



Planning Committee

To: All Members of the Planning Committee on Monday, 10 February 2025

Date of meeting: Tuesday, 18 February 2025

Time: 18:30

Venue: The Council Chamber

The Symington Building, Adam and Eve Street, LE16 7AG

Members of the public can access a live broadcast of the meeting from the [Council website](#), and the meeting webpage. The meeting will also be open to the public.

Agenda

- 1 Apologies for Absence**
- 2 Declarations of Members' Interests**
- 3 DRAFT Planning Minutes 03.12.24** **3 - 10**
- 4 Referral up to Council by the Planning Committee.**
To consider any referrals under Part 3 Section B1.4 of the Council's Constitution.
- 5 Index of Applications- 18.02.2025** **11 - 12**
- 6 Applications for Determination** **13 - 100**
- 7 Planning Enforcement Update Report** **101 - 124**
- 8 Any Urgent Business**
To be decided by the Chairman.

JOHN RICHARDSON
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HARBOROUGH DISTRICT COUNCIL

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Harborough District Council
Minutes of the Planning Committee

Held at The Council Chamber,
The Symington Building, Adam & Eve Street,
Market Harborough, LE16 7AG
On 3rd December 2024
commencing at 6.30pm

Present:

Councillors: Bannister, Burrell (Chair), Elliott, Gair, James, Modha, Whelband,
Whitmore, Worrell.

Officers present: D. Atkinson (Director of Planning), N. Parry (Development Management Team Leader), M. Patterson (Strategic Growth Manager), N. Barnard (Head of Elections and Democratic Services, Monitoring Officer), E. Newman (Democratic Services Officer), J. Felton (Locum Solicitor).

Prior to the first item of the agenda, it was raised that there had been a potential resignation of a Councillor from their Political Group, and it was asked whether that affected the political balance of the Planning Committee. It was clarified that there were still discussions being had about the resignation, but for the moment it did not affect the political balance of the committee.

1. Apologies for Absence and Notification of Substitutions

Apologies were received from Councillor Johnson, who was substituted by Councillor Whitmore.

2. Declarations of Members Interests

The below declarations were received:

Councillor Whelband declared an interest in application 24/01357/OUT, The Causeway, Church Causeway, Church Langton, as he knew the applicant. He would not take part in the debate or vote on this application.

Councillor Gair declared an interest in applications 24/00932/VAC, Land East of Lutterworth, Gilmorton Road, Lutterworth and 24/01135/S106, Land East of Lutterworth, Gilmorton Road, Lutterworth, as a member of Lutterworth Town Council. He had not been part of the decision made on 24th September to object to the applications by Lutterworth Town Council. He had received approval from Lutterworth Town Council to engage in the debate and vote on these applications without repercussions.

Councillor Bannister declared an interest in 24/00528/OUT, Land North of Broughton Way, Broughton Astley as he is County Councillor for this division. He felt this would not impact on his ability to engage in impartial debate and vote.

Councillor Bannister declared an interest in 24/01357/OUT, The Causeway, Church Causeway, Church Langton as he knows the applicant, but felt that this would not impact his ability to engage in impartial debate and vote.

Councillor Bannister declared an interest in applications 24/00932/VAC, Land East of Lutterworth, Gilmorton Road, Lutterworth and 24/01135/S106 as he is a County Councillor for Leicestershire County Council, who is the applicant. He is also a part time employee for a registered objector, Alberto Costa MP. He would remove himself from the debate and vote on these applications.

Councillor Modha declared an interest in application 24/01357/OUT, The Causeway, Church Causeway, Church Langton as she knows the applicant. She would not take part in the debate or vote on this application.

3. Minutes

The minutes were proposed by Councillor Worrell and it was **RESOLVED** that the minutes of the Planning Committee meeting held on the 15th October 2024 be approved and signed by the Chairman as a true record.

4. Referrals up to Council by the Planning Committee

There were no referrals.

Prior to discussion of the applications for determination, the Committee agreed to adjourn for 15 minutes to review the Supplementary Information provided.

5. Applications for Determination 03 December 2024

Land North of Broughton Way – 24/00528/OUT

The Development Management Team Leader introduced the report in relation to application 24/00528/OUT, Land North of Broughton Way, Broughton Astley, outline application for the development of up to 17 self-build residential dwellings (access only to be considered).

Support was heard from the applicant's agent Joe Nugent, and representations were read on behalf of the applicants, Mr Poyner and James Scott.

A representation was also heard from the Ward Member Councillor Grafton-Reed.

The Committee was given the opportunity to question the speakers, and the officers in relation to the application. The Chair then opened the debate to the committee.

It was proposed by Councillor Whelband that the application be **REFUSED**. This was seconded by Councillor Worrell.

Following a vote, it was **RESOLVED** that:

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

The site adjoins the existing and committed built up area of a sustainable settlement (Broughton Astley); will help to meet an identified District-wide housing need for self- and custom-build housing; has a scale which cumulatively does not disproportionately exceed the size of Broughton Astley and its service provision; and subject to condition, could retain natural boundaries. However, it is not in a location suitable for housing as it is located within a defined Area of Separation and would result in loss of the visual separation of Broughton Astley and Sutton in the Elms and therefore detract from the open character of the Area of Separation, including when viewed from the public Right of Way through the site. Furthermore, the site is not allocated for housing and is for an amount of development that cannot be considered as windfall under the Broughton Astley Neighbourhood Plan. For these reasons, the proposal conflicts with policies H3 and EH2 of the Broughton Astley Neighbourhood Plan, policy H5 of the Harborough District Local Plan and paragraph 104 of the

NPPF, and there are no material considerations (including the provision of self-built plots) which outweigh the conflict with the development plan.

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

Land to the West of Leicester Road, Market Harborough – 24/00888/FUL

The Development Management Team Leader introduced the report regarding application 24/00888/FUL, Land to The West of Leicester Road, Market Harborough, erection of 17 dwellings.

Support was heard from the applicants' agent Carl Stott.

The Committee was given the opportunity to question the speakers, and the officers in relation to the application. The Chair then opened the debate to the committee.

It was proposed by Councillor Worrell that the application be **APPROVED**. This was seconded by Councillor Modha.

Following the vote, it was **RESOLVED** that:

Planning Permission is **APPROVED** for the reasons set out in the report and subject to the recommended Planning Conditions outlined within Appendix B of the report and the signing of a legal agreement to secure the obligations set out in Appendix B.

Councillor Whelband and Councillor Modha left the room at 7.30pm for the duration of debate and vote on the following application.

The Causeway, Church Causeway, Church Langton – 24/01357/OUT

The Development Management Team Leader introduced the report in regard to application 24/01357/OUT, The Causeway, Church Causeway, Church Langton, outline application for up to two serviced plots for self-build and custom housebuilding (access and layout to be considered) (Revised scheme of 24/01127/OUT).

Support was heard from the applicant's agent Ronan Donohoe.

Representations were heard from Roz Folwell, on behalf of East Langton Parish Council.

The Committee was given the opportunity to question the speakers, and the officers in relation to the application.

It was proposed by Councillor Burrell that the application be **APPROVED**. This was seconded by Councillor Elliott.

Following the vote, it was **RESOLVED** that:

The application was **APPROVED** for the reasons given within the report and subject to: a) The Conditions outlined within Appendix B of the report b) The completion of a Unilateral Undertaking c) No new material planning considerations being received following the expiry of the press notice.

It was agreed that the committee would be adjourned for five minutes.

Councillor Bannister left the meeting at 7.48pm.

Councillors Whelband and Modha re-entered the meeting at 7.50pm.

24/00932/VAC, Land East of Lutterworth, Gilmorton Road, Lutterworth

The Strategic Growth Manager introduced the report in regard to application 24/00932/VAC, Land East of Lutterworth, Gilmorton Road, Lutterworth, hybrid planning application comprising outline application for development (including demolition) of up to 2750 dwellings, business, general industrial and storage and distribution uses, two primary schools, neighbourhood Centre, public open space greenspace, drainage features, acoustic barrier, and other associated infrastructure

(some matters reserved), and full application for the development of a spine road and associated junctions with the A426 north of Lutterworth, Gilmorton Road, Chapel Lane (including the partial closure and realignment of Chapel Lane to motor vehicles and horse riders), and the A4304 east of M1 Junction 20, comprising carriageway, footway, cycleway and associated infrastructure to include earthworks, bridge structures, services, drainage, landscaping, lighting and signage (variation of condition 50 (Traffic Signage), 51 (PRoW Strategy) and 54 (Pedestrian Crossings) and Removal of condition 20 (B8 limitation) of 19/00250/OUT).

Objections were heard from Stephen Walkley, Richard Nunn, on behalf of Lutterworth Town Council, and Alberto Costa MP.

Representations were also heard from Ward Members Councillor Jonathan Bateman, and Councillor Martin Sarfas.

Support was heard from the applicants' agent Daniel Robinson-Wells and officer of Leicestershire County Council (applicant) Stephen Holme.

The Committee was given the opportunity to question the speakers, and the officers in relation to the application. The Chair then opened debate to the Committee.

It was proposed by Councillor Whelband that the application be **APPROVED**. This was seconded by Councillor Elliott.

Following a vote, it was **RESOLVED** that:

Planning Permission is **APPROVED**, for the reasons set out in the report, subject to Deed of Variation to tie this consent to the original S106 agreement and subject to confirmation from the Crown Casework Unit that the Secretary of State has lifted the direction not to grant Planning Permission issued on 2nd December 2024.

A vote was taken to determine whether the debate would continue after the allotted three hours had elapsed. It was agreed by the committee that the debate would continue past 9.30pm if necessary.

Land East of Lutterworth, Gilmorton Road, Lutterworth - 24/01135/S106

The Strategic Growth Manager introduced the final report in regard to application 24/01125/S106, Land East of Lutterworth, Gilmorton Road, Lutterworth, varying the existing Section 106 Agreement for the East of Lutterworth SDA 19/00250/OUT to a minimum of 10% and a maximum of 40% affordable housing.

Objections were heard from Richard Nunn, on behalf of Lutterworth Town Council, and Alberto Costa MP.

Representations were also heard from Ward Members Councillor Jonathan Bateman, and Councillor Martin Sarfas.

Support was heard from the applicant's agent Daniel Robinson-Wells and officer of Leicestershire County Council (applicant) Stephen Holme.

The Committee was given the opportunity to question the speakers, and the officers in relation to the application.

It was proposed by Councillor Whelband that the application be **APPROVED**. This was seconded by Councillor Elliott.

Following the vote, it was **RESOLVED** that:

Planning Permission is **APPROVED**, for the reasons set out in the report, subject to Deed of Variation to the original S106 agreement and subject to confirmation from the Crown Casework Unit that the Secretary of State has lifted the direction not to grant Planning Permission issued on 2nd December 2024 or that the Direction does not apply to this application.

It was subsequently confirmed by the Crown Casework Unit on 5th December 2024 that the holding direction does not apply to this decision.

6. Any Urgent Business

There was none.

The Meeting ended at 21.45.

DRAFT

Index of Applications for Determination Meeting of the Planning

Committee, 18th February 2025

Application Ref	Parish/Ward	Applicant	Page Number
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24/01412/FUL	Market Harborough	Harborough District Council	58-72
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24/01635/FUL	Kibworth Beauchamp	Mr and Mrs J Ardley	89-99

Committee Report

Applicant: Mr I Crane

Application Ref: 24/01086/FUL

Location: Astley Grange Farm, Back Lane, East Langton

Proposal: Demolition of an agricultural building and the erection of four dwellings

Application Validated: 04.09.2024

8 week target date: 30.10.2024 **(EOT AGREED)**

Consultation Expiry Date: 07.02.2025

Reason for Committee Decision: Recommendation departs from Development Plan

Recommendation

Planning Permission is **APPROVED**, for the reasons set out in the report and subject to the Planning Conditions set out in Annex A of this report.

1. Site & Surroundings

- 1.1 The application site (hereafter referred to as the 'site'), relates to an agricultural building; located within Astley Grange Farm, in East Langton.
- 1.2 Astley Grange Farm comprises a number of former agricultural buildings, built in the 1970s, predominantly of modern utilitarian design, which are now in B2/B8 use. There is also a farmhouse and a self catering holiday let property.
- 1.3 Access is gained off of Back Lane which leads to the B6047 (Melton Road) and access to the village centre of East Langton.
- 1.4 With the exception of part of the access road, the site is outside of the East Langton Conservation Area. There are no Listed buildings in the immediate area.
- 1.5 The nearest Public Right of Way is located approx. 160m to the west of the building.
- 1.6 The agricultural building in question, is single storey and has a gross footprint of 576m². The walls comprise of a mixture of block work and cladding and a timber cladding. The roof is corrugated sheeting.

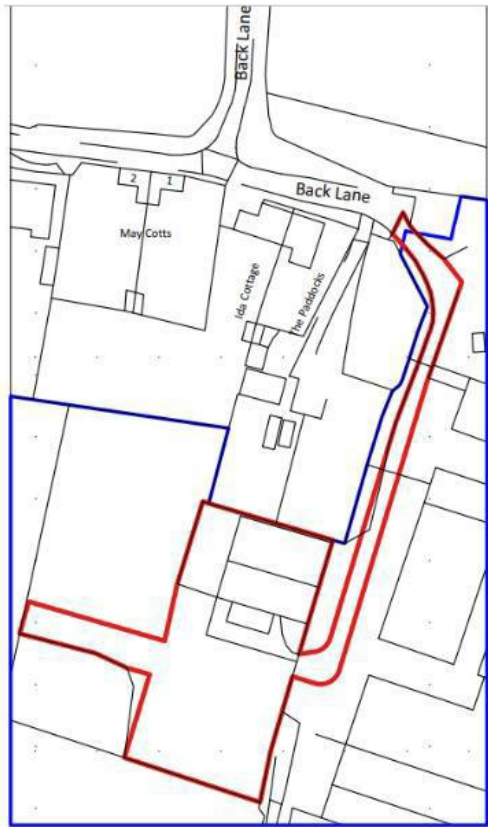


Figure 1. Plan showing site location



Figure 2. Aerial View (Google, 2022)

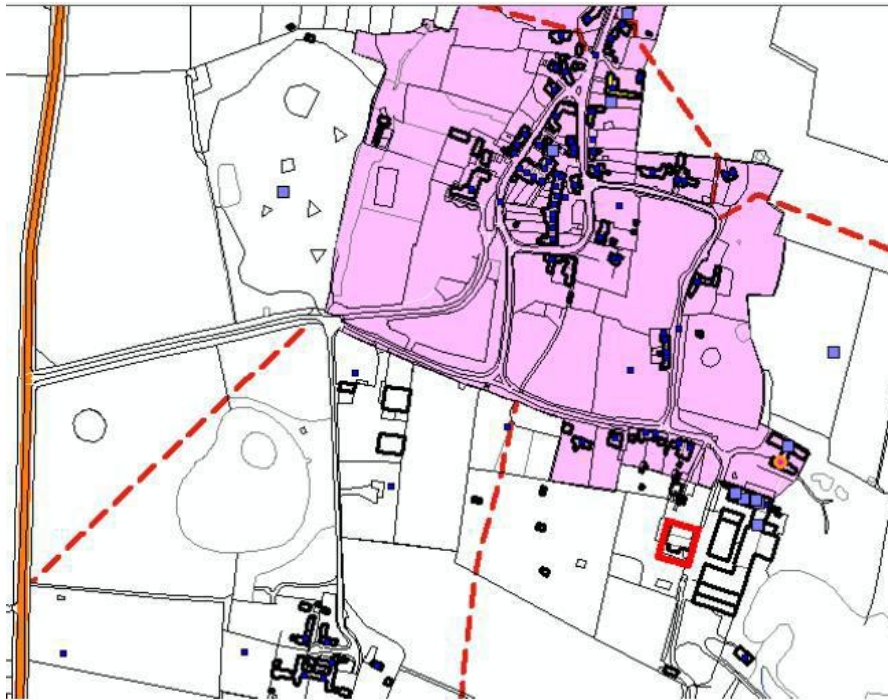


Figure 3. Constraints Map (Uniform)

Key: red outline: application site; blue square: BPLU; red dash: public right of way; pink highlight: East Langton Conservation Area; orange line: classified road (B6047)

Site Photos:



View of agricultural building (front elevation)



View of agricultural building (side elevation)

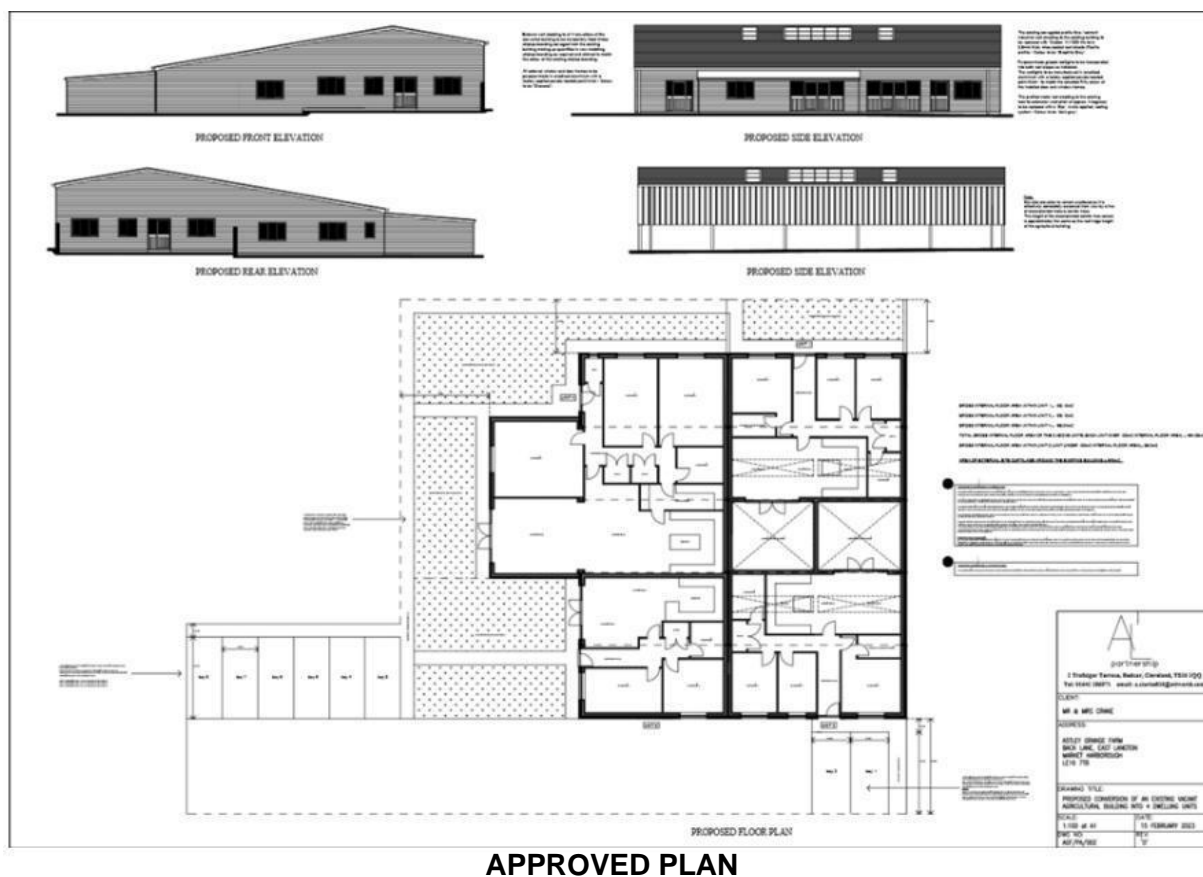


View of agricultural building from Public Right of Way

2. Site History

2.1 The site has the following relevant planning history:

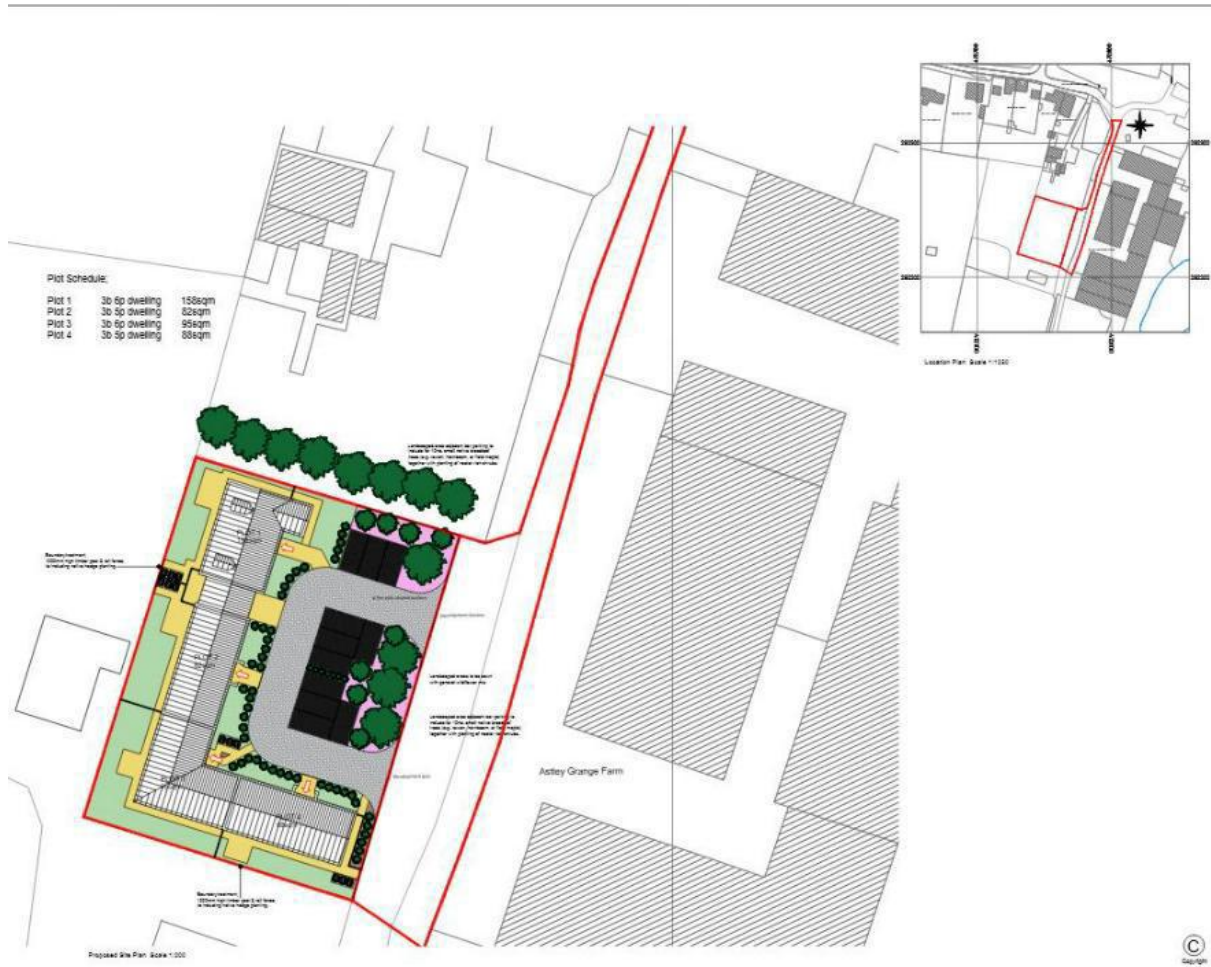
- 07/01901/FUL - Change of use from agricultural barn to farm shop and erection of side extension to create ancillary cafe (retrospective) **WITHDRAWN**
- 08/00254/FUL – Erection of extension to be used as an ancillary cafe (retrospective) (revised scheme of 07/01901/FUL) **WITHDRAWN**
- 22/02132/PDN - Notification to determine if Prior Approval is required for the proposed change of use of an agricultural building to 4 dwellinghouses (C3) (1 smaller and 3 larger dwellinghouses) and for associated operational development (Class Qa and Qb) **REFUSED**
- 22/02132/PDN - Notification to determine if Prior Approval is required for the proposed change of use of an agricultural building 4 dwellinghouses (C3) (1 smaller and 3 larger dwellinghouses) and for associated operational development (Class Qa and Qb) **APPROVED**
- 23/00785/FUL - Change of use of an agricultural building to four dwellings **APPROVED**



3. The Application Submission

a) Summary of Proposals

- 3.1 The application seeks full permission to demolish the existing agricultural building which has an extant consent to be converted and replace it with four new dwellings.
- 3.2 The original proposal proposed 3 x 3-bedroom properties and 1 x 4-bedroom property.

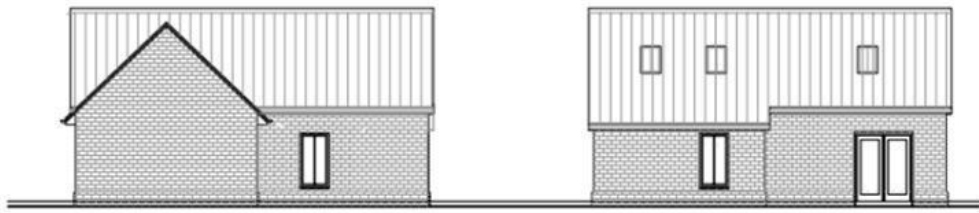


Original Submission

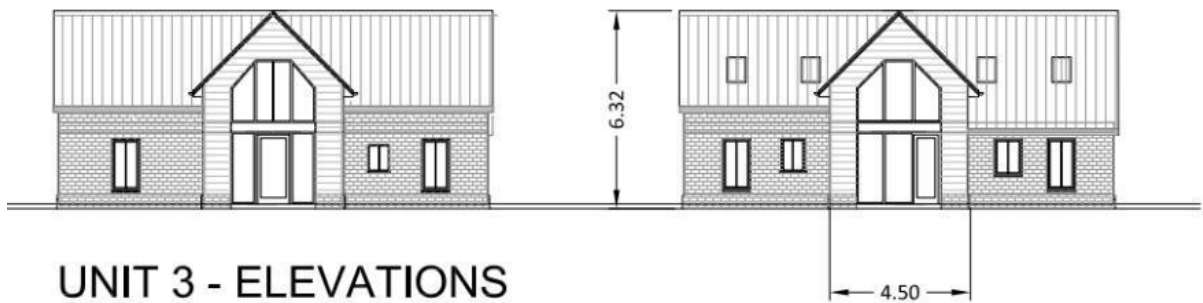
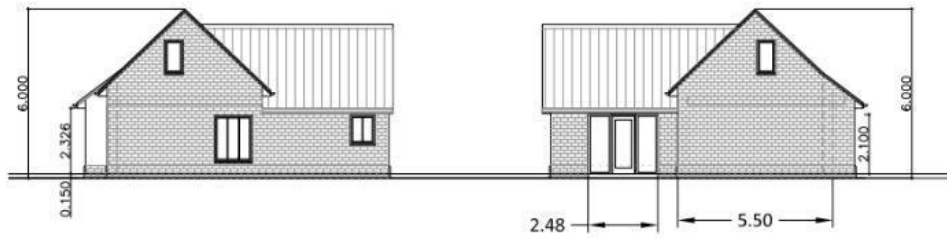




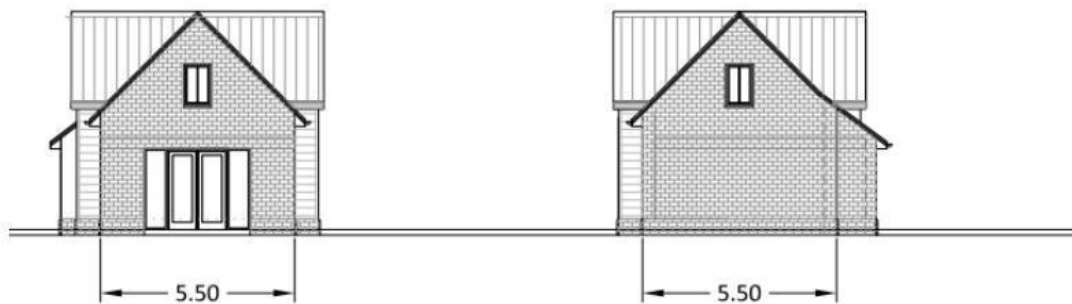
- 3.3 During the application, Officers explored with the Applicant's Agent possible ways of improving the design and layout of the scheme as the initial proposal was judged to be overly domestic in appearance based on the depths of the new dwellings proposed, along with domestic features such as gables, porches and dormers.
- 3.4 The building depths have now been altered to reflect the form and proportions of traditional rural buildings and more domestic elements removed.
- 3.5 The courtyard design has also been amended as it was considered to be too small and would be dominated by cars. To address this, the courtyard has been enlarged and now includes a cobbled turning area in the middle, around native trees, with gravel areas closer to the properties. To reduce car dominance within the courtyard, cart lodges have been introduced to provide covered parking
- 3.6 Whilst the introduction of the cart lodges has increased the built footprint of the scheme, the total floor area is still lower than the extant consent conversion scheme. Furthermore, although 3 of the 4 dwellings include first floor space the overall heights of the dwellings do not exceed the maximum height of the existing agricultural building to be demolished.
- 3.7 In addition to the alterations to the design and layout of the scheme, the mix of dwellings has been amended, with the inclusion of a 2-bedroom property in replacement of one of the 3-bedroom properties; reflecting the housing need of the village.
- 3.8 Furthermore, the amended scheme includes an extension to the existing tree planting adjacent to the site, to provide an orchard. This orchard has the potential to achieve 21.5% gain in area habitats.



UNIT 2 - ELEVATIONS



UNIT 3 - ELEVATIONS





4. Consultations and Representations

- 4.1 Consultations with technical consultees (County Highways and Ecology and HDC Environmental Health) and the local community (inc. East Langton PC and adjacent neighbours) were carried out on the application. This occurred on 11.09.2024 together with the posting of the site notice. A press notice which was published in the Harborough Mail on 26.09.2024.
- 4.2 The Site Notice was re-posted on 10.10.2024 to advise the application was a departure from the Development Plan
- 4.3 Following the submission of the amended scheme; consultees and neighbours were consulted. The consultation period ended on 07.02.2025
- 4.4 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

a) Statutory & Non-Statutory Consultees

East Langton Parish Council

No comments received.

HDC Environment Team

Due to the agricultural use of the building the permission should be conditioned requiring a Risk Based Land Contamination Assessment and Completion/Verification Investigation Report.

LCC Highways

Site Access

The proposed development is served via a private road off Back Lane, which is an adopted unclassified road subject to a 30mph speed limit. At the point the adopted road changes to private ownership, the width of the road is approximately 5.5m. No site access amendments are proposed and there will not be an intensification of the use of the site compared to the consented developments permitted under 23/00785/FUL or 22/02132/PDN.

Internal Layout

The Applicant has demonstrated eleven car parking spaces, measuring 2.4m x 5m on Drawing 'proposed site layout', which is acceptable to the LHA. Whilst manoeuvring space has not been detailed on the submitted drawing, the LHA are satisfied there is sufficient space available for vehicles to access, manoeuvre and egress the site in a forward gear.

Highway Safety

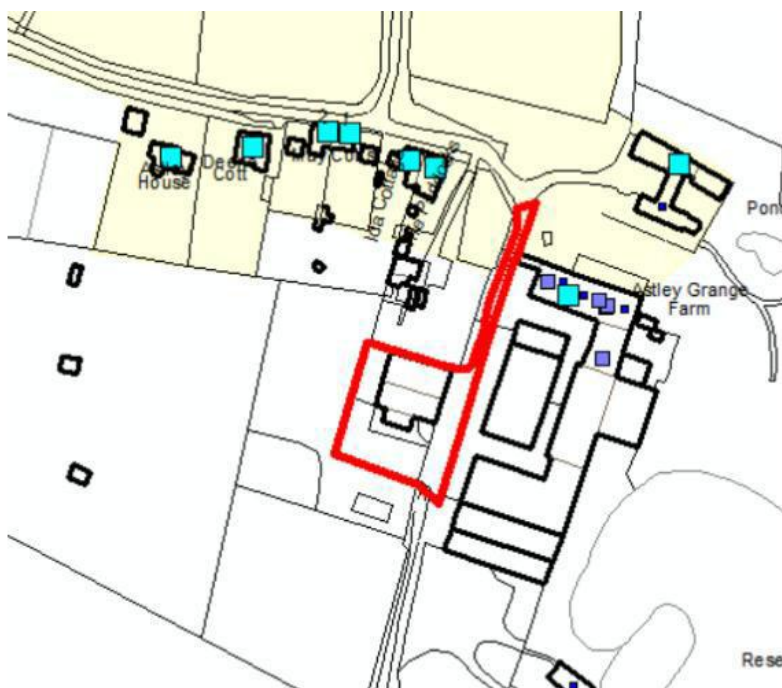
There have been no Personal Injury Collisions recorded within the vicinity of the site access within the most recent five year period. Alongside this, the LHA does not think there will be a significant increase in trip generation when compared with the permitted land use. Therefore, the LHA does not consider the proposed development would have a detrimental impact on highway safety.

LCC Ecology

SUMMARY OF ECOLOGICAL DOCUMENTS CONSIDERED:
<ul style="list-style-type: none">• Red Kite for previous application 23/00785/FUL comments issued on 22nd June 2023 had no objections to the development. Precautionary methods of working were recommended regarding breeding birds;• BNG Metric and condition assessments (provided separately by planner);• Location and Site Plan;• PEA/Biodiversity Survey and Report by Croft Ecology issued July 2024; and• Biodiversity Gain Plan.
REASON FOR RECOMMENDATION PROVIDED:
<ul style="list-style-type: none">• The PEA is satisfactory and taken during optimal time of year. It did not recommend further protected species surveys but recommended precautionary methods of working regarding protected and notable species in Section 4. Recommendations in the PEA should be carried out to best practice guidance.
BIODIVERSITY NET GAIN (BNG) specific comments:
<ul style="list-style-type: none">• The current landscape plan achieves a net gain of 11.84% habitat units. No hard to achieve schemes have been presented and habitats proposed are feasible.

b) Local Community

4.8 8 Neighbours were directly consulted. No comments have been received.



Neighbour Notification Map

5. Planning Policy/Guidance Considerations

- 5.1 Section 28 of the Planning and Compulsory Purchase Act 2004 provides that an application should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

a) Development Plan

- *Harborough Local Plan (HLP) 2011-2031 (adopted April 2019)*
- 5.2 The below policies are considered most relevant to this application:
- SS1- The spatial strategy
 - GD1- Achieving sustainable development
 - GD3- Development in the countryside
 - GD4- New housing in the countryside
 - GD5- Landscape character
 - GD8 – Good design in development
 - GI5- Biodiversity and geodiversity
 - CC3- Managing flood risk
 - CC4- Sustainable drainage
 - IN2- Sustainable Transport
- *East Langton Neighbourhood Plan Review 2021 ('made' 02.11.22)*
 - H2 – Settlement Boundaries
 - H3- Windfall Sites
 - H4 - Housing mix
 - E2 – Re-use of agricultural or commercial buildings
 - DBE1 – Protection of the built environment
 - DBE3 – Design

- T1 – Traffic Management

b) Statutory & Material Planning Considerations

- The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
 - National Planning Policy Framework (December 2024)
 - National Planning Practice Guidance
 - Development Management Supplementary Planning Document (December 2021)
 - LCC Highway Standing Advice
 - Leicestershire Highway Design Guide (October 2024)
- 5 Year Land Supply (January 2025)

The 12th December 2024 NPPF requires authorities to identify a supply of deliverable sites sufficient to provide a minimum of five years' worth of housing. This is based on a new standard housing method. Given Government's increased housing need for the district, HDC can no longer show it provides a five-year housing land supply. Using Government's new standard housing method HDC calculates a 3.55year supply of deliverable sites.

Paragraph 11d of the NPPF advises plans and decisions should apply the presumption in favour of sustainable development. For decision-taking this means:

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁶, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance⁷ provides a strong reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination⁹.

⁶ As established through statements of common ground (see paragraph 28).

⁷ The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 189) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change.

⁸ This includes, for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. See also paragraph 227.

⁹ The policies referred to are those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12.

- Case Law

-- Mansell vs Tonbridge & Malling Borough Council [2017] EWCA Civ 1314.

- Appeal Decisions

--The Applicant has submitted several allowed appeal decisions in support on the application:

The above allowed appeal decisions have been noted, however, the most relevant appeal decision supplied is 3297410 as this is within the administrative boundary of Harborough District Council (Home Farm, Gaulby Lane, Stoughton). The development proposed to convert an agricultural building into three residential dwellings.

In addition to the appeal decisions provided by the Applicant, the following appeal decisions are also of relevance:

APP/F2415/W/22/3301363 – Agricultural Building, Debdale Lane, Smeeton Westerby

The development proposed to convert an agricultural building into one residential dwelling (Allowed)

APP/F2415/W/20/3245655 - Land adjacent to Astley House, Back Lane, East Langton

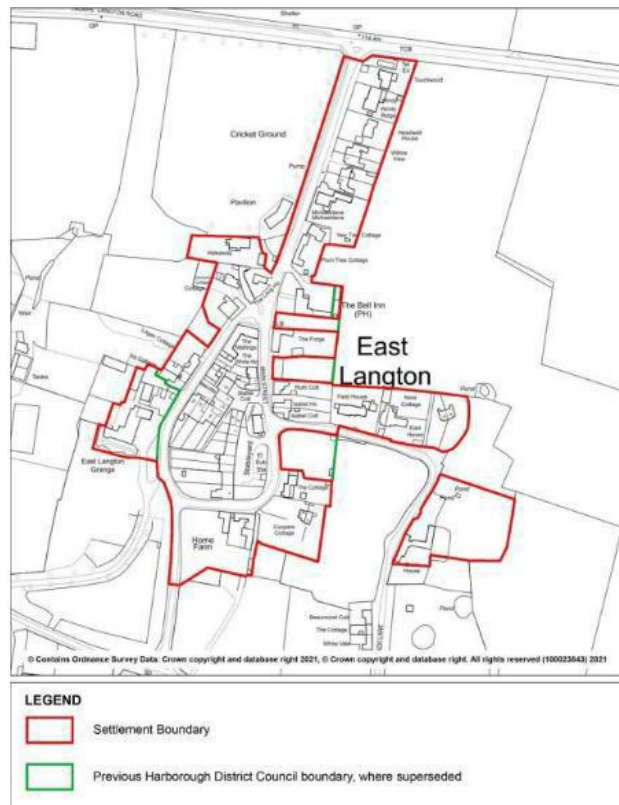
The development proposed a “permission in principle for four to six new dwellings”
(Dismissed)

6. Assessment

a) Principle of Development

- 6.1 Policy SS1 of the Harborough Local Plan (HLP) identifies the Spatial Strategy for Harborough District. Housing growth is directed to appropriate locations in accordance with the district's settlement hierarchy. The settlement hierarchy identifies the settlements which are most suitable in sustainability terms (this is set out in detail in Appendix F of the HLP). Settlements at the top of the hierarchy are considered to be the most sustainable in terms of accessibility to services, facilities, shops, employment and public transport provisions.
- 6.2 East Langton is categorised as a Selected Rural Village (SRV). Local Plan policy GD2 only applies to sites within or adjoining the existing or committed built up area of the village. This policy is not applicable to this site due to its clear physical separation from the built-up area of the village – a view reached by Inspector Brownless in September 2020 (Appeal Ref: 3245655)

6. The appeal site is located at East Langton, a small settlement defined as a Selected Rural Village within the Harborough Local Plan 2011-2031 (2019)(LP). It does not appear that East Langton has a defined village boundary. LP Policy GD2 is permissive of development in certain circumstances subject to the site being located within or adjoining the existing or committed built up area of the village. It is the Council's case that this policy is disapplied by reason of the appeal site being divorced from the built-up area of the village.
 7. East Langton is a modest sized settlement with a distinctive oval arrangement of roads at its centre that fan out to the north and south. Dwellings of varied types and forms are positioned around and within its oval centre. To the north, dwellings generally follow a linear form along one side of Main Street. This arrangement of dwellings together with high brick walls and narrow roads contributes a tightly knit character.
 8. The appeal site is located to the side of Astley House, the end dwelling of a linear arrangement of dwellings positioned along Back Lane. The appeal site is situated at some distance away from the oval nucleus of the settlement with sloping paddocks and agricultural lands separating it from the settlement. Notwithstanding the proximity of neighbouring dwellings, in my view, these appear as a group that are distinctly separate from the built-up layout of East Langton. To my mind they are more readily viewed in the context of Astley Grange Farm as a pocket of development that is not uncommonly seen in the context of historically having accompanied the farming business.
 9. Accordingly, I find that the appeal site does not form an area that adjoins the existing built up area of East Langton. In such circumstances, for the purposes of applying planning policy, the site is located within the countryside.
- 6.3 As such it is necessary to consider the proposal against Policy GD4 which sets out the criteria which can justify new housing in the countryside. Criterion 1a. of the policy permits housing on small sites providing they are within or physically or visually connected to settlements such as East Langton. Due to its distance from the built-up area of the village, residential use on this site does not meet this criterion. The proposal does not meet any of the other criteria, the principle of residential development in this location does not therefore accord with the spatial strategy outlined in the HLP, policies SS1 and GD4.
- 6.4 The East Langton Neighbourhood Plan (NP) adopted in 2018 and reviewed in 2022 establishes a settlement boundary for each village (Church Langton and East Langton). Policy H2 supports development proposals within the settlement boundaries. The site is outside the defined settlement boundary and will be treated as open countryside, where development will be carefully controlled in line with local and national strategic planning policies.



East Langton Settlement boundary

- 6.5 The principle of residential development in this location is therefore contrary to the Development Plan. However, it is necessary to consider any material considerations.
- 6.6 One such material consideration is the fall-back position. The applicant has a “fall-back position” for residential development of the site. In the form of a Class Q grant of prior approval (ref: 22/02132/PDN) for the conversion of the existing buildings to four dwellings and then a subsequent full planning permission for a change of use of the building to four dwellings.
- 6.7 Both permissions could be lawfully implemented upon discharge of the relevant pre-commencement conditions (Conditions 4 & 5 on both permissions) and thus form a highly material fallback position when considering the current proposal. It is considered realistic that should the current application be refused the site would be developed through the Class Q consent and/or planning permission for 4 residential units.
- 6.8 The alternative proposal, will deliver higher quality housing, better living conditions for occupants and deliver bio-diversity net gain. These benefits would not be secured through the fall-back permissions.
- 6.9 Taken together the realistic fall-back position and the benefit of this proposed alternative proposal is judged to outweigh the conflict with the development plan.

- 6.10 Section 12 of the NPPF refers to achieving well designed places, specifically; paragraph 124 states that good design is a key aspect of sustainable development. Developments should be sympathetic to local character and history, including the surrounding built environment.
- 6.11 Policy GD8 of the HLP outlines that development should achieve a high standard of design, be inspired by, respect and enhance local character and the context of the site, street scene and local environment. Where appropriate development can be individual and innovative, yet sympathetic to local vernacular. Policy GD5 of the HLP states that development should be located in such a way that it is sensitive to its landscape setting and landscape character and will be permitted where it respects, and where possible, enhances local landscape, the landscape setting of settlements and settlement distinctiveness. Policy DBE1 of the East Langton Neighbourhood Plan provides a number of design criteria which is expected in all development.
- 6.12 The current agricultural building is surplus to the farming business needs and is therefore redundant. The style of the building is typical of its previous use and contributes little to the appearance of the surrounding area.
- 6.13 The proposed scheme will provide 4 dwellings which due to their design, layout and appearance will reflect that of traditional brick converted farm buildings; which are a feature within the parishes of East and Church Langton and would not therefore appear out of keeping. However, in order to maintain the agricultural aesthetic of the surroundings in which the dwellings are to be sited it is recommended that permitted development rights are removed for extensions/alterations and outbuildings and uncharacteristic boundary treatments e.g. 2m high close boarded fences.

c) Highways

- 6.14 Paragraph GD8 of the HLP states that developments should ensure safe access, adequate parking and servicing areas including the safe, efficient, and convenient movement for all highway users. Policy IN2 of the HLP states that residential development proposals will be permitted subject to the provision of safe access, servicing and parking arrangements having regard to highways authority guidance and standards.
- 6.15 The site is accessed via Back Lane.
- 6.16 Officers consider that the proposal would ensure safe access, adequate parking and servicing areas including the safe, efficient, and convenient movement for all highway users and therefore complies with policies GD8 and IN2 of the HLP. The highway impact would be identical to the extant schemes which are considered a realistic fall-back position.

d) Residential Amenity

- 6.17 Policy GD8 requires developments to be designed to minimise the impact on the amenity of existing and future residents by not having a significant adverse effect on

the living conditions of existing and new residents through loss of privacy, overshadowing and overbearing impacts. Nor by generating levels of activity, noise, vibration etc which cannot be mitigated to an appropriate standard. In order to objectively assess the impact of the proposed development upon existing residential amenity, the Council has adopted the Development Management Supplementary Planning Document (December 2021), Section 2 is of most relevance.

- 6.18 Owing to the separation distances between the site and those properties surrounding it and given the existing established boundary vegetation the proposal would not result in any adverse residential amenity impacts to existing occupiers.
- 6.19 A condition is recommended requiring a Construction Management Plan to mitigate adverse noise/disturbance during construction. Subject to this conditions the proposal would comply with policy GD8 of the HLP.

e) Flooding/Drainage

- 6.20 The site is within Flood Zone 1, with low probability of flooding as such accords with Policy CC3 of the HLP. With regards to foul water drainage, this would be controlled/managed through the Building Regulations process.

f). Ecology

- 6.21 Policy GI5 states that development will be permitted where there is no adverse impact on the conservation of priority species, irreplaceable habitats, nationally or local designated sites amongst other factors. Developments should contribute towards protecting and improving biodiversity and geodiversity.
- 6.22 County Ecology have reviewed the application and have advised that the Preliminary Ecological Appraisal is satisfactory and that the recommendations made within the PEA should be carried out for example bat and bird boxes. This can be secured by condition.
- 6.23 New hedgerows (to form the curtilage boundaries of the dwellings) and new trees (orchard) are proposed, which will ensure a net gain of 11.84%. A Habitat and Management Plan which secures the net gain for 30 years can be controlled by way of condition.

7. Conclusion

- 7.1 Conflict with the Development Plan has been identified (notably GD2 and GD4 of the Harborough Local Plan and H2 and E2 of the East Langton Neighbourhood Plan Review). However, the material consideration of the fall-back position; together with the benefits of this proposed alternative proposal is judged to outweigh the conflict with the development plan when taken as a whole.

ANNEX A- PLANNING CONDITIONS

If Members are minded to approve the application, the following conditions are suggested:

1. Time Limit

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

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

2. Plans

The development shall be carried out in accordance with the following approved drawings (Submitted to the LPA on 13.01.2025):

- PL 100B – Site Location Plan
- PL101 – Unit 1 Plans
- PL 102 – Unit 2 Plans
- PL 103 - Unit 3 Plans
- PL 104 -Unit 4 Plans
- PL301A – Unit 1 Elevations
- PL302A – Unit 2 Elevations
- PL303A – Unit 3 Elevations
- PL304A – Unit 4 Elevations

REASON: For the avoidance of doubt

3. Materials

No above ground work shall commence on site until a schedule indicating the materials to be used on all external elevations of the development hereby approved (and material samples if requested) has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include all bricks (including brick bond style and mortar type), tiles (including ridge tiles), any date stones, doors, windows, rooflights (including manufacturer, size and method of flush fitting), sills and lintels, any corbel/dentil/string course brickwork, rainwater goods (material and style), bargeboards, fascias, soffits, finials and other external materials. Thereafter, the development shall be implemented in accordance with the approved details.

REASON: To ensure that materials, design and craftsmanship are appropriate to the character and appearance of the development and the surrounding area, and to accord with

4. Landscaping

Prior to implementation, full details of proposed hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority (including access, driveway, parking, turning and all other surfacing materials, e.g., patios, pathways and lawns; boundary treatments [including location, dimensions and materials]; new planting; and a timetable of implementation). Prior to first occupation of any of the 4 dwellings, the hard and soft landscape works shall be completed in accordance with the approved plans/details. All

planted material shall be maintained and replaced as necessary by the applicant(s) and/or owner(s) of the land at the time for a period of not less than 5 years from the date of planting.

REASON: To ensure that the development includes landscaping, planting, boundary treatments and surfacing materials which are appropriate to the character and appearance of the development and the surrounding area, to ensure that the work is carried out within a reasonable period and is adequately maintained and to accord with Policy GD8 of the Harborough Local Plan.

5. Risk Based Land Contamination Assessment

No development (except any demolition permitted by this permission) shall commence on site, or part thereof, 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:

- BS10175:2011+A1:2017 Investigation Of Potentially Contaminated Sites Code of Practice;
- BS8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- Or any documents which superseded these.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004; and
- BS 8485:2015+ A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.
- Or any documents which superseded these.

The Verification Plan shall be prepared in accordance with the requirements of:

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;
- BS 8485:2015 + A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings; and
- CIRIA C735, "Good practice on the testing and verification of protection systems for buildings against hazardous ground gases" CIRIA, 2014.
- Or any documents which superseded these.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local

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

REASON: To ensure that the land is fit for purpose and to accord with policy GD8 of the Harborough Local Plan and the aims and objectives the NPPF

6. Completion/verification report

Prior to occupation of the completed development, or part thereof, either:

a) If no remediation was required by the above Risk Based Land Contamination Assessment Condition, a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development, or part thereof, is received and approved in writing by the Planning Authority; or

b) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to the whole development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

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

REASON: To ensure that the land is fit for purpose and to accord with policy GD8 of the Harborough Local Plan and the aims and objectives the NPPF

7. Construction Environmental Management Plan

No development (including any site clearance/preparation works) shall be carried out until a Construction Environmental Management Plan has been submitted to the Local Planning Authority for approval in writing. Details shall provide the following, which shall be adhered to throughout the period of development:

- a) the parking of vehicles of site operatives and visitors;
- b) loading/unloading and storage of construction materials

- c) a detailed reactive and proactive road cleaning schedule, incorporating the use of road sweepers, on-site wheel wash facilities and the use of hand brooms on wheels and roads where necessary
- d) measures to control the emission of dust and noise during construction;
- e) a scheme for recycling/disposing of waste resulting from site preparation and construction works;
- f) hours of construction work, site opening times, hours of deliveries and removal of materials;
- g) full details of any piling technique to be employed, and the control of hours of use if relevant;
- h) location of temporary buildings and associated generators, compounds, structures and enclosures
- i) routing of construction traffic and indication of signage locations to assist those delivering to the site
- j) Contact details for site manager, including how these details will be displayed on site.
- k) full details of preventative measures to avoid surface water run-off during construction

REASON: To ensure that as far as possible the proposed use does not become a source of annoyance to the nearby residents and to ensure compliance with Policy GD8 of the Harborough Local Plan.

8. Habitat and Management Plan

No development shall commence on site until a Habitat Management and Monitoring Plan (HMMP) has been submitted to approved in writing by the Local Planning Authority. Thereafter the development shall be implemented and maintained in accordance with the HMMP for a minimum period of 30 years.

REASON: To create and improve biodiversity by requiring the development to have a positive impact ('net gain') on biodiversity, and to accord with Harborough Local Plan Policies GD8 and GI5 and the objectives of the NPPF and Environment Act 2021.

9. Ecology Recommendations

The development shall be implemented in accordance with the recommendations contained within PEA Report by Croft Ecology issued July 2024

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

implementation of enhancement measures to provide a net gain in biodiversity post development having regard to Harborough Local Plan Policy GD8 and GI5

10. Parking and Turning Facilities

The development hereby permitted shall not be occupied until such time as the parking (and turning facilities) have been implemented in accordance with the approved drawings listed in Condition 2. Thereafter the onsite parking provision (and turning) shall be kept available for such use(s) in perpetuity.

REASON: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the Policy GD8 and IN2 of the Harborough Local Plan.

11. Permitted Development Rights Removed – Part 1

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or amending that Order, with or without modification), no development within Article 3, Schedule 2, Part 1, Classes A, AA, B, C, D, E and G shall take place to the hereby approved development.

REASON: In the interests of the visual and rural amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions, enlargements or other development, and to accord with Harborough Local Plan Policy GD8.

12. Permitted Development Rights Removed – Part 2

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or amending that Order, with or without modification), no development within Article 3, Schedule 2, Part 2, Class A shall take place to the hereby approved development.

REASON: In the interests of the visual and rural amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions, enlargements or other development, and to accord with Harborough Local Plan Policy GD8.

Informative Notes

1.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).

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

3.It is advised 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

4.Demolition works should be completed outside of the breeding bird season (March-September inclusive). Alternatively, a nesting bird check can be completed by an appropriately experienced ecologist prior to any works taking place to determine if an active nest is present.

5. Based on the information available this permission is one which will require the approval of a biodiversity gain plan (and in this case a 30 year HMMP) before development is begun. Please refer to the Standard Note entitled "Biodiversity Net Gain Condition" at the end of this notice

Applicant: Avant Homes

Application Ref: 24/01227/PCD

Location: Land Off Farndon Road, Market Harborough, Leicestershire

Proposal: Discharge of Condition 26 (Badger and Otter Mitigation Works) of 15/00746/OUT

Parish/Ward: Welland

Application Validated: 23.09.2024

Application Target date: 18.11.2024

Reason for Committee Consideration: Call in by Cllr King & Cllr Woodiwiss

Recommendation

Planning condition discharge is **APPROVED**, for the reasons set out in the report.

1. Introduction (including Site & Surroundings)

1.1 The proposal relates to the lagoon area built to the north of the Avant home portion of the greater Farndon Fields development, Market Harborough.

Site Location



2. Site History

2.1 There are multiple applications relating to the greater Farndon Fields development. This proposal relates to 15/00746/OUT. 15/00746/OUT granted planning permission for up to 230 dwellings and associated works.

3. The Application Submission

a) Summary of Proposals

3.1 The application seeks to discharge a planning condition (number 26) of 15/00746/OUT stating:

Notwithstanding the details submitted, full details of the proposed badger and otter mitigation works, including suitable buffer zones and habitat/biodiversity creation/management areas identified in the submitted Habitat Creation Plan (19th Oct 2015) shall be submitted to and approved by the Local Planning Authority before the commencement of development.

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

3.2 The application submits both an otter mitigation strategy and badger mitigation strategy. The otter mitigation strategy was subsequently updated with a monitoring addendum. The badger mitigation strategy was submitted after the original (otter) submission. It is usual practice not to publicise badger information. It has been shared with LCC Ecology in order that it can respond and advise accordingly

3.3 The badger mitigation strategy monitoring addendum was submitted in response to representations, including those of the LCC Ecology, that detail was initially omitted..

4. Consultations and Representations

4.1 Firstly, a summary of the technical consultees responses received is set out below. Where appropriate the responses will be discussed in more detail within the main body of the report. If you wish to view the comments in full, please go to:

www.harborough.gov.uk/planning .

Consultee	Date	Summary
<u>National / Regional Bodies</u>		
LCC Ecology	20.10.24	More information needed on badger mitigation strategy.
LCC Ecology	15.01.25	SUMMARY OF ECOLOGICAL DOCUMENTS CONSIDERED: <ul style="list-style-type: none">• Badger Survey and Mitigation Strategy fpcr June 2017• Badger works licence 2018-37761-SPM-WLM• Landscape masterplan 726658• Additional conditions notes 2018-37761-SPM-WLM• Otter mitigation strategy addendum sept 2024 REASON FOR RECOMMENDATION PROVIDED: <ul style="list-style-type: none">• The additional information provided (listed above) demonstrates that the badger measures

		<p>satisfy the three tests and also the requirement to demonstrate that a protected species licensing process is in place.</p> <ul style="list-style-type: none"> • The additional conditions list describe the safe working measures to be put in place. • The Badger Survey and Mitigation Strategy... there is no remaining matters with regard to badgers and discharge of condition is recommended in relation to this. • The Otter Mitigation information provided is satisfactory with respect to the creation of a suitable artificial holt and the discharge of condition is recommended in relation to this matter. • With regard to the remediation measures outlined in this Otter Mitigation Addendum, with respect to the <i>“habitat/biodiversity creation/management areas”</i>, <i>the suggested remediation proposals outlined in this report should be satisfactory to improve the standard of this mitigation standard. However, this very much relies on the detail being carried through: in particular the repair or replacement in the case of liner failure; provision of substrate at the bank; ongoing monitoring of the condition of the liner, water levels, and how vegetation is established. Failure to monitor this weekly, as described in the addendum on behalf of the developer, may lead to more issues with respect to the waterbody, as highlighted in the consultation comments submitted as part of the condition discharge. It is recommended that this is picked up or referred to the enforcement team to ensure this monitoring continues in line with the addendum recommendations.</i> • In the absence of clear monitoring intervals in this addendum report, we would recommend weekly visits during the establishment phase (at least six months) followed by monthly visits for the first year- thereafter in line with any management plan for the remainder of the biodiversity areas. <p>Advice</p> <ul style="list-style-type: none"> • This condition can be discharged for the badger mitigation measures. • This condition can be discharged for the otter mitigation measures.
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		<ul style="list-style-type: none"> This condition can be discharged for the addendum information for remediation measures but please note the monitoring and enforcement recommendations
<u>MP's / Cllrs / PC's</u>		
Cllr King	08.08.24	<p>I'm contacting you as the County Cllr for this location. I'm cc'ing Cllr Woodiwiss as the lead ward cllr.</p> <p>I have been approached by local residents who have expressed to me the following concerns:-</p> <p>"Reading through the ecology report, we feel that it has been written to support the narrative of Avant to minimise</p> <p>the remedial work on the pond as follows:-</p> <p>The condition regards Badger and Otter mitigation, yet does not make any mention of the badgers, the sett being relocated on a flood plain and a badger having died in the pond due to its construction.</p> <p>The plan is to retain the plastic lining under a covering. This is totally against the original planning condition and is a second rate solution which will cause problems in the future for the fish and wildlife.</p> <p>The shape is to remain unchanged.</p> <p>The residents of 10 locks, bought their properties partly on the understanding of the planned bio-diverse area on the perimeter of their homes. Rightly, their demand is that this area complies with the original plan which the above proposal does not accomplish in look or for the wellbeing of future generations of wildlife, once the coating wears away. The fear is that HDC planning will waive this proposal through as they have been doing throughout the course of this development without hearing the voices of the community they are supposed to represent.</p> <p>Personally, I have read the applicants expert report and like others can find no mention about badgers – so not sure how that is being discharged.</p> <p>Regarding the technical aspects, I am no expert in these matters, but would expect that the LPA will be seeking expert advice regarding these matters as to whether it's 'second rate' or not, before accepting or</p>

		<p>otherwise the discharge of this important ecological condition.</p> <p>Based on what I can read at the moment, then I'm not convinced by this application to discharge and feel that there are a number of reasonable concerns that residents have raised that require explanation by the applicants before this should be consented.</p>
Cllr Woodiwiss	09/10/24	<p>I would like to call in this "Discharge of condition" application as it does not seem to contain any mitigations for Badgers or their set, which is part of its named intention. The steep nature of the ponds banks makes it hard for nature to escape from and the hung Geo mats will presumably slip into the pond when they have degraded.</p>

Summary of responses from technical consultees

b) Local Community

1. Objections

4.2 Planning condition submission such as this are not subject to statutory public consultation. Interested person can make representations which has happened on this proposal. Those representations (22 objections) can be viewed at www.harborough.gov.uk/planning. In summary.

Issues raised through representations include.	<p>Object to the deviation from the original plan being allowed. The report has been executed to support the narrative of Avant to minimise the remedial work on the pond.</p> <p>The residents of 10 locks, bought their properties partly on the understanding of the planned biodiverse area on the perimeter of their homes. Rightly, their demand is that this area complies with the original plan which the above proposal does not accomplish in look or for the wellbeing of future generations of wildlife</p> <p>:I object to this as it is a clear request to skirt the obligations that they have from their own plans. By relieving them of responsibility you are not holding them accountable</p> <p>Avant have not fulfilled their obligation. The steep sides of the lake have not been altered. This is a death trap for animals if they fall in</p>
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	<p>The pond can't be left in the state that it's in. There's no regard for the safety or wellbeing of the local wildlife. It's not even nice to look at. If they were to improve it and encourage wildlife to inhabit it safely then it may draw more people to purchase in the area and provide enjoyment for the locals to witness</p> <p>This pond is an absolute disgrace to the local area and the town of Market Harborough, and needs to be properly re-built, not a bodge-job patch up half job fix. I strongly object! Avant Homes need to be made fully accountable for their terrible construction of this death trap. It is entirely a problem of their own making so there is no reason to offer them a get out. Furthermore, the residents who have invested to live in this place, and who pay £1000s in council taxes deserve better.</p> <p>Support Welland Neighbourhood Forum in objecting to the latest proposal by Avant (made through their ecological consultants FPCR) to amend this pond failure and agree that the original agreed planning submission should be adhered to such that a biodiverse pond is created with appropriate profiling and an associated planting regime. I recognise that FPCR's newly submitted plans will probably improve the pond's wildlife potential, but I believe it will still remain a sub-standard wildlife pond</p>
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5. Planning Policy Considerations

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

a) Development Plan

5.2 The DP for Harborough comprises:

- The Harborough District Local Plan adopted April 2019
- Made Neighbourhood Plans.

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

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

- The National Planning Policy Framework ('the Framework') Dec. 2024
- Planning Practice Guidance

- National Design Guide
- Circular 11/95 Annex A - Use of Conditions in Planning Permission
- Development Management SPD (December 2021)

6. Officer Assessment

a) Discharge of Condition 26 (relating to otter mitigation).

6.1 Assessment:

The applicant is seeking to discharge the otter mitigation part of the condition and in doing so has made an updated otter survey and proposes new planting to be established around the lagoon.

6.2 The submission explains the updated otter survey done.

2.0 UPDATED OTTER SURVEY

- 2.1 An otter survey was undertaken at the site on 14th August 2024 by FPCR to update existing baseline information gathered in 2015 and 2017. In summary this showed that habitats along the River Welland showed no significant change and were still in use by otters, evidence of which comprised fresh spraints, as well as two potential suitable otter holts or couch sites along the surveyed section of the river.
- 2.2 Methods used to undertake the field survey followed the detailed within the New Rivers and Wildlife Handbook¹, in order to determine the presence and level of activity within and bordering the site and are as detailed in the earlier survey reports. The on-site waterbody and the River Welland were all searched for signs of otter presence.

Survey Results

River Welland

- 2.3 The waterbody varied in width from 2m to 5m and depth from 0.5m to 1m. The substrate of the riverbed composed of gravel, sand, silt and mud.
- 2.4 The soil banks were a shallow profile composed largely of earth and vegetation.
- 2.5 The vegetation within the river and along the banks comprised native scrub, reeds, sedges, submerged plants, herbs and short grasses.
- 2.6 Beyond the banks of the waterbody woodland and scrub habitats were present, with residential areas further to the south and arable fields further to the north.

6.3 The submission goes on to explain remediation measures.

3.0 POND REMEDIATION

- 3.1 The original mitigation strategy detailed the creation of a mitigation pond to replace an existing waterbody that was present on the site baseline. The LPA has informed the developer that the mitigation pond failed to meet the specifications outlined in the otter mitigation strategy. Avant Homes has requested that FPCR provide a strategy to modify the existing waterbody to reach an acceptable standard for the LPA and to provide effective resources for otters utilising the River Welland and the wider area.

Steps for pond remediation

Initial works

- 3.2 The first stage of the pond remediation process should be to determine the current condition of the liner of the pond.
- 3.3 To determine the condition of the liner, the pond should be filled to the highest level and then left for a period of 3 weeks. This will allow the maximum water level of the pond to be established.
- 3.4 This should be monitored weekly to determine the cause of the water level fluctuations within the pond, accounting for evaporation, rain or potential leaks.
- 3.5 Should the pond liner have been comprised so that it no longer holds a suitable amount of water, the liner should be repaired by a suitable specialist contractor.

6.4 The measures include this described planting around the lagoon.

Vegetation

- 3.6 Once a suitable water level for the pond has been established, the pond should be drained down to allow room for the marginal and aquatic planting to be installed along the pond banks.
- 3.7 To create a stable substrate on the bank for marginal and aquatic plants to grow on layers of various materials should be built up around the banks of the pond. These layers should consist of an erosion control geomat material, soil and natural based fabrics such as coir matting. An example table of the suggested materials can be seen in Appendix A. The geomat product is
- 3.8 The recommended layering is coir, soil, geomat, soil, coir, or a similar propriety solution. Soil and fabric layers should be seeded with aquatic and marginal vegetation prior to assembly, to ensure that the seeds are embedded within the overall structure.
- 3.9 Layers should be fastened together throughout the structure to ensure they do not come apart before the vegetation's root networks are established. This will increase the structure's strength.
- 3.10 It is recommended that these layered structures are assembled outside of the pond, anchored into place above the existing liner and the rolled out down the bank and into the pond. An anchor trench will also be used to secure the layered structure in place.
- 3.11 Once the seeded layered structure of materials is in place and securely fastened to the top of the bank, potted plants should be placed within the base of the pond. A species list of aquatic and marginal plants that should be used on the banks and within the pond can be seen in Table 1 below.

6.5 As described above the submission was updated to include monitoring which includes the following:

Monitoring

- 3.15 Once the remediation works have taken place the pond should be refilled and monitored regularly to ensure the pond reaches its targeted condition.
- 3.16 Monitoring of the pond will include factors such as algal growth, vegetation growth and invasive non-native aquatic plants. In addition, monitoring the pond and River Welland will be undertaken to ascertain use of the pond and continued passage of otters along the River Welland.

Appendix B – Monitoring Checklist

On each site visit the following checklist should be worked through to ensure that sufficient monitoring of the pond is taking place. Information outlined in the table should be recorded with photos taken at each site visit.

	Visit No.	Date	Surveyor	Water Level (+/- mm from baseline*)	Algal growth (% cover)	Bank Vegetation Growth (% cover)	Pond Vegetation Growth (% cover)	Any Exposed Liner?	Photos Taken
6 Month Monitoring Period (Avant Homes Weekly Checks)	1								
	2								
	3								
	4								
	5								
	6								
	7								
	8								
	9								
	10								
	11								
	12								
	13								
	14								
	15								
	16								
	17								
	18								
	19								
	20								
	21								
	22								
	23								
	24								
6 Month Review (FPCR Survey)	25								
End of Weekly Checks - Monitoring to move to monthly checks									
6 Months to 1 Year (Avant Homes Monthly Checks)	26								
	27								
	28								
	29								
	30								
	31								
End of Establishment Monitoring Period - Monitoring to return to regular management plan monitoring requirements									

6.6 The submitted scheme shall represent an enhancement of the lagoon. The addition of regular monitoring gives some certainty that this improvement is deliverable.

b) Details of Condition 26 (relating to badger mitigation)

6.7 Assessment:

The submitted details have been confirmed as acceptable by the Council's expert Ecology advisor. As mentioned above the publication of such schemes is usually minimised. It is the case the submitted details have been accepted as satisfactory and there is no basis to withhold approval.

7. Conclusion / Planning Balance

7.1 Whilst it is accepted that the proposed discharge of Condition 20 is contentious what is an acceptable scheme. Previously approved plans showed a higher specification of finish to this lagoon (ie wildlife pond) than it is built as. What is built is undisputedly of bad appearance. Local frustration is understood and acknowledged. However, it is not unusual for approved plans to not be completed in their entirety, and/or for plans to subsequently alter. There was no rational basis for the planning authority to take any decision other than approve those wildlife pond plans. Nevertheless, that specification (ie wildlife pond) whilst desirable was not necessary to make the associated housing development acceptable. As such there is (and should not be) a planning condition requiring to build that wildlife pond as it would not satisfy [tests for use of planning conditions](#).

7.2 In the broader context this scheme if implemented should enhance the lagoon which is undeniably of poor appearance currently. The submissions are not objected to by the Council's expert Ecology advisor. The submission represents an improvement and should be approved with no planning basis to withhold consent.

Applicant: Cllr Jonathan Bateman

Application Ref: 24/01376/FUL

Location: 7 Queen Elizabeth Crescent, Broughton Astley, LE9 6TP

Proposal: Erection of a single storey side extension

Application Validated: 23.10.2024

Target Date: 18.12.2024

Consultation Expiry Date: 22.11.2024

Site Visit Date: 22.11.24

Case Officer: Laura Garrod

Reason for Committee decision: Applicant Cllr Jonathan Bateman is an Elected Member of Harborough District Council

Recommendation

Planning Permission is **APPROVED** for the reasons set out in this Committee report, subject to the conditions outlined in section 8.

1. Site and Surroundings

The application site is a detached house built approximately seven years ago on a residential estate off Coventry Road in Broughton Astley. The application property is brick built with a tiled roof. The private garden is to the northern side of the property and is bound by a brick wall facing the highway, and with close boarded fencing. There is a pedestrian gated access to the far side adjacent to the detached garaging for the property. The site is not within a Conservation Area.

Neighbours notified:



Proposed block plan:



Front elevation



North side elevation – location of proposed extension





North side elevation



Facing South from within the garden towards the site's garaging



2. Site History

2.1 16/00370/FUL - Erection of 187 dwellings (substitution of house types approved under reference 13/00898/FUL) - approved

Under 16/00370/FUL Permitted Development Rights were removed for this plot for certain development. However, please note that the proposal would not meet the Permitted Development criteria, as it would be too high.

3. Reason for Referral to Committee

3.1 The application has been referred to Committee as the applicant is an elected member of Harborough District Council.

4. Proposal

4.1 The proposal is to erect a single storey side extension. It is to be built using facing brickwork and detailing to match the existing house; with a pitched roof finished with roof tiling to match those of the existing house. The existing bi-fold doors are to be reused in the new opening, with a new full height window with leaded lights to match the bi-folds.

4.2 Proposed Dimensions

Depth: 2.5m

Width: 4.03m

Approximate Height: 4.5m (ridge), 2.6m (eaves)

Proposed elevations and floorplan



PROPOSED FRONT ELEVATION



PROPOSED SIDE ELEVATION

PROPOSED REAR ELEVATION



5. Consultations and Representations

5.1 Eight neighbouring dwellings consulted – No responses received.

Parish Council – The Committee has no objections to the application.

6. Planning Policy Considerations

6.1 Policy Assessment:

Policy GD8 of the Local Plan states that design must be of a high standard and be inspired by, respect and enhance local character and distinctiveness of the settlement, where appropriate be individual and innovative yet sympathetic to the local vernacular, including in terms of building materials, in areas with high heritage value reflect those characteristics that make these places special, respect the context and characteristics of the individual site, street scene and the wider local environment to ensure it is integrated as far as possible into the existing built form, and minimise impact on the amenity of existing and future residents by not having a significant adverse effect on the living conditions of existing and new residents through loss of privacy, overshadowing and overbearing impact.

6.2 Neighbouring Amenity

The proposed side extension will include the existing bi-fold doors used on the northern elevation, and a window to the eastern elevation. It is considered that the distances, positioning and boundary treatment of close boarded fencing and hedging, result in the residential amenity being safeguarded in terms of privacy.

The juxtaposition of the proposal in relation to neighbouring properties is such that it will not have any materially adverse impact on the amenities of adjoining properties by way of overbearing, loss of light, or loss of privacy, and is acceptable in accordance with Harborough Local Plan Policy GD8.

Facing East showing boundary treatment



6.3 Design and Visual Impact

The proposed extension will extend beyond the northern side elevation of the main dwelling by 2.5m and will be visible from the street.

The existing boundary wall measures approximately 1.8m in height and the proposed front facing western elevation of the extension will be approximately 2.5m in height, resulting in extra massing of 0.7m adjacent to the highway. The dual pitched roof will project away from the boundary at a similar/same pitch to that of the house.

The proposed extension is subordinate to the main dwelling and will use matching materials to the house, incorporating facing brickwork with matching detailing and corbels to that of the existing house.

The proposal is of a scale and design appropriate to the existing building and, therefore, will have no adverse impact on the appearance of the existing dwelling or its surroundings.

Based on the above assessment, the proposal will not have a materially adverse impact on its surroundings and is acceptable in accordance with Harborough Local Plan Policy GD8.

6.4 Highways

The proposal will not affect the existing access to the property, nor the parking provision or requirement. The proposal is therefore acceptable in accordance with Harborough Local Plan Policy GD8.

6.5 Other

The site is within a Swift alert area; however, the single storey nature of the proposal means that it is not suitable for swift bricks or boxes.

There are no other material considerations to influence the assessment of the application.

7. Conclusion

- 7.1 The proposed extension to the building will not adversely affect the character and appearance of the dwelling or surrounding area, the amenities of occupiers of neighbouring properties, the safe and efficient use of the adjoining highway or ecological interests. The proposal therefore satisfactorily complies with Policies GD8 and G15 of the Harborough Local, the NPPF and the Highway Authority's Standing Advice.

It is therefore recommended that the application be approved subject to the conditions summarised below.

8. Conditions

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

1) Full Planning Permission Commencement

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

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

2) Approved Plans

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

Block Plan
Proposed Plans & Elevations 24049-02

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

3) Materials

All external materials used in the construction of the development hereby approved shall match in material, coursing, colour and texture those used on the existing building.

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

Notes to applicant:

1. Building Regulations

Planning Committee Report

Applicant: Harborough District Council

Application Ref: 24/01412/FUL

Location: The Commons Car Park, The Commons, Market Harborough

Proposal: Installation of an Electric Vehicle Charging Hub and Solar Canopy within 12 spaces of the existing car park (comprising 39kW Solar Photovoltaics on the roof of the Solar Canopy, a 27kW Battery Energy Storage System and 12no. 7kW Electric Vehicle Charging Points)

Application Validated: 31.10.2024

Target Date: 26.12.2024

Consultation Expiry Date: 12.12.2024 (Press Notice)

Site Visit Date/s: 13.11.2024, 23.01.2025, 30.01.25, etc

Case Officer: Nicholas White

Reason for Committee decision: The Applicant is Harborough District Council

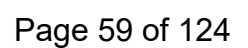
Recommendation

Planning Permission is **APPROVED**, subject to the Planning Conditions set out in Section 9 "Appendix A".

1. Site and Surroundings

- 1.1 The site relates to part of The Commons Car Park, which is located in the centre of Market Harborough adjacent to the River Welland and retail stores.
- 1.2 The Commons Car Park appears to have first been created circa 1958 as the town's main central Car Park, extending the limited parking which was available on The Square at that time. The area of the Car Park where the current proposal is situated was added in conjunction with the Cooperative retail development, in the latter half of the 1980s.
- 1.3 The proposal is situated in a northern part of the extended Car Park, close to the Co-op supermarket (to the north) and Manor Walk parade (east), as well as a residential apartment building to the west of the site.
- 1.4 The site lies within the Market Harborough Conservation Area. Preserving or enhancing the special character and appearance of the Conservation Area must be considered when assessing the proposal.
- 1.5 The proposal is sufficiently remote from Listed assets such that their setting would not be affected.
- 1.6 The site has been selected as it is one part of the Car Park which lies outside the fluvial flood risk zones associated with the River Welland. The site lies in an area subject to some surface water flood risks (classed as lower risk).
- 1.7 Site Red Line (HDC Uniform Mapping) below:
 - Conservation Area = Pale yellow shading.
 - Listed Buildings = Bright yellow shading.

-



1.8 Planning Officer Site Photos; taken 13.11.24









- 1.9 Planning Officer Site Photos; taken 23.01.25. A range of other infrastructure / utilitarian elements within the Car Park (and closer to the public footpath environs of the River Welland corridor) were observed.





1.10 Planning Officer Site Photo; taken 30.01.25. This provides an example view of St Dionysius' Church spire which would be obstructed by the proposal:



2. Site History

- 2.1 MU/06936/MUDC – Construction of a vehicle and pedestrian access road from Coventry Road to the Commons Car Park – Approved 02.05.1969.

86/00078/3P – Demolition of existing buildings and construction of supermarket service yard and alterations to highway – Approved 23.07.1986.

3. Reason for Referral to Committee

- 3.1 The application is referred to Committee as the applicant is Harborough District Council.

4. Proposal

a) Summary of Proposals

- 4.1 The proposal is for an Electric Vehicle Charging Hub within 12 existing car parking spaces, including a Solar Photovoltaic Canopy and Battery Storage infrastructure.
- 4.2 The solar canopy would generate sustainable electricity that would charge vehicles when plugged in, or divert generated energy into integrated batteries for use at a later time.
- 4.3 The technical specifications are 39kW Solar Photovoltaics on the roof of the Solar Canopy, a 27kWh Battery Energy Storage System and 12no. 7kW Electric Vehicle Charging Points (EVCPs).
- 4.4 The dimensions of the Electric Vehicle Charging Hub and Solar Canopy are:
- The ground footprint of the hub: 15.7m (length) x 3.2m (width)
 - Including the canopy roof: 19.3m (length) x 9.6m (width) x 3.8m (height)
- 4.5 The Supporting Planning Statement explains the scheme's objectives:

Leicestershire District and Borough Councils and Green Living Leicestershire (GLL) partnership has secured funding for public Electric Vehicle (EV) charging hubs, to serve local residents without off-street parking, including the general public and local businesses through the Office for Zero Emission Vehicles (OZEV) Local Electric Vehicle Infrastructure (LEVI) fund.

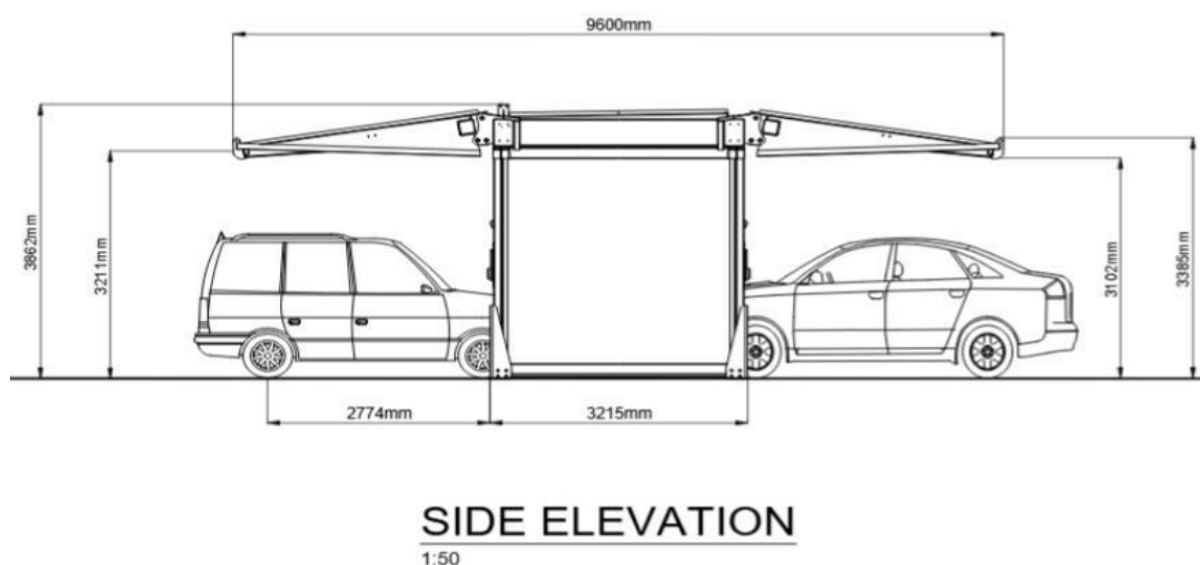
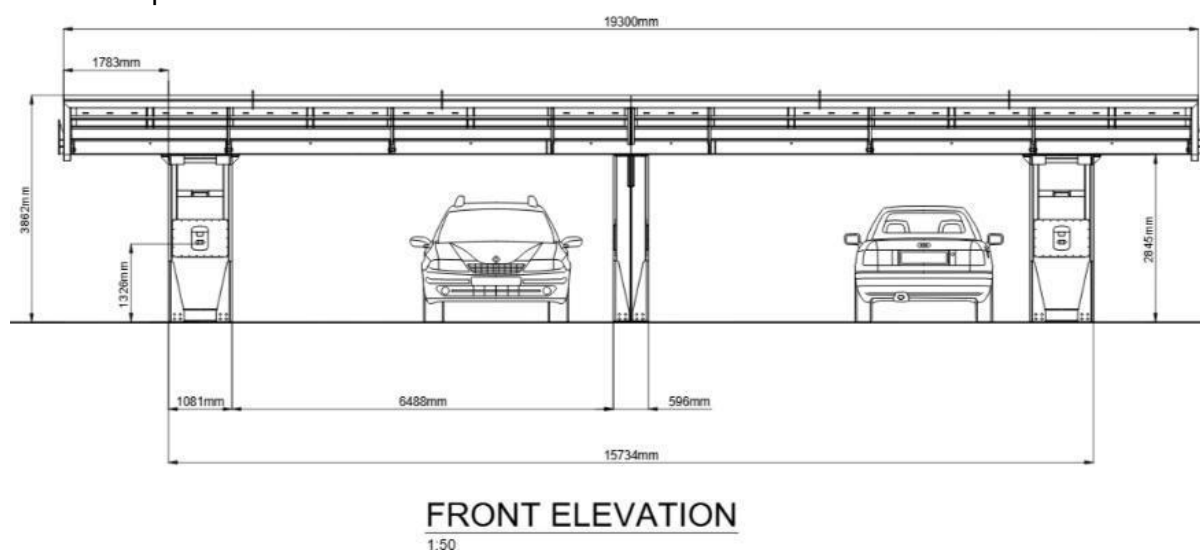
The project, named 'Flex D' is a fully funded project that aims to play a contributing role in shaping the sustainable future of transportation in Leicestershire. It aims to foster not only a change in travel behaviour but also to promote the widespread adoption of electric vehicles. These charging hubs are part of the County wide commitment to developing an integrated chargepoint network.

The Council wishes to expand and develop a balanced network of charge points across the District which will be capable of supporting the ultra-low emission vehicle (ULEV) forecasted increase in the region.

The selection of an appropriate site for the Electric Vehicle Charging Hubs in each District/Borough area was determined by their potential for solar energy generation and the existing electrical capacity. A shortlist of possible sites was created with local councils. These sites were then evaluated in terms of potential for solar energy generation and current available electrical capacity, with help from the local Distribution Network Operator (DNO), National Grid. Following this analysis, a suitable site was selected for each area.

Eight sites were chosen across the Leicestershire District and Borough Councils. Commons Street Car was selected as Harborough District Council's preferred site for the project as it aims to serve both shoppers and residents, addressing the evolving need for electric vehicle charging infrastructure in the heart of the town.

4.6 Proposed Plans



Planning Officer indicative representation / overlay:



b) Pre-application Engagement

- 4.7 The applicant was informally advised that the proposal requires planning permission and that it appears to comply with planning policies, although it would ultimately be for Planning Committee to decide.

5. Consultations and Representations

- 5.1 Consultations with technical consultees and the local community have been carried out on the application.
- 5.2 A Site Notice was erected (expired end of 04.12.2024) and a Press Notice published (expired end of 12.12.2024).
- 5.3 A summary of the technical consultee and local community responses is set out below. If you wish to view comments in full, please request sight or search via: www.harborough.gov.uk/planning

a) Statutory & Non-Statutory Consultees

- 5.4 Market Harborough Civic Society
No comment.
- 5.5 HDC Environmental Health
“no objections from a noise perspective.”

5.6 LCC Highways

"The 'Application Form' states there will be no loss in the amount of car parking spaces at the site.

Given the above, there would appear to be no material impact on the public highway and therefore the Local Highway Authority has no comments to make."

b) Local Community

5.7 Neighbours checked. No comments or objections received.

6. Planning Policy Considerations

6.1 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 (DP) (this is the statutory presumption), unless material considerations indicate otherwise.

a) Development Plan

6.2 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, as relevant to the proposal.

6.3 The DP for Harborough relevant to the current proposal comprises:

The Harborough District Local Plan (adopted April 2019).

6.4 The policies of the DP which that are most relevant to this application are:

- GD8 – Good Design in Development
- RT2 – Town and Local Centres
- HC1 – Built Heritage
- GI1 – Green Infrastructure Networks
- CC1 – Mitigating Climate Change
- CC2 – Renewable Energy Generation
- CC3 – Managing Flood Risk
- IN2 – Sustainable Transport

b) Statutory Duties and Material Planning Considerations

6.5 Planning (Listed Buildings and Conservation Areas) Act 1990

Section 72 imposes a duty on Local Planning Authorities with regard to Conservation Areas. When considering whether to grant planning permission for development *"special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."*

6.6 The National Planning Policy Framework

6.7 The National Planning Practice Guidance

6.8 National Design Guide

c) Other Relevant Documents

- 6.9 Circular 11/95 Annex A - Use of Conditions in Planning Permission
- 6.10 Leicestershire County Council Highways Design Guide
- 6.11 Development Management Supplementary Planning Document (Dec 2021)

7. Assessment

a) Principle of Development

- 7.1 The proposal promotes renewable energy generation and would benefit the District's carbon-reduction strategies.
- 7.2 The proposal may have linked benefits for local businesses/uses and residents by encouraging other town centre activities while electric vehicles are charged.
- 7.3 The proposal is strongly supported in principle by Harborough Local Plan Policies RT2, CC1 and CC2.

b) Design & Visual Impact on the Streetscene, including the Conservation Area

- 7.4 As this application is for plant equipment which would be visible from public areas (including Green Infrastructure Networks along the River Welland) and affect the character and appearance of the Conservation Area, Harborough Local Plan Policies GD8 (good design), HC1 (heritage) and GI1 (green infrastructure) are most relevant.
- 7.5 The applicant's Heritage Assessment summary explains:

"The proposed works are required to meet the demand and increase in the use of electric vehicles in the area and are therefore considered to have wider public benefits.

Although the Commons Car Park is located within Market Harborough Conservation Area, it does not contribute positively to its heritage values, as noted in the National Planning Policy Framework (NPPF) Paragraph 213, 'Not all elements of a Conservation Area...will necessarily contribute to its significance.'

The proposed scheme is a low-lying structure which will be partly screened by the surrounding larger buildings within its immediate and wider setting, as such it will not be seen from principal areas such as The Square and Coventry Road. It is considered that, due to the modern character and appearance of the Commons Car Park, the proposal would not impact the overall heritage significance of the Conservation Area and would therefore 'preserve' its character and appearance. Therefore, the resultant harm to the significance of the Conservation Area is considered to be 'less than substantial' in NPPF terms. In accordance with paragraph 208 of the NPPF, this less than substantial harm to the Conservation Area should be weighed against the wider public benefits of proposed EV Solar Hub."

- 7.6 The proposal is utilitarian in appearance. Although it does not have the solid mass of a building it is still a structure with some substance – though there will be some views under and through the infrastructure, it will have a visual impact, and one which is

considered to be negative in certain respects. While it may have some positive aesthetic notes in terms of articulating the modernity of the era, and the beauty of harnessing the power of the sun in carbon reduction endeavours, it is nonetheless judged to create an element of visual clutter in a presently open car park area. Further, it will obscure some open views which people currently benefit from, for example towards the town's heritage fabric, such as the St Dionysius' Church steeple/spire. The proposal is not considered to entirely preserve the character and appearance of the Conservation Area (heritage asset) and some limited harm to significance is identified. A decision maker must attach great weight to any finding of harm to designated heritage assets.

- 7.7 The scale of harm must be considered. Given the functional car park nature of the site, and the lack of heritage interest in many immediately surrounding buildings (the 1980s residential building, the Co-op, the Poundland premises), as well as observing other utilitarian and less-sightly functional infrastructure within the car park (e.g., the green clad pumping station and the clothes recycling bins), the site has a lower range of heritage sensitivity. Views from the footpaths / public domains along and around the River Welland (the edge of the Conservation Area) are at distance, filtered by foliage and given angles of sight the proposal would have a backdrop of existing non-heritage buildings.
- 7.8 Accordingly, the proposal is classed as resulting in a low degree of 'less than substantial' harm.
- 7.9 Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm must be weighed against the public benefits of the proposal.
- 7.10 The renewable energy generation, carbon-reduction and linked benefits for local businesses/uses and residents are judged to represent public benefits. On balance, their importance is judged to outweigh the limited harm to heritage interests.
- 7.11 The Application Form states that "*Proposed Materials and Finishes*" are "*Not known at this time*". While the development would likely require certain functional materials, e.g., for its metal structural elements and its solar roof, there are effectively 3 walls (with 6 elevations, each 3.2m wide by 3.2m high) for which design / materials are not known. A Condition is recommended to control materials and finishes so that they are not unduly cluttered, use appropriate materials (including finishes/colours) and do not become façades for unjustified advertising.
- 7.12 The proposal is judged to comply with Harborough Local Plan Policies GD8, RT2, HC1 and GI1 in the above respects.

c) Neighbouring Amenity

- 7.13 HDC Environmental Health Dept. has been consulted. No concerns have been raised.
- 7.14 The proposal is, at its closest, located approximately 11m away from the neighbouring residential apartment building. Habitable room windows were observed facing towards the proposal site. Given the size and nature of the proposed development, with some views under and over it being retained, it is considered that neighbouring amenities would not be significantly harmed in terms of overbearing, loss of light and loss of privacy, nor noise, vibration or other pollution.
- 7.15 The amenity of other neighbouring site uses would not be negatively affected.

7.16 The proposal complies with Harborough Local Plan Policy GD8 in this respect.

d) Highway Safety

7.17 The proposal would not compromise existing car parking, access and public safety in any significant and demonstrable way.

7.18 It is anticipated that the installer / operator will have to consider vehicle impact mitigation. The plans do not show any such measures.

7.19 The proposal is judged to comply with Local Plan Policies GD8 and IN2 in this respect.

e) Flood Risks

7.20 The proposal has been located outside the nearby fluvial (River Welland) flood risk zones 2 and 3.

7.21 The Applicant's Supporting Statement explains:

"The proposed development boundary is not within an area of Flood Zone 2 or 3, and only slightly encroaches into the 1% (1 in 100) Annual Exceedance Probability (AEP) event flood extent (the Long Term Flood Risk mapping show the flood depths in this encroachment area for the 1% (1 in 100) AEP event as < 30cm). The proposed development is also not anticipated to impact flood risk from any other source.

The proposed development would be designed so that the 'pillars' will not contain any equipment which could be damaged by flood water up to 30cm height plus some freeboard allowance. Aside from these pillars with a small footprint area, the proposed scheme would not result in any altered ground levels."

7.22 The existing site is already hardstanding / impermeable in nature. The proposal would not significantly increase overall surface water capture and run off rates (i.e., would not exacerbate off site flooding).

7.23 It is judged that the proposal would not significantly increase off site flood risks, or subject development infrastructure and its users to unacceptable flood risks. The proposal is found to comply with flood management policies in this respect.

f) Other Matters

7.24 None.

8. The Planning Balance / Conclusion

8.1 The development, by virtue of its design, size and positioning, would not cause significant harm to the character and appearance of the site nor area (which includes the MH Conservation Area), would not adversely affect the amenity of neighbouring occupiers, would not affect highway, parking or public safety, and would not exacerbate or be subjected to unacceptable flood risks.

8.2 The proposal would support renewable energy generation and carbon-reduction strategies, and have linked benefits for local businesses/uses and residents. The public benefits outweigh the limited harm to heritage interests that has been identified.

- 8.3 The proposal is judged to accord with Harborough Local Plan Policies GD8, RT2, HC1, GI1, CC1, CC2, CC3 and IN2.
- 8.4 No other material considerations indicate that the policies of the Development Plan should not prevail.
- 8.5 The assessment has taken into account the National Planning Policy Framework and relevant statutory legislation.

9. Appendix A

Planning Conditions

1. Development to Commence Within 3 Years

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

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

2. Approved Plans

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

--Drawing Title: Site Location Plan (Drawing number B2470100/SL/DR-0003; Rev.0; Dated 12/07/24).

--Drawing Title: Proposed Block Plan (Drawing number B2470100/EV/DR-0003; Rev.0; Dated 22/07/24).

--Drawing Title: Solar Canopy Proposed Elevations (Drawing number B2470100/ED/DR-0003; Rev.0; Dated 12/07/24).

REASON: For the avoidance of doubt and to ensure a satisfactory form of development.

3. External Materials Schedule

Prior to installation of the proposal, an External Materials Schedule shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter, the development shall be implemented in accordance with the approved materials, and those materials shall be retained and maintained in good condition in perpetuity.

REASON: To safeguard the character and appearance of development and its surroundings (which includes the Conservation Area), and to accord with Harborough Local Plan Policies GD8, HC1 and RT2.

Informative Notes:

None.

Committee Report

Applicant: Stylish Living

Application Ref: 24/01628/FUL

Location: 61 - 63 Coventry Road, Market Harborough

Proposal: Redevelopment of an existing 2-storey boarding school to convert the building to accommodate a House of Multiple Occupation (HMO) of 18 units, including part demolition and a rear extension. Change of use from boarding school (C2 Use Class) to larger HMO (Sui-Generis)

Application Validated: 16.12.2024

Application Target date: 10.2.2025

Reason for Committee Consideration: Call in from Cllr Johnson

Parish / Ward: Market Harborough Logan

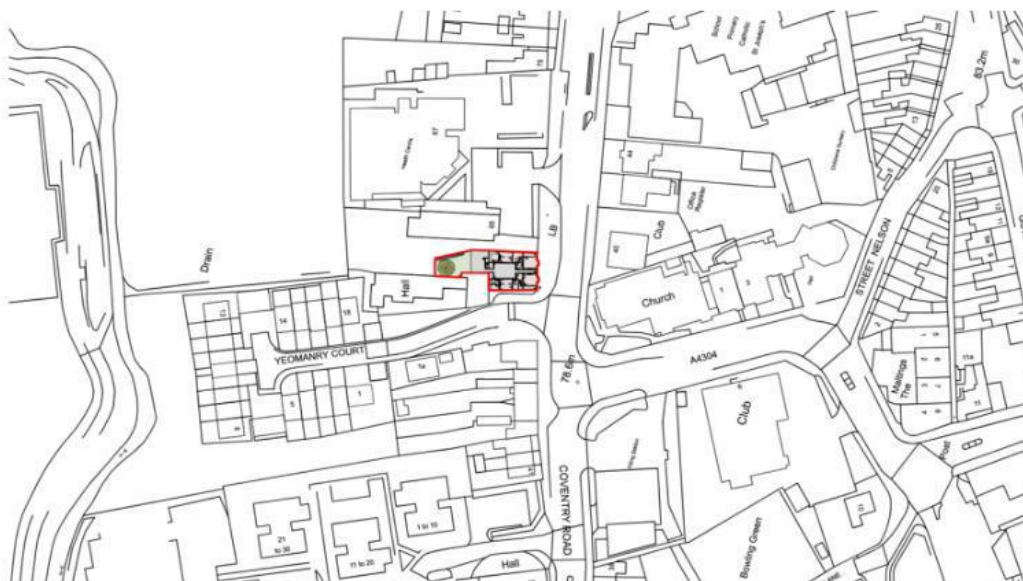
Recommendation

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

1. Introduction (including Site & Surroundings)

- 1.1 The application proposed the creation of an 18 unit HMO. Substantial extensions and internal reconfiguration of the building are part of the proposal.
- 1.2 The site is in the town centre of Market Harborough fronting Coventry Road, surrounded by community uses and other dwellings.

Location Plan :



Application site photo



2. Site History

- 2.1 No planning history is identified in the system for this property. It is clear that the building was originally a pair of semi-detached dwellings but it has most recently been in use as a boarding house by Brooke College, although it has been vacant and disused for the last few years.

3. The Application Submission

a) Summary of Proposals

- 3.1 In physical terms, the application proposes to replace the existing rear outriggers and courtyard with a new two storey and single storey rear extension. The main range that fronts Coventry Road will retain its original appearance and character. A new communal doorway will be created in the central opening (currently an alley between the two former dwellings) and the two existing doorways would become feature windows.
- 3.2 The proposed use of the reconfigured and extended building is proposed to be used as a large House of Multiple Occupation (HMO), comprising 18 private studio rooms for rent, each with the use of shared facilities in the form of a communal lounge, fully equipped kitchen, laundry (washing and drying) facilities and an external garden area.



1 Proposed North Elevation
Scale: 1:100



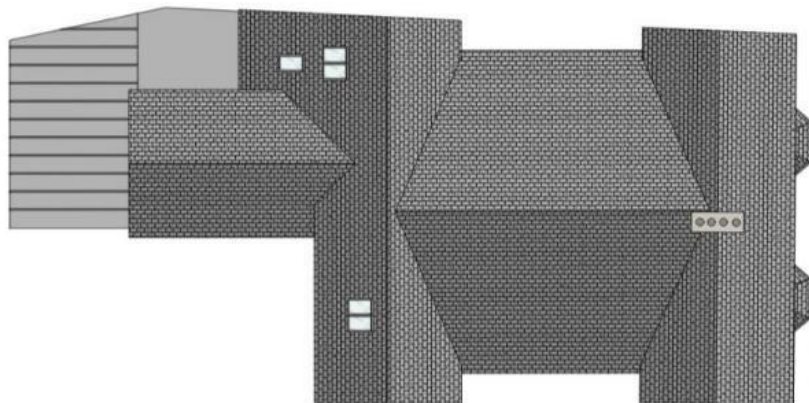
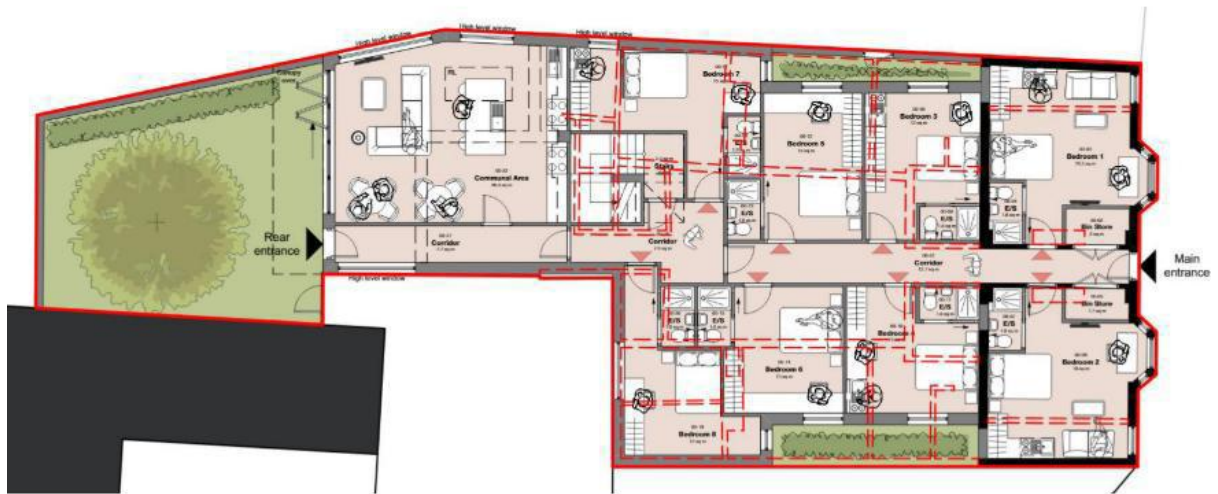
2 Proposed South Elevation
Scale: 1:100



1 Proposed West Elevation
Scale: 1:100



2 Proposed East Elevation
Scale: 1:100



4. Consultations and Representations

- 4.1 A summary of the technical consultees and representations received is set out below. Where appropriate the responses will be discussed in more detail within the main body of the report. If you wish to view the comments in full, please go to: www.harborough.gov.uk/planning

a) Statutory & Non-Statutory Consultees

Consultee	Date	Summary
<u>LCC</u>		
Highways	3/1/25	<p>No access or parking provision is proposed, which is substandard when compared against the minimum parking standards for development of residential dwellings contained within the Leics Highway Design Guide. However, the LHA has considered the existing use of the site as boarding accommodation,..... it would not be unreasonable to consider that the site could already have some levels of vehicular movements. The site is located in close proximity to a number of car parks and the highway fronting the site benefits from double yellow lines. Furthermore the LHA accept that the site lies within walking and cycling distances of numerous retail, leisure, educational, health and employment opportunities. Therefore, providing that adequate cycle storage is proposed to support the proposed development the LHA would be unable to sustain a refusal to the application based on the lack of parking provision.</p> <p>Recommend condition for a Construction Traffic Management Plan to include routing of construction traffic, wheel cleansing, vehicle parking, and a timetable for provision.</p> <p>Recommend condition for secure cycle parking.</p>
<u>HDC</u>		
HDC Environment al Health	20/1/25	<p>Recommend condition for submission of proposals for acoustic insulation scheme to prevent the transmission of noise into the development, to include ventilation arrangements noting that windows should not be sealed. To be informed by an acoustic survey.</p>
	30/1/25	<p>Environmental Health are responsible for licensing HMOs (for 5+ residents). The licensing regime is completely separate to the planning process, and is about ensuring that properties are of a certain standard in order to protect tenants.</p> <p>The following government regulations cover the licensing process and set out the specific duties of managers of HMOs (license holders):</p> <ul style="list-style-type: none"> - The Management of HMO (England) Regulations 2006 - The Licensing and Management of HMO (Additional Provisions) (England) Regulations 2007 <p>Despite the assertion of the local resident, EH officers confirm that this proposal <u>would</u> meet the definition of an HMO.</p> <p>The size requirement for any room used as sleeping accommodation by two persons aged over 10 years is 10.22sqm.</p>

(Officer Comment: all bedrooms in this proposal are at least 13sqm)

**HDC
Housing
Services**

30/1/25 No comment to make.

b) Local Community

- 4.2 Objections have been received from 14 addresses (noting that multiple letters have been sent from some properties / individuals). The system has logged 18 objections and one letter of support.
- 4.3 The one supporter, from Coventry Road, feels that converting these two unused houses (which are currently an eyesore) to provide a decent standard of much needed affordable accommodation for Market Harborough is good use of the land and properties. A car is not always necessary for town centre living but more housing is a necessity.
- 4.4 The 14 objectors raised the following issues.

Issues of Principle raised through representations	<p>Applicant also has listings for Air-BnB (in other locations). So is there potential for 61-63 Coventry Road to become an 18 bed Air-BnB, with a constant turnover of different residents?</p> <p>HMO is a notoriously a short-term tenancy, akin to a hotel or hostel or Band B.</p> <p>The proposal does not meet the definition of an HMO (where individual tenants are not all from one household but share facilities such as toilet, bathroom or kitchen).</p> <p>So many potential residents will put a strain on local facilities including waste disposal</p> <p>The HMO is too large and is suited to a city centre location where there is good public transport (eg London, Birmingham, Nottingham)</p>
Highways issues raised through representations	<p>With no proposed parking provision this is overdevelopment of the site</p> <p>Existing traffic and parking problems on Yeomanry Court (people going to the school and medical centre park here), causes highway obstruction including for emergency vehicles</p> <p>The area to the rear of the application property is owned by Yeomanry Court so can't be used for this development.</p> <p>Dispute the unevidenced assertion that Stylish Living markets to young professionals who do not own a car – can the applicant commit to only letting to people without a car? As a business they will need full occupancy so may not have the privilege of being so selective with tenants.</p> <p>It is not realistic to expect tenants not to have a car, and they will park anywhere they can find.</p>

	<p>Occupancy could be up to 36 individuals, exacerbating parking concerns.</p> <p>How will illegal use of nearby parking on Yeomanry Court or in the Doctors Surgery car park be policed?</p> <p>If approved, we would want a condition for bollards to prevent parking on the wide pavements and double yellow lines down Yeomanry Court.</p> <p>The former occupants were overseas students and therefore parking was not an issue. Challenge the LHA assertion that the former boarding use had vehicular movements.</p> <p>Committee should visit the site to assess traffic, between 0900-1500 on a weekday.</p>
Residential Amenity issues raised through representations	<p>Noise and disturbance from use, which is increased in density from 14 to 18 (or 36?) individuals, and no longer under supervision of the college, and has a large communal room with bi-fold doors</p> <p>No indication of how the HMO will be supervised (eg for noise complaints raised by local residents)</p> <p>Overlooking increased</p> <p>More detail about waste storage and collection is needed to prevent issues such as vermin and litter</p>
Design issues raised through representations	<p>In terms of design and form it is counter to GD1 and GD2 of the Local Plan.</p> <p>Question DDA compliance: there is a first floor with no apparent lift and the turning angles in the corridors to flats and internally in flats would exclude wheelchair users</p>
Ecology / landscape issues raised through representations	<p>Biodiversity needs to be taken into account</p>
Other issues raised through representations	<p>The previous student use raises concern over potential contamination, which should be investigated further.</p> <p>Concerned about building contractors parking obstructing highway and public safety.</p>

5. Planning Policy Considerations

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

a) Development Plan

- 5.2 The DP for Market Harborough comprises:
- The Harborough District Local Plan adopted April 2019

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

- 5.3 Material planning considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land.
- The National Planning Policy Framework ('the Framework') 2021
 - Planning Practice Guidance
 - The Leicestershire Highway Design Guide (2025)
 - Development Management SPD (2021)

6. Officer Assessment

a) Principle

- 6.1 The governments' objective to boost the supply of homes is relevant, and NPPF acknowledges that small windfall sites have a role to play in this. The current proposal aligns with this and other principles in the NPPF such as making efficient use of land, safeguarding and improving the environment, ensuring safe and healthy living conditions, and overall the proposal is considered to be sustainable development.
- 6.2 Policy H1 deals with the delivery of new homes – 1078 dwellings for Market Harborough town to be provided through large site allocations – although we now know that the District is falling short in its Five Year Land Supply despite this planned provision in the 2019 Local Plan, and further housing will need to be provided to address the deficit. Windfall proposals such as this will play an important role in this.
- 6.3 The housing market in Market Harborough, including for rentals, is notably costly so the current proposal to provide 18 units of entry-level rental accommodation in the heart of the town would be a welcome boost to the housing provision for the locality, not only in terms of numeric provision but in order to redress an imbalance of affordability within the town's market housing options.
- 6.4 In terms of spatial policies, Market Harborough is the Districts main town and has an identified role as a focus for development within the District (defined in SS1 of the HLP). Policy GD2 of the HLP states that proposals within the built-up area of Market Harborough will be permitted where: (a) they respect the form and character of the settlement and retain existing natural boundary features – both these criteria are met; or (b) they include the redevelopment or conversion of disused buildings and enhance the immediate setting – both these criteria are also met, particularly as it is noted that the site has been disused for well over 2 years and has fallen into a very poor state of repair.
- 6.5 Policy H5 states that new housing will be permitted where it makes efficient use of land and, while respecting the character of the surrounding area, maximises the density on sites from where a full range of services and facilities is accessible by

walking, cycling and public transport. These criteria fit perfectly with the current planning application. (The additional criteria of water efficiency standards can be ensured by condition).

- 6.6 Given the local circumstances and policy context above, the principle of developing this site to provide 18 units of entry-level rental accommodation in the District's main town that is the focus for the District's development, is therefore acceptable subject to the detailed considerations below.

b) Design and Impact on the Character of the Area

- 6.7 The site is not in the conservation area. The Church on the opposite side of Coventry Road is the only listed building in the immediate vicinity.
- 6.8 Policy GD8 of the Harborough Local Plan requires development to achieve a high standard of design which is inspired by, respects and enhances local character and distinctiveness. HDC has an adopted Supplementary Planning Document, of which section 2 on Design Principles is considered most relevant.
- 6.9 The proposal sees the demolition of the rear "outrigger" ranges of the building and the construction of a two storey and single storey rear extension in their place. The scale of the proposed extension is clearly large, but the way it has been designed allows it to sensitively blend in with and reflect the character of the original main range that fronts Coventry Road. The design creates a second range of the same proportions at the rear connected by a link whose bulk is minimised by setting it in from the main side elevations and using a contrasting material. Design features such as false openings are incorporated to give visual interest and break up blank elevations. The single storey element at the very rear adds a contemporary feel which blends in well in its context and overall creates a high-quality proposal that reflects the principles of good design advocated within the council's SPD. The materials are visually acceptable and sympathetic to the building and the area.

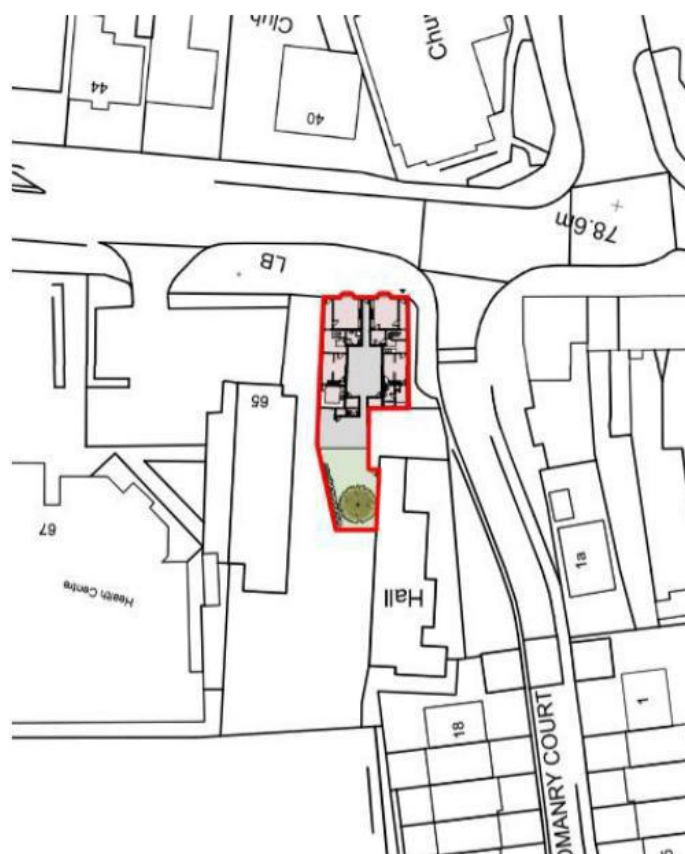




- 6.10 The block plan shows a rear garden which would serve as a shared external amenity area for the tenants use, for things such as cycle storage, laundry drying area and a sitting out area.
- 6.11 Overall the proposed extension is judged to follow the principles of good design, to reflect local distinctiveness and the general character of the surrounding area and would not disrupt the visual amenities of the street scene. The units themselves would be well appointed and of a suitable size (in that they exceed the minimum requirement for a 2-person room). There would be practical access and storage opportunities. The proposal is therefore an acceptable and workable form of development in accordance with the relevant design provisions of the development plan.

c) Residential amenity

- 6.12 Policy GD8 of the Harborough Local Plan requires that developments should be designed to minimise impact on general amenity and the amenity of existing and future residents.



- 6.13 The site is bordered to the west by community uses (a Community Hall and its access, and the car park for the Doctors Surgery). There would be four bedroom windows in the recessed link section looking out over the doctors car park. No privacy concerns arise here, and the block plan shows that these ground floor bedrooms benefit from some planted defensible space so that these windows are not vulnerable. The only other windows on this side elevation are high-level windows giving light into the communal lounge/kitchen – these do not raise any concerns.
- 6.14 The site is bordered to the south by community uses (the Community Hall car park (beyond which is Welland Park)) and a second community hall (believed to be used by the Sea Cadets)). The nearest neighbouring resident to the south, 18 Yeomanry Court, is c.35m from the extended rear elevation and c.25m from the closest boundary of the shared garden, and furthermore there is the Sea Cadets building intervening, giving some physical screening and separation.
- 6.15 To the east is the footpath and carriageway of Yeomanry Court, the nearest dwelling to the east being the green rendered dwelling that fronts Coventry Road. There would be four bedroom windows in the recessed link section looking out over Yeomanry Court and towards the blank side elevation and rear garden of the neighbour over the road. Given the intervening road and landscaping, which provides 17m of separation, any views from the first-floor bedroom windows into the neighbours garden would not be considered to unacceptably affect amenity.
- 6.16 In conclusion, the proposals would be acceptable in terms of their impact on the residential amenity of neighbouring properties and the future occupiers of the proposed HMO. The proposal would accord with policy GD8 of the HLP, and the HDC SPD.

d) Access and parking

- 6.17 The application does not provide for any parking at all, and this is the main source of concern from local objectors. The application suggests that the profile of tenants tend, particularly in a town centre location such as this, not to have a motorised vehicle but to rely on walking, cycling and public transport.
- 6.18 However, we hear from objectors that: they do not find it credible that occupiers of the HMO will not have a car; they believe any car owners and/or any car using visitors will park illegally in the immediate vicinity (eg on Yeomanry Court (which is private and has no parking signs), on the wide pavement at the front of the site, at the Doctors Surgery); the assumed illegal parking will cause inconvenience and safety concerns about access for emergency vehicles.
- 6.19 The case officer put these objections to the applicant and she responded saying that she understood the fears but that she can call reliably on her experience of managing many other HMO properties in town centre locations that do not have any dedicated parking facilities. She states that Stylish Living's tenant application and vetting process emphasises the absence of parking facilities and often those with cars choose to pull out from the proposed let at that stage. Those with cars that choose to proceed do so on the understanding that they will need to find legal parking options using nearby carparks or come to their own arrangement. We know that this system works adequately for the applicant's other HMO building in Market Harborough town centre (above Enigma Café Bar) which also has no parking provision for the HMO tenants.

- 6.20 In terms of planning policy, Policy GD8 (I) of the HLP seeks to ensure that the design of a development ensures “adequate parking and servicing”. In a town centre, in the letting circumstances described above, the wide availability of parking options throughout the town is considered by officers to be “adequate parking” in this case.
- 6.21 Policy IN2 of the HLP states that residential development proposals will be permitted subject to the provision of the following relevant points:
- Parking arrangements, having regard to LHA guidance and standards
 - Measures to facilitate and encourage safe access by cycle and on foot
 - Measures to encourage public transport use
 - Provision for the transport needs of specific groups such as the elderly and those with disabilities
- 6.22 Paragraph 2.9 of the Councils Development Management SPD is our guide to how to assess car parking provision in different contexts. It states:
- 2.9 Car parking provision should take into account:
- the control of on-street parking in the area;
 - the development’s exact nature and likely use;
 - its geographical location;
 - the standard of the surrounding road network and the traffic and parking conditions on it; and
 - how accessible the development is using other methods of transport, including public transport, walking or cycling.
- 6.23 Having regard to all of the above, officers feel that the current scheme is acceptable without on-site parking. Furthermore, the Local Highway Authority has considered the details of the current application in its local context, and has raised no objection.
- 6.24 As promotion of sustainable transport and reduced reliance on private cars is a key element of what planning should be promoting, officers consider that this proposal ought to be welcomed. Whilst it cannot be guaranteed that none the tenants will have a motorised vehicle, this situation would realistically be “tenant beware” (ie a tenant will be aware that there is no parking available when making the decision to take on the tenancy and this should help “self-police” the parking demand).
- 6.25 Yeomanry Court is already signposted as private property no parking. There are also double yellow lines present on Coventry Road within the vicinity of the site, enabling the highway in the vicinity of the site to remain clear and unobstructed.
- 6.26 The site enjoys excellent access to a full range of local services including bus services to Leicester and Northampton and train services to London and the North. It is entirely feasible that residents could lead full lives without needing a car. Visitors who use motorised vehicles will be expected to use nearby public parking within the town and arrive at the property by foot.
- 6.27 In terms of deliveries, people have always lived at this property and so there will always have been deliveries of eg takeaway food, Amazon/DPD parcels. These delivery stops are fleeting, and whilst they do sometimes breach parking controls or cause blockages in the highway, this site is not unique in that sense – it is the same on any street in the country. It would not seem reasonable to prevent a development on these grounds.
- 6.28 In order to fully promote and enable the use of sustainable transport modes at this site, and to counteract the lack of dedicated parking provision, it is considered reasonable

and necessary to impose a condition requiring the provision of covered and secure cycle parking for the HMO. If this can also include provision for mobility scooter parking this will also meet the requirement of IN2 in relation to transport needs for the disabled. There is ample space within the garden area for a such a facility to be provided and a condition will allow the detail to be considered.

- 6.29 In terms of parking and servicing during the construction period, this will always be a challenge for any development project in a town/city centre location but this is no reason to prevent development. The applicant is project manager and developer for the physical works as well as the ultimate landlord and property manager going forward. This has enabled the applicant to already put forward an indication of how they will manage access, parking and servicing during the demolition and construction phase. The draft proposals are feasible and a condition will be imposed to ensure that a firmed up Construction Management Plan is submitted for approval prior to the start of any demolition / construction works, and that the approved plan is adhered to.
- 6.30 Summing up on parking and access then, whilst the preference would always be for a proposal to provide off-road parking, it is accepted that it is feasible for the units subject of this application to be occupied without the residents requiring the use of a motorised vehicle and/or, for those that do, to find a suitable and responsible local parking option. The attempt to submit a “transport sustainable” proposal is acknowledged and the LHA would not seek to resist the proposals on parking grounds. As the LHA have expressed that they could not sustain a refusal, it would be ill advised for the council to resist the proposal on parking grounds.

e) Other matters

- 6.31 The proposal does not need to provide the statutory 10% BNG because it meets the governments set criteria for an exemption (de-minimis).
- 6.32 Given the age and disused state of the existing building, a section of which is to be demolished, it is possible that there could be potential for bat habitat. The applicant is undertaking a Bat Survey to establish this. A condition can be used to secure and check this along with any mitigation measures that may be required.
- 6.33 The applicant is actioning the request from Environmental Health for a Noise Assessment, in order to inform a scheme of suitable noise insulation and ventilation that will provide a satisfactory internal environment for residents of the HMO. The detail of this will be secured and checked through condition, in conjunction with EH officers.
- 6.34 The property will need to be licensed, and HDC’s Environmental Health team are the responsible body for overseeing the licensing process. The legislative points under licensing will deal with monitoring the ongoing standards of accommodation and the management responsibilities of the landlord. This licensing regime is a separate and additional process to the planning process.
- 6.35 The site is not identified as having critical drainage issues from a surface water perspective. For a development of this nature drainage would be handled through building regulations practices and so it is not considered necessary to seek technical drainage details in this case.
- 6.36 The site is within Flood Zone 1, with low probability of flooding as such accords with Policy CC3 of the HLP.

7. Planning balance and Conclusion

- 7.1 At the heart of the NPPF is the presumption in favour of sustainable development. Paragraph 11 sets out what this means for decision-takers: that proposals that accord with an up-to-date development plan should be approved without delay; and that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted. The development plan for this proposal is the Harborough District Local Plan, and due to the lack of a 5 year housing land supply the plan is considered out of date and so the presumption in favour will apply.
- 7.2 The NPPF recognises three strands to sustainable development, and these are all considered to be met by the proposed development as follows, making the proposal meet with the definition of sustainable development:
- 1) economic
In the short-term there will be work for local trades involved in the construction work. Modest benefits arising from additional council tax income and from additional custom to local facilities and services.
- 2) social
The addition of 18 new entry-level rental units for the Market Harborough housing market, addressing a current imbalance on affordability of accommodation in the town. It will widen the housing offer and enhance affordability / access to entry level housing.
- 3) environmental
Occupiers of the site will not require a private motor vehicle to access key services and to visit leisure destinations. The site is well located and has good connectivity and sustainable transport choices.
- 7.3 Highway and planning officers are comfortable with the lack of parking in the circumstances. The development is promoted as a green proposal by virtue of it being sold as car-free living with sustainable transport options, which in turn makes the proposal more in line with the central pillar of the NPPF (sustainable development). The benefits arising from the proposal are judged in this instance to outweigh the local concerns and objections in respect of parking.
- 7.4 This report shows how the proposal is found to conform with all other relevant aspects of the development plan. The proposal is well designed, it would not adversely affect the character or appearance of the street scene and is considered acceptable in respect of residential amenity and highway safety, despite the lack of dedicated off-road parking provision. It is therefore considered that in this instance there is no policy conflict, the presumption in favour applies, and there are no material considerations that would indicate towards anything other than an approval.

Appendix A – Suggested Conditions / Informative / Notes to Applicant

If Members agree with the recommendation to Approve the application, the following conditions are suggested:

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

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

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

0001-P01 – Location Plan
1100-P02 – Proposed Site Plan
1200-P05 – Proposed Ground Floor Plan
1201-P03 – Proposed First Floor Plan
1300-P03 – Proposed Roof Plan
1400-P05 Proposed North and South Elevations
1401-P05 – Proposed East and West elevations

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

3. No demolition or development shall commence on the site until such time as a construction environmental management plan, including as a minimum details of vehicle parking facilities for contractors, skip placement (if relevant), building materials storage, storage of plant and machinery (taking account of and avoid the root protection area for the retained garden tree), and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The demolition and construction of the development shall thereafter be carried out in accordance with the approved details.

REASON: In the interests of highway safety and convenience.

4. The existing tree in the garden shown on the block plan as being retained shall be protected by fencing (and ground protection where necessary) which complies in full with “BS5837:2012 Trees in relation to design, demolition & construction – Recommendations”. The fencing (and ground protection) shall be installed before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, unless the Local Planning Authority gives written approval.

REASON: To safeguard existing trees and hedges in the interests of the character and appearance of the development and the surrounding area having regard to Harborough Local Plan Policies GD2 and GD8 and the National Planning Policy Framework.

5. Prior to the commencement of development on the conversion and/or extension, an acoustic noise insulation scheme to prevent the transmission of noise into the development, shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be based on (and include) the results of an acoustic survey at the site to assess existing noise levels from road traffic. The scheme shall include appropriate ventilation arrangements, noting that windows shall not be sealed closed. Development shall then proceed only in full accordance with the approved noise insulation scheme.

REASON: To ensure a satisfactory standard of development and in the interests of residential amenity, having regard to Harborough Local Plan policy GD8.

6. A Preliminary Ecological Assessment (Phase 1) shall be submitted to and approved in writing by the LPA prior to commencement of any works of demolition or construction. Development (including demolition) shall not commence until any further surveys that may be identified as being needed, have also been carried out and the associated reports and recommendations for mitigation have been submitted to and approved in writing by the LPA. Development (and demolition) shall then only proceed in accordance with the approved details and recommendations.

REASON: To identify and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development, having regard to Harborough Local Plan Policy GI5, and the National Planning Policy Framework.

7. Prior to construction of any external walls, details of all external materials (including windows) to be used in the construction of the extension hereby approved shall be submitted to and approved in writing by the Local Planning Authority, and the development shall only be carried out in accordance with the approved details.
REASON: To safeguard the appearance of the development and the character and appearance of the area, having regard to Harborough Local Plan Policy GD8, and the National Planning Policy Framework.
8. Prior to the commencement of any above ground works on the construction of the new extension hereby approved, full details of the provision within the site for secure and covered storage of cycles and mobility scooter(s) shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall then be provided in accordance with the approved details prior to the first residential occupation of the development hereby approved and shall thereafter be retained and kept available for use(s) at all times in perpetuity.
REASON: To ensure adequate standard of sustainable transport facilities for the occupants and to preserve the residential and visual amenities of the locality having regard to Harborough Local Plan Policy GD8, and the National Planning Policy Framework.
9. Prior to the commencement of any internal fit-out of the rear extension hereby approved, a Soft Landscape Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Scheme shall include full details of proposed hard and soft landscape works and planting within the garden area, within the recessed side sections of the extension and along the eastern length of the site as it borders the footpath on Yeomanry Court. Thereafter, the approved landscape scheme shall be carried out in accordance with the approved details prior to the first residential occupation of the development. Any trees, shrubs, hedges or plants which, within a period of five years from their date of planting, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.
REASON: To ensure that the development includes landscaping, planting, boundary treatments and surfacing materials which are appropriate to the character and appearance of the development and the surrounding area, having regard to Harborough Local Plan policy GD8.
10. The development hereby permitted shall be designed to meet higher water efficiency standards of 110 litres per person per day.

REASON: In the interests of sustainable development and to comply with the requirements of HLP policy H5.

11. The use hereby permitted is a (sui generis) House of Multiple Occupation only. This permission does not convey consent for any use other use. In particular holiday/hotel/BnB lets are not permitted.

REASON: For the avoidance of doubt and to clarify the terms of this permission, given that the application has been submitted and assessed on the basis of it being occupied by longer-term tenants.

Informatives:

1. In relation to the Noise Insulation and Ventilation requirements of condition 5, it is important that the applicant takes full account of the following:

- The insulation scheme shall ensure that the Indoor ambient noise levels fall within the guideline values as specified in British Standard BS 8233:2014 "Sound insulation and noise reduction for buildings".
- The scheme shall ensure that the LAmax does not exceed 45dB(A) on more than 15 occasions during any night-time period.
- The insulation scheme shall ensure that the Noise Rating level within the development does not exceed Noise Rating curve NR30 (applicable if low frequency is an issue)
- With regard to ventilation arrangements (As part of the requirements under part O of the building regulations), it is expected that if a good acoustic design of the development does not allow acceptable internal noise levels with windows open, then an assessment of overheating shall be undertaken. This shall either be by using the simplified method or using a dynamic thermal modelling method (TM59 assessment).
- Noise from the ventilation system shall not exceed 30dB(A) in bedrooms, and 35dB(A) in living rooms.

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. The Applicant is advised that Protected Wildlife Species may be using the building/site as a nesting place and/or habitat. All such species are protected under the Wildlife and Countryside Act 1981. Should Protected Wildlife Species, or evidence of them, be present or be suspected in the building/site (and potentially affected by the development), the Applicant should cease development immediately and contact Natural England, The Maltings, Wharf Road, Grantham, Lincs., NG31 6BH (tel. 01476 584800). All workers should be made aware of the above, particularly with regard to bird and bat access points under roof eaves / roof materials / and openings.

4. Works in Highways

Committee Report

Applicant: Mr And Mrs J Ardley

Application Ref: 24/01635/FUL

Location: 22 Home Close, Kibworth Beauchamp, Leicestershire, LE8 0JT

Parish/Ward: Kibworth Beauchamp/ Kibworths

Proposal: Erection of a two storey side extension with single storey elements to front and rear

Application Validated: 09.12.24

Overall Consultation Expiry Date: 15.01.25

Target Date: 20.02.25 (EOT)

Committee Decision: Departure from currently adopted Neighbourhood Plan (Policy H5 of The Kibworth Villages' Neighbourhood Development Plan)

Recommendation

Planning Permission is **APPROVED** for the reasons set out in this report and subject to the recommended Planning Conditions and Informative Notes in Appendix A.

1. Site & Surroundings

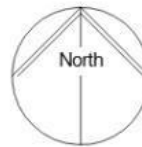
- 1.1 The application site is located within a predominantly residential area of southern Kibworth Beauchamp and comprises a link detached two-storey dwelling. The dwelling itself fronts the turning head of Home Close but is modestly set back from the highway to provide a driveway and off-road parking. An attached garage beyond the driveway links the subject dwelling to the adjoining property (No.20).
- 1.2 Constructed from red brick under concrete interlocking roof tiles, the front/ side elevation of the dwelling has already been moderately altered to include another two-storey gable feature and dual pitch front porch.
- 1.3 Whilst Home Close is generally characterised by dwellings of a similar overall design and material palette, there is a degree of variety in terms of the architectural features, roof design and massing.



Location Plan - Scale 1:500

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Scale 1:1250



Location Plan

2. Site Planning History

2.1 The site has the following relevant planning history:

- **81/00762/3M** - Extension to front of dwelling to provide utility shower dining and bedroom – Permitted – 20.05.1981
- **16/01940/FUL** - Erection of first floor extension to front elevation – Permitted – 09.01.2017
- **18/01817/FUL** - Erection of a front porch extension and two storey rear extension – Permitted – 19.12.2018

3. The Application Submission

a) Summary of Proposal

- 3.1 This application proposes the Erection of a two-storey side extension with single storey elements to front and rear



Front (West) Elevation

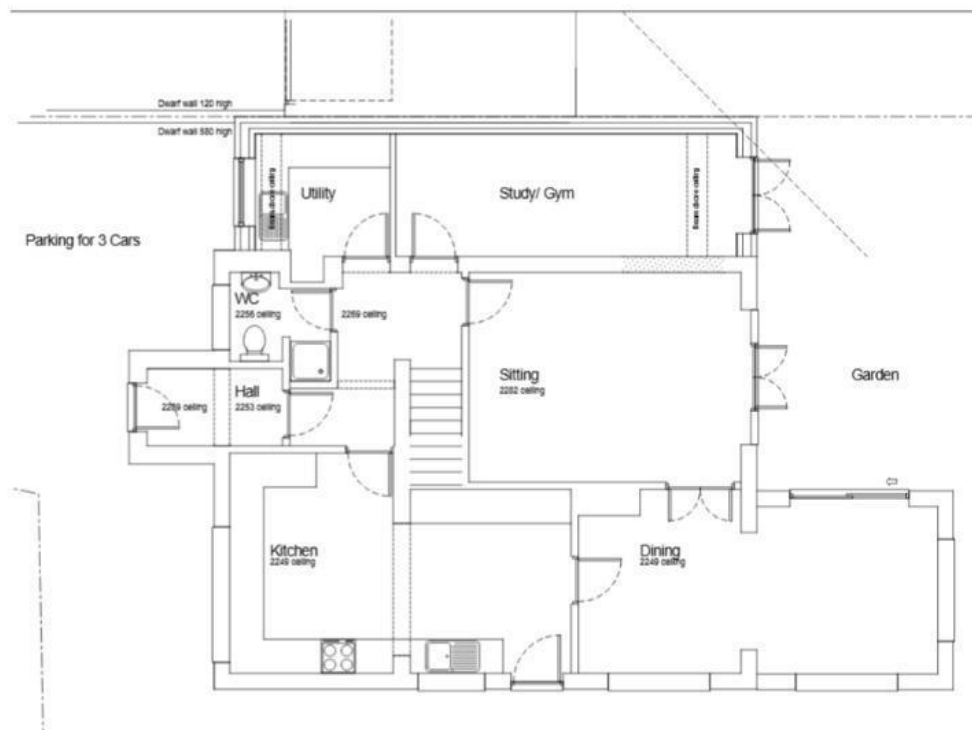


Side (North) Elevation

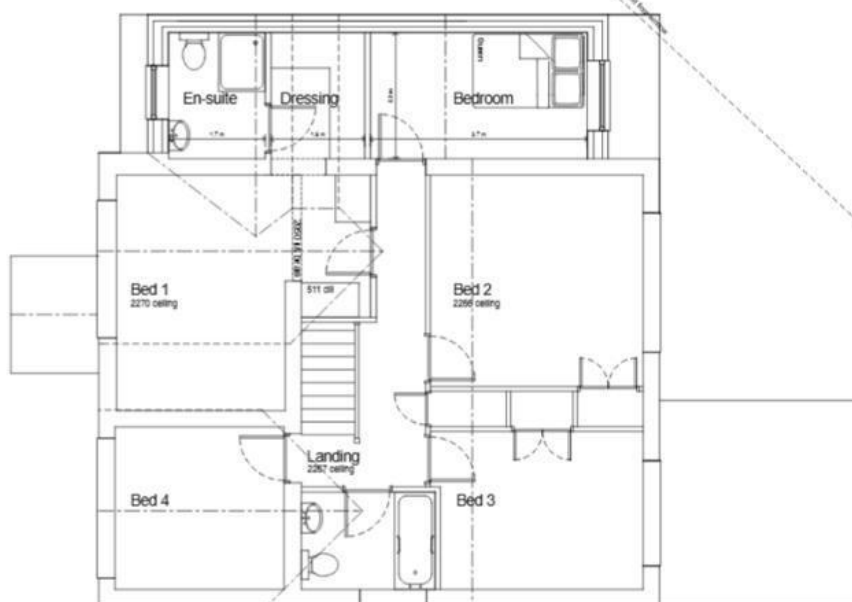


Rear (East) Elevation

Proposed Elevations



Proposed Ground Floor Plan



Proposed First-floor Plan

4. Consultations and Representations

- 4.1 Consultation with the technical consultees and local community has been carried out on the application submission.
- 4.2 Due to all neighbours being identifiable a site notice was not required.
- 4.3 A summary of the technical consultee responses which have been received are set out below. If you wish to view comments in full, please request sight or go to www.harborough.gov.uk/planning

a) Statutory & Non-Statutory Consultees

Consultee	Date	Comment
Kibworth Beauchamp Parish Council	15.01.2025	Object to this application on the grounds of it being an overbearing two-storey extension next to the neighbour at 20 Home Close. It also leaves insufficient off-street parking for a 5 bedroomed house as defined in the Kibworths Neighbourhood Plan.

b) Local Community

- 4.4 No formal comments have been received from the local community.

5. Planning Policy Considerations

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

5.2 Harborough Local Plan (HLP), adopted April 2019

HLP key policies:

- SS1 – The Spatial Strategy
- GD2 – Settlement development
- GD8 – Good design
- GI5 - Biodiversity and geodiversity

5.3 The Development Plan consists of the Harborough Local Plan (HLP) (2019) and The Kibworth Villages' Neighbourhood Development Plan 2017 – 2031 (NP) (2018),

NP key policies:

- SD1 – Limits to development
- H4 – Building Design Principles
- H5 – Residential Car Parking

b) Material Planning Considerations

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

- National Planning Policy Framework (NPPF) (December 2024)
- National Planning Practice Guidance (PPG)
- Leicestershire Highway Design Guide (December 2024)
- HDC – Development Management Supplementary Planning Document (SPD) (2021)

6. Assessment

a) Principle of Development

6.1 The application site relates to a residential property in an established residential area within the settlement boundary of Kibworth Beauchamp. Policy GD2 of the Local Plan advises that proposals for alterations to existing residential properties in the built-up area of settlements is generally supported providing that works are subordinate in scale and appearance to the existing dwelling. Similarly, policy H4 of the NP advises that proposals for alterations to existing dwellings are generally supported providing that works respect the scale and appearance to the existing dwelling/ surrounding area.

- 6.2 The proposed works are consistent with development that would be reasonably associated with a residential property. Although introducing a degree of bulk to both the front and side elevations, the proposed works are in proportion with the host dwelling and do not subsume its original form. The proposal is acceptable in principle, subject to the satisfaction of the development plan criteria as detailed below.

b) Design and Visual Amenity

- 6.6 Section 12 of the NPPF requires development to function well, add to the overall quality of the area, be visually attractive and sympathetic to local character and history, whilst not preventing or discouraging appropriate innovation. Policy GD8 of the Harborough Local Plan requires new development to respect the site's immediate and wider context and local character. Similarly, Policy H4 of the NP states that new development should fit the surrounding character, scale, mass, density and layout of the area.
- 6.7 Owing to the location of the extension, the proposed works would be visible from the public realm and as such would contribute to the character and appearance of the streetscape. As noted within the adopted SPD, development should not dominate the streetscene nor should it subsume the original dwelling. Despite introducing a degree of bulk to the side elevation, due to its relatively narrow width and lower ridge height, the extension would be perceived as subordinate to the host dwelling.
- 6.8 Due to the cul-de-sac nature of Home Close and the moderate set-back nature of the subject dwelling, a strong building line does not exist within the streetscape. Whilst it is recognised the proposed side elevation (when approaching from the north) would eventually become apparent, the extension's set-back nature from the front elevation of the host dwelling would sufficiently mitigate any visual harm and/ or concern.
- 6.9 Whilst the partial loss of space between the two dwellings (No.20 & No.22) would alter the appearance of the streetscene, the retention of spaces between properties within Home Close is not intrinsic to the character of the surrounding area. On the contrary, gaps between the dwellings on with Home Close are typically limited to one or two metres. As a result, the proposal encroaching into this space would not be to the detriment of the character of the surrounding area.
- 6.10 As shown by the annotations included as part of the submitted plans, the proposed materials would match that of the existing. Similarly, the window positioning and architectural detailing would match the style and appearance of the existing.
- 6.11 Owing to the form of the extension and flat roof valley, it is recognised that the overall design of the extension is somewhat contrived. However, as explored in the paragraphs above, it is considered that the visual impact of the extension would not be harmful enough to warrant a refusal decision.
- 6.12 In light of the above, it is considered that all of the proposed works would conform to requirements of policy GD8 of the Harborough Local Plan, H4 of the NP, the guidance contained within the adopted SPD and paragraph 135 of the NPPF.

c) Highways

- 6.13 As the proposal is householder development and the site does not include alterations to the access onto a classified road the scheme does not meet the consultation requirements for LCC Highways, therefore the scheme has been assessed under Standing Advice and the Leicestershire Highways Design Guidance.

6.14 Paragraph 115 of the NPPF states that schemes can be supported where they provide safe access for all and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 116 makes it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residential cumulative impacts on the road network would be severe. Policy GD8 of the Harborough Local Plan seeks to ensure “... *safe access, adequate parking and servicing areas including for refuse collection in new residential development*”.

6.15 Policy H5 of the KNP states that:

New residential development should incorporate sufficient parking provision to meet the needs of future residents in accordance with the Leicestershire parking standards except that:

- 1. New residential development shall include the following minimum number of car parking spaces:*
- 2. 4+ bedroomed dwellings shall have a minimum of 4 off-street parking spaces within the curtilage of each dwelling.*
- 3. Extensions to existing dwellings should not result in the loss of parking spaces below the minimum level.*

6.16 The proposed extension would increase the number of bedrooms at the property from four to five. The submitted site plan identifies the retention of three parking spaces (a tandem space and an additional space to the side). Whilst the three spaces would not technically comply with the minimum park space dimensions (*2.4m x 5.5m, add on 0.5m if bounded by a wall, fence, hedge etc. on 1 side, 1m if bounded on both sides*) as shown by markings/ staining in the photo below, the driveway is realistically able to accommodate three vehicles. In addition, Leicestershire Highway Design Guidance states that three spaces should be provided for four-bedroom dwellings (and includes 4+ bedroom dwellings). As such, it is considered that there would not be an unacceptable intensification on the existing off-road parking provision. However, as three rather than 4 off street parking spaces are provided the proposal does not comply with policy H5 of the NP.



- 6.17 Home Close is a residential cul-de-sac within a 30mph speed limited area (although speeds are realistically lower), with no through traffic and on-street parking available. It is acknowledged that the number of parking spaces does not comply with policy H5 of the NP however the scheme does comply with the Leicestershire Highways Design Guidance applied elsewhere within the district. Considering the low vehicle movements in this residential area, the retention of three spaces is considered satisfactory to prevent an unacceptable impact on highways users.

d) Residential and General Amenities

- 6.18 Policy GD8 require that development should be designed to minimise impact on the amenity of existing and future residents through loss of privacy, overshadowing and overbearing impact. Nor should developments generate a level of activity, noise, vibration, pollution of unpleasant odour emission which cannot be mitigated to an appropriate standard and so would have an adverse impact on amenity and living conditions. HDC's Development Management Supplementary Planning Document (SPD) also contains guidance relating to neighbouring amenity standards, including separation distances, however, such standards are applied flexibly as noted in the guidance.
- 6.19 Although the proposal would abut the shared boundary, the nearest opening of No.20 to the proposed extension would be utility space. Whilst it is recognised that the northern elevation of the application property would encroach further towards the shared boundary, the small area of garden space immediately adjacent to the elevation (currently used for garden/ paraphernalia storage) offers very limited amenity value and would not be significantly harmed by the proposal.



View of No.22 from the garden of No.20

- 6.20 Given that the proposal would remain entirely within the confines of the existing dwelling, the overbearing impact is considered to be akin to the existing situation.

- 6.21 As shown by the submitted plans, the single storey element of the proposal would only marginally contravene the 45-degree line prescribed within the adopted SPD with the two-storey element entirely contained within the 45-degree line. As such, the overbearing/ overshadowing impact is considered to be acceptable.
- 6.22 In terms of overlooking, the situation would remain largely similar to the existing situation and is therefore considered to be acceptable.
- 6.23 In light of the above, it is considered that all of the proposed works would conform to paragraph 135 of the NPPF, Policy GD8 of the Harborough Local Plan and the guidance contained within the SPD.

e) Other matters

- 6.24 Shared boundary: It is noted that the proposed extension would utilise all of the existing land between application property and No.20 – abutting the shared boundary. The applicant/ agent has submitted an ownership certificate stating that all land identified within the red line is within the applicant's ownership. The LPA has no evidence to reasonably dispute this. In any event, disputes and/ or concerns regarding boundaries would be a Civil matter and cannot be given weight in terms of the Planning process.

7. Conclusion / Planning Balance

- 7.1 In light of the above it is considered that the proposal would have an acceptable impact on the character of the property, surrounding area, neighbour amenity and highways. As such, the proposed development complies with the relevant development plan policies and is consistent with the provisions in the NPPF.

Appendix A

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

1. Commencement

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

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

2. Permitted Plans

The development hereby permitted shall be carried out in accordance with the details provided in the application form and following plans/ documents:

'Block Plan and Location Plan - 5359-1B'

'Outline Proposal - First floor - 5359-6'

'Outline Proposal - Ground Floor - 5359-5'

'Outline Proposal - Elevations - 5359-7'

REASON: In order to clarify the terms of the Planning Permission and to ensure that the development is carried out as permitted.

4. Parking

The proposed parking spaces as shown on plan ref: 'Block Plan and Location Plan – 5359-1B' shall be implemented prior to the first use of the development hereby approved and retained for the purposes of parking only, in perpetuity.

REASON: In the interests of parking provision and highway safety.

3. Materials as per approved plans

All external materials used in the construction of the development hereby approved shall match in material, coursing, colour and texture those used on the existing building.

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

4. Ecology

As part of the development and prior to first use of the development, at least 3 Swift nest bricks/boxes shall be provided in a suitable location in gables or under eaves, with clear flight access lines (in accordance with the Swift Advice Note found at <https://www.leicestershire.gov.uk/environment-and-planning/planning/leicestershire-and-rutland-environment-records-centre-lrerc>).

REASON: To protect ecological interests (the site is in a Swift Alert Area where Swifts are known to have bred in the recent past) and to accord with Harborough Local Plan Policies GD8 and GI5.

Suggested Informative

1) Building Regulations

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

Harborough District Council



Report to Planning Committee Meeting of 18 February 2025

Title:	Planning Enforcement Update Report
Status:	Public
Key Decision:	No
Report Author:	Christine Zacharia Team Leader Planning Enforcement
Portfolio Holder:	Cllr Simon Galton
Appendices:	Appendix 1: Enforcement appeal decision(s)

Summary

A summary on the performance of the planning enforcement service, over a six-month period between 1 August 2024 to 31 January 2025.

Recommendations

That the Committee notes the information contained in the report.

Reasons for Recommendations

To ensure that Committee are kept updated on the performance of the Council's planning enforcement service

1. Purpose of Report

- 1.1 This report advises the Committee on the performance of the planning enforcement service, over a six-month period between 1 August 2024 to 31 January 2025.

2. Key Facts

2.1 Performance Targets

- 2.2 All complaints and enquiries received by the Planning Enforcement Service are categorised as one of the following:

- Top Priority Cases - where works are being carried out which will cause irreparable harm / damage.
- High Priority Cases - where works or uses are causing a significant and continued harm to amenity, time sensitive breaches or development that compromise safety

- Standard Priority Cases – new structures or changes of use having limited degree of disturbance to residents or damage to the environment, which do not fall within the foregoing priority groups.

2.3 In order to assess whether the planning enforcement service is meeting its targets it is assessed monthly against four key performance indicators; these are set out in Table 1 below:

Table 1: Key Performance Indicators

PLANNING ENFORCEMENT KPI's*	TARGET
% of Cases responded to within target dates (DM TPI 09) Top priority cases within 1 working day High priority cases within 5 working days Standard priority cases within 10 working days	90%
% of Cases closed within 8 weeks of registration with no formal action deemed necessary or appropriate (DM 30)	90%
% of complainants updated on progress of planning enforcement investigations within 20 days of receipt of complaint (DM TPI 11)	90%
% of enforcement complaints registered and acknowledged within 3 days of receipt (DM TPI 12)	90%

* NB – all the time periods identified are working days.

2.4 A summary of the planning enforcement service data for the above KPI's for the period between 1 August 2024 to 31 January 2025 is set out in Table 2 below. The data shows that in the main, the service is meeting its targets except for DM30. The Team continues to try and resolve a breach of planning control through mediation, which does sometimes impact on this KPI as cases will be open longer than 8 weeks for resolution without formal enforcement action having to be taken.

Table 2 - Performance between 1 August 2024 to 31 January 2025

Indicator	August 2024(%)	September 2024(%)	October 2024(%)	November 2024 (%)	December 2024(%)	January 2025(%)
DM TPI 09 (Target 90%)	95.2	95.5	95.5	66.7	90	100
DM 30 (Target 90%)	70	67.57	70	76.92	64	Data not yet available
DM TPI 11 (Target 90%)	85.7	95.5	95.5	95.2	100	Data not yet available
DM TPI 12 (Target 90%)	90.5	95.5	86.4	90.5	100	100

2.5 Planning Enforcement Statistics

2.6 Table 3 below is a summary of enforcement cases registered and closed between 1 August 2024 to 31 January 2025. The figures show that in the last six months, the team is closing

broadly the number of cases it receives, and that the enforcement team are meeting the demands for its service, and not creating a backlog of cases to be investigated

Table 3: Enforcement cases registered/closed - 1 August 2024 to 31 January 2025.

Month	Enforcement cases registered	Enforcement cases closed
August 2024	21	10
September 2024	22	37
October 2024	22	20
November 2024	21	13
December 2024	10	25
January 2025	18	10
Totals for 6-month period	114	115

2.7 Table 4 below sets out the types of cases reported between the period by breach type. The figures indicate that the highest number of complaints received are the alleged non-compliance with planning conditions.

Table 4: Types of breaches investigated - Figures 1 August to 31 January 2025

Breach type	
Advert	14
Condition non - compliance	38
Change of use	22
Unauthorised Development	21
Hedge removal	0
Unauthorised works to trees	5
Untidy Land	9
Works in a Conservation Area	2
Unauthorised works to listed buildings	3

2.8 Notices Served

2.9 Table 5 below shows that a total of 14 notices were issued between 1 August 2024 to 31 January 2025.

Table 5: Number of notices issued between 1 August 2024 to 31 January 2025 (excludes Planning Contravention Notices)

Month	Notices issued
August	0
September	1
October	3
November	2
December	0
January	7
Totals	13

2.10 The notices issued in this period are detailed below:

- Land Adj Hare Pie Farm, Cranoe Road, Hallaton – Temporary Stop Notice (works being carried out in area listed as scheduled monument)
- Land at the rear of 56 High Street, Kibworth, LE8 0HQ - Enforcement Warning Notice (change of use, rear garden area)
- 10 Brook Lane, Billesdon, Leicestershire, LE7 9AB - Planning enforcement notice (metal structure to side of house)
- The Old Police Station, Lower Leicester Road, Lutterworth, LE17 4NG - Listed building enforcement notice (unauthorised works – external doors)
- Bosworth Hall, Theddingworth Road, Husbands Bosworth, Leicestershire, LE17 6LZ – Listed building enforcement notice (unauthorised works internally and to the roof)
- 13 Geveze Way, Broughton Astley, Leicestershire, LE9 6HJ - Planning enforcement notice (front boundary fence)
- Illston Heights, Main Street, Illston On The Hill, Leicestershire, LE7 9EG - Planning enforcement notice (front boundary fence)
- 43 Forge Close, Fleckney, Leicestershire, LE8 8DA – Planning enforcement notice (structure erected to front of property)
- 29 Uppingham Road, Houghton On The Hill, Leicestershire, LE7 9HJ - Planning enforcement notice (front boundary fence)
- 23 School Lane, Husbands Bosworth, Leicestershire, LE17 6JU – Planning enforcement notice and concurrent stop notice (unauthorised rear extensions)
- Land at Fleckney Road, Saddington, Leicestershire – Breach of Condition Notice
- 15 Meriton Road, Lutterworth, Leicestershire, LE17 4QD - Untidy Land Notice (s215)

2.11 Enforcement appeal decisions received between 1 August to 31 January 2025

Land at Bowden Lane, Welham, Leicestershire, LE16 7UX – 2 appeals both dismissed, and Council's notice upheld. See Appendix A and the Inspector's report below for further details.

Breaches: Unauthorised change of use of land to provide a total of 2 no. Gypsy and Traveller pitches and erection of an American style barn.

3. Legal Implications

- 3.1 There are no direct legal implications arising from the report itself.

4. Equality Implications

- 4.1 The primary objective of the planning enforcement function is to remedy harm to public amenity resulting from unauthorised development. The Council will not take disproportionate action and will seek to redress any issue through the most appropriate means. Under the general principles of the Council's equality plan officers will have due regard of equality impacts during any investigation and before a decision is made.

5. Financial Implications

- 5.1 There are no direct financial implications from this update report.

6. Risk Management Implications

- 6.1 The integrity of the Development Management process depends on the Councils' readiness to take enforcement action when it is necessary to do so, to remedy the undesirable effects of unauthorised activity. Failure to take enforcement action when it is clearly required would damage the reputation of the Council's Planning Enforcement Service.

7. Data Protection Implications

- 7.1 None identified.

8. Consultation

- 8.1 The Portfolio Holder has been consulted on the content of this report.

9. Options Considered

- 9.1 Taking effective enforcement action for a breach of planning control is important as a means of maintaining public confidence in the planning system. However, the Council's decision to take enforcement action is discretionary and the Council will act proportionately in responding to suspected breaches of planning control.

10. Background Papers

- 10.1 None

Previous report(s): None

Information Issued Under Sensitive Issue Procedure: n/a

Ward Members Notified: No

Appendix A:

Enforcement appeal decision – Land at Bowden Lane, Welham, Leicestershire, LE16 7UX

Appeal Decisions

Site visit made on 17 December 2024

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 JANUARY 2025

Appeal A Ref: APP/F2415/C/24/3343384

Land at Bowden Lane, Welham, Leicestershire, LE16 7UX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Jamie Smith against an enforcement notice issued by Harborough District Council.
- The notice was issued on 13 March 2024.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land to a Sui Generis use comprising of a residential Gypsy and Traveller site; the stationing of caravans, a day room and parking of associated vehicles on the Land; and unauthorised operational development, comprising of the laying of hardcore which facilitate the change of use, along with the erection of a barn building ("the Unauthorised Development").
- The requirements of the notice are to (i) cease the unauthorised residential use of the Land as a Gypsy and Traveller caravan site, (ii) permanently remove from the Land all caravans (including static caravans), associated vehicles and domestic paraphernalia; permanently remove from the Land all associated works and operational development undertaken to facilitate the unauthorised use referred to in 5(i) above, including but not limited to hardcore, road planings, and surfacing materials, (iv) dismantle and remove from the Land the newly erected day room and barn building, (v) remove all refuse and waste materials to include any generated by compliance with steps ii and iv above from the Land and dispose of at a licensed waste transfer site, and (vi) reinstate the Land to its lawful equestrian use.
- The period for compliance with the requirements is 9 calendar months for requirements (i) and (ii) and 12 calendar months for requirements (iii), (iv) and (vi).
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/F2415/W/24/3342250

Land at Bowden Lane, Welham, Leicestershire, LE16 7UX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Jamie Smith against the decision of Harborough District Council.
- The application reference is 23/01636/FUL.
- The development proposed is change of use of land for siting of 1 mobile home, dayroom, and hardstanding to provide 1 no. Gypsy and Traveller pitch (revised scheme of 22/01238/FUL) part retrospective.

Appeal C Ref: APP/F2415/C/24/3343386

Land at Bowden Lane, Welham, Leicestershire, LE16 7UX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Ruben Arrowsmith against an enforcement notice issued by Harborough District Council.
- The notice was issued on 13 March 2024.

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

- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land to a Sui Generis use comprising of a residential Gypsy and Traveller site; the stationing of caravans and parking of associated vehicles on the Land; and unauthorised operational development, comprising of the laying of hardcore which facilitate the change of use ("the Unauthorised Development").
- The requirements of the notice are to (i) cease the unauthorised residential use of the Land as a Gypsy and Traveller caravan site; (ii) permanently remove from the Land all caravans (including static caravans), associated vehicles and domestic paraphernalia; (iii) permanently remove from the Land all associated works and operational development undertaken to facilitate the unauthorised use referred to in 5(i) above, including but not limited to hardcore, road planings, and surfacing materials; (iv) remove all refuse and waste materials, to include any generated by compliance with steps ii and iii above from the Land and dispose of at a licensed waste transfer site, and (v) reinstate the Land to its lawful equestrian use.
- The period for compliance with the requirements is 9 calendar months for requirements (i) and (ii) and 12 calendar months for requirements (iii), (iv) and (v).
- The appeal is proceeding on the ground set out in section 174(2) (a), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal D Ref: APP/F2415/W/24/3342312

Land at Bowden Lane, Welham, Leicestershire, LE16 7UX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Ruben Arrowsmith against the decision of Harborough District Council.
- The application reference is 23/01482/FUL.
- The development proposed is Change of use of land for siting of 1 mobile home with ramp access to provide 1 no. Gypsy and Traveller pitch (revised scheme of 22/01237/FUL).

Decisions

Appeal A Ref: APP/F2415/C/24/3343384

1. It is directed that the enforcement notice be varied by deleting all the words in section 6 and substituting them with "*For requirement (i) and (ii) above: 12 months following the date this notice takes effect and for requirement (iii), (iv), (v) and (vi) above: 15 calendar months following the date this notice takes effect*". Subject to the variations, the appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B Ref: APP/F2415/W/24/3342250

2. The appeal is dismissed.

Appeal C Ref: APP/F2415/C/24/3343386

3. It is directed that the enforcement notice be varied by deleting all the words in section 6 and substituting them with "*For requirement (i) and (ii) above: 12 months following the date this notice takes effect and for requirement (iii), (iv) and (v) above: 15 calendar months following the date this notice takes effect*". Subject to the variations, the appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal D Ref: APP/F2415/W/24/3342312

4. The appeal is dismissed.

Preliminary Matters

5. The description of development on the planning application form for Appeal B states *'this will be a dayroom/bungalow to provide better accessibility for applicant's wife. It will be a single storey 2 bed structure to replace the existing stables. There is also a concrete base for a static mobile home'*. In the interests of precision, I have taken the description of development from the Council's refusal notice and appellant's appeal form in the banner heading above.
6. The description of development on the planning application form for Appeal D states *'change of use of land for siting of 1 mobile home to provide 1 no. Gypsy and Traveller pitch'*. In the interests of precision, I have taken the description of development from the Council's refusal notice and appellant's appeal form in the banner heading above.
7. Appeals A and B relate to the same site which is referred to by the appellant as *'Stable View'*. Appeals C and D relate to the same site which is referred to by the appellant as *'Cosy Corner Stables'*. The two sites are positioned alongside one another. The evidence indicates that there is some family interdependency across the two sites.
8. The National Planning Policy Framework was revised in December 2024 (the 2024 Framework). This replaces the previous version of the National Planning Policy Framework published in December 2023. Moreover, the Government's Planning Policy for Traveller Sites was also revised in December 2024 (the 2024 PPTS) and this replaces the Planning Policy for Travellers Sites dated August 2015 (amended December 2023). I afforded the main parties the opportunity to comment on the implications of the 2024 PPTS and the 2024 Framework. I have considered the comments received as part of the determination of this appeal.
9. Of relevance to Appeals A and B (Stable View) is a dismissed appeal¹, dated 12 October 2023, which I considered under section 78 of the Act and was lodged by the same appellant. This related to use of the same land at Stable View for the change of use of the land for the siting of 1 mobile home to provide 1 No. Gypsy and Traveller pitch. The appeal decision is a material consideration of significant weight as part of the consideration of Appeals A (ground (a) appeal) and B. The main issues under consideration for the 2023 appeal related also to the risk of flooding and whether the site was sustainably located. In dismissing such an appeal, I reached a balanced decision having regard to matters such as the personal circumstances of the family on the land, the need and provision of Gypsy and Traveller pitches in the area, the lack of alternative available sites, the best interests of the children on the site, and health/disability considerations.
10. I noticed on my site visit that a wooden building had been erected on the Cosy Corner Stables site which included washing facilities, a shower, and a room with a television. This building is not under consideration in respect of appeals C and D. Nonetheless, it is understood that it is unauthorised. There was a

¹ Appeal reference APP/F245/W/22/3313559

stable building positioned close to the mobile home. The main parties pointed out and agreed on the site visit that this was lawful.

Reasons

Appeals A & B - ground (a) appeal and section 78 appeal

Main Issues

11. The appeal made under ground (a) of section 174(2) of the Act (Appeal A) is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. The reasons for issuing the notice and the reasons for refusing planning permission (Appeal B) are essentially the same, save for the 'barn building' element of the notice which is not considered to be acceptable by the Council for solely flood risk reasons. Indeed, a planning application has previously been considered by the Council for the erection of a barn on the land.²
12. The main issues for consideration are therefore (i) the risk of flooding, (ii) whether the site is sustainably located and accords with Policy H6(5)(b) of the adopted 2019 Harborough Local Plan 2011-2031 (LP), and (iii) if planning harm has been/would be caused, whether this is outweighed by other considerations sufficient to justify the grant of planning permission.

Risk of Flooding

13. I turn first to use of the identified land at Stable View as a Gypsy and Traveller residential caravan site. The appellant has submitted an updated Flood Risk Assessment prepared by STM Environmental (FRA -2021- 000168 Updated November 2023, Version 2) which I have considered, and this has also been reviewed by the Environment Agency. It is noteworthy that the FRA has been prepared to 'support a planning application for the construction of a single storey dayroom' and so it does not relate to the siting of the residential caravans on the land. In this regard, it does not offer a comprehensive FRA for all development on the land, and this is indeed a point that has been raised by the Environment Agency (EA).
14. I am not certain why the appellant has also submitted a flood risk assessment for 'Wild Meadow Farm' dated August 2007, but this is out of date and so I have focussed my assessment on the more up-to-date flood risk assessment for the land and the representations made by the EA which are based on up-to-date flood risk mapping and modelling data.
15. The EA has also responded to the appellant's statement of case for Appeal B including comments made by him about the risk of flooding. I have taken the appeal representation from the Environment Agency into account, including the associated attachments, as part of the consideration of Appeals A and B.
16. The EA mapping shows that the appeal site is within flood zone 3. It is within the River Welland catchment floodplain (Flood Zone 3a) and the Stonton Brook floodplain (Flood Zone 3b). The land is defined by the Planning Practice Guidance (PPG) as having a high probability of flooding, i.e., greater than 1 in 100 (1%) annual probability of flooding. The site falls within functional

² Planning application reference 23/01180/FUL

floodplain. The PPG identifies functional floodplain as land which would naturally flood within an annual exceedance probability flood event of 3.3% greater in any year.

17. Caravans and mobile homes intended for permanent residential use are classified in the PPG and annex 3 of the National Planning Policy Framework 2023 (the Framework) as a '*highly vulnerable*' form of development. It is noteworthy that the EA has commented that the area has historical flooding records at the site, including flooding in 1998.
18. Table 2 of the Flood Risk and Coastal Change chapter of the PPG states that planning permission should '*not be permitted*' for highly vulnerable development in flood zone 3. The site is within flood zone 3 and use of it for residential purposes is a highly vulnerable form of development. The evidence is that the day room building on the land is being used to provide an accessible space to the appellant's wife who has a disability and receives support from health care professions. In this regard, I find that it is intended for permanent residential use. The caravans and day room fall within the highly vulnerable flood risk category. In this regard, the development fails to accord with the flood risk requirements of the Framework or the PPG. Given the clear policy position above, I find that the development should not be permitted. The occupiers of the proposed development would be at unacceptable risk from flooding. The view is also reached by the Environment Agency (EA).
19. The FRA includes a Flood Warning and Emergency Plan (FWEP) which indicates that the occupiers would subscribe to the EA flood warning direct service which would provide two-hour flood warnings by telephone, email, or facsimile.
20. The FWEP also includes mitigation measures relating to matters such as the use of sandbags, temporary barriers, drainage, gas and electricity, safe storage of records and insurance. It also states that safe egress to Flood Zone 1 would be available by a three-minute drive to Thorpe Langton. The evidence is that the mobile home would be positioned on a concrete pad 300 mm above ground level and fixed to an anchor point, and that rainwater tanks would provide attenuation in terms of the loss of permeable land arising from the siting of the mobile home.
21. I am not persuaded that the FWEP would reasonably ensure the safety of occupiers of the site in the event of a flood. It remains possible that the occupiers of the site may not receive flood warnings in time, either because they are sleeping, or owing to the failure of technology. If this were to happen, the occupiers of the site may be stranded given that the evacuation route may be flooded. Furthermore, the safety of members of the emergency services may be put at risk in this situation.
22. The appellant contends that an embankment on the west bank of Stockton Brook would limit flows in the event of a flood and hence the site would unlikely be flooded. The evidence is not persuasive in terms of this matter and I have no reason to disagree with the view expressed by the EA that 'any high ground in this location is a result of historic dredging and is not considered a formal defence and may not be able to withstand the weight of water should a flood event occur'.

23. The appellant states that based on the EA's long terms flood risk maps, the site is in an area of medium risk. The evidence does not support this view and in fact the evidence is that the site is in an area of high risk of flooding. I find that the FRA does not adequately consider the upstream nodes or consider the overland flow route to the north of Great Bowden Lane. While it is acknowledged that finished floor levels would/could be set 150mm above existing ground level only water compatible developments are considered appropriate in flood zone 3b.
24. The EA considers that land levels have been raised and that they may have been raised again after 2022. They state that this would account for the discrepancies identified in the FRA. I do not know with absolute certainty if this has occurred, but, if it has then the FRA does not deal with floodplain compensation in association with the development. If this has happened, then it would be a matter that would justify refusing planning permission as any such change in land levels may put other developments within the functional floodplain at further risk of flooding.
25. I turn now to the barn building which is also the subject of Appeal A. This is classified as '*less vulnerable*' (i.e., land and buildings used for agriculture and forestry) in table 2 of the PPG and annex 3 of the Framework. As the site falls within functional floodplain (zone 3b) table 2 states that such development should '*not be permitted*'. Moreover, I have not been provided with a detailed mitigation strategy to address the effects of the barn building on functional floodplain. In this regard, I cannot conclude that the development has not led to the increased risk of flooding both on the site and elsewhere as a result of the development occurring on functional floodplain.
26. The FRA (including the FWEP) does not lead me to reach a conclusion that the development that is the subject of appeals A and B would be safe for its lifetime. Furthermore, and, in any event, both the Framework and the PPG make it clear that highly vulnerable and less vulnerable development in this location should '*not be permitted*'. The risk of flooding is such that it would pose a danger to occupiers of the site and to the emergency and local services in the event of the need for an evacuation. I therefore conclude that the development does not accord with the flood risk requirements of policies CC3 and H6(5)(g)(iv) of the LP, chapter 14 of the Framework, and the PPG.

Whether Sustainably Located and Policy H6 of the LP

27. The appeal site is in an area of countryside which is a significant distance away from a reasonable level of day-to-day services and amenities. The very small settlements of Welham and Weston by Welland include a very limited range of services, but even the journey to the heart of these areas would be via the long and narrow Bowden Lane which is devoid of footpaths and is unlit. Hence, walking would be discouraged on a regular basis. The distances involved to settlements where there is a greater range of day-to-day facilities and services, such as Great Bowden or Market Harborough, are such that regular walking would not be likely and, furthermore, the routes to such settlements are again along highways which are unlit and do not include continuous footways.
28. There is no evidence before me of any bus stops or services near the appeal site. Owing to the distances involved, and the absence of streetlights, occupiers of the site would be unlikely to use bicycles on a regular basis to reach

settlements such as Market Harborough or Great Bowden. Indeed, I do not consider that these roads provide the sort of safe environment, particularly in the hours of darkness or when there is inclement weather, which is conducive to frequent walking (or indeed cycling) to a settlement.

29. I recognise that traffic survey information suggests that Bowden Lane has a peak hourly flow of two vehicles and a total of less than 100 vehicles per day (based on a 2022 survey), but nonetheless the potential for conflict between pedestrians and vehicles still exists should occupiers of the site decide to walk in Bowden Lane. I find that there is conflict with policy H6(5)(b) of the LP which requires Gypsy and Traveller sites to be within 'a safe walking distance of settlement'.
30. I acknowledge that paragraph 110 of the 2024 Framework states that *'opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'*. In this case, however, the regular potential to access an acceptable level of amenities and services in surrounding settlements, on foot or by bicycle, would be significantly inhibited for the reasons outlined above. Furthermore, the evidence does not indicate that there are suitable opportunities available for occupiers of the site to use public transport to access settlements which contain a reasonable level of day-to-day amenities and services.
31. The appellant states that it would be possible to use taxis to reach settlements and that grocery shopping could take place using home delivery services. While this type of living is of course possible, it would still likely involve motorised trips which would have the potential to lead to similar environmental harm. In any event, I am not persuaded that occupiers of the site would seek to rely on the use of taxis for all journeys and while home grocery deliveries may be possible, other trips would be necessary for the family on a day-to-day basis relating to school, leisure, and recreational activities.
32. I therefore find that the evidence indicates that car dependency would be very likely for access to day-to-day activities and, in this regard, there would be direct conflict with policy H6(5)(b) of the LP which states that Gypsy and Traveller sites will be permitted where *'the site is located within safe walking distance to a settlement and has access to a range of services including health and education provision'*. In this regard, I do not therefore find that the appeal site is in a sustainable location even accounting for the above flexible approach to addressing sustainable transport and accessibility matters as outlined in the Framework.
33. For the above reasons, I conclude that the proposal would not accord with the sustainable and accessibility requirements of policies GD1 and H6 of the LP and the Framework. This is a matter that weighs against allowing the appeal and, indeed, reflects the control advocated in paragraph 26 of the 2024 PPTS which is that *'local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan'*. Notwithstanding the views expressed by the appellant, I find that the site is 'away from' settlements for the purposes of determining the appeals.

34. In reaching this conclusion, I have considered the 2024 PPTS which does not specifically include reference to distance from or means of transport to shops and services. Nonetheless, the 2024 PPTS requires planning applications to be determined against criteria-based development plan policies for Gypsies and Travellers. While a settled base may mean that there was less travel when compared to a roadside existence, I do not consider, as detailed later in this decision, that a roadside existence need be an inevitable outcome if this appeal were to be dismissed. In any event, I do not find that the proposal would accord with policy H6 of the LP. It is not located in safe walking distance to a settlement and the evidence is that access to a range of services including health and education provision would, on a day-to-day basis, be private motor vehicle focussed. The conflict with Policy H6 of the LP and the 2024 Framework is an overriding matter in respect of this main issue.

Other Considerations

35. The evidence is that the appellant is married, has four children living on the site, and previously lived on a Traveller pitch at 'Greenacres' which belonged to another family. While not entirely certain, the evidence in the October 2023 appeal decision pointed to the likelihood of the appellant and his family needing to vacate 'Greenacres' when the other family returned.
36. There is no dispute that the appellant is a Traveller in PPTS terms. This was indeed a finding that I reached when I considered the planning appeal on the land in October 2023. In this regard, I have had regard to Article 8 of the European Convention on Human Rights, as incorporated into the Human Rights Act 1998 (HRA), which states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
37. The Gypsy and Traveller Accommodation Assessment for Leicester and Leicestershire 2017 (2017 GTAA) identifies a need for Gypsy and Traveller pitches in the area for 2016-2031. It identifies a need for five pitches relating to Gypsies/Travellers in accordance with the definition in annex 1 of the PPTS. The Harborough District Authority Monitoring Report 2021/22 states that four of these five pitches have already been provided. In addition, Policy H6 of the LP allocates sites for Gypsies and Travellers and there is also 'reserve site' at Boneham's Lane, Gilmorton to meet future accommodation needs due to either an increase in the need of pitches arising from a change to the PPTS definition and/or sufficient evidence is provided that the identified 'unknown' Gypsy and Traveller population does not meet the PPTS definition of Gypsy and Traveller.
38. Policy H6 of the LP states that the need arising from non-PPTS definition Gypsies and Travellers, and 'unknown' Gypsies/Travellers, is identified as being respectively 24 pitches and 13 pitches. The Court of Appeal judgement of *Smith v SSLUHC & Ors* (2022) EWCA held that the PPTS definition of Gypsy and Travellers is discriminatory in so far that it does not include persons of nomadic habitat of life who, on the grounds of their own or family's dependants' educational or health needs or old age, have ceased to travel permanently.
39. In the context of the above, I find that when the full extent of non-PPTS definition need is considered, the evidence does not indicate that the local

planning authority (LPA) can demonstrate a five-year supply of deliverable Gypsy and Traveller pitches. Indeed, and, in this regard, the LPA's own data in the form of the *'pitch requirements and supply document'*, dated 12 October 2023, indicates 4.12 years supply for 2022-2027. This relies on the provision of pitches from the LP 'reserve' site. However, the evidence is not certain about whether Gypsy/Traveller pitches would be capable of being delivered on this site in the next five years. This adds additional uncertainty about the five-year supply position. The LPA has indicated that if pitches could not be provided on the reserve site within the next five years, the supply position would be 1.38 years.

40. I do not find that the evidence demonstrates that the LPA can demonstrate a five-year supply of deliverable Gypsy/Traveller pitches when a non-discriminatory approach to need and supply is considered. I find that the actual supply position is not entirely certain for the reasons outlined above and, in addition, the 2017 GTAA has not been reviewed for several years thereby resulting in further uncertainty in terms of whether the need for Gypsy and Traveller pitches has changed.
41. Paragraph 28 of the 2024 PPTS states that *'if a local planning authority cannot demonstrate an up-to-date 5-year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply'*. I find that the LPA is not able to demonstrate a deliverable five-year supply of Gypsy/Traveller sites. This is the same position that I reached in terms of my October 2023 appeal decision, and this has not been disputed by the Council as part of Appeals A and B.
42. However, and while I afford positive weight to the provision of the Gypsy and Traveller site in the context of an undersupply position, the presumption in favour of sustainable development is not engaged in this case given paragraph 11(d)(ii) of the 2024 Framework which states that it does not apply where *'the application for policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing development proposed'*. Given my conclusion in respect of the flood risk main issue, and considering footnote 7 of the 2024 Framework, I find that this constitutes a strong reason for refusing the development.
43. The LPA has not indicated that there are currently any alternative available Gypsy and Traveller pitches in the area to accommodate the family. While there is no requirement for the appellant to demonstrate that there are no alternative available pitches in the area, the LPA does not dispute what the appellant says about this matter. This is therefore a matter which weighs in favour of allowing the appeals. Furthermore, I attribute some positive weight to the fact that the proposal would make more effective use of a previously developed site in accordance with paragraph 26(a) of the PPTS.
44. I am mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children. The appellant has a number of children. The needs of the children must in law be a primary consideration in the determination of these appeals.
45. The evidence is that the appellant's children are of school age and attend local schools. I do not doubt that a settled base provides educational and emotional

stability for the children. This is therefore a matter to which I afford positive weight in favour of allowing the appeals. However, this is tempered to some extent as it may be possible for the appellant to secure planning permission on a new and alternative site which is outside of Flood Zone 3 (and accords with policy) and still allow the children to attend local schools. I reached this conclusion as part of my October 2023 appeal decision, and it is noteworthy that the appellant has not responded to this matter.

46. I note that in the October 2023 appeal, it was stated that the appellant and his family were registered with local health providers. I have no reason to doubt that this has changed. This provides some stability and certainty for the family in terms of health care. However, this is not a matter to which I afford very significant weight in favour of allowing the appeals, as there is no evidence before me to indicate why it would not be possible to explore the potential to secure planning permission on another site in the area, fully according with the requirements of policy H6 of the LP, while also continuing to benefit from health providers.
47. The evidence is that the appeal site includes previously developed land. This is a matter to which I afford positive weight in the overall planning balance considering paragraph 27a of the 2024 PPTS.
48. The appellant states that the day room is needed to accommodate his wife's health care requirements. It includes level access at the front door to allow easy access in and out and a wheelchair accessible bathroom. The remainder of the space is an open plan living room and kitchen. I do not doubt that the day room offers the appellant's wife a more comfortable and accessible space when compared to the mobile home, and that it also offers ease of access for health care works. It is clear from the evidence that the appellant's wife is undergoing treatment for a specified health condition that constitutes a disability from the point of view of long term and substantial effects on the ability to carry out normal day to day activities. For the purposes of this appeal, I have therefore considered this matter in respect of the requirements of the Equality Act 2010.
49. In respect of the above, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I do not doubt that the certainty of a stable residential base, and a bespoke day room building, helps to alleviate and control some of the symptoms associated with the wife's disability. Moreover, I do not doubt the support that is provided from the occupiers of the adjacent unauthorised Gypsy and Traveller site (i.e., the site that is the subject of Appeals C and D) in terms of day-to-day help and support for the appellant's wife. These matters weigh in favour of allowing the appeals.
50. The Act also recognises that race constitutes a relevant protected characteristic for the purposes of the PSED. Romany Gypsies and Irish Travellers are ethnic minorities, and thus have the protected characteristic of race. In this regard, I afford positive weight to the fact that use of the land as a residential caravan site would enable the appellant and his family to live a nomadic lifestyle in accordance with their culture and values.

Planning Balance and Conclusions

51. The occupiers of the site would be at risk of flooding and the barn building has been built in functional floodplain without any detailed compensatory measures. The proposal includes a combination of *'highly vulnerable'* permanent residential development, and *'less vulnerable'* agricultural development, in Flood Zone 3. National planning policy states that such development should *'not be permitted'*. This is a matter to which I afford very substantial adverse weight in the planning balance. Furthermore, I have found that the proposal would not be sustainably located and there would be significant reliance on the private motor vehicle for most day-to-day trips. In particular, there is direct conflict with policy H6(5)(b) of the LP which states that Gypsy and Traveller sites will be permitted where *'the site is located within safe walking distance to a settlement and has access to a range of services including health and education provision'*. This also weighs significantly against allowing the appeals.
52. Weighed against the above are the other considerations to which I have referred. I acknowledge that the refusal of the planning applications would result in the family being made homeless. In this context, and despite the undisputed lack of other available alternative Gypsy/Traveller pitches in the area, I have not been provided with a credible reason as to why the appellant could not explore, within a relatively short period of time, the potential to secure planning permission and occupy a new Gypsy/Traveller site elsewhere in the locality which would fully accord with the requirements of policy H6 of the LP. Consequently, I find that permanent planning permission is not therefore justified. My conclusions on the main issues are matters of overriding concern. The other considerations do not collectively attribute sufficient weight to outweigh the harm that would be caused from the development in flood risk terms and in respect of locational sustainability and safety matters.
53. I have considered, in view of the other considerations outlined above, whether a temporary planning permission would be justified. The risk of flooding is a matter to which I afford very substantial adverse weight in the planning balance. National policy advises against permitting the development that is the subject of the appeals, and I take that to mean temporary or permanent planning permission. Indeed, it remains possible that a flood event could occur at any time, and, in this regard, I do not accept that a temporary permission would have the effect minimising the risk of flooding to occupiers of the site.
54. I recognise that the appellant's wife has a disability, but the risk associated with a flooding event is real and no doubt would be an ongoing psychological concern for all members of the family. Given these matters, coupled with the proposal's conflict overall with policy H6 of the LP, and the potential to secure planning permission for a Traveller pitch elsewhere, I do not find that a temporary planning permission is justified.
55. While I do not find that there is adequate justification to grant temporary planning permission, I have nonetheless decided to increase the compliance periods in the notice to respectively twelve months and fifteen months. I provide justification for this as part of the consideration of the ground (g) appeal for Appeal B, but, in summary, I find, on balance, that it is necessary, reasonable and proportionate given the personal circumstances of the family,

the best interests of the children, and to afford more time to find/secure planning permission on an alternative site.

56. In this case, a refusal of planning permission for appeals A and B will lead to a significant interference of rights under Article 8 of the European Convention on Human Rights as incorporated into the HRA. However, it remains possible that the appellant could source an alternative site in the area and seek planning permission on it for a Gypsy/Traveller pitch in accordance with policy H6 of the LP and within the varied compliance period. Therefore, a roadside existence need not be an inevitable outcome arising from these appeals being dismissed. In any event, the collective planning harm that I have identified is of such weight that a refusal of planning permission for appeals A and B is a proportionate, legitimate, and necessary response that would not violate those persons rights under Article 8.
57. In this case, I find that the protection of the public interest, and safety of occupiers of the site, cannot be achieved by means that are less interfering of the rights of the family arising from the refusal of the planning applications. Furthermore, and, having regard to the PSED, I find that the identified risk and harm caused by the proposal outweighs any benefits in terms of eliminating discrimination against persons with the protected characteristic of race and disability. In this regard, it is proportionate and necessary to dismiss the appeals.
58. For the above reasons, I conclude that the developments do not accord with the development plan for the area taken as a whole and there are no material considerations which indicate the decisions should be made other than in accordance with the development plan. Neither permanent nor temporary planning permission is justified in this case. Consequently, the ground (a) appeal fails (appeal A) and the planning appeal (appeal B) is dismissed.
59. In reaching the above conclusion, I have considered the various appeal decisions submitted by the appellant. None of these appeal decisions alter or outweigh my conclusion on the main issues, including the sustainable location main issue which has required me to exercise my own planning judgement. I note the appellant's inclusion of an appeal decision where flood risk was balanced against other material considerations. I have balanced the identified flood risk concerns with other material considerations and, in this case, have concluded that planning permission should not be approved.

Appeals C & D – ground (a) appeal and section 78 appeal

Main Issues

60. The appeal made under ground (a) of section 174(2) of the Act is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. The reasons for issuing the notice and the reasons for refusing planning permission (Appeal D) are the same. The main issues for consideration are therefore whether (i) occupiers of the site would be at risk of flooding, (ii) whether the site is sustainably located and accords with Policy H6(5)(b) of the LP, and (iii) if planning harm has been/would be caused, whether this is outweighed by other considerations sufficient to justify the grant of planning permission.

Risk of Flooding

61. The appeal site is adjacent to the land which is the subject of appeals A and B. It also falls within flood zone 3 and includes a mobile home which falls within the 'highly vulnerable' category. For the same reasons as outlined in my consideration of appeals A and B, and noting that in this case appeals C and D do not include an agricultural barn, I conclude that occupiers of the site would be at risk of flooding and, given the clear position set out in the PPG, and the comments from the EA, the development should 'not be permitted'.
62. In this case, I find that the occupiers of the site would be at risk of flooding and, furthermore, the FRA does not lead me to conclude that the development would be safe for its lifetime. The risk of flooding is such that it would pose a danger to occupiers of the site and to the emergency and local services in the event of the need for an evacuation.
63. I therefore conclude that the development does not accord with the flood risk requirements of policies CC3 and H6(5)(g)(iv) of the LP, chapter 14 of the 2024 Framework, and the PPG.

Whether Sustainably Located and Policy H6 of the LP

64. The appeal site is adjacent to the land which is the subject of appeals A and B. For the same reasons as outlined in my consideration of appeals A and B, I find that the site is not located in safe walking distance to a settlement and the evidence is that access to a range of services including health and education provision would, on a day-to-day basis, be private motor vehicle focussed. In this regard, I conclude that there is conflict with Policy H6 of the LP and the 2024 Framework.

Other Considerations

65. The evidence is that the appellant is married and has one child who is of school age. There is some interdependency between this family and the family occupying the adjacent site known as Stable View which I have considered as part of appeals A and B. The evidence is that support and assistance are given to a member of the family at Stable View who has a disability. This includes helping in the home and caring for the children during periods poor health.
66. There is no dispute that the appellant is a Traveller in PPTS terms. In this regard, I have had regard to Article 8 of the European Convention on Human Rights, as incorporated into the Human Rights Act 1998 (HRA), which states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
67. The Act also recognises that race constitutes a relevant protected characteristic for the purposes of the PSED. Romany Gypsies and Irish Travellers are ethnic minorities, and thus have the protected characteristic of race. In this regard, I afford positive weight to the fact that use of the land as a residential caravan site would enable the appellant and his family to live a nomadic lifestyle in accordance with their culture and values.
68. The Gypsy and Traveller Accommodation Assessment for Leicester and Leicestershire 2017 (2017 GTAA) identifies a need for Gypsy and Traveller

pitches in the area for 2016-2031. It identifies a need for five pitches relating to Gypsies/Travellers in accordance with the definition in annex 1 of the PPTS. The Harborough District Authority Monitoring Report 2021/22 states that four of these five pitches have already been provided. In addition, Policy H6 of the LP allocates sites for Gypsies and Travellers and there is also 'reserve site' at Boneham's Lane, Gilmorton to meet future accommodation needs due to either an increase in the need of pitches arising from a change to the PPTS definition and/or sufficient evidence is provided that the identified 'unknown' Gypsy and Traveller population does not meet the PPTS definition of Gypsy and Traveller.

69. Policy H6 of the LP states that the need arising from non-PPTS definition Gypsies and Travellers, and 'unknown' Gypsies/Travellers, is identified as being respectively 24 pitches and 13 pitches. The Court of Appeal judgement of *Smith v SSLUHC & Ors* (2022) EWCA held that the PPTS definition of Gypsy and Travellers is discriminatory in so far that it does not include persons of nomadic habitat of life who, on the grounds of their own or family's dependants' educational or health needs or old age, have ceased to travel permanently.
70. In the context of the above, I find that when the full extent of non-PPTS definition need is considered, the evidence does not indicate that the local planning authority (LPA) can demonstrate a five-year supply of deliverable Gypsy and Traveller pitches. Indeed, and, in this regard, the LPA's own data in the form of the '*pitch requirements and supply document*', dated 12 October 2023, indicates 4.12 years supply for 2022-2027. This relies on the provision of pitches from the LP 'reserve' site. However, the evidence is not certain about whether Gypsy/Traveller pitches would be capable of being delivered on this site in the next five years. This adds additional uncertainty about the five-year supply position. The LPA has indicated that if pitches could not be provided on the reserve site within the next five years, the supply position would be 1.38 years.
71. I do not find that the evidence demonstrates that the LPA can demonstrate a five-year supply of deliverable Gypsy/Traveller pitches when a non-discriminatory approach to need and supply is considered. I find that the actual supply position is not entirely certain for the reasons outlined above and, in addition, the 2017 GTAA has not been reviewed for several years thereby resulting in further uncertainty in terms of whether the need for Gypsy and Traveller pitches has changed.
72. Paragraph 28 of the 2024 PPTS states that '*if a local planning authority cannot demonstrate an up-to-date 5-year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply*'. I find that the LPA is not able to demonstrate a deliverable five-year supply of Gypsy/Traveller sites. This is the same position that I reached in terms of my October 2023 appeal decision, and this has not been disputed by the Council as part of Appeals A and B.
73. However, and, while I afford positive weight to the provision of the Gypsy and Traveller site in the context of an undersupply position, the presumption in favour of sustainable development is not engaged in this case as paragraph 11(d)(ii) of the 2024 Framework states that it does not apply where '*the application for policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing development*'

proposed'. Given my conclusion in respect of the flood risk main issue, and considering footnote 7 of the 2024 Framework, I find that this constitutes a strong reason for refusing the development.

74. The LPA has not indicated that there are currently any alternative available Gypsy and Traveller pitches in the area to accommodate the family. While there is no requirement for the appellant to demonstrate that there are no alternative available pitches in the area, the LPA does not dispute what the appellant says about this matter. This is therefore a matter which weighs in favour of allowing the appeals. Furthermore, I attribute some positive weight to the fact that the proposal would make more effective use of a previously developed site in accordance with paragraph 26(a) of the PPTS.
75. I am mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children. The needs of the children must in law be a primary consideration in the determination of these appeals.
76. The evidence is that the appellant's child is home schooled. I do not doubt that a settled base provides educational and emotional stability for the child. This is therefore a matter to which I afford positive weight in favour of allowing the appeals. However, this is tempered to some extent as it may be possible for the appellant to secure planning permission on a new and alternative site which is outside of Flood Zone 3 (and accords with policy and still allow the child to be home schooled).
77. The evidence is that the appeal site includes previously developed land. This is a matter to which I afford positive weight in the overall planning balance considering paragraph 27a of the 2024 PPTS.

Planning Balance and Conclusions

78. The occupiers of the site would be at risk of flooding. The development includes *'highly vulnerable'* permanent residential development in Flood Zone 3. National planning policy states that such development should *'not be permitted'*. This is a matter to which I afford very substantial adverse weight in the planning balance. There is direct conflict with policy H6(5)(b) of the LP which states that Gypsy and Traveller sites will be permitted where *'the site is located within safe walking distance to a settlement and has access to a range of services including health and education provision'*. This conflict also weighs significantly against allowing the appeals.
79. Weighed against the above are the other considerations to which I have referred. I acknowledge that the refusal of the planning applications would result in the family being made homeless. In this context, and despite the undisputed lack of other available alternative Gypsy/Traveller pitches in the area, I have not been provided with a credible reason as to why the appellant could not explore, within a relatively short period of time, the potential to secure planning permission and occupy a new Gypsy/Traveller site elsewhere in the locality which would fully accord with the requirements of policy H6 of the LP. Consequently, I find that permanent planning permission is not therefore justified. My conclusions on the main issues are matters of overriding concern. The other considerations do not collectively attribute sufficient weight to

outweigh the harm that would be caused from the development from a flood risk and locational sustainability and safety point of view.

80. I have considered, in view of the other considerations outlined above, whether a temporary planning permission would be justified. The risk of flooding is a matter to which I afford very substantial adverse weight in the planning balance. National policy advises against permitting the development that is the subject of the appeals, and I take that to mean temporary or permanent planning permission. Indeed, it remains possible that a flood event could occur at any time, and, in this regard, I do not accept that a temporary permission would have the effect minimising the risk of flooding to occupiers of the site.
81. I recognise the interdependency between the occupiers of the site and the adjacent site at Stable View in terms of the support and care provided to an occupier who has a disability. However, the risk associated with a flooding event is real and no doubt would be an ongoing psychological concern for occupiers of both sites. Given these matters, coupled with the proposal's conflict overall with policy H6 of the LP, and the potential to secure planning permission for a Traveller pitch elsewhere, I do not find that a temporary planning permission is justified.
82. While I do not find that there is adequate justification to grant temporary planning permission, I have nonetheless decided to increase the compliance periods in the notice to respectively twelve months and fifteen months. I provide justification for this as part of the consideration of the ground (g) appeal for Appeal B, but, in summary, I find, on balance, that it is necessary and reasonable given the personal circumstances of the family (in particular the interdependency with the family at Stable View), the best interests of the children, and to afford more time to find/secure planning permission on an alternative site.
83. In this case, a refusal of planning permission for appeals C and D would lead to a significant interference of rights under Article 8 of the European Convention on Human Rights as incorporated into the HRA. However, it remains possible that the appellant could source an alternative site in the area and seek planning permission on it for a Gypsy/Traveller pitch in accordance with policy H6 of the LP and within the varied compliance period. Therefore, a roadside existence need not be an inevitable outcome arising from these appeals being dismissed. In any event, the collective planning harm that I have identified is of such weight that a refusal of planning permission for appeals C and D is a proportionate, legitimate, and necessary response that would not violate those persons rights under Article 8.
84. In this case, I find that the protection of the public interest, and safety of occupiers of the site, cannot be achieved by means that are less interfering of the rights of the family arising from the refusal of the planning applications. Furthermore, and, having regard to the PSED, I find that the identified risk and harm caused by the proposal outweighs any benefits in terms of eliminating discrimination against persons with the protected characteristic of race and disability. In this regard, it is proportionate and necessary to dismiss the appeals.
85. For the above reasons, I conclude that the developments do not accord with the development plan for the area taken as a whole and there are no material

considerations which indicate the decisions should be made other than in accordance with the development plan. Neither permanent nor temporary planning permission is justified in this case. Consequently, the ground (a) appeal fails (appeal C) and the planning appeal (appeal D) is dismissed.

86. In reaching the above conclusion, I have considered the various appeal decisions submitted by the appellant. None of these appeal decisions alter or outweigh my conclusions on the main issues, including the sustainable location and safety main issue which has required me to exercise my own planning judgement. I note the appellant's inclusion of an appeal decision where flood risk was balanced against other material considerations. I have balanced the identified flood risk concerns with other material considerations and, in this case, have concluded that planning permission should not be approved.

Ground (f) appeal (Appeal A)

87. An appeal on ground (f) of section 174(2) of the Act is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
88. The appellant's claim under the ground (f) appeal is that planning permission was granted in September 2017, under application No. 17/01297/FUL, for the change of use of the front half of the site to equestrian use, together with the laying of hardstanding and erection of stables. Planning permission was also granted in February 2021, under application No. 20/01723/FUL, for the change of use of the rear half of the site to equestrian use, together with the laying of hardstanding and erection of stables. The appellant states that these planning permissions were implemented and, the hardstanding laid, and stables erected. As such, he states that the hardstanding referred to in the enforcement notice was not laid to facilitate the change of use and, cannot be required to be removed.
89. The onus is on the appellant to demonstrate that the hardstanding was formed as part of the implementation of planning permission Nos. 17/01297/FUL and 20/01723/FUL and not in whole or in part in connection with the unauthorised material change of use of the land. The appellant has not provided clear, objective, and precise evidence in this regard. On the balance of probability, I cannot therefore conclude that the whole of the hardstanding that is on the land now was formed in connection with planning permission Nos. 17/01297/FUL and 20/01723/FUL.
90. As the appellant has not sufficiently proven that the whole of the hardstanding relates to the implementation of planning permission Nos. 17/01297/FUL and 20/01723/FUL, I find that the evidence is that at least part of it has facilitated the material change of use of the land. The laying of a hardstanding is not fundamental, or causative of the material change of use of the land. It is an ancillary element to it.
91. The purpose of the notice is to remedy the breach of planning control. The removal of hardstanding which facilitated the material change of use of the land is not an excessive requirement. It is noteworthy that the notice does not require the removal of any hardstanding which may be lawful. It simply

requires the removal of hardstanding which *'facilitated the unauthorised use'*. It is also noteworthy that the notice states *'reinstate the Land to its lawful equestrian use'*. The requirements of the notice would not prohibit the retention of lawful hardstanding in association with a lawful equestrian use.

92. For the above reasons, I conclude that the ground (f) appeal fails.

Ground (g) appeal (Appeal A)

93. An appeal made on ground (g) is that the period specified in the notice in accordance with s173(9) falls short of what should reasonably be allowed.

94. The appellant's claim under the ground (g) appeal is that a period of nine months is too short to cease residential use of the land and that a period of eighteen months would be reasonable so that the family are not left homeless.

95. In the context that there are currently no alternative available Gypsy and Traveller sites in the area, and in view of the personal circumstances (including the interdependency with the family on the adjacent site) and the best interests of the appellant's children, I find that it is reasonable and proportionate to increase the respective compliance periods from nine months to twelve months and from twelve months to fifteen months.

96. I find that the increased compliance periods strike a reasonable balance between providing more time to find/secure planning permission for an alternative Gypsy and Traveller site, to provide longer continuity of care and support from a settled base for the appellant's wife who has a disability and to provide stability for the appellant's children in education terms, while also bringing the harmful development to an end.

97. To the extent that the compliance periods will be varied, I conclude that the ground (g) appeal succeeds.

Ground (f) appeal (Appeal C)

98. An appeal on ground (f) of section 174(2) of the Act is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

99. The appellant's claim under ground (f) is that the hardstanding should not be removed as it was formed as part of the implementation of approved planning permission No. 20/01722/FUL for the change of use of the rear half of the site to equestrian use together with the laying of hardstanding and erection of stables.

100. The onus is on the appellant to demonstrate that the whole of the hardstanding on the land was formed as part of the implementation of planning permission No. 20/01722/FUL (or any other planning permission) and not in whole or in part in connection with the unauthorised material change of use of the land. The appellant has not provided clear, objective, and precise evidence in this regard. On the balance of probability, I cannot therefore conclude that the whole of the hardstanding that is on the land now was formed in

connection with planning permission No. 20/01722/FUL (or any other planning permission).

101. As the appellant has not sufficiently proven that whole of the hardstanding relates to the implementation of planning permission No. 20/01722/FUL (or any other planning permission), I find that the evidence is that at least part of it has facilitated the material change of use of the land. The laying of a hardstanding is not fundamental, or causative of the material change of use of the land. It is an ancillary element to it.

102. The purpose of the notice is to remedy the breach of planning control. The removal of the hardstanding which facilitated the material change of use of the land is not an excessive requirement. It is noteworthy that the notice does not require the removal of any hardstanding which may be lawful. It simply requires the removal of hardstanding which *'facilitated the unauthorised use'*. It is also noteworthy that the notice states *'reinstate the Land to its lawful equestrian use'*. The requirements of the notice would not prohibit the retention of lawful hardstanding in association with a lawful equestrian use.

103. For the above reasons, I conclude that the ground (f) appeal fails.

Ground (g) appeal (Appeal C)

104. An appeal made on ground (g) is that the period specified in the notice in accordance with s173(9) falls short of what should reasonably be allowed.

105. The appellant states that a period of nine months is too short to cease residential use of the land and that a period of eighteen months would be reasonable so that the family are not left homeless.

106. In the context that there are currently no alternative available Gypsy and Traveller sites in the area, and in view of the personal circumstances (including the interdependency with the family on the adjacent site) and the best interests of the child living on the land, I find that it is reasonable and proportionate to increase the respective compliance periods from nine months to twelve months and from twelve months to fifteen months.

107. I find that the increased compliance periods strike a reasonable balance between providing more time to find/secure planning permission for an alternative Gypsy and Traveller site, to provide longer continuity of care and support from a settled base for the disabled occupier of Stable View, and to provide stability for the appellant's child in education terms, while also bringing the harmful development to an end.

108. To the extent that the compliance periods will be varied, I conclude that the ground (g) appeal succeeds.

Conclusions

Appeal A Ref: APP/F2415/C/24/3343384

109. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

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Appeal B Ref: APP/F2415/W/24/3342250

110. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

Appeal C Ref: APP/F2415/C/24/3343386

111. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

Appeal D Ref: APP/F2415/W/24/3342312

112. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

D Hartley

INSPECTOR