neighbour. The engineer reported back that the approved highway works would not give rise to an unsafe highway situation for the neighbour.

### **5 Hill Gardens**

- I trust that none of the gradient changes intend to make the new houses visible in the crest of Lubenham Hill from the Lubenham side of the town.

Officer comment – The cross sections supplied indicate that the houses will not be visible from the west, once planting has been established – the same situation as the levels approved.

## **5. Policy**

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

5.2 The Development Plan for Harborough comprises:

- The Harborough District Core Strategy adopted November 2011; and
  - The saved policies of the Harborough District Local Plan adopted April 2001.
- *Harborough District Core Strategy*

5.3 The Core Strategy was adopted in November 2011 and covers the period from 2006 to 2028. The following policies are relevant to this application:

- CS1
- CS2
- CS3
- CS5
- CS8
- CS9
- CS10
- CS11
- CS12
- CS13

- *Harborough District Local Plan – April 2011*
- 5.4 The Plan was adopted in 2001 with an original end date of 2006. A small number of policies have been “saved” beyond that time. Of the very limited number of policies that remain extant, Policy HS/8 is of relevance to this application.
- 5.5 The primary objective of Policy HS/8 is to restrict development within areas of land identified as Countryside on the Local Plan Proposals Map.

## **b) Material Planning Considerations**

- 5.6 Material considerations are relevant matters which sit outside of the Development Plan. The material considerations to be taken into account in considering the merits of this application include, amongst others, the National Planning Policy Framework, the National Planning Policy Guidance, the North West Market Harborough Strategic Development Area Master Plan, together with responses from consultees and representations received from all other interested parties in relation to material planning matters.

## **6. Officer Assessment**

- 6.1 The Site has extant planning consent for 119 dwellings (12/00044/FUL). The principle of development is therefore accepted. Note: Members can view 2<sup>nd</sup> March 2015 Committee Report relating to 12/00044/FUL on-line.
- 6.2 Changes to the approved plans have no impact on previously considered material considerations including, affordable housing, contamination, ecology and heritage.
- 6.3 However, an assessment is required in respect to whether the changes have implications in terms of design, landscape, highways, drainage and residential amenity.

## **Design**

- 6.4 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- Site Layout
- 6.5 The Approved Plan and Proposed Plan are illustrated in Figure 2 and 3 below
- 6.6 As previously mentioned, the proposed changes make minor layout amendments, including closing off the loop roads along the Eastern boundary along with minor changes to the levels across the site in order to meet the LCC gradient standards.
- 6.7 The changes to the levels are indicated on plan 17231-SK010 E. The text colour RED indicates those plots where the FFL has stayed the same since the approval and BLUE where the FFL has increased. An assessment of those plots which are adjacent to existing properties which have increased is given under the Residential Amenity section of this report.
- 6.8 Housing mix, density and scale (e.g. heights) of the dwellings and car parking provision has not altered since the approved scheme.

- 6.9 External materials, boundary treatments, refuse and recycling storage, cycle parking have all been approved under 16/00150/PCD.

#### 4. Drainage

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- 6.10 As part of the original application, HDC commissioned Arup to provide technical flood/drainage advice. After several iterations of the Flood Risk Assessment and additional information from the applicant ARUP confirmed their concerns had been addressed and had no further comment to make.
- 6.11 At the request of the EA, two conditions were imposed on the decision notice (Condition 12 (surface water) and 13 (foul water)). These conditions have recently been discharged (Ref: 16/00150/PCD).
- 6.12 Concerns have been raised by local residents (5, 6 and 7 Fieldhead Close) that proposed changes will increase the likelihood of surface water flooding and the swales do not have sufficient capacity. As such both the EA and Arup have been consulted.
- 6.13 The EA have advised they have no comments to make. Arup reviewed the proposed plans and advised 01-10-16 that they required further information from the Applicant. The Applicant provided their response on 14-10-16. Following this additional information Arup advised HDC 20-10-16:

1. *Document Review:*

*There were 5no. re-issued drawings uploaded to the portal following changes to the development, with regards to the site levels and their implications to the site infrastructure. The re-issued drawings did not show the drainage infrastructure or changes that directly impact the drainage with regards to an increased risk of flooding.*

2. *Request for Information:*

*Arup advised HDC to enquire whether the revised road levels impact the Drainage System i.e. reduced attenuation in chambers due to lowered cover levels and increased the potential of flooding from the drainage system.*

*The Developer responded that the revisions did not affected the ability for the proposed surface water drainage system to convey surface water runoff from impermeable areas within the development to the outfalls without increasing the flood risk to the wider catchment area.*

*In addition, the Developer submitted the Micro Drainage Storm Sewer Design(.pdf) dated 14/10/2016 as part of their response to demonstrate that flooding does not occurs within the system for the design rainfall events and that the maximum discharge of 7.7l/s. (North Calculations) and 9.9l/s (South Calculations) still meet the discharge requirements. As such we have no further comment.*

*Arup advised HDC to enquire whether the revised road levels require any changes to the gully locations.*

*The Developer responded that the road gullies have been placed to intercept surface water runoff along the roads including low points. Any overland flow along the roads*

*during storm events will be contained within the road corridors and directed into the swales located along the eastern boundary. The Developer has provided revised drawings for review (17231-500-L, 501 K, 502 –H). As such we have no further comment.*

*Arup advised HDC to request a response from the Developer for the objections raised by the public. The Developer has submitted their responses to HDC. As such we have no further comment.*

3. *Conclusion*

*On the basis that the Developer has provided suitable responses to the comments in our previous correspondence, it is our opinion that the revised levels do not increase the risk of flooding and that the Developer has adequately met the requirements of the planning application.*

- 6.14 In light of Arup's advice, it is not considered the proposed minor amendments will result in increased flood risk to neighbouring properties.

6. Highways

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- 6.15 The Highway Authority (HA) provided a substantive response to the original application (12/00044/FUL).
- 6.16 The HA have requested HDC (20-10-16) to keep conditions 20 and 34 of the original permission on this variation application and advised they will be discharged subject to final approval of the S38 drawings.

7. Landscape & Visual Impact

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- 6.17 HDC commissioned The Landscape Partnership's (TLP) to provide landscape advice on the original application (12/00044/FUL). After several iterations of the planning layout and proposed landscaping scheme, TLP confirmed the proposed planting, together with the retention and enhancement (in particular the western hedgerow) of existing vegetation once established would provide an effective screen of the development from the west.
- 6.18 Whilst some of the plots on the west of the site have slightly increased FFL's, the cross-sections submitted with this application indicate that development would still be screened from the west.

7. Residential Amenity

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- 6.19 One of the core planning principles (Core Principle 4) in the Framework is to ensure a good standard of amenity for all existing and future occupants of land and buildings and this is also reflected in CS Policy CS11.
- 6.20 A detailed assessment of the proposed plots adjacent to the properties along the eastern boundary (Hill Top Close, Brookfield Way and Fieldhead Close) was undertaken under extant planning application 12/00044/FUL.
- 6.21 The Applicant has provided a revised levels plan (17231-SK010 E) showing the proposed FFLs on site and the levels of the existing neighbouring properties (Hill Top, Brookfield and Fieldhead). With the exception of Plots, 21, 35 and 36 (where the FFL's have increased) the plan indicates that the FFL's adjacent to existing

properties have either not altered from that approved or have been lowered and as such no further assessment is required beyond that already given under 12/00044/FUL.

- Plot 21 and No. Brookfield

The FFL of Plot 21 has increased from 97.050 to 97.125. This marginal increase (0.075m) coupled with a separation distance of 39m and intervening vegetation (both existing and proposed) does not give rise to an adverse residential amenity issue beyond that previously considered.

- Plot 35 and No. 3 Fieldhead

The FFL of Plot 35 has increased from 96.450 to 96.750. This marginal increase (0.3m), coupled with a separation distance of 32m and intervening vegetation (both existing and proposed) does not give rise to an adverse residential amenity issue beyond that previously considered.

- Plot 36 and No. 5 Fieldhead

The FFL of Plot 36 has increased from 96.750 to 97.300. Whilst this is more than a marginal increase (0.55m), it is not considered significant to warrant refusal on residential amenity grounds to No.5 as the house type of Plot 36, it's scale (1.5 storey), it's height (6.785m Ridge height and 3.642 Eaves height) and it's orientation and has not changed from that previously approved. Furthermore, coupled with a separation distance of 23m (2m in excess of Council separation guidelines) and intervening vegetation (both existing and proposed).

## **7 Section 106 Obligations & Unilateral Undertaking**

- 7.1 As there are no changes in the number of units proposed, S106 consultees have not been consulted as the obligations previously requested would stay the same.
- 7.2 A Unilateral Undertaking (UU) was signed 18.01.2016. The UU secures planning obligations relating to the provision for Community Facilities, POS, Changing Rooms/Pavilion, SuDs, Cemeteries, Primary and Secondary School, Cycling Infrastructure Improvements, Civic Amenities, Libraries and Police. The UU also includes a commuted sum to be used off site for Affordable Housing.
- 7.3 A deed of variation to the original UU has been submitted (11<sup>th</sup> August 2016). The sole provision of which is to require any development that is carried out under a planning permission granted pursuant to application no 16/01208/VAC complies strictly with the terms of the 16<sup>th</sup> January 2016 Undertaking.

## **8 Conclusion**

- 8.1 The amendments to the approved plans do not raise any fundamental technical issues. Furthermore, the amendments do not result in any additional harm to that identified under 12/00044/FUL.

## **9 Conditions**

- 9.1 The recommended conditions, set out below, generally accord with 12/00044/FUL. However, changes have been made to reflect the conditions which have been discharged prior to Committee resolution and thus are superfluous to this application.



1. The development hereby permitted shall be in accordance with the approved plans as listed in Drawing Register Drawing Issue Sheet 2 date 26/07/16

REASON: To ensure that the scheme takes the form agreed by the authority and thus results in a satisfactory form of development and for the avoidance of doubt.

2. The phasing of the development hereby approved shall be undertaken in accordance with the Phasing Programme detailed in the email dated 31<sup>st</sup> August 2016.

REASON: To ensure the development follows the agreed form of phasing, to enable screening to become effective and to minimise the disturbance to existing residential properties.

3. 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.

REASON: To ensure that the land is fit for purpose and to accord with the aims and objectives of Paragraph 120 of the NPPF

4. The external materials to be used on the development hereby approved shall be implemented in accordance with the approved 'Materials Plan' (Dwg 258-SK-21) and Plot List dated 07/03/16 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 District Council Core Strategy Policy CS11.

5. The boundary treatments to be used on the development hereby approved shall be implemented in accordance with the Boundary Materials Plan (Dwg 258-SK-22 Rev B) and 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 District Council Core Strategy Policy CS11.

6. The provision of refuse/recycling storage on the development hereby approved shall be implemented in accordance with the Bin and Cycle Store Plan (Dwg 258-SK-23) and retained as such in perpetuity.

REASON: To ensure the adequate provision of facilities and in the interests of visual/general amenity and to accord with Harborough District Core Strategy Policy CS11

7. The provision of cycle storage on the development hereby approved shall be implemented in accordance with the Bin and Cycle Store Plan (Dwg 258-SK-23) and retained as such in perpetuity.

REASON: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to accord with Harborough District Core Strategy Policy CS11

8. No development shall commence on site until a Landscape Management Plan which shall include the specification, the timing of the completion of and the arrangements for the management of:
- I. All areas of informal and formal open space to be included within the development
  - II. Children's play areas including the LEAP and LAP
  - III. Sustainable Urban Drainage Systems, watercourses and other water bodies
  - IV. Treatment of all hard surfaced areas, including types and colours of materials, street furniture, signing and lighting of all public spaces - the lighting scheme include details to demonstrate how artificial illumination of important wildlife habitats is minimised.
  - V. Boundary treatment to all open areas where the site bounds other land including design, height, materials and colour finish
  - VI. Green Infrastructure linkages including pedestrian and cycle links and public rights of way have been submitted to and approved in writing by the Local Planning Authority.

All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development, whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species

REASON: To ensure a satisfactory landscaped setting for the development, the protection and enhancement of existing important landscape features and to accord with Harborough District Core Strategy Policy CS 8 and CS11

9. The development hereby approved shall be implemented in accordance with the approved surface water and foul surface water strategy as detailed in the following plans and information before the development is completed and retained as such in perpetuity:
- 17231-500\_D Roadworks and Drainage Layout Sheet 1 of 3
  - 17231-501\_C Roadworks and Drainage Layout Sheet 2 of 3
  - 17231-502\_C Roadworks and Drainage Layout Sheet 3 of 3
  - 17231-510 Drainage Layout Sheet 1
  - 17231-502\_C Drainage Layout Sheet 2
  - 17231-910\_A Typical Adoptable Drainage Details
  - 17231-911\_C SUDs & headwall Details
  - 17231-912\_B Flow Control Chamber Details
  - S106 Approval Letter
  - LLFA Approval Letter
  - FW & SW Calculations
  - Woods Hardwick Covering Letter dated 24<sup>th</sup> June 2016

REASON: To ensure the satisfactory drainage of the site and to prevent the increased risk of flooding, both on and off site and to accord with Harborough District Core Strategy Policy CS10

10. The development hereby approved shall be undertaken in accordance with the ADAS letter dated 15<sup>th</sup> December 2015 and the Method Statement regarding badgers and hedgehogs dated December 2015.

REASON: To ensure species identified are protected during the construction period and safeguarded following completion of the development

11. Prior to development commencing all retained trees and hedgerows as indicated on the permitted plans shall be protected in accordance with Section 3 of the Richard Jones Arboricultural Survey and Report, dated January 2015.

REASON: To ensure the protection of trees and hedgerows on the site in the interests of visual amenity and to accord with

12. The development hereby approved shall be undertaken in accordance with the Written Scheme of Investigation dated July 2015 Harborough District Council Core Strategy Policy CS11

REASON: To ensure satisfactory archaeological investigation and to accord with the Harborough District Council Core Strategy Policy CS11

13. 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 (17) 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 District Council Core Strategy Policy CS11

14. All details of the proposed development, including the link road, shall comply with the design standards of the Leicestershire County Council as contained in its current design standards document. Such details must include parking and turning facilities, access widths, gradients, surfacing, signing and lining (including that for cycleways and shared use footway/cycleways) and visibility splays and be submitted for approval by the Local Planning Authority before development commences.

REASON: To ensure a satisfactory form of development and in the interests of highway safety.

15. Unless otherwise agreed in writing with the LPA, the roundabout access with the A4304, as generally shown on 258-SK-01T Planning Site Layout shall be completed and available for use as public highway prior to occupation of the first dwelling.

REASON: To ensure a satisfactory form of development and in the interests of highway safety.

16. Unless otherwise agreed in writing by the LPA, the developer shall construct and make available for public use a link road suitable for use by vehicles, pedestrians and cyclists from the A4304 with the adjoining 'Manor Farm' southern Title boundary (LT392862) prior to occupation of the 85th dwelling on site. For the avoidance of doubt the alignment and parameters of the link road shall accord with 258-SK-01T Planning Site Layout

REASON: To ensure deliverability of the link road and wider Strategic Development Area.

17. Unless otherwise agreed in writing, the alignment of the link road between the B6047 roundabout site access and the Lubenham Hill roundabout access shall be provided in general accordance with the details shown on drawing and shall generally accord with 258-SK-01T Planning Site Layout the following parameters;

1. A carriageway width of at least 6.75 metres, with 3 metre cycleway on one side and a 2 metre footway on the other
2. A maximum design speed of 30mph
3. No vertical traffic calming

REASON: To ensure an acceptable layout in the interests of highway safety

18. Any garages, once provided, shall thereafter permanently remain available for car parking.

REASON: 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 development.

19. Any shared private drives serving no more than a total of 5 dwellings shall be a minimum of 4.25 metres wide for at least the first 5 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6CsDG at its junction with the adopted road carriageway. The access drive shall be provided before any dwelling hereby permitted is first occupied and shall thereafter be permanently so maintained.

REASON: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

20. Before first occupation of any dwelling, car parking shall be provided, hard surfaced and made available for use to serve that dwelling on the basis of 2 spaces for a dwelling with up to three bedrooms and 3 spaces for a dwelling with four or more bedrooms. The parking spaces so provided shall thereafter be permanently so maintained.

REASON: 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.

21. The development hereby approved shall be implemented in accordance the public footpath A26 improvements scheme as detailed on drawing 17231-603A prior to the occupation of the 65th dwelling.

REASON: To provide high quality pedestrian/cycle links in accordance with the Council's sustainable transport objectives and Policy CS13

22. The development hereby approved shall be implemented in accordance the approved footbridge design (Dwg 17231-911 B) prior to the occupation of the 65th dwelling.

REASON: To ensure the continued unrestricted use of the Public Right of Way (A26)

23. Any trees/hedgerows to be retained that are removed without consent or dying or severely damaged or become seriously diseased during the period of development as a result of operations within that development shall be replaced in the next planting

season with trees/hedgerows of such size and species as shall have been previously agreed in writing with the Local Planning Authority.

REASON: To enable the Local Planning Authority to ensure the protection of trees on the site in the interests of visual amenity and to accord with Harborough District Core Strategy Policy CS11

24. The development hereby approved shall be implemented in accordance with the Construction Environmental Management Plan (CEMP) dated October 2016 and shall be adhered to throughout the construction period

REASON: To ensure appropriate mitigation for the impacts caused by the construction phases of the development and to reflect the scale and nature of development assessed in the submitted Environmental Statement.

## Planning Committee Report

**Applicant:** Mr Bradley

**Application Ref:** 16/01272/FUL

**Location:** 9 Langton Road, Great Bowden

**Proposal:** Demolition of existing bungalow and erection of replacement two storey detached dwelling (revised scheme of 16/00529/FUL)

**Application Validated:** 08.08.2016

**Target Date:** 03.10.2016 (Extension of Time Agreed)

**Consultation Expiry Date:** 21.09.2016

**Site Visit Dates:** 13.04.2016 and 12.05.2016 for 16/00529/FUL, and 11.08.2016 for 16/01272/FUL

**Case Officer:** Nick White

### Recommendation

Planning Permission is **APPROVED**, for the reasons set out in the report and subject to the appended Planning Conditions (Appendix A).

#### Recommended Justification Statement:

The proposal, by virtue of its design (form, mass, scale, proportions, style and materials), would be in keeping with the character and appearance of the site and its surroundings, would not cause significant harm to the amenities of surrounding residents or general amenities in the area, would not adversely affect ecological, archaeological or arboricultural interests, would not exacerbate flood risks, and would not be detrimental to highway safety. The proposal would enhance the special character and appearance of the Conservation Area. The proposal accords with Policies CS1, CS5, CS8, CS9, CS10, CS11 and CS17 of the Harborough District Core Strategy and no other material considerations indicate that the policies of the Development Plan should not prevail. The decision has been reached taking into account, inter alia, Paragraphs 186 and 187 of the Framework and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### 1. Site & Surroundings

- 1.1 The application site (hereafter referred to as the 'site') is a 0.22 acre plot of land which lies within the village settlement of Great Bowden.
- 1.2 The site presently contains a detached bungalow dwelling, with associated parking and garden areas. The bungalow appears to date from the early 1960s (noting planning permission MU/04514/MUDC; approved 30.05.1962). It has been substantially extended (noting planning permission 80/00614/3M for "Extension to form garage bedroom lounge and utility room"; approved 06.05.1980).

- 1.3 The site frontage on to the Classified Langton Road has two accesses, allowing in-and-out vehicle movements. This would be retained by the proposal.



(Source: Uniform Mapping)



(Source: Uniform Mapping)

- 1.4 The site lies inside the Conservation Area of the settlement and special regard must be paid to the proposal's effects on the character and appearance of the Conservation Area.
- 1.5 The site is not considered to lie within visual proximity to Listed assets such as to affect their setting.



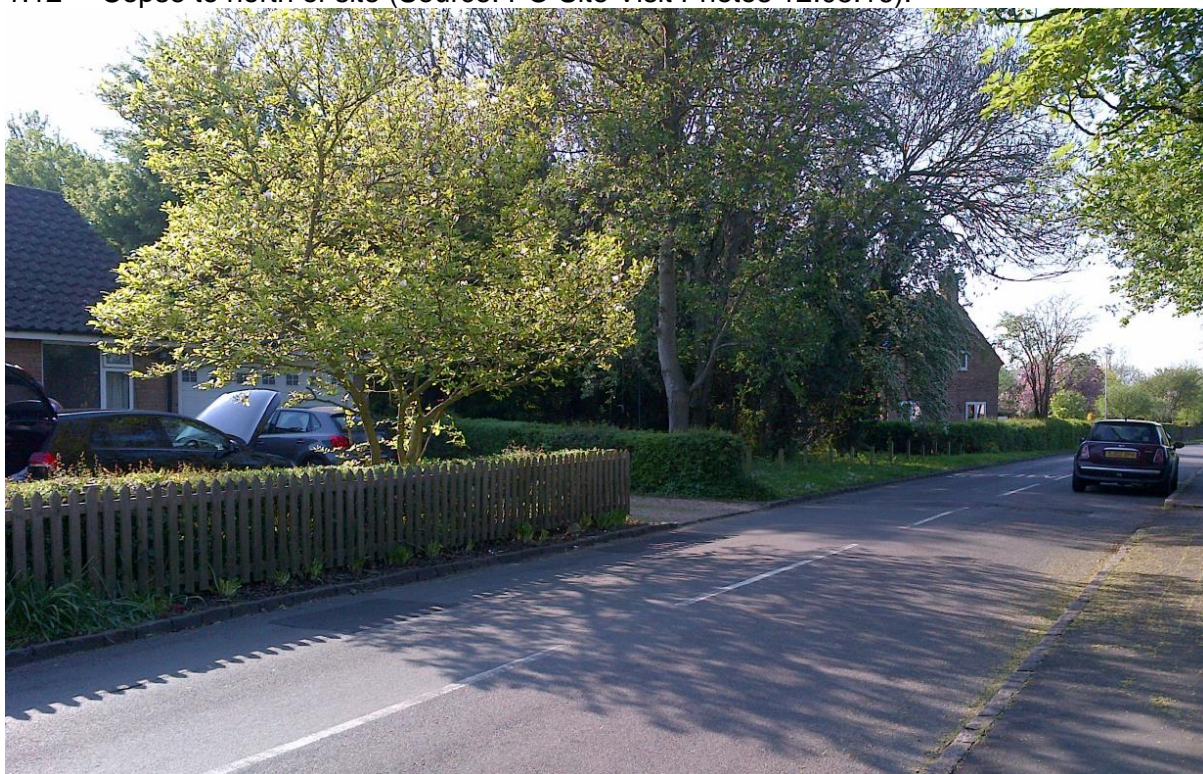
- 1.6 The site is surrounded on three sides by residential land uses. 05/01062/REM granted approval for 22a Langton Road, a relatively newly built 2 storey detached dwelling which lies directly opposite the site.
- 1.7 No.7 Langton Road is a detached two storey dwelling which lies immediately adjacent to the site to the south. This property appears to date from the 1960s (MU/06578/MUDC; approved 14.11.1967).
- 1.8 No.8 Manor Road adjoins the southern boundary of the site. This is an extended 2 storey detached property of cottage proportions (noting planning permission 08/00609/FUL).
- 1.9 Detached bungalow dwelling No.10 Manor Road lies to the east of the site and shares its rear garden boundary with the site. This property has first floor accommodation, with a flat roof dormer window in its front roof plane facing Manor Road. It appears to date from the early 1970s (MU/07794/MUDC; approved 16.11.1971).
- 1.10 To the fourth, northern, side of the site is a small copse of trees and foliage, which appear to be in the public domain. The trees are not protected by a Tree Preservation Order, but are protected by virtue of being within a Conservation Area.
- 1.11 Application site bungalow (Source: PO Site Visit Photos 12.05.16):







1.12 Copse to north of site (Source: PO Site Visit Photos 12.05.16):







1.13 No.7 Langton Road (Source: PO Site Visit Photo 12.05.16):



1.14 No.10 Manor Road (Source: PO Site Visit Photo 12.05.16):





1.15 No.10 Manor Road, with application dwelling seen to rear above & behind No.10's flat roof garage (Source: Google Streetview):



1.16 No.22a Langton Road (Source: Google Streetview):





## 2. Site History

2.1 The site has the following planning history:

Application No.	Decision / Date	Nature of Development
16/00529/FUL	Withdrawn pending refusal; 31.05.2016	Demolition of existing bungalow and erection of replacement two storey detached dwelling
80/00614/3M	Approved; 06.05.1980	Extension to form garage bedroom lounge and utility room
MU/04514/MUDC	Approved; 30.05.1962	The erection of a bungalow and the formation of an access

2.2 16/00529/FUL was Withdrawn as it was likely to progress to refusal; the proposal was not considered to achieve a satisfactory standard of design and there were concerns about amenity harm to the neighbouring bungalow to the rear, No.10 Manor Road (loss-of-privacy was, on balance, considered to be too substantial).

## 3. The Application Submission

### a) Summary of Proposals

3.1 The proposal seeks detailed planning permission for the demolition of the existing bungalow dwelling and its replacement with a 2 storey (4 bedroom) detached dwelling, with an integral double garage, associated car parking and turning and landscaping.

3.2 The applicant / agent have made significant endeavours to improve the design and detailing of the proposal so that it is suitable to the character and appearance of the Conservation Area.

3.3 Withdrawn 16/00529/FUL proposal front elevation:



3.4 Current proposal front elevation:



3.5 Withdrawn 16/00529/FUL proposal rear elevation:

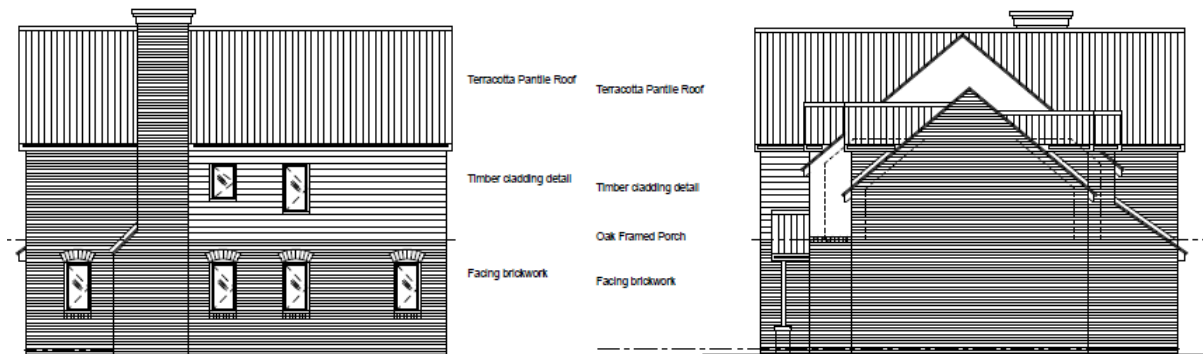


3.6 Current proposal rear elevation:

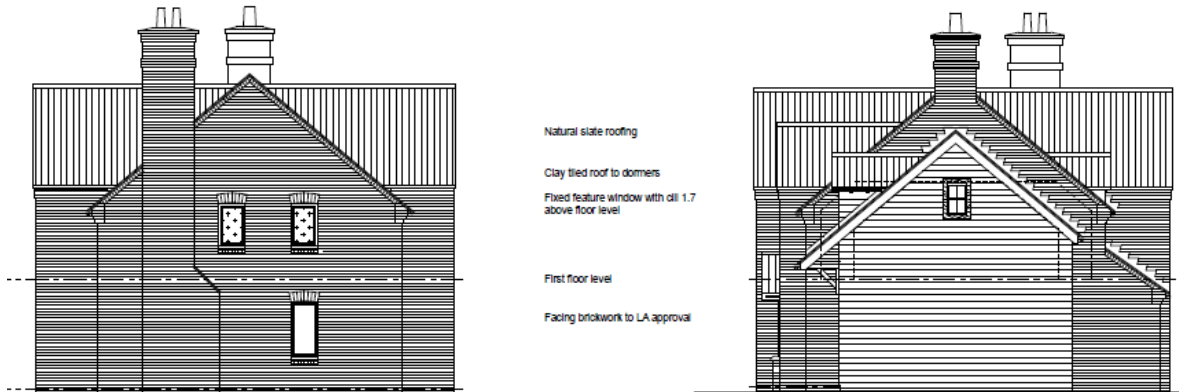




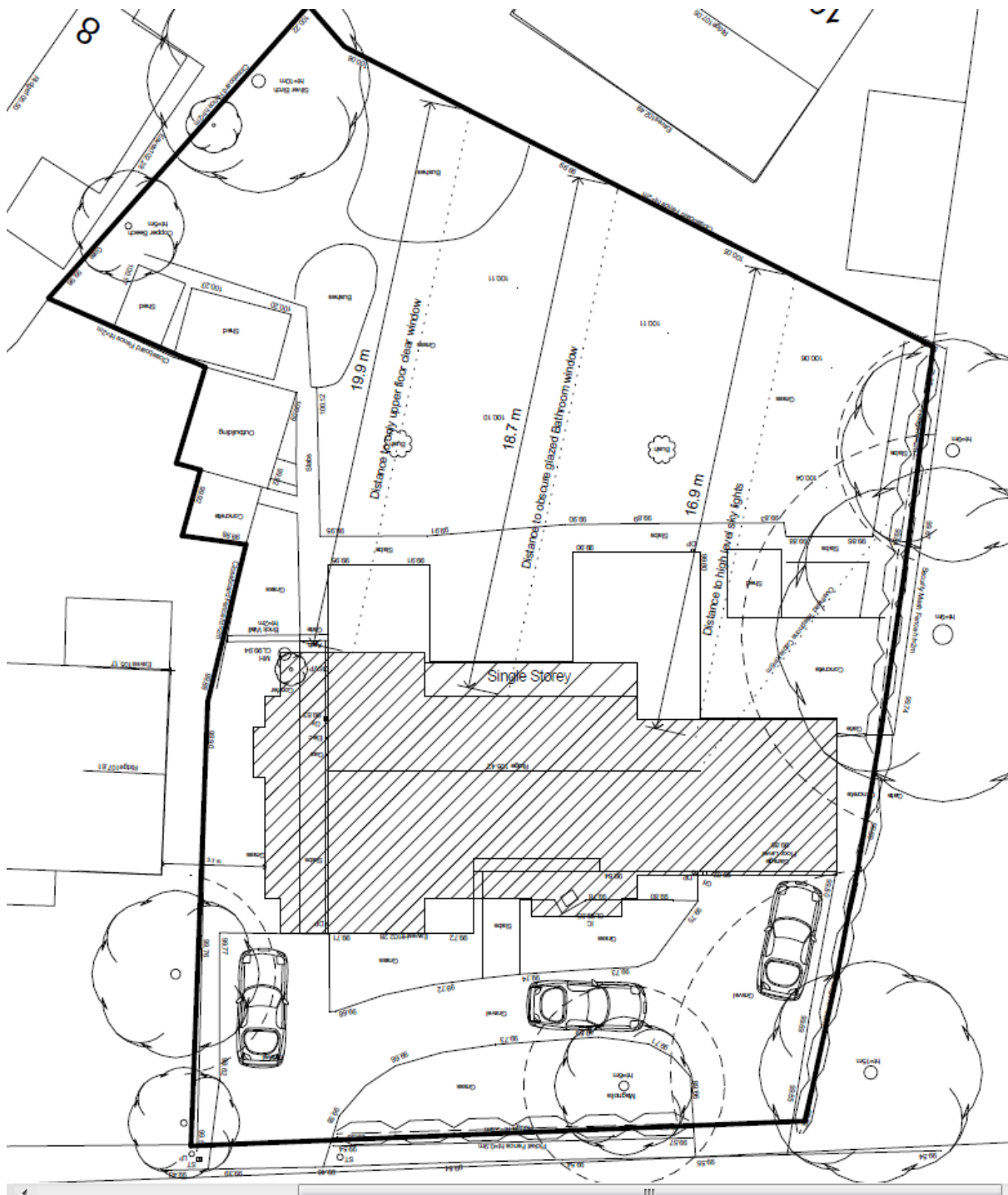
### 3.7 Withdrawn 16/00529/FUL proposal south and north side elevations:



### 3.8 Current proposal south and north side elevations:



### 3.9 The Proposed Site Plan demonstrates how the footprint of the proposal relates to the footprint of the current bungalow. Existing flat roof parts of the application bungalow project farther west, closer to No.10 Manor Road:



- 3.10 The proposed two storey dwelling measures approximately 20.5 metres in breadth by 10 metres in maximum depth. The maximum ridge height is 7.6m. The garage / full-dormer element of the dwelling is 6.3m ridge height.

## b) Plans and Statements / Documents For Assessment

### i. Plans

- 3.11 The applicant has submitted the following plans:

- Block Plan and Location Plan (Drawing No.1, dated August 2015);
- Levels to Local Datum plan (Scale 1:200, September 2015);
- Proposed Site Plan (Drawing No.3D, dated Jun 2016);
- Proposal Floor Plans (Drawing No.4F, dated Jul 2016);
- Proposal Elevations (Drawing No.8C, dated Jul 2016);
- Proposal Elevations (Drawing No.9C, dated Jul 2016).

## ii. Supporting Statements / Documents

3.12 The applicant has submitted the following supporting documents:

- Design and Access Statement (MWS Design, dated 8 August 2016, ref 3280/DAS/02);
- Protected Species Survey (Curious Ecologists, dated 29th April 2016).

## c) Pre-application Engagement

3.13 Since 16/00529/FUL was submitted and Withdrawn, informal advice has been provided on matters of design (preserving and enhancing the character and appearance of the Conservation Area) and reducing neighbouring amenity impacts, to which the applicant and agent have been very responsive.

## 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 Anglian Water

Consulted. No comments received for 16/00529/FUL or current application.

4.4 HDC Technical Services (Drainage Engineer)

Consulted. No comments received for 16/00529/FUL or current application.

4.5 HDC Environmental Services

Consulted. No comments received for 16/00529/FUL or current application.

4.6 HDC Conservation Officer

"The proposal is to demolish the existing bungalow and replace it with a two storey detached dwelling. The bungalow is a modern construction and therefore has no historic significance within the Conservation Area. The proposed dwelling is of a

design that will complement the existing Street scene and therefore in my opinion the development will ensure that the special character of the Conservation Area is preserved in accordance with policy CS11 of the Harborough District Core Strategy and Chapter 12 of the NPPF.”

- 4.7 Leicestershire County Council Highways Authority (LCC HA)  
16/00529/FUL comments have been repeated:

“The Local Highway Authority refers the Local Planning Authority to current standing advice provided by the Local Highway Authority dated September 2011.”

- 4.8 Leicestershire County Council Ecology

“The ecology report submitted in support of this application (Curious Ecologists, dated 29 April 2016) is satisfactory. No protected species were identified. However, we would recommend that a note to applicant is added to any permission granted to draw the applicants attention to the recommendations in the report.”

- 4.9 Great Bowden Parish Council

Consulted. No comments received for 16/00529/FUL or current application.

## **b) Local Community**

- 4.10 7 objections the current application have been received.

- 4.11 The following synopsis of objection comments consists only of quotations:

- 4.12

Design / Visual Amenity / Landscape / Conservation Area Harm objections raised through representations

- The design of a two storey dwelling (which is currently a bungalow) is not in keeping with the village street scene and character.
- The properties on this part of Langton Road are sited on small plots, thus the planned development will be over-powering on this site.
- Has an overbearing impact on existing dwellings.
- If number 9 is allowed to be the height suggested, it will be higher than my house [No.24 Langton Road] or the bungalow next door [No.26] and could also quickly be altered from two storeys to three.
- Langton Road is one of the entrances to the conservation village of Great Bowden and is initially composed of bungalows. This large and modern style building will stick out like a sore thumb - the visual impact is totally wrong and out of keeping with the remainder of the houses most of which are late 1700's on one side and terraced 1800's on the other. Its style is for a modern housing estate, not suitable to mix with the rest of Langton Road.

- 4.13

Highways objections raised through representations

- The current occupants of number 9 currently own 7 motor cars/vehicles so they, and their visitors, need to park on Langton Road. They are very considerate and endeavour to never block access to my house, however the provision of only five parking spaces in their plan does not alleviate the current parking problems within the village.
- My only objection to this application is the lack of parking provision for the current occupants 8 cars.

#### 4.14

#### ■ Residential / General Amenity objections raised through representations

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- I feel it will adversely affect the neighbours in the properties directly next door, opposite and behind.
- The proposed development includes 7 first floor windows, albeit some with 'obscure glazing', that look west over the property at 10 Manor Road. I contend that this constitutes an infringement of the privacy of the residents, particularly those at 10, Manor Road and this fails to meet the guidance in Note 3 of the Supplementary Planning Guidance.
- The proposed building will undoubtedly have an over bearing effect on the adjacent properties, adversely effecting sunlight and daylight enjoyed by the occupants in adjacent buildings.
- We will have first floor windows overlooking all the rear of our property including our main leisure garden (see photos below) [No.10 Manor Road].
- Our fence between the garden of 9 Langton Road and out main garden is 7ft 6 inches high (including extra trellis) which cannot be increased. We will therefore have no privacy due to the siting of the upper bedroom window. This will also be very overbearing and we will lose morning light [No.10 Manor Road].

#### 4.15 2 photos (of 9) submitted by No.10 Manor Road:







## 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

- 5.2 Section 38(3)(b) of the 2004 Act defines the DP as the DP documents (taken as a whole) that have been adopted or approved in that area.
- 5.3 The DP for Harborough comprises:
- The Harborough District Core Strategy adopted November 2011;
  - The saved policies of the Harborough District Local Plan (HDLP) adopted April 2001.
- 5.4 Material considerations include any consideration relevant to the circumstances which has a bearing on the use or development of land. The material considerations to be taken in to account when considering the merits of this application include the DP referred to above, the National Planning Policy Framework (hereafter referred to as 'The Framework' or 'NPPF'), the national Planning Policy Guidance, further materially relevant legislation, together with responses from consultees and representations received from all other interested parties in relation to material planning matters.
- 5.5 *Harborough District Core Strategy*



The Core Strategy (hereafter referred to as the 'CS') was adopted in November 2011 and covers the period from 2006 to 2028. The following Policies of the CS are relevant to this application.

- Policy CS1 (Spatial Strategy)
- Policy CS5 (Providing Sustainable Transport)
- Policy CS8 (Protecting and Enhancing Green Infrastructure)
- Policy CS9 (Addressing Climate Change)
- Policy CS10 (Addressing Flood Risk)
- Policy CS11 (Promoting Design and Built Heritage)
- Policy CS17 (Countryside, Rural Centres and Rural Villages)

## **b) Material Planning Considerations**

### **5.6     *The National Planning Policy Framework (The Framework / NPPF)***

The Framework, published March 2012, replaces previous national policy/guidance set out in Planning Policy Statements and Planning Policy Guidance documents.

### **5.7     *National Planning Practice Guidance***

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

### **5.8     Planning (Listed Buildings and Conservation Areas) Act 1990 Section 72**

Section 72 imposes a duty on Local Planning Authorities to pay special regard/attention to Conservation Areas when considering whether to grant planning permission for development. It states "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area". Core Strategy Policy CS11 and Part 12 of the NPPF are also pertinent.

### **5.9     *New HDC Local Plan***

### **5.10    *Supplementary Planning Guidance***

The following SPGs are considered to be most relevant:

- SPG Note 1: Design Principles to be Applied in Harborough District
- SPG Note 2: Residential Development
- SPG Note 3: Single Plot Development and Development of Small Groups of Dwellings and Residential Development within Conservation Areas
- SPG Note 5: Extensions to Dwellings
- SPG Note 19: Development and Flood Risk

### **5.11    *Leicestershire County Council Highways Authority 6Cs Design Guide***

- 5.12 *ODPM Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System)*

#### Weight to be attached to the Development Plan & Material Considerations

- 5.13 The Development Plan is judged to be robust for the purposes of assessing this application.
- 5.14 Further materials considerations are evaluated in the “Assessment” Section 6 of this report, below.

#### c) Other Relevant Documents

- 5.15 *Circular 11/95 Annex A – Use of Conditions in Planning Permission*

#### d) Other Relevant Information

- 5.16 *Reason for Committee Decision*

This application is to be determined by Planning Committee owing to the number of counter-representations received.

### 6. Assessment

#### a) Housing Requirement and Housing Land Supply

- 6.1 The District’s current 5 year housing supply shortfall is not relevant to this proposal as there is no net gain or loss in dwelling units.

#### b) Principle of Development

- 6.2 The existing bungalow is, as stated in the Design and Access Statement, “of little architectural merit”. Its demolition and the erection of a replacement dwelling is judged to be acceptable in principle.

#### c) Technical Considerations

1. Design and Visual Amenity, Including Impact on the Special Character and Appearance of the Conservation Area
- 6.3 There is a range of different plot sizes and dwelling types in the immediate locality, although all dwellings surrounding the site date from the 1960s onwards. The site is not immediately adjacent to properties in the Conservation Area which are of notable historic interest.
- 6.4 There are benefits to the proposal in terms of its removal of a bungalow which is of limited visual merit and, it could be argued, incongruous to the special character and appearance of the Conservation Area.
- 6.5 Many dwellings occupy significantly smaller plots and have substantially small gardens relative to the size / footprint of the dwellings on those plots. As a guide, the following table shows approximate plot areas in square metres, calculated by the Planning Officer using Uniform aerial mapping tools:

<b>Property address</b>	<b>Plot size in square metres</b>
9 Langton Road (application site)	877
22a Langton Road (opposite site, east)	716
24 Langton Road (opposite site, northeast)	652
7 Langton Road (south side of site)	325
16 Manor Road (north side of site, beyond copse)	370
10 Manor Road	313
8 Manor Road	530
6 Manor Road	205

- 6.6 As can be seen from the above table, the application site is the largest plot in the immediate locality. The proposal is similar in plot coverage compared to the existing bungalow. The plot coverage versus the size of the plot is judged to be in keeping with the locality.
- 6.7 The proposal's scale – its eaves and ridge heights – is also in keeping with surroundings dwellings, some of which are notably taller (e.g., No.22a Langton Road). The proposal would be seen predominately in the Langton Road streetscene. It is acknowledged that along Manor Road (to the immediate west and southwest of the site) there are bungalows and more modest proportioned dwellings (No.s 6, 8 and 10 Manor Road). However, the proposal would not be integral to the Manor Road streetscene and it is not considered to lead to visual harm in these respects.
- 6.8 The design of the proposal has been amended in multifarious ways in order to improve the character and appearance of the dwelling. The dwelling is now judged to suit the visual context of the site, which includes the adjacent copse and its Conservation Area location. As seen in the above plan extracts which show the Withdrawn 16/00529/FUL proposal against the current proposal, a front gable and dormer windows have been reduced in mass and their proportions have been improved. Fenestration proportions and detailing have been adjusted to create more of a vertical emphasis. An additional chimney has been added. An additional gable has been added to create a cohesive and rhythmic design to the proposal's front elevation gables and dormers. The stepped forward projection of each element of the dwelling moving left to right across the front elevation is harmonious. The front eaves height of the garage element has been lowered.
- 6.9 Materials have been adjusted in order to better suit the design of the dwelling and to break up its mass, add interest and suit context. For example, the northern garage element (adjacent to the copse) adopts a rustic, timber clad, exposed rafter feet, timber gallows brackets, timber lintels and clay tile appearance. It is noted that rise and fall gutter brackets would not be suitable to an exposed rafter feet design, but are ideal for the remainder of the dwelling. A more substantial oak framed porch canopy is proposed, which will tie in well with the timber materials in the garage element. The proposed materials (as stipulated on plan) are good quality and suited to the site and its Conservation Area surroundings. A materials Condition is recommended in order to control bricks and tiles. A further Condition is recommended which requires conservation rooflights to be fitted flush within the roof planes using profiling kits. The plans satisfactorily describe other materials and architectural details, thus the requisite approved plans condition will control these matters.
- 6.10 The Harborough District Council Conservation Officer has provided comments on the proposal, advising that "the bungalow is a modern construction and therefore has no historic significance within the Conservation Area" and concluding "the proposed

dwelling is of a design that will complement the existing Street scene and therefore in my opinion the development will ensure that the special character of the Conservation Area is preserved”.

- 6.11 The site contains mature landscaping and the Proposed Site Plan indicates that the proposal retains this. A Landscape Scheme Condition is not considered to be necessary.
- 6.12 For the avoidance of doubt, a Condition is recommended to require the new dwelling to be constructed to the same floor ground floor level as the existing bungalow, unless otherwise agreed in writing by the Local Planning Authority.
- 6.13 It is considered that potential future extensions to the dwelling are unlikely to cause visual harm such as to warrant Conditions on this planning permission which restrict GPDO Permitted Development rights.
- 6.14 The proposal is judged to be well designed. The proposal would be in keeping with the character and appearance of the site and its surroundings. It is judged that the proposal would, on balance, enhance the character and appearance of the Conservation Area and special regard has been given to this matter. The proposal is judged to accord with Policies CS1, CS11 and CS17 of the Harborough District Core Strategy in the above respects.

## 2. Arboricultural Considerations

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- 6.15 The proposal does not extend significantly outside the footprint of the existing bungalow. The increased height of the proposal is not judged to harm the canopies of trees, for example within the copse to the north of the site. The proposal is not likely to harm arboricultural interests within and around the site.

## 3. Ecological Considerations

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- 6.16 LCC Ecology has reviewed the resubmitted proposal and advises that there are no known ecological constraints to development. No ecological Conditions are recommended. One Informative Note is recommended, as outlined in Appendix A.
- 6.17 The proposal is judged to comply with Policy CS8 of the Harborough District Council Core Strategy in this respect.

## 4. Archaeological Considerations

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- 6.18 As the site is formerly developed, the proposal does not involve ground disturbance that has potentially significant archaeological implications.

## 5. Flooding and Drainage Considerations

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- 6.19 The site lies in a low risk flood zone.
- 6.20 The HDC Drainage Engineer and Anglian Water have been consulted and no comments / objections have been received.

- 6.21 The Applicant is proposing a “soakaway” method of disposing of surface water (Application Form, Section 12). Foul drainage is proposed by mains sewer connection.
- 6.22 With regard to drainage and flooding implications it is considered that the proposal maintains the status quo. The proposal can reasonably be expected not to lead to increased flood risks or drainage problems. The application is judged to comply with Policy CS10 of the Harborough District Core Strategy in these respects.

## 6. Highways Considerations

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- 6.23 LCC HA has not raised any concerns about the proposal.
- 6.24 The number of bedrooms in the existing bungalow is not known, although it may be 3 or less bedrooms. LCC HA recommended minimum parking standards are 2 car parking spaces for dwellings with 3 or less bedrooms and 3 car parking spaces for dwellings with 4 or more bedrooms.
- 6.25 While the proposal is for a 4 bedroom dwelling (with significantly increased overall floorspace compared to the existing bungalow), the plans demonstrate that ample parking and turning provisions would be retained within the site. Application Form Section 10 states that 5 car parking spaces are proposed. A separate parking / turning Condition is not judged to be necessary as the matter is controlled by an Approved Plans Condition.
- 6.26 The double garage is approximately 5m internal depth by 5.6m in width. These dimensions fall below the LCC HA advocated “minimum usable internal dimensions for a garage”, which “are width 3.0 metres and length 6.0 metres (6.0 m x 6.0 m for a double garage).” (Source: LCC HA Standing Advice, p.9). The garage is, therefore, not counted towards the required parking spaces for the dwelling.
- 6.27 There is no evidence that the proposal would lead to demonstrable detriment to highways safety in the locality which is sufficient to warrant refusal of planning permission. No highway related Conditions are judged to be justified.
- 6.28 The proposal is judged to accord with Policies CS5 and CS11 of the Harborough District Core Strategy in the above respects.

## 7. Residential & General Amenity Considerations

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- 6.29 The front elevation of the proposal is approximately 26m away from the front elevation of No.22a Langton Road, as well as being across a public highway. The proposal lies to the north of adjacent No.7 Langton Road and does not interrupt 45 degree lines from this property. The proposal is not considered to cause amenity harm to either of these neighbouring properties.
- 6.30 The proposal is more tightly spaced with the neighbouring bungalow to its rear, No.10 Manor Road. The Proposed Site Plan indicates that windows in the proposal are between 19.9 metres and 16.9 metres from the boundary with No.10 Manor Road. Planning Officer Uniform mapping measurements show that the proposed dwelling would be between 22m and 18m from the elevations of No.10 Manor Road.

- 6.31 HDC Supplementary Planning Guidance Note No.2 indicates that 21m should be the minimum distance separation sought between facing habitable room windows, although at Paragraph 2.6 it does also note that “the requirement to make the best use of land, which whilst being balanced against the need to protect residential amenity may lead to a relaxation in standards.”
- 6.32 The eastsoutheast rear elevation of No.10 Manor Road facing the proposal contains one utility room window and one obscure glazed bathroom window. These rooms are not considered to be habitable rooms for the purposes of SPG interpretation and, therefore, less weight can be attached in this respect.
- 6.33 Notwithstanding the above, mindful of the proposal’s relationship with No.10 Manor Road the first floor rear elevation fenestration of the proposal has been substantially amended compared to Withdrawn 16/00529/FUL. The 16/00529/FUL proposal contained four first floor habitable room (bedroom) windows and two obscure glazed bathroom windows. The current proposal now contains only one first floor bedroom window and two obscure glazed bathroom windows. The other three habitable room windows have been amended to be rooflights with a minimum sill height of 1.7m above internal floor level – above average eye line – which would minimise views out of these openings and enhance No.10 Manor Road’s privacy. The obscure glazing of the bathroom windows and the minimum sill heights of rooflights is stipulated on the proposed plans and an Approved Plans Condition would control this.
- 6.34 It is noted that No.10 Manor Road’s primary garden area is to the south, at a distance of approximately 20m (and upwards) away from the proposal’s nearest first floor rear elevation windows. The No.10 occupier has advised that they regularly use the small amenity spaces to the east and north surrounding their dwelling, which was apparent from my site visit to this neighbour on 12.05.16. These areas are closer to the proposal. The occupier of No.10 Manor Road has advised in writing that there is a 7ft 6 inches high (including extra trellis) fence between the southern part of their garden area and the site. Mindful of the limited first floor overlooking which would result from the proposal, as well as the distance separation and relationship between the site and No.10, the proposal is not judged to conflict with Supplementary Planning Guidance and Core Strategy policies which seek to preserve an acceptable level of amenities to neighbours.
- 6.35 The proposal is not considered to cause any tangible harm to the amenities of No.6 and No.8 Manor Road, or other properties in the locality.
- 6.36 Paragraph 200 of the National Planning Policy Framework states that planning conditions should not be used to restrict Permitted Development rights unless there is clear justification for doing so. Similarly, the PPG advises that conditions restricting the future use of permitted development rights or changes of use “will rarely pass the test of necessity and should only be used in exceptional circumstances”. It is not considered to be reasonable or necessary to restrict the Permitted Development of the proposal in any respect.
- 6.37 The proposal is judged to be acceptable in terms of its residential and general amenity impacts; the proposal complies with Policy CS11 of the Harborough District Core Strategy in these respects.

#### **d) Sustainable Development**

- 6.38 The NPPF requires LPAs to grant planning permission for sustainable development, unless otherwise justified. Paragraph 7 of the NPPF states: “There are three dimensions to sustainable development: economic, social and environmental”.
- 6.39 In terms of economic considerations, the proposed dwelling would provide employment during the construction period. Further economic benefits are limited and do not generate significant weight in favour of the proposal.
- 6.40 In social terms, the development would, on the one hand, provide a larger dwelling and help to meet demonstrable local housing need, but on the other hand would reduce the housing stock of one bungalow dwelling.
- 6.41 In terms of environmental considerations, there are no significant adverse visual/environmental impacts to the proposal. Safe access and parking is maintained and neighbouring amenities are preserved. The proposal would preserve and enhance the character and appearance of the Conservation Area.
- 6.42 On the basis of the Section 6 assessment of this report, the proposal is judged to represent sustainable development which complies with the NPPF.

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

- 7.1 The proposal, by virtue of its design (form, mass, scale, proportions, style and materials), would be in keeping with the character and appearance of the site and its village surroundings.
- 7.2 The proposal would preserve and enhance the special character and appearance of the Conservation Area.
- 7.3 The proposal would not cause significant harm the amenities of surrounding residents or general amenities in the area, would not adversely affect ecological, archaeological or arboricultural interests, would not exacerbate flood risks, and would not be detrimental to highway safety.
- 7.5 The proposal accords with Policies CS1, CS5, CS8, CS9, CS10, CS11 and CS17 of the Harborough District Core Strategy and no other material considerations indicate that the policies of the Development Plan should not prevail.
- 7.6 The decision has been reached taking into account, inter alia, Paragraphs 186 and 187 of the Framework and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **8. Planning Conditions and Notes**

- 8.1 If Members are minded to Approve the application, a list of recommended Planning Conditions and Informative Notes follows in **Appendix A**.

## **Appendix A**

### **Recommended Conditions**



**1. Development to Commence Within 3 Years**

The development hereby approved shall begin within 3 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. Approved Plans Reference**

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

- Block Plan and Location Plan (Drawing No.1, dated August 2015);
- Proposed Site Plan (Drawing No.3D, dated Jun 2016);
- Proposal Floor Plans (Drawing No.4F, dated Jul 2016);
- Proposal Elevations (Drawing No.8C, dated Jul 2016);
- Proposal Elevations (Drawing No.9C, dated Jul 2016).

REASON: For the avoidance of doubt.

**3. Materials Samples / Details**

No development shall commence on site until a schedule indicating the bricks and tiles to be used on all external elevations of the approved dwelling (and material samples if requested) 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.

REASON: In the interests of the character and appearance of the development and the surrounding area (which includes the Conservation Area) and to accord with Policies CS1, CS11 and CS17 of the Harborough District Core Strategy.

**4. Conservation Rooflights, Fitted Flush**

The rooflights to be used shall be specialist conservation style rooflights (dark metal external finish, with central vertical glazing bar) and shall be fitted using 'profiling' kits so that they are fitted flush (externally) within the roof plane/s.

REASON: In the interests of the character and appearance of the development and the surrounding area (which includes the Conservation Area) and to accord with Policies CS1, CS11 and CS17 of the Harborough District Core Strategy.

**5. Levels**

The ground floor level of the dwelling hereby approved shall be the same as the existing bungalow, unless otherwise approved in writing by the Local Planning Authority.

REASON: For the avoidance of doubt, in the interests of the character and appearance of the development and the surrounding area (which includes the Conservation Area) and to accord with Policies CS1, CS11 and CS17 of the Harborough District Core Strategy.

**Recommended Informative Notes**

**1. Building Regulations**

The Applicant is advised that this proposal requires 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. 01858 821090). As such, please be aware that complying with Building Regulations does not mean that the Planning Conditions attached to this Permission have been discharged and vice versa.

**2. Party Wall Act**

If the permitted plans involve the carrying out of building work along or close to a boundary, you are advised that under the Party Wall Act 1996 you have a duty to give notice to the adjoining owner/s of your intentions before commencing this work.

**3. No Burning of Waste**

No burning of waste should be undertaken on site 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.

**4. Construction Hours & Vehicles**

Site works, deliveries, or any building works in connection with the development should only take place between the hours of 08:00-18:00 Monday to Friday, 09:00-13:00 Saturday and at no time on Sunday or Public/Bank Holidays. All vehicles associated with the development shall be parked within the site.

**5. Ecology Advice**

The Applicant's attention is drawn to the recommendations contained within the Protected Species Survey (Curious Ecologists, Date of Report - 29th April 2016), which should be addressed during the course of development.

**Planning Committee Report****Applicant:** Mr and Mrs Walker**Application Ref:** 16/01285/FUL**Location:** Land south of The Berries, Stanford Road, Swinford**Proposal:** Erection of 9 dwellings with associated access**Application Validated:** 11/08/16**Target Date:** 06/10/16 (extension of time agreed)**Consultation Expiry Date:** 03/10/16**Site Visit Date:** 12/09/16**Case Officer:** Chris Brown**Recommendation**

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

- The conditions set out in Appendix A

Overall it is considered that the proposed dwellings, by virtue of their siting, appearance, scale and massing, the proposal would be acceptable and would not adversely affect local highway safety or give rise to a road safety hazard. The application site is in open countryside, though adjacent to the Limits to Development, with capacity to accommodate development, and relates relatively well to the built up area. The Council is unable to demonstrate an up-to-date five year supply of deliverable sites for housing, and therefore finds support from Policy CS2(a). This is a very important material consideration that weighs strongly in favour of the proposal.

In the absence of a five year housing land supply, paragraph 14 of the Framework is engaged, and therefore permission granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits. The scale, design and form of the development respects the character of the surrounding area and it will integrate with the existing built form. Residential amenity is safeguarded, and LCC Highways have raised no objections to the proposal. The proposal therefore complies with Policies CS1, CS2, CS5, CS11, and CS17 of the Harborough District Core Strategy.

**1. Site & Surroundings**

- 1.1 The site is located to the south of Swinford, fronting Stanford Road, and continuing to the corner of Stanford Road where an agricultural track and footpath (X6) meet Stanford Road. The site is bordered by open fields to the south and west of the site, and by the agricultural buildings of The Berries immediately to the north of the site, with the Grade II Listed dwelling and outbuildings beyond to the north. To the east of the site, across Stanford Road, is a ménage and small stable building.



**Figure 1: Site Location**



**Figure 2: view north along Stanford Road**





**Figure 3: view north within the site**



**Figure 4: view south across the site**



**Figure 5: view south down Stanford Road**

1.2 The site is open in appearance, and relatively flat, with a slope within the site from east to west. The site is not currently used for grazing or agriculture. The site has established hedgerows to its south and west boundaries of the site, and interspersed with trees, with a series of trees across the eastern boundary of the site to Stanford Road. The north boundary of the site is not clearly delineated, with a metal fence separating an existing track to serve the agricultural buildings, and no clear boundary to these buildings from the site.

1.3 The Site sits south of the Grade II Listed The Berries to the north, with its (not listed) agricultural buildings to the northern boundary of the site. Further development along Stanford Road continues to the north east of the site, to its current southern point on Stanford Road, with Avon View, a modern dwelling of contrasting materials the southern most dwelling. The site is adjacent to limits to development for Swinford, and located adjacent to a conservation area.

## **2. Site History**

2.1 The Site has no relevant planning history.

## **3. The Application Submission**

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

3.1 The proposal seeks full planning approval for the erection of 9 dwellings. The layout of the site proposes a single access in to the site from Stanford Road to the east, with a mix of house types and designs through the scheme. No public open space provision is identified in the proposed layout.

3.2 The proposal is split into 3 sections in terms of design and layout, a courtyard to the northern section (3 dwellings), village cottage style to the central section (5 dwellings) and farmhouse (1 dwelling, plot 4).



- 3.3 Plots 7, 8 and 9 form the northern most dwellings, and sit around a central parking courtyard, with access between plots 7 and 9. These 3 dwellings are proposed to continue the features of the existing buildings of Berries Farm to the north, including matching materials of plain clay roof tiles, brick detailing below the eaves, timber windows and brickwork arches.
- 3.4 Plots 7, 8 and 9 are all of similar dimensions, with plot 9 a standalone dwelling of approx. 9.80m in width, and 6.20m in depth at two storey height, with an additional single storey extension of approx. 5.10m in depth. The dwelling is approx. 8.00m to the ridge height, with eaves at approx. 5.20m with a steeply pitched roof, and the rear extension at approx. 4.30m in height to the ridge and approx. 2.20m to the eaves. Plot 9 is connected to plot 7 with a timber and brick passageway, providing access below a pitched roof to the courtyard and parking provision for plots 7-9.
- 3.5 Plots 7 and 8 are mirror images of each other and semi-detached. The two dwellings are of an identical design to plot 9, however are slightly smaller in dimensions with a different internal layout to the ground floor. Plots 7 and 8 are approx. 9.30m in width, with a depth of approx. 6.20m at two storey level, matching plot 9, however with a shorter single storey extension, at approx. 4.30m in depth. All heights of both the two storey and single storey elements of plots 7 and 8 match those of plot 9. All 3 plots are of similar design and proposed materials, with clay tile roofs, feature brickwork detailing to the eaves and to the joining passageway, feature brickwork band courses and timbers doors and windows. All 3 plots are 3 bed dwellings, with minor alterations to the ground floor layouts between plots 7 and 8 and plot 9.
- 3.6 Plot 6 is a standalone detached dwelling to the north west of the site, south of plots 7-9, and one of 5 dwellings within a village cottage design category. Plot 6 features an attached single garage to the northern side elevation, and fronts the access from Stanford Road, providing a front on elevation to the access when entering the site. Plot 6 is approx. 9.40m in depth, and approx. 6.50m in width, with an attached garage of approx. 3.30m in width and 6.00m in length. Plot 6 is proposed at approx. 8.00m in height to the ridge, and approx. 4.50m to the eaves, with the attached garage at approx. 5.50m to the ridge and approx. 2.50m to the eaves. The proposed design of the dwelling features feature brickwork details to the front and rear gable ends, slate roofs, contrasting with the clay roofs of plots 7-9, and timber doors and windows, including the garage door. In addition, an open timber frame and slate roofed porch is proposed to the front elevation. Plot 6 is a 3 bed dwelling.
- 3.7 Plots 3 and 5 are identical in detached dwellings to the southern and central part of the site, with plots 1 and 2 semi detached dwelling, with an overall appearance and dimensions similar to those of plots 3 and 5. Plots 1 and 2 are semi-detached 2 bedroom dwellings, and a mirror image of each other. Plots 1 and 2 have an overall footprint of approx. 10.30m in width, and approx. 7.60m in depth, with a ridge height of approx. 8.35m, and eaves at approx. 4.40m. Plots 1 and 2 match the slate roof of plot 6, and with similar brick detailing to all other plots, with the addition of lead clad dormer windows to the front (west) elevation, facing into the site. In addition to the front elevation dormer windows, two dormer windows are proposed to the rear (east) elevation, with brickwork detailing to the gable, facing towards Stanford Road. Plots 1 and 2 are both 2 bedroom, single bathroom dwellings, with an open plan living area on the ground floor, helping to provide a mix of dwelling sizes.
- 3.8 Plots 3 and 5 are identical in appearance, scale and layout, with the positioning of the single attached garage the only difference. Both plots are approx. 11.00m in width, and approx. 6.80m in depth, with a ridge height of approx. 8.00m, and eaves at

approx. 4.40m, with dormer windows matching those of plots 1 and 2, with 3 to the front elevation and 4 to the rear. The single attached garage sits flush with the side elevation of plot 3 and set back approx. 3.00m from the front elevation. Both dwellings have an identical internal layout of 4 bedrooms, and open plan kitchen/diner to the ground floor, and separate living and utility rooms. Both plots have provision for 2 parking spaces in addition to the single attached garage. Both plots, as per plots 1, 2 and 6, have matching slate roofs, lead clad dormer windows and brickwork detailing.

- 3.9 Plot 4 sits alone as a larger detached dwelling to the south of the site, designed as a farmhouse style dwelling at the head of the proposed scheme. Plot 4 has proposed materials to match those of plots 7-9 at the northern part of the site, with matching brickwork detailing and a clay tile roof, in addition to a chimney to the eastern elevation. Plot 4 is a 5 bedroom dwelling, at approx. 12.70m in width across the site, and approx. 6.80m in depth, with a ridge height of approx. 8.60m, and eaves at approx. 5.35m. Plot 4 has a double garage to the side and front elevation, with an attached link forming the boot and utility rooms. The double garage is approx. 5.80m in width (check new plans), 6.00m in depth, and with a height of approx. 5.50m to the ridge and approx. 2.40m to the eaves. Between the dwelling and garage, the proposed link will be approx. 3.80m to the ridge, and approx. 2.30m to the eaves.
- 3.10 The layout shows the retention of the existing hedge boundaries to the site (accept to provide for access), together with retention of trees to the eastern boundary to Stanford Road.

## **b) Documents submitted**

### **i. Plans**

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

Location Plan  
 Topographical Plan 234/SWI/15/002  
 Layout Plan 234/SWI/15/010 J  
 Site Elevations 234/SWI/15/015 A  
 Plots 1 and 2 234/SWI/15/PL1-011 A  
 Plot 3 234/SWI/15/PL3-011 B  
 Plot 4 234/SWI/15/PL4-011 C  
 Plot 5 234/SWI/15/PL5-011 B  
 Plot 6 234/SWI/15/PL6-011 B  
 Plot 7 234/SWI/15/PL7-011 B  
 Plot 8 234/SWI/15/PL8-011 B  
 Plot 9 234/SWI/15/PL9-011 B  
 Landscape masterplan PR120407-10  
 Tree Reference Plan PR120407-01  
 Tree Protection Plan PR120407-03B  
 Revised Access Plan – U8134PM-TA01 Rev E

### **ii. Supporting Statements**

- 3.6 The application has been accompanied by the following supporting statements –

Design and Access Statement  
Archaeology Assessment (April 2016)  
Flood Risk Assessment (August 2016)  
Heritage Statement (August 2016)  
Landscape and Visual Impact Assessment (March 2016)  
Transport Assessment (August 2016)  
Tree Survey (April 2016)  
Biodiversity Survey and Report (August 2016)  
Planning Statement (August 2016)

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

- 3.7 Prior to submitting the planning application the site has been subject to a pre-application. The initial scheme submitted at pre-application, for 11 dwellings, has been reduced and revised taking into account comments regarding the layout of the proposed scheme. The identified Plot 4 has been moved north within the site, allowing the southern section of the site to remain open in nature, reducing the impact of the development on the southern edge of the settlement. The application has also evolved following comments received from LCC Ecology and LCC Highways.
- 3.8 The site has also been submitted as part of the Strategic Housing Land Availability Assessment (SHLAA). The site, reference A/SW/HSG/01 is one of 4 sites within Swinford, and is identified as potentially suitable, potentially available and potentially achievable for development, with a capacity of up to 11 dwellings in a settlement identified as a Selected Rural Village in the Core Strategy. However, the SHLAA site is a different red line outline to that submitted through this application.

## **4. Consultations and Representations**

- 4.1 Consultations with technical consultees and the local community were carried out on the application. This occurred on 15<sup>th</sup> August 2016, and included a site notice put up on 12<sup>th</sup> September 2016. The consultation period expired on 3<sup>rd</sup> October 2016.
- 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**

#### ***Swinford Parish Council***

- 4.3 Make the following points on the application:

- Parking for the development meets a blind bend on a main road
- Only 1 surface drain shown on the plans, could be a flood risk
- Unadopted road issues
- Hung vote – 2 objections, 2 supporting

#### ***LCC Highways***

- 4.4 Proposed amendments required to the access and access surfacing arrangement, pavement provision and garage dimensions.

- 4.5 Following revised plans submitted, LCC Highways have commented as follows:

- 4.6 The Local Highway Authority advice is that, in its view the residual cumulative impacts of development can be mitigated and are not considered severe in accordance with Paragraph 32 of the NPPF, subject to the Conditions and Contributions as outlined in this report.

4.7 Site Access & Footway Provision

In response to the original observations, the site entrance has been reduced to an access width of 4.8 metres, which is considered suitable to serve a development of this size (9 dwellings). Also, in response to the initial observations, the applicant has shown on the plan that a 2 metre wide footway can be provided from within the site, proceeding north along Stanford Road to a point where it would join with the main access to Berries Farm, which is just within the 30mph speed restriction zone. The LHA is content that this approach will protect vulnerable users accessing the village and the site on foot, however has concerns as to how the footway will commence / end within the development as the amended plan showing a tapered end is not currently acceptable to the LHA. The footway should proceed for 10 metres into the access for the full width of 2 metres to ensure that vulnerable users are separated from vehicles using the access. As such, a condition is recommended to this effect.

4.8 Garages & On-Site Parking Provision

Amended plans were forwarded to the LHA by the LPA on 27<sup>th</sup> September 2016 showing revised details of the proposed garages following initial observations. The amended plans (ref: 234/SWI/15/PL3-011 Rev B, 234/SWI/15/PL4-011 Rev C, 234/SWI/15/PL5-011 Rev B and 234/SWI/15/PL6-011 Rev B) meet the standards for car parking as detailed within the County Council's latest design guidance and can therefore now be considered to be counted as parking spaces within the proposed development. As such, the LHA is now content that there is sufficient on-site parking to ensure that the proposal would not lead to on street parking in the area to the detriment of highways safety.

4.9 Visibility at the Access & Speeds

The applicant submitted further details to the LHA of the location of the speed survey and the methodology of the speed survey; these were considered to be acceptable to the LHA.

The visibility splay to the south of the site should not be drawn across the highways land to the north and east of Stanford Road; it should be drawn in accordance with the standards as set out in the County Council's latest design guidance. Nevertheless, the LHA is content that the required visibility splays are achievable at the site based on the results of the speed surveys submitted within the plans.

- 4.10 Conditions proposed for access and footway provision, visibility splays, garages, surfacing, gradient, drainage, turning facilities and no gates.

***HDC Environmental Health***

- 4.11 Due to the previous use as an orchard, conditions requiring a risk based land contamination assessment, verification investigation report and no burning of waste

are recommended. Further condition regarding a construction method statement proposed.

***Severn Trent Water***

- 4.12 I confirm that Severn Trent Water Ltd has NO Objection to the proposal subject to the inclusion of the following condition.
- 4.13 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

***LCC Archaeology***

- 4.14 The Leicestershire and Rutland Historic Environment Record (HER) shows that the application site lies in an area of archaeological interest. The proposed location is within the historic settlement core of Swinford (HER Ref: MLE 10318), in an area which appears undisturbed on the 1st Edition Ordnance Survey Map. This means that any remains are likely to be relatively undisturbed by later activity, pre-date the late 19th Century and relate to medieval or earlier settlement of the village. Ridge and furrow earthworks, from the medieval, open field system, can still be seen to the west of the application site. Such archaeological remains are essential for charting the nucleation and development of Leicestershire's villages. To the north of the application site, lies The Berries, an 18th Century Grade II Listed building (MLE 12070). Aerial photographs indicate that the site has existed as relatively undisturbed pasture since the mid 20th century at least. The submitted desk-based assessment has identified the presence of two low earthwork banks, of uncertain date, in addition to medieval ridge and furrow earthworks in the western part of the site.
- 4.15 All groundworks associated with the proposed development will have a damaging impact upon both the upstanding earthwork remains, and upon any associated archaeological deposits which might be present below-ground.
- 4.16 In accordance with National Planning Policy Framework (NPPF), paragraph 129, assessment of the submitted development details and particular archaeological interest of the site, has indicated that the proposals are likely to have a detrimental impact upon any heritage assets present. NPPF paragraph 141, states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development. 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. The Historic & Natural Environment Team (HNET) will provide a formal Brief for the latter work at the applicant's request.
- 4.17 To ensure that any archaeological remains present are dealt with appropriately, the applicant should provide for an appropriate level of archaeological investigation and recording. This should consist of a programme of archaeological work, to be conducted as an initial stage of the proposed development. It should commence with an archaeological topographic survey of the medieval ridge and furrow and other earthwork features on site, including an analysis of available LiDAR data. This should be followed by a further phase of intrusive archaeological investigation, to be informed by archaeological trial trench evaluation of the site.
- 4.18 If planning permission is granted the applicant must obtain a suitable written scheme of Investigation (WSI) for all phases of archaeological investigation from an

organisation acceptable to the planning authority. The WSIs must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above mentioned Brief, with this Department's "Guidelines and Procedures for Archaeological Work in Leicestershire and Rutland" and with relevant Institute for Archaeologists "Standards" and "Code of Practice". It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.

- 4.19 We therefore recommend that any planning permission be granted subject to the following planning conditions (informed by paragraphs 53-55 of DoE Circular 11/95), to safeguard any important archaeological remains potentially present:
- 4.20 1) No demolition/development shall take place/commence until a programme of archaeological work (comprising topographic survey, followed by intrusive investigation informed by initial trial trenching) has been detailed within Written Schemes of Investigation, submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)
  - The programme for post-investigation assessment
  - Provision to be made for analysis of the site investigation and recording
  - Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - Provision to be made for archive deposition of the analysis and records of the site investigation
  - Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- 4.21 2) No demolition/development shall take place other than in accordance with the Written Schemes of Investigation approved under condition (1).
- 4.22 3) 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 (1) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured. Reason: To ensure satisfactory archaeological investigation and recording
- 4.23 The Written Schemes of Investigation (WSIs) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
- 4.24 The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.



### ***LCC Ecology***

- 4.25 Initial holding objection received from LCC Ecology. Initial Phase 1 habitat survey undertaken outside of the optimal survey season for grassland, with further information required regarding the layout of the proposed scheme, and being in accordance with Great Crested Newt and badger protection.
- 4.26 Additional comments received on receipt of further information from the applicant:
- 4.27 We are pleased to see that an additional habitat survey has been completed. We note that whilst this did record additional species to the February survey, the site did not meet Local Wildlife Site Criteria. No further habitat surveys will be required.

The revised Landscape Masterplan (Rev A) clarifies the width of the wildlife buffer to the west of the site which we welcome. This plan also includes amendments to the proposed landscaping in the area of the badger sett. The badger mitigation has also been amended to reflect our comments and the plan is now satisfactory.

I am satisfied with the proposed GCN mitigation, but still have some concerns that this is outside of the application site boundary; it is shown on the landscape masterplan, but not the Site Location Plan as being within the red-line boundary. Whilst we have no objections to the mitigation, we would recommend that the Planning Authority ensure that this is incorporated into any planning permission, with conditions and planning obligations as appropriate.

In summary, we would have no objections to this application, provided that the following can be incorporated into condition(s) of the development:

- Layout to be in accordance with Revised Landscape Masterplan (PRI20407-10A).
- Recommendations; including GCN and Badger mitigation, from section 6 of the revised Ecological Assessment (ACD Environmental, August 2016, Rev A) to be followed.
- Planning Authority to ensure that the GCN mitigation is written into a planning obligation/condition, particularly the area off-site.
- Landscaping of GCN mitigation area and wildlife corridor to be agreed.
- Management Plan to be submitted.
- Ecological surveys are only considered to be valid for 2 years. If development has not commenced by 2018 updated surveys will be required.

### ***HDC Conservation Officer***

- 4.28 The proposed development is on the edge of the village of Swinford, adjacent to the Conservation Area and the Listed Building known as The Berries. The development will affect the wider setting of the Conservation Area however in my opinion; due to the siting and design of the dwellings it will not be harmful to the character of the Conservation Area. Furthermore due to the proposed layout, the existing buildings and wall to the north of the site and the existing planting to be retained, it is considered that the development will not result in harm to the setting of the Listed Building therefore in accordance with Chapter 12 of the NPPF.

### ***LCC Arboricultural Officer***

- 4.29 The trees are around the perimeters, and development has been kept outside the RPAs. The access road is proposed as a link between T2 and T3, and the slight incursion into their RPAs (3.8% and 1.9% respectively) is unlikely to have any adverse consequences. The no-dig surfacing just within the site is also a small percentage of the RPA and should involve less excavation in any case. Protective fencing is shown on the plan and is according to BS5837:2012.

- 4.30 There is no actual indication of service runs and their connections, but as stated in the arb. impact/method statement (para.4.10), there should be no reason to encroach into any RPAs if service runs are retained within/under road surfaces or open areas away from trees. It would nevertheless be helpful to see a detail of proposed routes.

## **b) Local Community**

- 4.31 7 objections received, from 7 households. A further 2 letters of support received.
- 4.32 Highway issues raised in respect of the proposed development include:
- Inadequate parking provision, potentially resulting in overspill parking outside of the site
  - Increased traffic and pollution
  - Site access road not to be adopted road
- 4.33 Policy issues raised in respect of the proposed development include:
- Contrary to Local Plan Policy HS/8 and not in keeping with the form and scale of the village
  - Premature to the new Local Plan
  - Premature to the Swinford Neighbourhood Plan
  - Does not comply with Policy CS3 – Affordable Housing
  - Inefficient use of land
  - Not a sustainable location
- 4.34 Other issues raised:
- Compromise the character and appearance of the Conservation Area
  - No evidence of need for development
  - Will reduce rural view across the site
  - Inadequate drainage provision
  - Ownership of shared passageway between plots 7 and 9
  - Bin storage not clear
- 4.35 Issues raised in support of the application:
- Need for more smaller dwellings in the village
  - No amenity issues
  - Additional dwellings may bring additional services
  - Good location for development

## **5. Planning Policy Considerations**

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

## **a) Development Plan**

- *Harborough District Local Plan*
- 5.2 Relevant Policy of HS/8 – Limits to Development. The site is located adjacent to existing limits to development for Swinford.
- *Harborough District Core Strategy (Adopted November 2011)*
- 5.3 Relevant policies to this application are, CS1, CS2, CS5, CS11 and CS17. These are detailed in the policy section at the start of the agenda, with the exception of Policy CS17, detailed below.
- 5.4 Policy CS17 of the Core Strategy sets out the Council's approach to development in the rural centres, selected rural villages and the countryside. Policy CS17 identifies Swinford as a Selected Rural Village, based on its service provision of a pub and primary school, with development in Selected Rural Villages to be on a lesser scale than Rural Centres, with Rural Centres to be the focus for rural affordable and market housing, additional employment, retail and community uses to serve the settlement and its rural catchment area. In all cases development will be on a scale which reflects the size and character of the village concerned, the level of service provision and takes into account recent development and existing commitments.
- 5.5 Policy CS12 sets out how infrastructure will be provided alongside residential development.

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

- *Supplementary Planning Guidance*
- 5.6 The Supplementary Planning Guidance Note that is relevant to this application is Note 2 Major Housing Sites.

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

- *Reason for Committee Decision*
- 5.7 This application is to be determined by Planning Committee as the recommendation is for approval, with more than 5 objections received (7 objections).

### **6. Assessment**

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

- 6.1 The village of Swinford is identified within CS17 as a Selected Rural Village (having a minimum of 2 key services and therefore considered sustainable), and the settlement of Swinford does have identified Limits to Development, and the site falls outside of and adjacent to this. Policy CS2 outlines that;
- 6.2 *'Housing development will not be permitted outside Limits to Development (either before or following their review) unless at any point there is less than a five year supply of deliverable housing sites and the proposal is in keeping with the scale and character of the settlement concerned.'*
- 6.3 The centre of the site is within 400m of a pub and within 500m of a primary school.

- 6.4 As the Council is unable to demonstrate a 5yr supply, and the site is adjacent to limits to development of a sustainable settlement (Selected Rural Village), the principle of development therefore is considered in compliance with the Core Strategy.
- 6.5 Whilst objections have been received regarding the principal of additional development in Swinford, the Local Plan Options Consultation (September 2015) identified a total of 5 completions and commitments for Swinford from April 2011, with a further residual requirement of between 36 and 51 dwellings.
- 6.6 Whilst progress on the Local Plan is still pending further testing and evidence gathering with regards to a preferred Option, the target number of dwellings is proposed to be significantly in excess of the 9 dwellings proposed through this application. Further work is ongoing with regards to the outcomes of the Sustainability Appraisal and final district wide housing targets, however this is not considered to alter this view.

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

- 6.7 The Council presently does not have a 5yr Housing Land Supply at 4.66yrs supply. If this application were approved it would provide 9 additional dwellings.

#### **c) Technical Considerations**

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

- 6.8 The layout proposed, showing retention of the existing boundary hedgerows and trees to all boundaries of the site, together with additional planting and allocation of larger gardens throughout the site, particularly to plot 4, is considered acceptable in landscape terms with the existing features largely maintained. Further landscaping details will be conditioned, whilst the height of proposed buildings will be kept to no higher than two storeys in height, with a largely uniform height throughout the proposed dwellings of approximately 8.00m to the ridge height. The layout also provides for a mix of dwellings on the site, with three different styles of dwellings in design, as discussed in paras 3.1 to 3.10, and a mix of dwelling sizes, with 2, 2 bed dwellings, 4, 3 bed dwellings, 2, 4 bedroom dwellings and a single 5 bedroom dwelling.
- 6.10 The application site is outside of the Limits to Development and is therefore situated in the countryside. The erection of dwellings on this site would change the open, rural and undeveloped character and appearance of the countryside to the west side of Stanford Road and the southern boundary of the village. If the site was to be developed, it would form the new edge of the settlement with the countryside, and therefore it is important that the scheme is well designed so as integrate development with existing built form and to be visually unobtrusive. Through pre-application discussions, together with feedback from LCC Ecology, the number of dwellings on the site has been reduced from 11 to 9 dwellings, allowing the southern boundary of the site, away from Stanford Road, to remain open in appearance, therefore decreasing the encroachment into the countryside. Whilst objections have been received stating that the proposal is an inefficient use of land and more dwellings should be proposed, the proposal is instead complying with LCC Ecology guidelines with regards to buffers to hedgerow boundaries, and allowing the southern section of the site to remain open in appearance. Further, a higher density development would not appear in keeping with the rest of Stanford Road, nor for the entrance and exit point to the village.

- 6.11 The layout of the site shows the dwellings set back from Stanford Road, and clustered to the north of the site. No dwellings face the highway, with the site self contained in terms of views to and from the dwellings, instead with the rear elevation of plots 1 and 2, semi-detached dwellings, facing the highway. This elevation, together with the east side elevation of plot 9, have been designed to provide architectural features, either through brickwork (plots 1 and 2) or a chimney (plot 9), to ensure that no blank elevations face the highway when viewing the development. The retention of the trees along Stanford Road assist in maintaining the existing view of the site when viewed from the north and south along Stanford Road, whilst the proposed detailing of the dwellings provides a feature during the winter months with less vegetation cover. Further, when entering the site, the front elevation of plot 6 faces the access, providing both surveillance and a feature when entering the site, as opposed to a blank elevation of a dwelling. The site is low in density, maintaining an open area to the rear of plot 4 and ensuring the built development on the site does not expand beyond the bend in Stanford Road.
- 6.12 Proposed materials have not been provided, however, all dwellings are shown as reclaimed style facing bricks, with brick detailing to the eaves and band courses across the dwellings, with a mix of plain clay and slate tile roofs across the dwellings. Further, the mix of house types through the scheme will assist the scheme in responding to its context with the Grade II Listed Berries Farm to the north of the site. Outside of this, the street scene of Stanford Road is mixed, with the southernmost dwelling to the eastern side (Avon View) a large, modern detached dwelling with a split timber cladding, white render and brick facing elevations, providing a strong contrast to Berries Farm opposite.
- 6.13 A Landscape Appraisal was submitted as part of the application. The Landscape Appraisal notes the retention and enhancement of the existing boundaries of the site, and concludes that adverse impacts arising from the proposed development are minor and not out of character with the existing landscape, and that development is therefore acceptable in landscape and visual grounds.
- 6.13 The Landscape Appraisal assesses the site from six viewpoints, five of which are within a distance of 0.5km, with one viewpoint from a distance of 1km to the west of the site. The proposed development is considered to have a significant impact from two viewpoints, from public footpaths to both the south and west of the site when entering the village adjacent to the site.
- 6.14 From these viewpoints on public footpaths adjacent to the site, the proposed development will change the existing rural character of the setting of the southern boundary of the village. However, figure 6 below showing the layout of the development, shows the retention of tree and hedgerow boundaries to the site, and shows the development to be a design and layout to be in keeping with the existing built form to the southern boundary of the village to the west of Stanford Road. When viewed from these viewpoints adjacent to the site, the development, through its design, layout and boundary treatments, will be considered to be a logical extension to the village, continuing the existing built form. Plot 4, being set north of the southern boundary, prevents further southerly creep into the wider open countryside, instead keeping an east-west line of development in line with the path of Stanford Road.
- 6.15 The proposed Landscape Masterplan and layout below show the retention of the existing tree and hedgerow boundary to the west boundary of the site, together with the existing trees to the eastern boundary of the site. The Leicestershire County Council Arboricultural Officer has been consulted on the application, and confirmed that the proposal is unlikely to impact upon the existing trees along Stanford Road,

respecting the root protection areas. Additional tree and shrub planting is proposed within the site, with further landscaping details to be conditioned.

- 6.16 To the south of the site, viewing south from the village on the public rights of way leaving Swinford, the landscape is largely dominated by wide, flat, open fields, and with a horizon dominated by wind turbines south of the site.



**Figure 6: Layout**



**Figure 7: Cross section when viewed from Stanford Road**

## 2. Drainage and flooding

- 6.15 As part of the application, the applicants submitted a Flood Risk Assessment (FRA). Severn Trent Water have no objection to the proposal, proposing a condition regarding surface water and foul sewerage. The site is not located in Flood Zone 2 or 3.
- 6.16 The Flood Risk Assessment concludes that the drainage strategy will comprise a piped and open network with attenuation provided within a pond. Surface water will discharge into the watercourse to the western boundary of the site, with surface water attenuated within a pond located to the north west corner of the western boundary field. These ponds and watercourses are located outside of the red line



plan for the application, however are within the blue line ownership plan, and therefore in the control of the applicant.

- 6.17 The Flood Risk Assessment submitted, together with the consultation response from Severn Trent Water, does not propose any flooding issues arising from the development, with the site located within flood zone one, and adequate mitigation proposed for surface water run off. The application is considered to comply with Core Strategy Policy CS10.

### 3. Ecology

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- 6.18 An Ecology Survey document has been submitted as part of the application. The survey finds the presence of protected species badgers and great crested newts within the vicinity of the site, and sets out mitigation measures for the proposed development.
- 6.19 As part of the mitigation measures proposed, works are required outside of the red line plan submitted with the application, however, the mitigation measures are within the blue line ownership plan, and therefore in the control of the applicant.
- 6.20 LCC Ecology consider the mitigation measures proposed with regards to both badgers and great crested newts to be satisfactory, subject to proposed conditions securing the mitigation measures outside of the red line boundary. LCC Ecology are also supportive of the proposed layout, incorporating wider buffer zones to the existing boundary treatments of the site.
- 6.21 LCC Ecology have recommended conditions regarding layout, badger and great crested newt mitigation, landscaping, landscaping management plan and further ecology surveys post 2018 if necessary.
- 6.22 The Landscape Masterplan sets out an indicative planting schedule, including retention of existing tree and hedgerow vegetation, retained habitat and wildlife pond to the south boundary, wildlife buffers and retention of the ditch to the western boundary, newt friendly curtilage boundary fences, and a mix of grassland, shrub and tree planting throughout the site.

### 4. Highways

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- 6.23 Access to the site is to be provided from Stanford Road, to the eastern boundary to the site. The access has been amended through the process of the application, to be 4.8m in width, with an additional footpath of 2.00m in width. This amended arrangement has been proposed and approved by LCC Highways.
- 6.24 The proposed access is located outside of the existing 30mph speed limit, by approx. 30m. The proposed footway from the site will be sited on existing highways verge land to the western side of Stanford Road, to the wider entrance to The Berries to the north, and opposite Avon View. Whilst a footpath does not continue north of The Berries, the footpath will take pedestrians to within the existing 30mph speed limit, and to a section where the road widens at the access to The Berries.
- 6.25 In addition to the revised access arrangements, the applicants have provided a speed survey to the satisfaction of LCC Highways, whilst LCC Highways have confirmed that the required visibility splays for the access are achievable. Further,

the size of the proposed garages to serve plots 3-6 has been amended taking into account the requirements of LCC Highways.

- 6.26 Objections have been received regarding car parking, with a perception that overspill parking would result in parking on the bend in Stanford Road. The layout as shown in Figure 6 above sets out at least 2 off road parking spaces per dwelling, including garage provision. In addition 2 further visitor spaces are shown on the layout plan. It is therefore considered unlikely that parking will take place outside of the site and within the highway, with the proposal meeting and exceeding its own requirements.

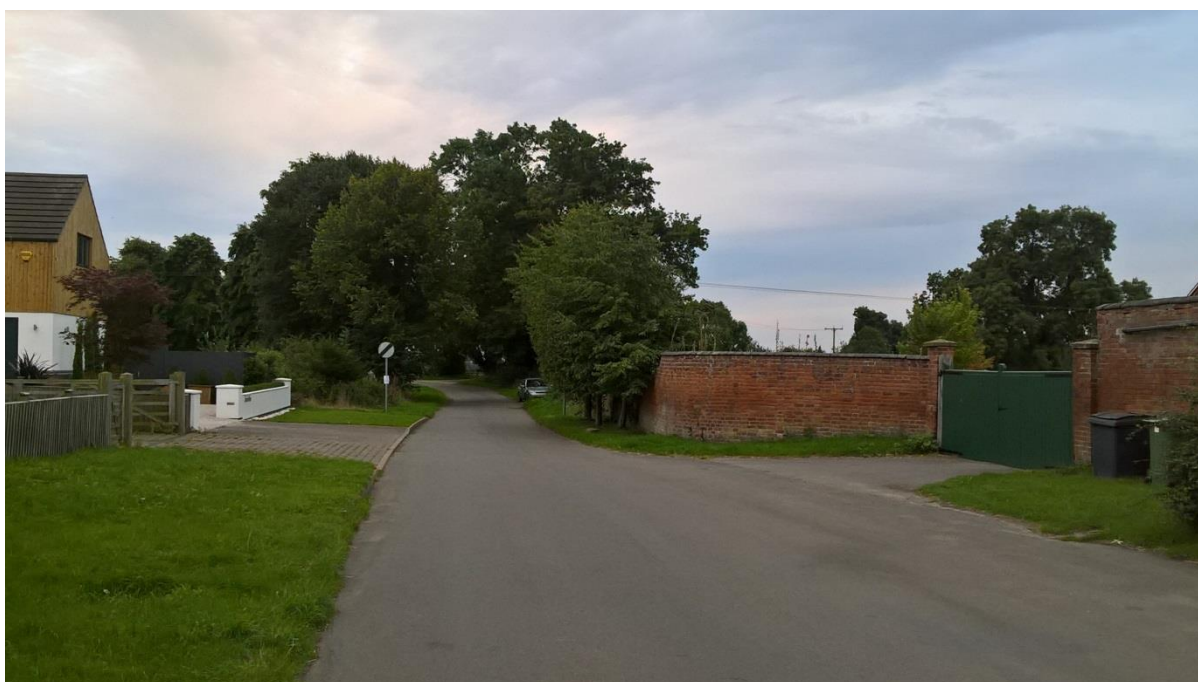
## 5. Heritage

- 6.27 The proposed development is adjacent to the Conservation Area of Swinford, and in close proximity to the Grade II Listed Berries Farm (the applicant).
- 6.28 The proposed development will impact upon the setting of the southern section of the village, and on the wider conservation area. However, the proposed development is not considered to be harmful to character of the Conservation Area or the setting of the Listed Buildings.
- 6.29 The proposed development, through its design and layout, is considered to be in keeping with the existing built form of the neighbouring Berries Farm and the wider Conservation Area. The proposed dwellings show a high level of architectural detail, together with a mix of dwellings sizes through the site. Any blank elevations to dwellings will include additional brick or feature detailing, whilst all the dwellings are of a similar height of approx. 8.00m to the ridge height. Further, a mix of roof materials, between clay tiles to the 3 northern plots and southern plot 4, with slate tiles to the central plots, is considered to enhance the developments appearance.
- 6.30 The proposed dwellings are split into 3 categories through the site, with the northern most 3 plots reflecting the existing character of The Berries, as Figure 8 below:



**Figure 8: The Berries Farm**

- 6.31 The proposal seeks to maintain the existing hedge and tree boundaries to the site, and maintains the existing red brick wall to the western side of Stanford Road. In addition, Figure 3 above shows the separation of the proposed dwellings from the Listed Berries farm, with a series of metal agricultural barns set between the sites.
- 6.32 In terms of street scene impact, the dwellings proposed are set back from Stanford Road, with the existing boundary trees to be maintained. Materials and design of the dwellings is considered to be complementary to the existing Berries Farm to the north. To the eastern side of Stanford road leading to the site, the street scene is more mixed, with 2 large detached dwellings opposite The Berries, with the southernmost, Avon View, providing a strong contrast to the design and materials of The Berries opposite. Figure 9 below shows the design and materials of timber cladding and white render providing a contrast to the wider street scene and conservation area.



**Figure 9: Street scene view south along Stanford Road**

- 6.33 LCC Archaeology have stated that the application area is located within the historic core of Swinford, in an area previously undisturbed. Ridge and furrow earthworks are present to the west of the site, whilst the archaeological assessment identifies two low earthwork banks to the west of the site.
- 6.34 LCC Archaeology have proposed 3 conditions should permission be granted, including a written scheme of investigation to be carried out prior to commencement of development. The programme of archaeological work should comprise a topographical survey and initial trial trenching.

## **6. Residential Amenity**

- 6.35 The proposed development may have an impact on the living conditions of residential properties, whether real or perceived, but the layout submitted demonstrates that development can be achieved which meets required separation distances to neighbours (SPG Notes 2: Residential Development – Major Housing Sites and SPG Note 5: Extensions to dwellings) and without causing harm to neighbours through loss of outlook, privacy or light, and the proposal is therefore considered acceptable in residential amenity terms and accords with Core Strategy Policy CS11.

- 6.36 Distances from the proposed layout show separation distances of at least 21m from all neighbouring existing dwellings. All proposed dwellings on the layout are in excess of 21m from neighbouring dwellings, with the closets dwellings of The Berries (applicant) at approx. 50m from the closest dwelling (excluding outbuildings), and Avon View, across Stanford road from the proposal at a distance of approx. 43m to the nearest dwelling (plot 9). No dwellings are located to the east, west or south boundaries of the site, with no amenity objections raised through consultation.
- 6.37 Within the indicative layout provided, amenity of potential residents within the scheme is safeguarded, with distances between principal elevations of the dwellings shown as in excess of 21m.

## 7. Affordable Housing Provision

- 6.38 The proposed development is for 9 dwellings in total, falling below the 10 threshold as required for the provision of affordable dwellings. Further, the dwellings on site fall below the 1000sqm threshold for affordable dwelling provision by providing a mix of dwellings on site. The provision of 2, 2 bed dwellings, 4, 3 bed dwellings, 2, 4 bed dwellings and a single 5 bedroom dwelling provides a mix of dwelling sizes, with the smaller dwellings providing lower value starter homes in a rural village location.

## 8. Swinford Neighbourhood Plan

- 6.39 Swinford Parish Council is in the early stages of creating a Neighbourhood Plan and a Neighbourhood Area has been designated. The Plan is considerably way off even any pre-submission consultation and as such cannot be accorded significant weight in determination of this application. Whilst objections have been received stating that this application is pre-determination of the Neighbourhood Plan, the Planning Practice Guidance sets out when a contradictory planning application could be considered as such, and the Neighbourhood Plan is a significant way away from this stage (submission consultation).
- 6.40 The SHLAA sets out a total of 4 developable sites for Swinford, of a total capacity of approximately 120 dwellings. Of the 4 sites, 2 are of a considerably larger size (38 and 44 dwelling capacity respectively), and located further outside of the existing built form of the village. This application, for 9 dwellings, is considered at this stage of the Local Plan to be well short of a settlement target, resulting in the Neighbourhood Plan still having a significant input into future development in the village.

## d) Sustainable Development

- 7.1 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 9 dwellings, including 9 dwellings towards the Council's 5yr supply, currently a shortfall. The development would also generate New Homes Bonus funding for the Council to invest in facilities and infrastructure in the area. As well as the direct economic benefits related to employment generation and investment, the proposal will deliver 9 dwellings.
  - Social  
Provides up to 9 new dwellings, which contributes to housing need, including a mix of house types and sizes. The site can also be accessed by foot/cycle to the centre of the village, and the site is within 400m of a pub and within 500m of a primary school.

- Environmental

The proposal is in keeping with the character and appearance of the surrounding area, and well sited to the southern boundary of the village. 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 have not have a negative impact on the environment.

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

- 7.1 Overall it is considered that, on balance, the proposed dwellings, by virtue of their siting, appearance, scale and massing, the proposal would be acceptable and would not adversely affect local highway safety or give rise to a road safety hazard.
- 7.2 The proposal would provide housing development within the District, and would contribute towards the Council's Housing Land Supply. The National Planning Policy Framework provides an undertone of the importance of housing delivery and this site is considered to be sustainable. The site is adjacent to the Limits to Development for Swinford, a Selected Rural Village.
- 7.3 The application site is in open countryside, though adjacent to the Limits to Development, with capacity to accommodate development, and relates relatively well to the built up area. The Council is unable to demonstrate an up-to-date five year supply of deliverable sites for housing, and therefore finds support from Policy CS2(a). This is a very important material consideration that weighs strongly in favour of the proposal.
- 7.4 In the absence of a five year housing land supply, paragraph 14 of the Framework is engaged, and therefore permission granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits.
- 7.5 The scale, design and form of the development respects the character of the surrounding area and it will integrate with the existing built form. Residential amenity is safeguarded, and LCC Highways have raised no objections to the proposal. The proposal therefore complies with Policies CS1, CS2, CS5, CS11, and CS17 of the Harborough District Core Strategy.

## APPENDIX A – Planning Conditions

### 8. Planning Conditions

8.1

#### **Planning Permission 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.

#### **Materials Schedule**

- 2) No above ground development shall commence on site until a schedule indicating the materials to be used on all external elevations of the approved dwellings 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 District Council Core Strategy Policy CS11.

#### **Surface Water**

- 3) The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

REASON: To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

#### **Written Scheme of Investigation**

- 4) No demolition/development shall take place/commence until a programme of archaeological work (comprising topographic survey, followed by intrusive investigation informed by initial trial trenching) has been detailed within Written Schemes of Investigation, submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)
- The programme for post-investigation assessment
- Provision to be made for analysis of the site investigation and recording
- Provision to be made for publication and dissemination of the analysis and records of the site investigation
- Provision to be made for archive deposition of the analysis and records of the site investigation
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

REASON: The site is likely to contain important archaeological remains and to accord with the Harborough District Council Core Strategy Policy CS11.



**Development in accordance**

- 5) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (4).

REASON: The site is likely to contain important archaeological remains and to accord with the Harborough District Council Core Strategy Policy CS11.

**Archaeology recording**

- 6) 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 Schemes of Investigation approved under condition (4) 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 District Council Core Strategy Policy CS11.

**Access and footway**

- 7) Notwithstanding plan reference U8134PM-TA01 Rev E the access to the site is to be delivered with a 4.8 metre effective width from the point where it meets the highway with 6 metre kerbed radii. There shall be a separate footway leading north from the site to the village terminating at the access to The Berries beyond the 30mph signage. The footway shall proceed for at least 10 metres into the site along the north of the proposed access and shall be completed and available for use prior to the occupation of the first dwelling on the site.

REASON: In the interests of highways safety and to ensure a safe and suitable access for all.

**Visibility splay**

- 8) Before first use of the development hereby permitted, visibility splays of 2.4 metres x 45 metres shall be provided in both directions in accordance with the County Council's latest design guidance at the access with Stanford Road. No walls, planting or fences shall be erected or be allowed to grow on the highway boundary exceeding 0.6 metres in height above the level of the adjacent carriageway.

REASON: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety..

**Garages**

- 9) The proposed garages as shown in the amended plans reference 234/SWI/15/PL3-011 Rev B, 234/SWI/15/PL4-011 Rev C, 234/SWI/15/PL5-011 Rev B and 234/SWI/15/PL6-011 Rev B shall be provided prior to the first occupation of the relevant plots and shall remain permanently available for car parking.

REASON: To ensure the adequate provision of off-street parking in the interests of highways safety.

**Surfacing**

- 10) Before first occupation of any dwelling, car parking shall be provided, hard surfaced and made available for use to serve that dwelling on the basis of 2 spaces for a dwelling with up to three bedrooms and 3 spaces for a dwelling with four or more bedrooms. The parking spaces so provided shall thereafter be permanently so maintained.

REASON: 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

**Gradient**

- 11) The gradient(s) of the access drive(s) shall not exceed 1:12 for the first 5 metres behind the highway boundary.

REASON: To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety.

**Drainage**

- 12) Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway including private access drives, and thereafter shall be so maintained.

REASON: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users.

**Turning facilities**

- 13) Before first use/occupation of the development hereby permitted, turning facilities shall be provided, hard surfaced and made available for use 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 thereafter be permanently so maintained.

REASON: To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

**No gates**

- 14) No gates shall be erected to the vehicular access

REASON: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway.

**Landscaping**

- 15) No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

- (a) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- (b) finished levels and contours;
- (c) means of enclosure;
- (d) hard surfacing materials;
- (e) programme of implementation
- (f) landscaping of the great crested newt mitigation area and wildlife corridor as shown on Revised Landscape masterplan PRI20407-10A.

Thereafter the development shall be implemented fully in accordance with the approved details and retained in perpetuity.

REASON: To enhance the appearance of the development in the interest of the visual amenities of the area and to accord with Harborough District Core Strategy Policy CS11

### **Construction Method Statement**

- 16) No development shall commence on site (including any works of demolition), until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority.
- a) the parking of vehicles of site operatives and visitors;
  - b) loading and unloading of plant and materials;
  - c) storage of plant and materials used in constructing the development;
  - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, if applicable;
  - e) wheel washing facilities;
  - f) measures to control the emission of dust and dirt during construction;
  - g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - h) measures for the protection of the natural environment;
  - i) hours of construction work, including deliveries;
  - j) measures to control the hours of use and piling techniques to be employed, if applicable;
  - k) measures to control and minimise noise from plant and machinery; and
  - l) details of any security lighting on site.

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

REASON: To minimise detrimental effects to neighbouring amenities and the amenities of the area in general, to negate harm to the natural environment through the risks of pollution, to reduce dangers to highway safety during the construction phase and to accord with Policy CS11 of the Harborough District Core Strategy.

### **Development in Accordance with Ecological Survey**

- 17) The development hereby approved shall be implemented in accordance with the recommendations detailed in the Ecological Survey including Great Crested Newt and Badger mitigation, from section 6 of the revised Ecological Assessment (ACD Environmental, August 2016, Rev A).

REASON: In the interests of wildlife and nature conservation and to accord with Harborough District Core Strategy Policy CS11

### **Ecology Management**

- 18) No development shall commence on site until a Ecology Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented fully in accordance with the approved details and retained in perpetuity.

REASON: In the interests of wildlife and nature conservation and to accord with Harborough District Core Strategy Policy CS11

### **Ecology Survey update**

- 19) Ecology surveys are valid for 2 years. Should development not commence by 2018 an updated Ecology Survey will be required to be submitted to, and approved in writing by the Local Planning Authority.

REASON: In the interests of wildlife and nature conservation and to accord with Harborough District Core Strategy Policy CS11

### **Permitted Plans**

- 20) The development hereby permitted shall be in accordance with the following approved plans Layout Plan 234/SWI/15/010 J, Plots 1 and 2 234/SWI/15/PL1-011 A, Plot 3 234/SWI/15/PL3-011 B, Plot 4

234/SWI/15/PL4-011 C, Plot 5 234/SWI/15/PL5-011 B, Plot 6  
 234/SWI/15/PL6-011 B, Plot 7 234/SWI/15/PL7-011 B, Plot 8  
 234/SWI/15/PL8-011 B, Plot 9 234/SWI/15/PL9-011 B, Landscape  
 masterplan PR120407-10A, Revised Access Plan – U8134PM-TA01 Rev E.  
REASON: For the avoidance of doubt.

### **PD Removal**

- 21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-E shall take place on the dwellinghouses hereby permitted or within their curtilage.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements and to accord with Harborough District Core Strategy Policy CS11.

### **Risk Based Land Contamination Assessment**

- 22) No development shall commence on site until a Risk Based Land Contamination Assessment 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 Year 2011 Investigation Of Potentially Contaminated Sites Code of Practice;
- BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- LR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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.
- 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.

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, unless otherwise agreed in writing by the Local Planning Authority.

**REASON:** To ensure that the land is fit for purpose and to accord with Core Strategy Policy CS11

**Completion/Verification Report**

- 23) 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 fit for purpose and to accord with Core Strategy Policy CS11

**Notes to applicant:**

- 1) You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. Market Harborough 821090). As such please be aware that complying with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.
- 2) 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.
- 3) A watching brief for 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) You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway

Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.

- 6) The applicant should note that the proposed road does not conform to an acceptable standard for adoption and therefore it will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots serviced by the private road within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before the building commences. Please note that the Highways Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see [www.leics.gov.uk/htd](http://www.leics.gov.uk/htd) or phone 0116 3057198. Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it. Details of the future maintenance of the private road should be submitted for the approval of the Local Planning Authority before any dwelling is adopted.
- 7) This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website: - see Part 6 of the '6Cs Design Guide' at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg).
- 8) If there are any works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under s.23 Land Drainage Act 1991. This legislation is separate from the planning process.  
Guidance on this process and a sample application form can be found via the following website:  
<http://www.leicestershire.gov.uk/Flood-risk-management>  
No development should take place within 5 metres of any watercourse or ditch without first contacting the County Council for advice.
- 9) Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.
- 10) With regards to the Construction Method Statement Planning Condition (16) items f, j, k and l, the applicant is advised to contact the Harborough District Council Environmental Health department directly (01858 82 82 82).



## Planning Committee Report

**Applicant:** Persimmon Homes North Midlands

**Application Ref:** 16/01389/FUL

**Location:** 2, Moseley Avenue, Market Harborough, Leicestershire

**Proposal:** Change of use of incidental open space to the front, side and rear, including retention of curved wall (to the rear), retention of picket fence (to the front) and replacement of unauthorised close boarded fencing and trellising at the side of the premises with picket fencing at a maximum height of 1.25m (resubmission of 16/00834/FUL)

**Application Validated:** 01/09/2016

**Target Date:** Extension of time agreed.

**Consultation Expiry Date:** 12/10/2016

**Site Visit Date:** 31/10/2016

**Case Officer:** Joanne Roebuck

## Recommendation

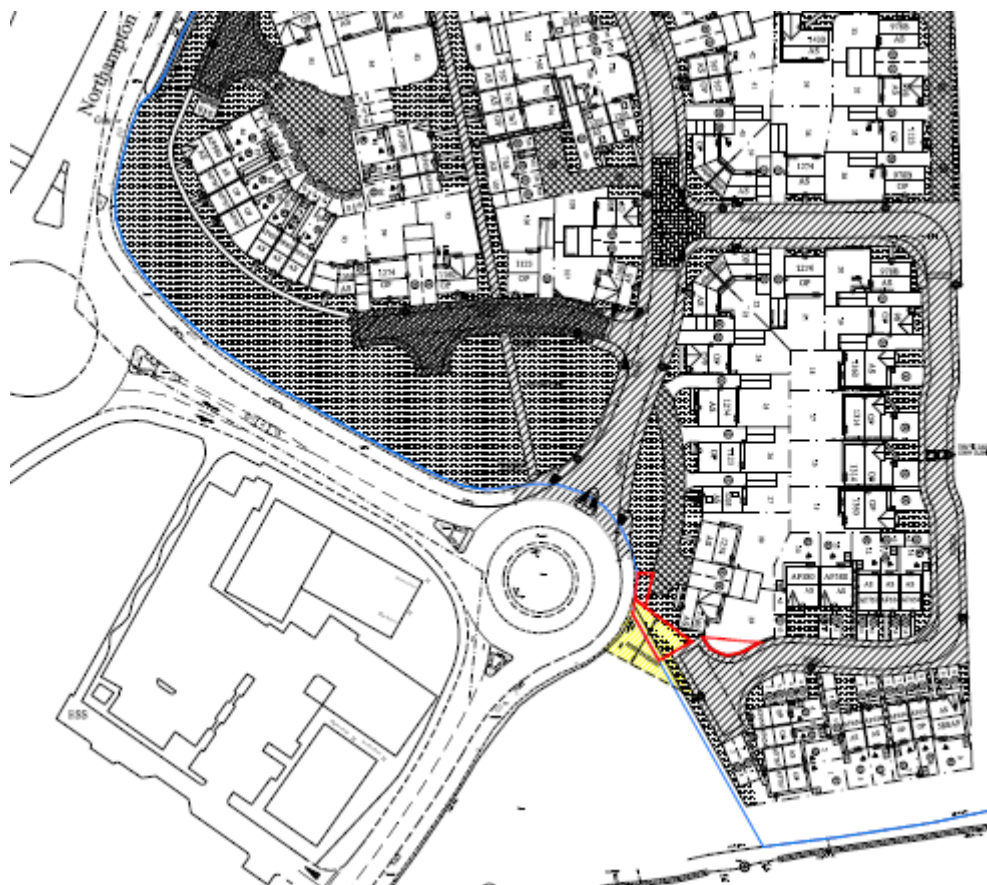
Planning Permission is **APPROVED**, for the reasons set out below, subject to the conditions set out in Appendix A.

The change of use of former small areas of open space to domestic garden in this location on the edge of the housing estate, enclosed by an attractive brick boundary wall at the rear and picket fencing at the front and side, does not have a materially adverse effect on the character and appearance of the area. Furthermore it does not have any adverse impact on other interests of acknowledged importance including highway safety and residential amenity. On balance therefore it is considered that the proposed development satisfactorily complies with the Framework and relevant policies in the development plan and there are no material planning considerations sufficient to challenge the presumption in favour of sustainable development.

### 1. Site & Surroundings

- 1.1 The application site is a detached dwelling which occupies a prominent position overlooking the roundabout at the entrance to this recently constructed housing development at the southern edge of Market Harborough. It stands at the end of a row of similar detached dwellings.
- 1.2 There are neighbouring dwellings immediately to the north and east of the property, with further dwellings to the south-east on the opposite side of the turning head at the end of Eady Drive. An overgrown field, with a public footpath crossing it, lies immediately to the south of the site, whilst a small cluster of commercial buildings occupy land to the west of the site on the opposite side of the roundabout.

**Figure 1: Site Location**



**Figure 2: View from front of property**



**Figure 3: View of Rear Boundary Wall**



## **2. Site History**

- 2.1 **11/01709/OUT** – Outline application for erection of up to 110 dwellings (means of access to be considered, all other matters reserved). **Approved September 2012.**
- 2.2 **12/01377/REM** - Reserved matters to include the layout, scale, appearance, landscaping and access for the erection of 110 dwellings (reserved matters of 11/01709/OUT). **Approved December 2012.**
- 2.3 **16/00005/COUS** – enforcement complaint about change of use of footpath to residential curtilage. Resolved that footpath was not part of approved development, nor a public footpath and therefore no action could be taken.
- 2.4 **16/00080/DEVS** – enforcement complaint about erection of fencing and change of use of public open space. Resulted in application 16/00834/FUL being submitted as detailed below.
- 2.5 **16/00834/FUL** - Change of use of incidental open space (to the front and side) and highway land (to the rear), with the retention of curved wall (to the rear), 1.8m high fence (to the rear and side) and 0.9m picket fence (to the front). **Refused July 2016 for reason:**  
*The use of three different styles of fencing to enclose the land at the front and side of the property is discordant with the otherwise open character of this part of the housing estate to the detriment of its character and appearance and contrary to Paragraphs 14 and 17, and Section 7 of the National Planning Policy Framework, and Harborough District Core Strategy Policy CS11.*

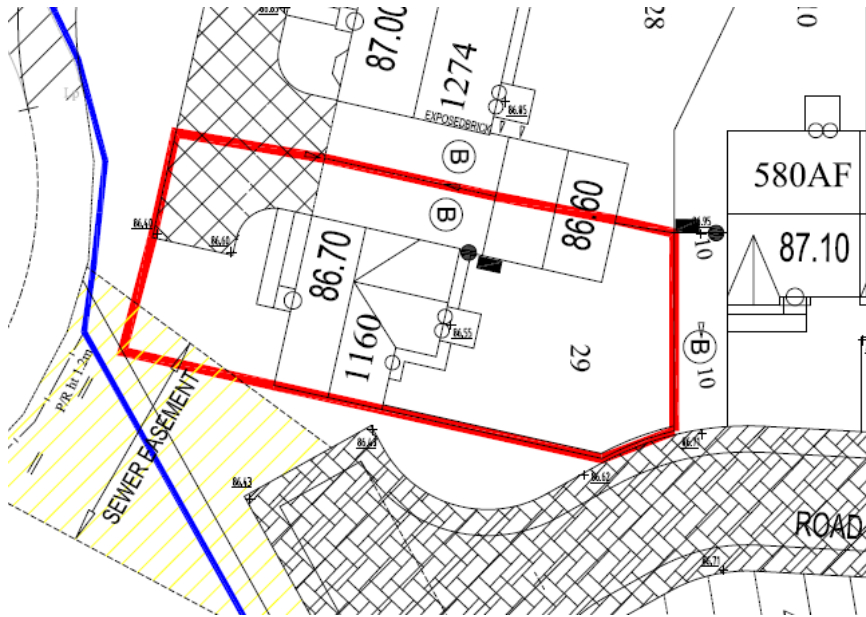
## **3. The Application Submission**

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

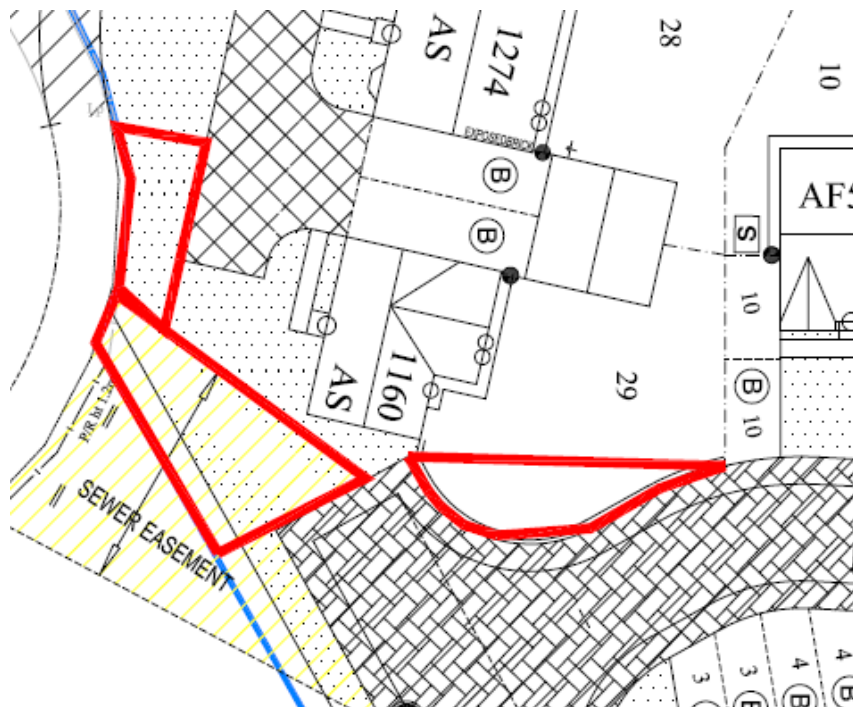
- 3.1 The application is retrospective and seeks to regularise the unauthorised change of use of land to domestic garden and the unauthorised boundary treatment used to enclose the extended garden areas around the property.
- 3.2 The application is a re-submission of similar scheme which was refused under delegated powers in July on the grounds that the mixture of fencing styles used to enclose the extended garden areas had an adverse impact on the character and appearance of the area.
- 3.3 The current proposal as originally submitted sought only to regularise the change of use of land to domestic curtilage and to retain the unauthorised brick wall at the rear of the property, setting aside the issue of the unauthorised fencing for consideration at a later date. However, as the boundary treatment is integral to the acceptability of the proposal, negotiations took place to ensure this matter was addressed at the same time. Consequently the application has been amended and now consists of the following components:
- Retention of land within the domestic curtilage of the dwelling of an area of land to the southern side/front of the property which previously comprised part of the incidental open space approved when the housing development was permitted.
  - Retention of a curved boundary wall at the rear of the property which also incorporates a small strip of land originally outside the domestic curtilage of the dwelling alongside the highway.
  - Retention of the approximately 1.25m high picket fence at the front of the extended garden
  - Replacement of the existing 1.8m high close boarded fencing and trellising at the side of the property with 1.25m high picket fencing to match that already forming the front boundary.

**N.B.** For clarification purposes, the fencing requires permission because it encloses land which currently has an unauthorised use. The property therefore does not benefit from permitted development rights as the rights ordinarily applicable under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) do not apply in respect of unauthorised development.

**Figure 4: Domestic Curtilage Approved by Original Planning Permission.**

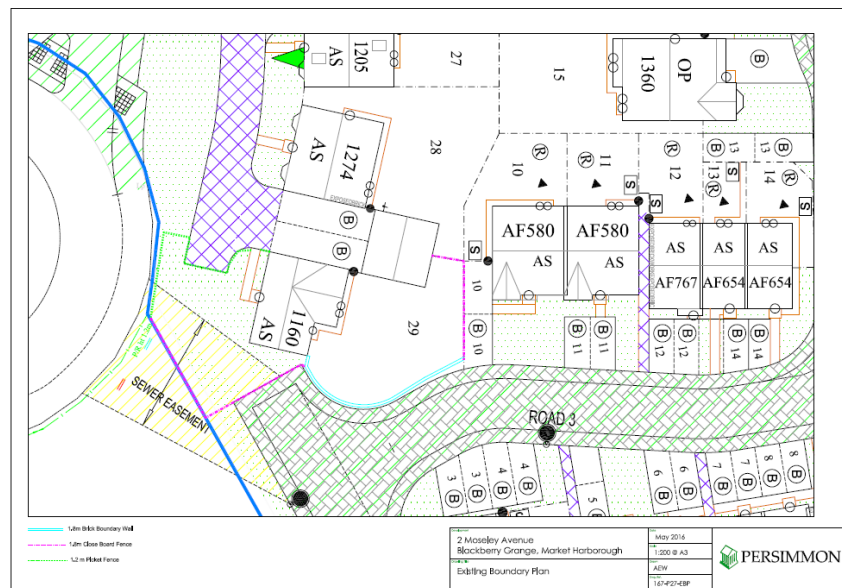


**Figure 5: Plan Showing Areas of Additional Land Incorporated into the Domestic Curtilage**

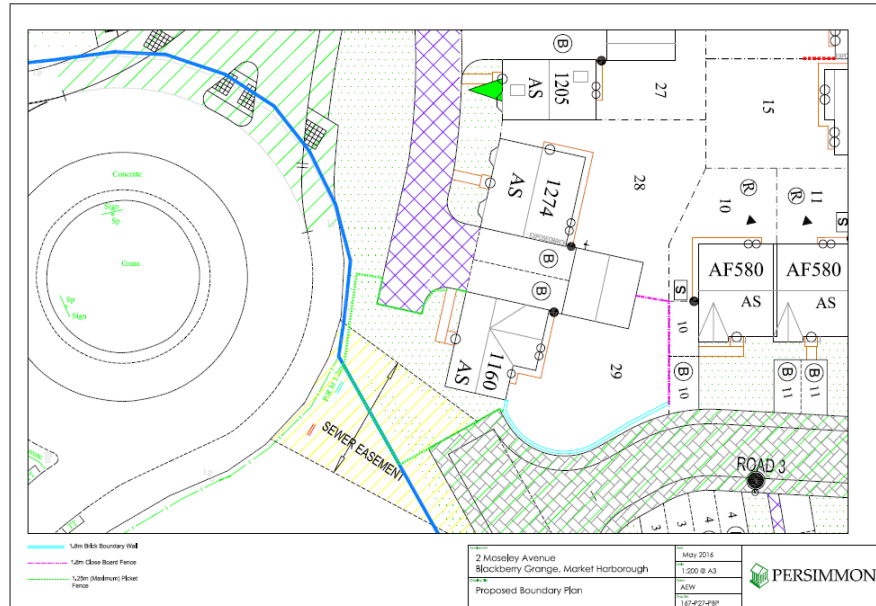




**Figure 6a: Existing Boundary Treatment**



**Figure 6b: Proposed Boundary Treatment**





## **b) Documents submitted**

### **i. Plans**

3.4 The application has been accompanied by the following plans:

1:1250 Site Location Plan  
1:200 Approved Planning Layout  
1:200 Proposed Layout Plan for Change of Use  
1:200 Existing Boundary Layout  
1:200 Proposed Boundary Layout

### **ii. Supporting Statements**

3.5 A letter from the owner of the property has been submitted in support of the application and makes the following key points:

- When they purchased the property Persimmon Homes advised that the footpath was temporary and would be removed as it crossed boundaries to be conveyed in their sale. Persimmon Homes has recently written to all the neighbours explaining that the path was marked in all plans as temporary and the land sold as part of the title deeds as recognised by the Land Registry.
- When the path was removed Persimmon Homes erected a metal fence but people kept climbing over it and walk across their property. Once the new turf was laid to replace the footpath a large section went missing increasing their fear about the security of their property. The fences erected as a permanent solution to overcome this issue were designed to retain an open feel to the estate, hence why the front is slatted and the side has a trellis top.
- The tarmac turning area close to their house is for the sole use of them and their immediate neighbour to manoeuvre their cars on and off their drives; it therefore has no bearing on cars being parked near the roundabout.
- The roundabout in front of their house is very busy and therefore the front of the house needs to be secure to keep their children safe.
- Prior to erecting the fence they visited the Harborough District Council website to ensure they didn't need planning permission.
- The fence is intended to keep their children safe as the house fronts onto a very busy roundabout. Their young son has a phobia of dogs and otherwise might run onto the road if frightened by dogs which used to enter their garden before the fence was erected.
- There have been issues with motorbikes driving over the grassed parts of the estate.
- The family feels incredibly victimised and distressed.

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

3.6 Amended plans have been received following negotiations to show the proposed boundary treatment at the front and side of the property.

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

- 3.7 Pre-application engagement was carried out prior to submission, but negotiations have taken place during the life of the application in order to clarify the proposal in respect of the boundary treatment at the front and side of the property.

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

- 4.1 Consultations with technical consultees and the local community were carried out for the application. This occurred on 7th September 2016 and included a site notice put up on the 21st September 2016. This initial consultation period expired on 12<sup>th</sup> October 2016. Following receipt of the revised drawings neighbours have been re-notified, with the period for comments expiring on 27<sup>th</sup> October 2016.
- 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**  
No comments.
- 4.4 **Leicestershire County Council (Highways)**

Whilst the footpath link would have been desirable in terms of permeability, there are other available footpaths in the vicinity, and therefore no significant effects to warrant refusal of the application. For clarification, no areas of highway land are incorporated in the change of use.

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

- 4.5 Seven objections have been received for the following reasons:

###### **Visual Impact:**

- Three different fence styles are obtrusive and unsightly, and not in keeping with the open plan character of the rest of the development.
- The close boarded fence is overbearing, harms the street scene and the character of the estate. It looks like Fort Knox.
- The house formed a nice focal point to the site prior to the erection of the fencing.
- The loss of open space has removed public visual amenity.
- The development has a restrictive covenant preventing the erection of fencing, walling and hedging between the property and the estate roads. If everyone fenced off their gardens it would look a mess.
- The fences block line of sight for emergency service vehicles trying to find a dwelling on Eady Drive.

###### **Loss of Footpath:**

- Loss of safe footpath link giving direct access to local amenities including nursery, doctor's surgery and leisure centre. The footpath was clearly highlighted in the public open space planting plan and formed part of the discharge of Condition 8 of the planning permission. It is also indicated on OS maps.

- It is unreasonable to expect everyone in the cul de sac to walk around the entire block, especially those who are elderly or disabled.
- Loss of the footpath has caused people to make their own path across private land causing damage to grass and fencing. People are taking short cuts across a private garden which will similarly need to be fenced off should this application be approved. The loss of the footpath has started a turf war. The Police have been called out on a number of occasions due to people walking over the land to obtain use of the field; this is a waste of Police time and would not have happened if the path had not been removed.
- Loss of the footpath is contrary to Core Strategy Policy CS11 which seeks to “Incorporate safe and inclusive design, suitable for all to access..”.

#### **Drainage:**

- The close boarded fence cuts through a sewer easement and affects drainage as any access water not absorbed will create run-off onto the main public highway. This part of the site has flooded every year for the last five years.

#### **Other:**

- The erection of the fences has led to increase noise and disturbance on the Eady Drive side of the fence.
- The boundaries around the property have been drawn incorrectly, particularly with regard to the curved boundary wall.
- A 2m clear visual display needs to be maintained between the wall and driveway of No.26 Eady Drive.
- The proposals have created a place for people to hide at night and gather during the day.
- Will set an undesirable precedent.
- The area outside the fence has not been maintained leading to a build up of rubbish.
- The fence obstructs view of the fields so cannot see who else is walking their dog to join or avoid.
- The fenced off land has resulted in residents damaging a piece of land deeded to No.s 28 and 30 Eady Drive by using it as a public thoroughfare. This land should be returned to open space to allow residents to use it as a thoroughfare instead of private property.
- An increasing number of cars are parking on the highway just before the roundabout due to the turning space being used to park a car.
- The land was taken prior to agreement with appropriate authorities and without consultation with residents on Eady Drive. If Persimmon Home had intended this property to be enclosed they should have shown it on the original plans.
- If the application is approved permitted development rights should be removed to protect the character of the development.
- The application has been inaccurately completed as it states that no trees or hedges are on the proposed development site.

## **5. Planning Policy Considerations**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for development be determined in accordance with the Development Plan unless material considerations indicate otherwise.

- 5.2 Unless otherwise stated, an explanation of the development plan policies, material planning considerations, and other documents referred to can be found at the beginning of the Agenda under “All Agenda Items Common Planning Policy”.

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

- 5.3 The current Local Development Plan consists of the Local Development Framework Core Strategy 2006-2028 (adopted November 2011) and saved policies of the Harborough District Local Plan (adopted 2001).

- *Harborough District Core Strategy (Adopted November 2011)*

- 5.4 Relevant policies to this application are:

- CS11 – Promoting Design and Built Heritage

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

- 5.5 The following material planning considerations are relevant to this application:

- The National Planning Policy Framework (The Framework/NPPF), particularly Para.14 (presumption in favour of development), Para.17 (Core Planning Principles) and Section 7 (Requiring Good Design).
- National Planning Practice Guidance

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

##### *Reason for Committee Decision*

- 5.6 The application is to be determined by Planning Committee because of the number of objections received.

### **6. Assessment**

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

- 6.1 The areas of open space incorporated into the domestic curtilage of the dwelling are relatively small and do not have any significant effect on the general amenity space for the development as a whole. The principle of retaining these within the garden area of 2 Moseley Avenue is therefore acceptable. This principle has already been accepted in the determination of the previous application which was refused solely because of the adverse visual impact caused by the mix of unauthorised boundary fencing.
- 6.2 The acceptability of the proposal as a whole therefore must be determined having regard to other material considerations, principally the visual impact of the proposed boundary treatment.

#### **b) Technical Considerations**

## 1. Design and Visual Amenity

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- 6.3 The principle of retaining the brick boundary wall at the rear of the property was accepted in the determination of the previous application as it did not form part of the reason for refusal on the grounds that it is an aesthetically appropriate boundary structure in this location.
- 6.4 The location of the dwelling at the end of the row of dwellings facing the main approach into the housing development potentially offsets the impact of enclosing the front/side garden as it is less prominent than other properties in the row. However, the mixture of styles of fencing as existing appears clumsy and unattractive, and collectively the fencing detracts from the appearance of the dwelling itself and the character and appearance of the wider locality. It was on this basis that the previous application was refused.
- 6.5 The current scheme as amended seeks to address the issue of harm caused by the varying styles of fencing by replacing the taller fencing along the side boundary with lower picket fencing to match that at the front of the house. The picket fencing as already installed is not by itself aesthetically displeasing, and it is considered that continuing this around the side of the property would overcome the previous reason for refusal.
- 6.6 To ensure no fencing is subsequently erected which would harm the character and appearance of the locality it is recommended that permitted development rights be removed by condition.

## 2. Highways

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- 6.7 The areas of land incorporated into the domestic curtilage are small and of no consequence to highway safety as endorsed by the Highway Authority's response to the application.
- 6.8 The objection from a neighbour relating to the need for a visibility splay is unfounded as there is no footway alongside the wall for pedestrians to use, and as the wall flanks a turning head there is no through traffic using the road and consequently vehicle speeds on this part of the highway are not great enough to raise concerns about safety of road users.
- 6.9 The objection referring to increased parking on the highway appears unrelated to the application as the change of use has not affected the existing turning head at either the end of Eady Drive or the end of the private drive leading to No.2 Moseley Avenue.

## 3. Loss of Public Footpath

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- 6.10 This issue has arisen because, prior to selling the land in question to the owners of No.2 Moseley Avenue, a temporary footpath existed between Eady Close and Moseley Avenue. This footpath, however, did not form a permanent part of the original development proposal and therefore the loss of it forms no basis on which to refuse the application as even if the enclosed land ceased to be part of the domestic curtilage of the dwelling the previous footpath link need not be re-instated.

- 6.11 As far as the objections from neighbours are concerned, any covenants relating to the enclosure of the land are separate to the planning process and do not influence this decision, but would have to be enforced by other legislative procedures.

#### 4. Other Matters

- 6.12 The enclosure of the open space is not considered to have any materially adverse impact on flooding and surface water run-off as the ground either side of the fencing has not been hard-surfaced.
- 6.13 Any alleged anti-social behaviour on the field at the side of the property is no justification for refusing the application, but the proposed replacement of the existing close boarded fence with a lower picket style fence would reduce the opportunity for covert activity as there would be a greater perception of natural surveillance created by the lower, more open style of fencing.
- 6.14 On the basis of the above the proposal satisfactorily accords with the provisions of the Framework and Harborough Core Strategy Policy CS11.

#### 7. The Planning Balance / Conclusion

- 7.1 The change of use of former small areas of open space to domestic garden in this location on the edge of the housing estate, enclosed by an attractive brick boundary wall at the rear and picket fencing at the front and side, does not have a materially adverse effect on the character and appearance of the area. Furthermore it does not have any adverse impact on other interests of acknowledged importance including highway safety and residential amenity. On balance therefore it is considered that the proposed development satisfactorily complies with the Framework and relevant policies in the development plan and there are no material planning considerations sufficient to challenge the presumption in favour of development.
- 7.2 It is therefore recommended that the application is approved subject to the conditions in Appendix A.

### APPENDIX A – Planning Conditions

#### 8. Planning Conditions

8.1

1) **Approved Plans**

The change of use hereby permitted shall relate to the land shown outlined in red on the following approved plans:

1:1250 Site Location Plan

1:200 Proposed Layout Plan for Change of Use (Drawing No. 167-P27-PL Received 17.10.2016)

1:200 Proposed Boundary Plan (Drawing No. 167-P27-PBP Received 17.10.2016)

REASON: For the avoidance of doubt.

2) **Removal of Permitted Development Rights**



Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) or any orders revoking and re-enacting that Order, no gates, fences, walls or other means of enclosure shall be erected within the domestic curtilage at the front or side of the property without the prior grant of planning permission of the Local planning Authority.

REASON: To retain control over the erection of boundary structures in this prominent location to safeguard the character and appearance of the locality in accordance with Harborough District core Strategy Policy CS11 and the National Planning Policy Framework (particularly Section 7).

**3) Implementation of Approved Fencing**

The unauthorised close boarded fencing and trellising along the side boundary of the property shall be removed and replaced with the picket fencing hereby approved within two months from the date of this consent.

REASON: To safeguard the character and appearance of the locality in accordance with Harborough District core Strategy Policy CS11 and the National Planning Policy Framework (particularly Section 7).

Notes to applicant:

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

## Planning Committee Report

**Applicant:** Mr Stuart James

**Application Ref:** 16/01425/FUL

**Location:** 53 The Woodlands, Market Harborough, Leicestershire

**Proposal:** Alterations and extension to existing annexe to create a separate dwelling (revised scheme of 16/00560/FUL).

**Application Validated:** 13/09/2016

**Target Date:** 08/11/2016

**Consultation Expiry Date:** 20/10/2016

**Site Visit Date:** 31/10/2016

**Case Officer:** Joanne Roebuck

## Recommendation

Planning Permission is **APPROVED**, for the reasons set out below, subject to the conditions set out in Appendix A.

The principle of the development is acceptable given the site's location within an established residential area where the proposal will make use of an existing building and contribute to the District's housing stock. The proposal will have a negligible impact on the character and appearance of the locality as the physical changes to the existing building are minimal and the scheme has been designed to accommodate necessary elements of residential use (such as car parking, private amenity space and waste bins) as discreetly as possible. It will not have an adverse impact on other interests of acknowledged importance including highway safety, residential amenity and the heritage asset of the canal conservation area. On balance therefore it is considered that the proposed development satisfactorily complies with the Framework and relevant policies in the development plan and there are no material planning considerations sufficient to challenge the presumption in favour of development.

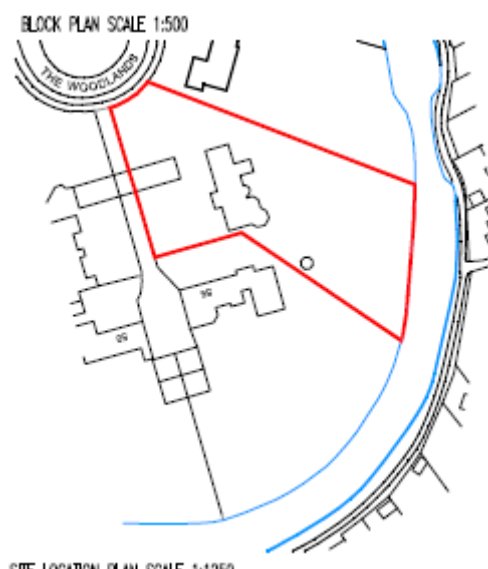
### 1. Site & Surroundings

1.3 The application site is a large detached dwelling and associated ancillary building set within spacious grounds towards the southern end of the established residential area of The Woodlands. No.53 is one of four dwellings which are served by a private drive accessed off the principal road through the development. The private drive runs beneath an archway formed by the ancillary building to No.53 and the garage with games room above belonging to the property on the opposite side of the drive.

1.4 The dwelling itself is recessive in relation to the ancillary building which stands between the dwelling and both the shared private drive and The Woodlands. Both buildings are sited to the rear of a mature front garden with a large protected oak tree towards its centre.

- 1.5 Access to the dwelling is from the private drive via an independent driveway in front of the ancillary building. This driveway is tarmac and leads around the side of the ancillary building to a large forecourt in front of the existing dwelling and to the rear of the ancillary building. The forecourt was originally open to the private drive but is now separated from it by boundary fencing and planting. A landscaped island sits within the centre of the forecourt.
- 1.6 The ancillary building was originally constructed as a garage with a games room above and was granted planning permission in conjunction with a similar arrangement serving the property on the opposite side of the private drive. The roof of the building was subsequently raised in height and the first floor accommodation converted to residential accommodation let out to students. Whilst the raising of the roof benefited from planning permission, the change of use did not and, following a number of enforcement complaints and aborted applications to regularise the use, the buildings active use as residential accommodation ceased.
- 1.7 The rear garden of the property is bound to the south-east by the canal conservation area.

**Figure 1: Site Location**



**Figure 2: View from The Woodlands**



**Figure 3: Rear View of Annexe**





**Figure 4: View Across Forecourt in Front of No. 55**



**Figure 5: View in Front of Annexe From Existing Access**



## **2. Site History**

- 2.1 **06/01368/FUL:** Erection of first floor over garage. **Approved 28.12.2006**
- 2.2 **07/01041/FUL:** Erection of first floor over garage (revised scheme to include turret). **Approved 29.08.2007.**
- 2.3 **11/00013/INVAL:** Change of use of first floor to separate dwelling. **Withdrawn 29.06.2012.**
- 2.4 **EN13/00133/DEV:** Space above garage as approved by 07/01041/FUL being used to accommodate students. **Closed 03.03.2014**
- 2.5 **13/01596/FUL:** Change of use of first floor to separate dwelling (Retrospective). **Withdrawn before registration 05.11.2013.**

- 2.6 **EN14/00044/COU:** Continued use of first floor above garage as separate residence. Owner confirmed in writing that the area above the garage was no longer rented out separately. **Closed 11.04.2014.**
- 2.7 **16/00560/FUL:** Alterations to existing annexe to create a separate dwelling, installation of new access and erection of new garage to serve the existing dwelling. **Withdrawn 01.06.2016**

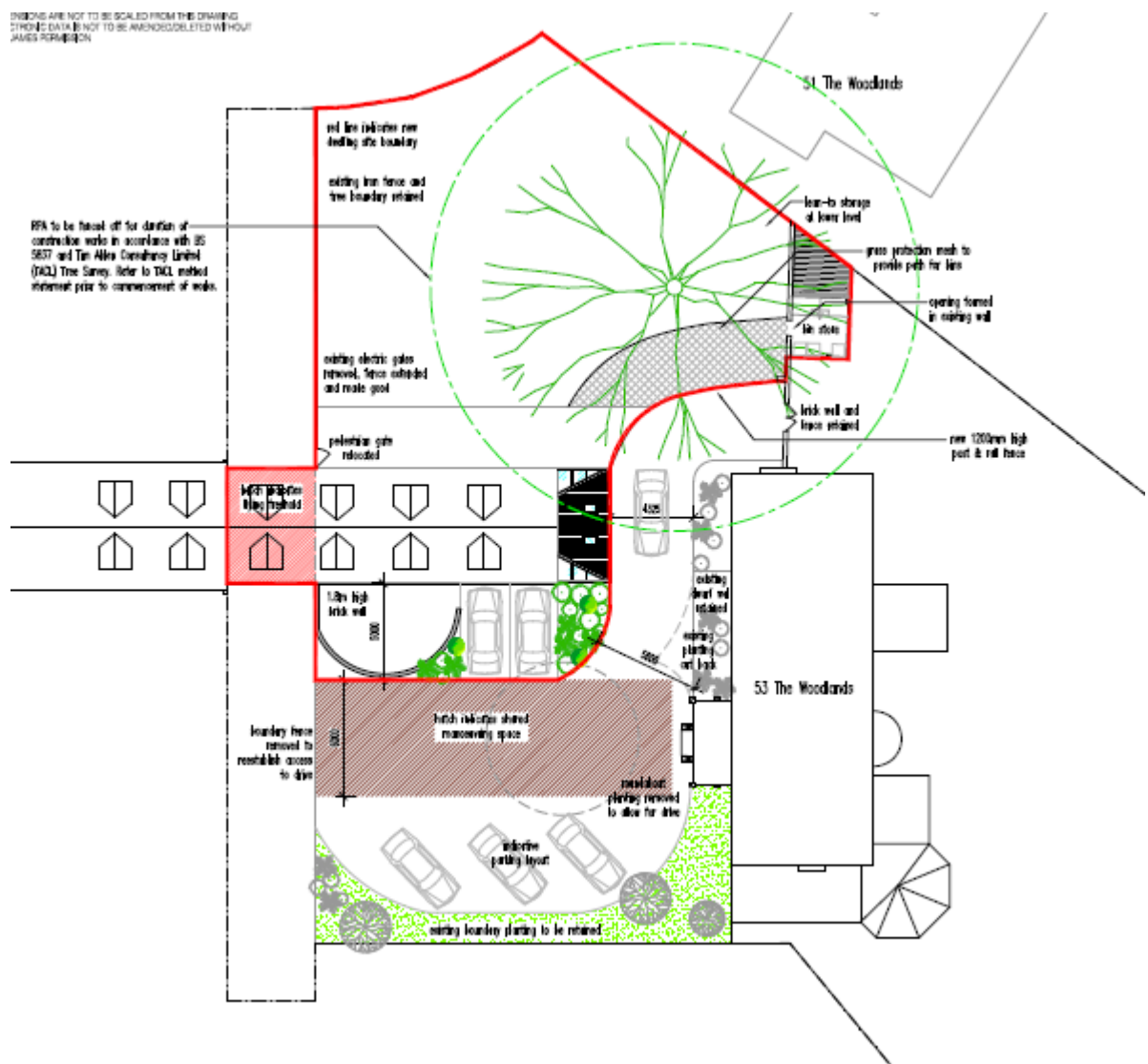
### **3. The Application Submission**

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

- 3.1 The proposal, as amended, seeks planning approval for the change of use of the existing ancillary building to an independent dwelling. The alterations to the existing building to effect the change of use include the following:
- filling in an undercroft at the rear of the building in brickwork to match the existing building;
  - erection of a small single storey extension on the eastern side elevation. This extension will be 2.7m wide by 5.8m long and will replace the existing shrubs which currently stand between the ancillary building and the access drive. It will have a fully glazed frontage to the front garden and a glazed roof but the side and rear elevations will be constructed in brickwork to match the existing building;
  - the insertion of a door with glazed side panel and two ground floor windows in the front (north) elevation;
  - the insertion of two new windows at ground floor level in the south elevation;
- 3.2 The internal accommodation will include a lounge, kitchen/diner, utility room and toilet on the ground floor, and two bedrooms, en suite bathroom and dressing room on the first floor.
- 3.3 Externally, the following changes are proposed:
- The existing drive will be closed to vehicles by extending the existing fencing, leaving a pedestrian gateway;
  - The boundary treatment to the rear forecourt, as well as the landscaped island in the middle of the forecourt, will be removed to allow access off the private drive for parking and manoeuvring vehicles for both the existing and proposed dwelling;
  - Two dedicated parking spaces will be provided for the new dwelling in the rear forecourt, leaving space for in excess of four parking spaces for the new dwelling;
  - A boundary wall will be erected around a small area of the forecourt to create a private amenity space for the new dwelling;
  - At the front of the ancillary building a new fence will be erected to define the boundary between the new and existing dwellings. The existing front garden will comprise additional amenity space for the new dwelling;
  - A pedestrian access will be created in the boundary wall at the side of the existing dwelling to give access to a screened lean-to storage area and a bin store;
  - A grasscrete path will be provided between the bin store and the existing tarmac at the front of the new dwelling to facilitate use and manoeuvring of the bins on collection days.

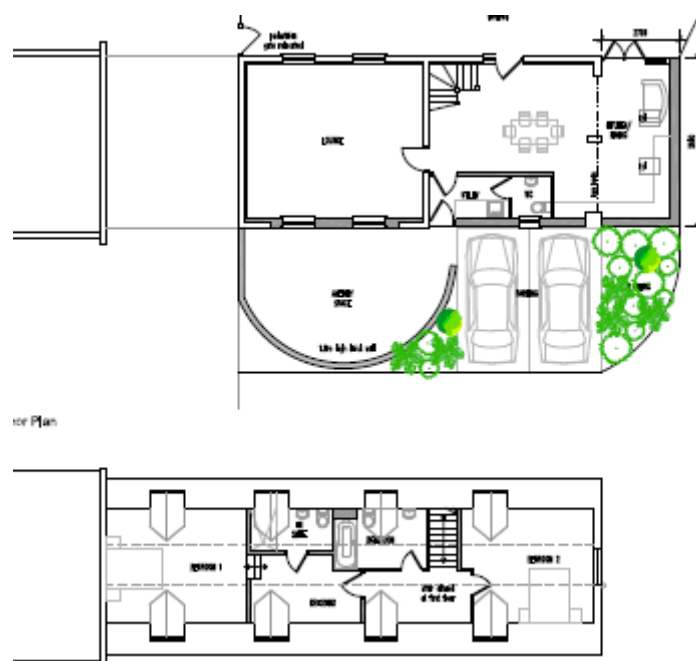
- 3.4 The application as first submitted also proposed the erection of a detached garage to the rear of the existing dwelling but this part of the proposal has subsequently been withdrawn.

**Figure 6: Proposed Block Plan**

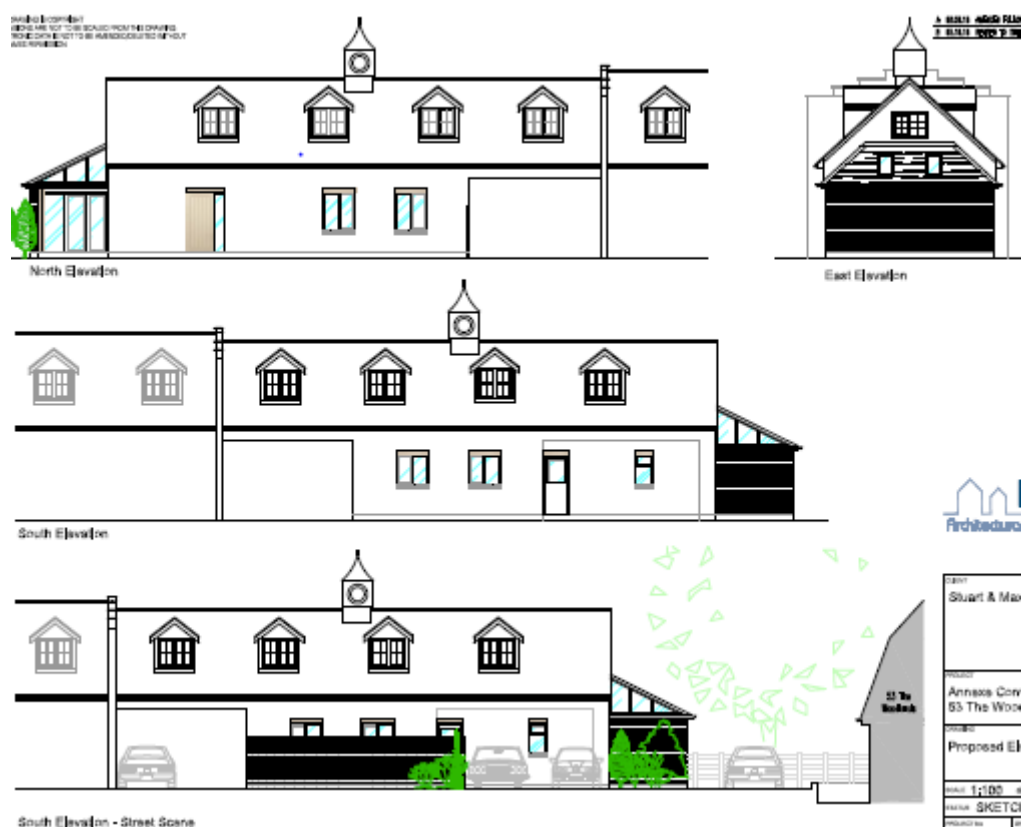




**Figure 7: Proposed Floor Plans**



**Figure8: Proposed Elevations**



## b) Documents submitted

### i. Plans

3.5 The application has been accompanied by the following plans:

1:1250 Site Location Plan  
1:500 Block Plan  
1:200 Site Plan and Landscaping Plan  
1:100 Existing and Proposed Floor Plans and Elevations

**ii. Supporting Statements**

- 3.6 A Design and Access Statement has been submitted in support of the application, demonstrating how the proposal has taken into account the site context and constraints, including safeguarding the root system of the protected oak tree.

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

- 3.7 Amended plans have been received during the life of the application in order to clarify some of the details of the scheme and to delete the garage from the proposals.

**d) Pre-application Engagement**

- 3.8 Pre-application engagement was carried out initially in February 2016 prior to submission of the recently withdrawn application, and subsequently prior to the current submission. Negotiations have continued to take place during the life of the application in order to address matters raised by objectors to the proposal.

**4. Consultations and Representations**

- 4.1 Consultations with technical consultees and the local community were carried out for the application. This occurred on 21st September 2016 and included a site notice put up on the 21st September 2016, and an advertisement in the press. This initial consultation period expired on 20th October 2016.
- 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 HDC Environmental Health Officer**

No comments received.

**4.4 LCC (Highways)**

Refers to Standing Advice

**4.5 LCC (Ecology)**

The proposed development does not meet any of the triggers for requiring a biodiversity survey.

**4.6 LCC (Forestry and Arboriculture)**

No comments received.

## **b) Local Community**

4.7 Objections have been received from 11 households for the following reasons:

### **Character of the Area**

- The proposal would be out of keeping with The Woodlands which is characterised by space and privacy. It will introduce a tandem form of development which is not characteristic of the area. It will not fit the overall qualities of the area, particularly in terms of its proportions.
- It will increase the density of housing on the shared drive by 25%. The creation of a walled amenity space will add to the impression of a densely developed area.
- It will introduce a hard over-urbanised edge to an important area of public realm which fails to reflect the landscaping characteristic of the streetscape.
- There are no other dwellings on The Woodlands of this nature, especially not without a garage.
- The Woodlands street scene is quiet and secluded with numerous established trees and hedgerows associated with residential property boundaries. The front boundary of No.53 is currently treated by decorative cast iron railings. The removal of vegetation in front of No.53 to accommodate parking will erode this character and add to the bleakness of the outlook.
- It would set an undesirable precedent.

### **Residential Amenity**

- The change of use will have an adverse impact on the residents of No.s 48, 50, 51 and 55.
- It will cause overlooking of the neighbouring property which will be only 15m from the converted building.
- It will result in increased noise from additional cars close to my property border.
- Parking and manoeuvring for the new dwelling outside No.53 is unlikely to be desirable for the owner of No.53.
- It will place limitations on the use of the attached ancillary building because the residential use is incompatible with the adjoining use as a games room where children generate noise by entertaining friends and practising their drums and guitar. Only a thin internal wall separates the two uses.
- The proposed new garage will be 1.7m higher than the boundary hedge resulting in loss of light to the garden and living room of the adjoining property. The garage should have a flat roof which would not be out of keeping with other garages on The Woodlands.
- The turning area shown in front of the garage is impractical and would result in multiple manoeuvres by cars using it which would result in noise disturbance to the neighbouring property. The impracticality of this area is highlighted by the provision of additional parking in front of the house. If this means the garage is only intended for storage then a shed would be more appropriate.

### **Traffic**

- The small driveway will not cope with extra buildings, traffic and residents.

- Increased traffic on the constricted shared drive would cause access difficulties and danger to those using it.
- The plans are sketchy as they do not clearly show the impact of extra vehicles that will be accommodated in this small area and how they will manoeuvre without encroaching on the drive opposite

### **Protected Oak Tree**

- The proposed extension to the ancillary building would affect the root protection area of the oak tree.
- Any hard-surfacing for the new section of drive in front of the garage should be permeable to avoid damage to the tree.

### **Other**

- Increased pressure on services, particularly foul water which has been a recurring issue on The Woodlands.
- The lack of 5 Year Housing Supply is no justification for the development.
- The garage will be so close to the boundary hedge that it is likely to have an adverse impact on it as a result of loss of light and impact on its root system.
- The drawings available on the website are, as last time, very poor and lacking detail and there is no footprint which shows exactly what is being done and where new fences/boundaries will be. A full site plan should be provided as with this new proposal there are serious issues with access, right of way and increased noise and disturbance.
- The existing building is wrongly described as an annexe because planning permission has never been obtained for this. Procedurally the Council should request a planning application for this unauthorised use.
- There is a covenant which limits the shared drive to the four existing dwellings and prevents anything being done on the land which may cause nuisance or annoyance. These covenants are enforceable and, if permission is granted, injunction proceedings are highly likely to follow. Any attempt by the applicant to mitigate the financial burden of subsequent injunction proceedings by Restrictive Covenant Legal Indemnity Insurance would be unsuccessful.
- If the change of use is allowed the building should be restricted to an annexe for No.53.
- Use of my shared drive for an additional residence without permission would be illegal.
- Given the number of objections to the previous application the proposal is not in the spirit of government policy to allow local people to decide local planning issues.
- Regardless of the planning tests applicable to the development it fails the common sense test and would probably not be permitted if the original garage did not exist or belong to the owner of No.53.

#### **4.8 One letter of support has been received for the following reasons:**

- Converting existing buildings into cost effective housing is environmentally friendly and in compliance with government policy which asserts a presumption in favour of sustainable development.
- The application to adapt this existing building is innovative in both practicality and design. Properties within this courtyard feature large extended buildings positioned closely or adjoining neighbouring properties, creating distinctive

communal living space which the proposal will contribute to with little adverse effect on surrounding properties or the local area.

- There are 1.9 million people in the UK on waiting lists for social, affordable, and rented housing; converting and dividing up large unused properties can assist in providing much needed housing, reducing the need to build on greenfield sites, and providing a more sustainable environment for future generations.

4.9 The Ward Councillor has made the following statement in respect of the application:

“That this application has taken so long to reach decision stage highlights an underlying concern which, despite amendments, still remains.

The Woodlands was planned as a prestigious and ambitious development. Drawing inspiration from its country estate setting, quality houses were built, each different in concept and design, with large gardens and fine mature trees complementing the beautiful setting. As far as you could imagine from ‘getting as many homes on a piece of land’, this is development on a grand scale (the ratio of house to plot here is a remarkable 7-8%).

Harborough residents are especially proud of its qualities. There is I believe no similarly distinctive all-of-a-piece 1970s estate development in the District.

Efforts should be made to protect and conserve - not undermine. To convert the garage annexe into a residential property is contrary to the character of the whole estate. No other property in The Woodlands has a separate residential dwelling in front of the existing house. No other dwelling in The Woodlands is restricted by such a cramped plot with a tightly-drawn boundary.

This proposal is not compatible with its surroundings. The National Planning Policy Framework (paragraph 53) states ‘Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example, where development would cause harm to the local area’.

Rejection of this application would send a strong message that the character and visual amenity of this unique development in our District should remain untouched.”

## **5. Planning Policy Considerations**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for development be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.2 Unless otherwise stated, an explanation of the development plan policies, material planning considerations, and other documents referred to can be found at the beginning of the Agenda under “All Agenda Items Common Planning Policy”.

### **a) Development Plan**

- 5.3 The current Local Development Plan consists of the Local Development Framework Core Strategy 2006-2028 (adopted November 2011) and saved policies of the Harborough District Local Plan (adopted 2001).

- *Harborough District Core Strategy (Adopted November 2011)*

5.4 Relevant policies to this application are:

- CS1 – Spatial Strategy for Harborough
- CS2 – Delivering New Housing
- CS11 – Promoting Design and Built Heritage

## **b) Material Planning Considerations**

5.5 The following material planning considerations are relevant to this application:

- The National Planning Policy Framework (The Framework/NPPF), particularly Para.14 (presumption in favour of development), Para.17 (Core Planning Principles) Section 7 (Requiring Good Design), and Section 12 (Conserving and Enhancing the Historic Environment).
- National Planning Practice Guidance
- SPG Note 3: Development of single new dwellings and small groups of dwellings.

## **c) Other Relevant Information**

### *Reason for Committee Decision*

5.6 The application is to be determined by Planning Committee because of the number of objections received.

## **6. Assessment**

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

- 6.1 The application as amended relates only to the extension and conversion of the existing ancillary building to an independent dwelling, as the previous garage proposal has been withdrawn. The building already exists on the land and only minimal physical alterations are proposed to effect its conversion.
- 6.2 Harborough District Core Strategy Policies CS1 and CS2 seek to focus additional residential development in Market Harborough provided such development does not adversely impact on the character of the area and other interests of acknowledged importance. The Core Strategy also identifies a need for smaller and medium sized dwellings in the District.
- 6.3 The proposal will meet the objectives of the Core Strategy by making use of an existing building to provide a small unit of accommodation. As the building already exists its physical form is an established presence and will not in itself adversely affect the character and appearance of the locality.
- 6.4 The Framework sets a presumption in favour of sustainable development. By making use of an existing building to contribute to the District's requirement for additional



housing the proposal is acceptable in principle. The proposal's compliance with other criteria of sustainable development is assessed below.

## **b) Technical Considerations**

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

- 6.5 The proposal will make use of an existing building, with only relatively small alterations to the size and detail of the building required to create an independent dwelling. The proposed extension is subordinate to the existing building and being located between the existing house and ancillary building to the rear of an established front garden it will not be intrusive in the street scene. The insertion of new doors and windows has minimal impact on the appearance of the building and these details will be conditioned to ensure they are in keeping with the character of the building and wider area.
- 6.6 The changes to the space around the building to facilitate the conversion have been designed to minimise their effect on the surroundings:
- A private amenity space at the rear will be enclosed by a curved boundary wall, the precise details of which will be controlled by condition;
  - The opening up of the forecourt in front of the main house to facilitate access and parking will restore the open relationship with the shared drive which existed before the current boundary treatment was put in place;
  - The use of the forecourt for parking and manoeuvring of vehicles will maintain its current use albeit that it will serve two dwellings rather than one;
  - Providing a bin store and lean-to store behind the existing wall at the front of the property will minimise the visual impact of these necessary facilities;
  - Retaining the existing tarmac drive as a pathway in front of the new dwelling will minimise ground disturbance in order to safeguard the protected oak tree. The creation of a grasscrete type pathway from the bin store to this tarmac path has also been designed to ensure the bin store is readily accessible without the need for the addition of more hard-surfacing within the root protection area of the tree.
  - A fence is proposed to separate the front garden from No.53 The Woodlands. No details have been provided for this but a condition is recommended to ensure its design is appropriate in its context.
- 6.7 As the development is at the front of the property it will have no material impact on the character and appearance of the canal conservation area at the rear of the property.
- 6.8 Notwithstanding the above, given the size and location of the new dwelling and its curtilage in relation to The Woodlands it is considered necessary to remove permitted development rights to safeguard the locality from unsympathetic extensions and boundary structures.
- 6.9 On the basis of the above assessment it is considered that the proposal satisfactorily meets the requirements of the NPPF and Harborough District Core Strategy Policy CS11.

### **2. Highways**

- 6.10 The site is within an existing residential area and will be accessed off a private drive. The proposed use will not result in a significant increase in traffic using The Woodlands and will have no material impact on highway safety.
- 6.8 Parking provision of two spaces is sufficient for a dwelling of this size and there will be space for manoeuvring vehicles so they can leave the site in a forward gear. There will also be in excess of four parking spaces for the new dwelling which is ample for this size of dwelling in accordance with the Highway Authority's Standing Advice.
- 6.9 On the basis of the above it is considered that the proposal satisfactorily accords with the Highway Authority's Standing Advice and the provisions of the Framework.

### 3. Residential Amenity

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- 6.10 Core Principle 4 of Paragraph 17 of the NPPF seeks to ensure a good standard of amenity for all existing and future occupiers of land and buildings. This principle is further reflected in Policy CS11.
- 6.11 As the building already exists, its conversion will have no greater impact on neighbouring properties in terms of loss of light or overbearing. The proposed extension is single storey and, whilst taking the physical form of the building closer to the existing dwelling will have no adverse impact on the amenities of its residents.
- 6.12 The new windows are at ground floor level and will primarily overlook the front garden and rear private amenity space. The windows in the roof already exist and benefit from planning permission. Whilst the proposal will change the use of the rooms which they serve, the distance of the rear elevation of the building from the front of the facing dwelling to the south is in excess of 21m. The vegetation on the southern boundary of No.53, which acts as an effective screen, is also intended to remain. There will therefore be no issues in terms of loss of privacy for existing residents.
- 6.13 The existing vegetation along the southern boundary of the forecourt is to be retained and the use of the forecourt for parking and manoeuvring of vehicles remains unchanged. The addition of cars associated with a two bedroom property is not considered sufficient to materially worsen the impact of this use of the forecourt on neighbouring properties.
- 6.14 With regard to the neighbour's concern about the impact on the use of the adjoining games room, a note on any grant of consent is recommended to highlight the fact that additional noise insulation on the party wall may be advisable to address this issue. An informative relating to the Party Wall Act will also be included.
- 6.15 On the basis of the above the proposal satisfactorily accords with the provisions of the Framework, Core Strategy Policy CS11 and SPG Note 3.

### 4. Other

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- 6.16 In respect of the protected oak tree, the size of the proposed extension is such that any disturbance to roots caused by the digging of foundations is unlikely to have any serious detrimental health on the long-term health and well-being of the tree. However, a condition securing the protection of the tree during construction works is recommended.

- 6.17 With regard to reference to a restrictive covenant, whilst this has no bearing on the grant of planning permission as the latter would not override any binding legal constraints on the land, the applicant has provided evidence that no covenant limiting the creation of a new dwelling off the private drive is in force.
- 6.18 With regard to the objection in respect of precedent, the context and circumstances relating to this application are particular to this site and cannot necessarily be repeated elsewhere on The Woodlands. Each case would fall to be determined on its own merits.
- 6.19 As far as the issue of foul drainage is concerned, the existing ancillary building has already been used for residential purposes, albeit unauthorised, and the permanent use of the property as a dwelling is not considered likely to put a significant strain on the existing drainage system. Ultimately, however, private drainage is a matter to be controlled under separate legislative powers.
- 6.20 The objector's comment relating to the Council's error in describing the building to be converted as an annexe is noted, but considered immaterial to the assessment of the current application which seeks permission for an independent dwelling. The previously unauthorised use of this building as a residential unit for students is attributed no weight in the assessment of the current proposal. Similarly, the internal alterations to effect the above unauthorised use are not being presented as justification for the proposed change of use. As evidenced in this report, the application is being assessed on its merits in relation to relevant planning policy, and whether the building is described as an annexe or an ancillary building is irrelevant. It should be noted, however, that provided no external alterations are made to a building within the domestic curtilage of a property, it can be adapted for residential purposes for dependant relatives without the need for planning permission and as such might reasonably be described as an annexe.
- 6.21 No other material considerations have been raised which are of sufficient weight to influence the outcome of this application.

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

- 7.1 The principle of the development is acceptable given the site's location within an established residential area and the fact that the proposal will make use of an existing building. The proposal will have a negligible impact on the character and appearance of the locality as the physical changes to the existing building are minimal and the scheme has been designed to accommodate necessary elements of residential use (such as car parking, private amenity space and waste bins) as discreetly as possible. It will not have an adverse impact on other interests of acknowledged importance including highway safety, residential amenity and the heritage asset of the canal conservation area. On balance therefore it is considered that the proposed development satisfactorily complies with the Framework and relevant policies in the development plan and there are no material planning considerations sufficient to challenge the presumption in favour of development.
- 7.2 It is therefore recommended that the application is approved subject to the conditions in Appendix A.

## **APPENDIX 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 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) Approved Plans**

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

1:1250 Site Location Plan

1:100 Proposed Floor Plans and Elevations (Drawing No. to be inserted)

1:200 Site Plan and Landscaping (Drawing No. to be inserted)

1:500 Block Plan (Drawing No. to be inserted)

REASON: For the avoidance of doubt.

### **3) Materials to Match Existing**

The materials to be used in the construction of the external surfaces of the development hereby permitted shall match, in material, colour and texture, those used in the existing building.

REASON: To safeguard the character and appearance of the locality in accordance with Harborough District core Strategy Policy CS11 and the National Planning Policy Framework (particularly Section 7).

### **4) Details of Boundary Treatment**

Prior to the commencement of development precise details of the type of fencing forming the boundaries at the front of the property, and the design and materials of the wall (to include coping detail) around the rear private amenity space, shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall then be implemented in accordance with the approved details prior to the first use of the dwelling hereby granted permission.

REASON: To safeguard the character and appearance of the locality in accordance with Harborough District core Strategy Policy CS11 and the National Planning Policy Framework (particularly Section 7).

### **5) Provision of Parking and Turning Space to Serve the Existing and Proposed Dwellings**

The parking and turning areas for the existing and proposed new dwelling as shown on the approved plan shall be provided prior to the first use of the new dwelling and shall thereafter be made available at all times for their designated purposes.

REASON: To ensure adequate parking and turning space is provided within the curtilage of the two dwellings to avoid the parking of vehicles on The Woodlands where they may obstruct the free flow of traffic in the interests of

highway safety and the amenities of neighbouring properties in accordance with the National Planning Policy Framework, Harborough District Core Strategy Policy CS11 and the Highway Authority's Standing Advice.

6) **Removal of permitted Development Rights**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) or any orders revoking and re-enacting that Order, no extensions, ancillary buildings, gates, fences, walls or other means of enclosure shall be erected within the domestic curtilage at the front of the new dwelling (other than as approved by this permission) without the prior grant of planning permission of the Local planning Authority.

REASON: To retain control over the erection of additional structures in this prominent location to safeguard the character and appearance of the locality in accordance with Harborough District core Strategy Policy CS11 and the National Planning Policy Framework (particularly Section 7)

7) **Door and Window Detail**

The new door in the north elevation of the dwelling shall have a vertically boarded design and the new windows in the north and south elevations of the existing building shall have side-hung opening casements and be recessed from the outer face of the wall by a minimum of 50mm unless otherwise agreed in writing by the Local Planning Authority.

REASON: To safeguard the character and appearance of the locality in accordance with Harborough District core Strategy Policy CS11 and the National Planning Policy Framework (particularly Section 7).

8) **Tree Protection**

No development shall commence on site until the trees on the site have been enclosed by protective fencing, in accordance with British Standard 5837 (2010): Trees in Relation to Construction. Before the fence is erected its type and position shall be approved by the Local Planning Authority, and after it has been erected it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas(s).

REASON: To enable the Local Planning Authority to ensure the protection of trees on the site in the interests of visual amenity and to accord with Harborough District Core Strategy Policy CS11

Notes to applicant:

- 2) 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.

- 3) If the permitted plans involve the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.
- 4) You are advised to take account of likely sound transfer from the attached ancillary building and implement any noise insulation necessary to ensure reasonable living conditions for future occupiers of the new dwelling.