

14/00281/VAC – FLECKNEY  
Coba Plastics

Target Date: 28/5/14

Variation of Condition 6 of permission  
12/00181/FUL to allow operational hours of  
0600-2200 Monday to Friday and 0800-1700  
Saturday –Sunday. Coba Plastics Ltd.  
Marlborough Drive, Fleckney

### **Recommendation**

APPROVE subject to varied condition and additional conditions.

6. The Building shall only be used between the hours of 06:00 and 2200 Monday to Friday and 0800 to 1700 Saturday, Sunday, Bank and Public holidays.. Reason: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the neighbouring residents and to accord with Harborough district Core Strategy Policy CS11.

9. Deliveries by vehicles or plant, of materials or equipment to the unit shall only occur between 08:00-17:00 on weekday, except bank holidays. Reason: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the neighbouring residents and to accord with Harborough district Core Strategy Policy CS11.

10. With the exception of receiving/sending deliveries, repair or maintenance purposes and for access/egress, doors communicating with the workshop area that are within the external facade of the building should remain closed during any operational activities. Reason: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the neighbouring residents and to accord with Harborough District Core Strategy Policy CS11.

### **Site:**

The application site is located on Marlborough Drive within the Fleckney Industrial Estate. The site is occupied by Coba Plastics Limited and there are substantial industrial buildings on the land. The site is occupied by a new engineering building and car parking area. The site area is 0.26ha.

To the north east is the existing Coba site, south east is open countryside, to the south west is Saddington Road, separated from the site by a bund and tree planting and to the north-west is a flood relief basin and other industrial units. On the opposite side of Saddington Road is a relatively recent residential.

### **The Proposal:**

To vary Condition 6 - the operation hours from:

The Building shall only be used between the hours of 08:00 and 17:00 from Monday to Friday. REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the neighbouring residents and to accord with Harborough District Core Strategy Policy CS11.

To:

The building shall only be used between the hours of 0800 to1700 Monday to Friday to 0600-2200 Monday to Friday and 0800-1700 Saturday -Sunday.

### **Additional information submitted by Agents/Applicants:**

*The COBA group acquired a precision engineering business in May 2013 as part of a strategic move to integrate an important tooling supplier in to our manufacturing business. We have*

*invested significantly in capital plant since the acquisition in order to improve the efficiency of this business and also to increase production capacity, both of these aims have been successfully accomplished and this business now resides in our engineering building at Fleckney.*

*The development work we have done on this business so far has been very well received by our client base, to such an extent that the demand for our services out strips our capacity, when working on a single day shift basis. Minded that we are keen to make the best of this opportunity and also to make best use of our investment in plant and premises, we are seeking to extend our working pattern for some of the machining processes. We would initially anticipate that we would only have three people working on the morning shift and three on the evening shift and to this end we would suggest that this will make no perceivable difference to the local residents in terms of traffic and site deliveries, as our manufacturing and stores plants which are situated adjacent to this building currently operate on a 24 hours per day basis. To clarify, this means that we will only be increasing our employee numbers by three people.*

*We would not normally plan to operate at the weekends; our application makes this request to cover the eventuality that we may occasionally need to operate at weekends in the event of unforeseen circumstances or an urgent requirement. This would be very much the exception and not the rule.*

*The deliveries to the engineering centre are not be permitted outside of the current day shift working patterns and in practice, the output from this unit is not reliant upon commercial vehicles, rather the use of light vans as the products are small volume batch produced components. In terms of the noise from the building, we would not expect that this will be audible to any neighbours, but we would ensure that all external roller shutter doors remain closed, this is standard practice for this building at present as we have an access control system to this building.*

*I would reiterate that we are the largest local employer and many of our workers actually live in Fleckney and in fact several of them live on the residential estate adjacent to this unit.*

## **Policy**

National:

The Framework

Section 11 Conserving and enhancing the natural environment para.120-123

Harborough District Core Strategy:

CS11 – Promoting design and the Built heritage

## **Consultations / Representations:**

Environmental Health (HDC):

The increase in hours may cause nuisance to neighbouring residents by way of increased traffic coming to / from the site and the general noise which may occur from activities on site.

There is a balance that must be struck when considering a mixed residential and commercial / industrial area. Although the applicant has provided no supporting information / justification why they should be permitted these hours or what assurances can be provided to the Local Authority that the granting of these hours will not cause nuisance to neighbouring residents. This would not necessarily be an acoustic assessment but more of statements from the premises to include the traffic movements of commercial vehicles, reasons for why the hour extension is required, what activities are to take place on site, mitigating circumstances such as no activity outside , doors remaining closed whilst in operation, etc.

Response to the Applicants information:

The applicant should provide an acoustic survey to quantify the statements they have made. The impact of permitting the variation at first may be low, but it is felt that it would be prudent for the Council to consider worse case scenario i.e., an increase in production which requires them to operate at full capacity.

I would also request that deliveries / collections are made within the current consented hours, namely 08:00 – 17:00 Monday to Friday.

Response following noise report:

The methodology used and the findings of the report are agreed and acceptable. The report however does make 2 recommendations which should ensure that neighbour residents are protected. These should be incorporated into the variation of condition. They are:

*Condition 1 - Deliveries by vehicles or plant, of materials or equipment to the unit (within the red line on the plan) shall not occur outside of 08:00-17:00 on any weekday, without the prior written approval of the local planning authority.*

*Condition 2 - With the exception of receiving/sending deliveries, repair or maintenance purposes and for access/egress, doors communicating with the workshop area that are within the external facade of the building should remain closed during any activities likely to emit noise in order to limit noise break-out from the said workshop area.*

The applicant has been in situ for a number of years Environmental Health have not received complaints concerning the day to day activity concerning the site from inside the building. Furthermore, the additional conditions will ensure activities (outside the current hours) remain inside the building and therefore any disturbance from the site will be negligible as shown by the acoustician's report.

Parish:

Concern (1) increase noise nuisance (2) increase light pollution outside normal working hours will be detrimental to residents (3) measures taken to limit light pollution.

Response following noise survey:

No objection to the proposed change in working hours, concern about light pollution from the upper floor, there should be a condition outside current working hours appropriate measures are taken to limit the amount of light from the factory.

Representations:

7 letters of objection/comment have been received raising the following points: (1) extra noise, noise is already obvious, intrusive and apparent (2) extra associated traffic (staff commercial vehicles) continuing into the evenings and weekends (3) noise pollution from the car park, unit, disturbance from forklift trucks-bleeping noise (4) additional hours are excessive (5) previous planning breaches (6) already hear a constant 24/7 low pitched hum more apparent in the evenings (7) increase in traffic which will cause speeding issues on the village (8) all factors will have an overbearing impact upon neighbours (9) Saddington Grange Estate is very close to the building (10) surely we are entitled to a bit of peace at our own homes in the evening and weekends.

Response following noise report: as previous

### **Other Information**

Public Rights of Way: n/a

History:

88/1776/3P – Erection of plastics extrusion factory of 1168 square metres and provision of parking – Approved 30.9.88  
89/2090/3P – Construction of pallet store – Approved 1.12.89  
91/0069/3P – Construction of covered unloading area and additional parking – approved 17.4.91  
92/1946/3P – Erection of extrusion plant with ancillary storage and offices – Approved 16.12.92  
94/0436/3P – Erection of part single/part two storey factory and office accommodation (phase 3) and amendments to phase 2 proposals. Extension of existing parking area – Approved 4.5.94  
94/1510/3P – Erection of part single/part two storey factory and office accommodation (phase 3) and amendments to phase 2 proposals and extensions of existing parking area (revised scheme) – Approved 3.11.94  
96/1131/3Z – Variation of conditions 8 and 9 of planning consent 94/00436/3P to allow working between 1300 hours Saturdays to 0600 hours Mondays – Approved 9.10.96  
97/01052/VAC – Variation of conditions 8 and 9 of planning permission 94/0436/3P – to allow working hours to over the period 1300 on Saturday to 0600 hours on Mondays – Approved 8.12.97  
98/01440/FUL – Alterations to elevations and the provision of internal 2 storey offices space - Approved 10.2.99  
02/00506/FUL – Erection of extension to front to provide new reception lobby, new doorway and additional lighting to car park – Approved 27.6.02  
04/01604/FUL Erection of an extension to side, new fire exit/staff entrance and car parking alterations and erection of car parking lighting. Approved 24/11/04  
12/00181/FUL Erection of Engineering centre Approved 4/5/12  
12/01193/PCD Discharge of Condition 2 (materials) 3 (Drainage) 5(lighting) and 8 landscaping of 12/00181/FUL Approved 31/10/12

### **Planning Considerations:**

#### **Policy Assessment:**

As this application is for the variation of operational hours at engineering centre, Policy CS11 is considered most relevant. This policy requires a number of criteria to be met, such as the proposal must not have a detrimental impact on the residential amenity of neighbouring properties, it should not have a detrimental effect on the visual amenities of the surrounding area.

#### **Residential amenity:**

The nearest residents are on Saddington Grange estate. 1, 3, 5 and 2 Badcock Way and 6 Fox Close. The nearest is the side wall of 2 Badcock Way is approximately 36metres away. The building is behind a wide landscape mound at a lower level than the road.

The applicant has provided detailed information regarding the reasons for the increase in operation hours and a noise report 25<sup>th</sup> June 2014 relating to activities. The report concluded that noise from the workshop operations is inaudible at the boundary of the site. With regard to the evening and weekend hours, the noise assessment addresses these times. The consultants also checked the external air conditioning units serving the office space and these are assessed to be below any margin of unacceptability in terms of preserving the amenity of nearby residents. The Acoustic consultants concluded that there is no reason in noise impact terms of refusing planning permission. However, they suggest additional conditions to ensure that any intensification in the use or change to activity does not lead to a noise impact upon nearby neighbouring properties.

The Environmental Health Officer has assessed the noise report and accepts the methodology and findings and advised that the additional conditions relating to deliveries and opening of doors should be applied. There is no history of complaints concerning the day to day activity concerning the site from inside the building. A reason for refusal on noise grounds would not be sustainable or supported by the Environmental Health Officer. Whilst there is therefore no basis for a refusal the applicant's agent was nevertheless been asked to consider omitting the

proposed Sunday extended operational hours from the above application, in order to give residents a break and replied: *....I've now had chance to discuss this late request with my client and at the same time have again reviewed the submitted acoustic report; whilst not being dogmatic we see no good reason for changing the application before you. I would highlight that Section 6 of the acoustic report succinctly sets out current site conditions and the impact that the extended working hours would have on the residential development opposite the site. I would also draw your attention to Section 8 of the acoustic report which sets out the conclusions and quite clearly advises that extension of working hours is unlikely to result in loss of residential amenity and that workshop / fixed plant noise is inaudible outside the site boundary. I must question what perceived break are the residents looking for?*

*If it helps my client would have no problem in accepting planning conditions recommended by the acoustic report which limit the movement (delivery times) of vehicles to the unit to weekdays and limit the opening of doors to allow for access/egress thus containing any noise within the building...'*

The applicant states it is only reliant on light vans and that deliveries are not permitted outside the current day shift. The original consent did not have hours of delivery condition. However, given the extended operating hours, it is considered that this condition can be applied. Deliveries between 8am-5pm on weekdays only of light vans, is reasonable.

The applicant states that all the external roller shutter doors are closed as it is an access controlled system on the building. The noise consultant recommends condition restricting the opening of external workshop doors, this is reasonable to apply and will prevent the break out of noise from the building. It is important to note that the adjacent building operates 24/7 and was allowed to operate 24/7 since 1997 (97/01052/VAC). The continuous humming sound that the objectors refer to will continue whether the hours are increased or not.

The lighting details and hours in accordance with Condition 5 of 12/00181/FUL are to be timed so they go off between 20:30 and 06:30 hours. The application with the additional conditions therefore does not adversely affect resident's amenity and is therefore considered to be in accordance with Policy CS11 of the Harborough District Core Strategy.

### Conclusion

Whilst the operational hours may be long and 7 days a week. The existing site does not have a history of complaints regarding its day to day activities within the building. The acoustic report did not conclude that unacceptable noise levels will come from the building as a result of the changes. The additional conditions suggested by the noise consultants and agreed by the Environmental Health Officer mean outside activities and potential places for noise to break out will not lead to adverse impact upon neighbour's amenity. As such the proposal is in accordance with Policy CS11 of the Harborough District Core strategy.

### Conditions / Reason:

Variation:

6. The Building shall only be used between the hours of 06:00 and 2200 Monday to Friday and 0800 to 1700 Saturday, Sunday, Bank and Public holidays. Reason: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the neighbouring residents and to accord with Harborough district Core Strategy Policy CS11.

Additional conditions:

9. Deliveries by vehicles or plant, of materials or equipment to the unit (within the red line on the plan) shall only occur between 08:00-17:00 on weekday, except bank holidays. Reason: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the neighbouring residents and to accord with Harborough district Core Strategy Policy CS11.

10. With the exception of receiving/sending deliveries, repair or maintenance purposes and for access/egress, doors communicating with the workshop area that are within the external facade of the building should remain closed during any operational activities Reason: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the neighbouring residents and to accord with Harborough District Core Strategy Policy CS11.

14/00786/FUL – STONTON WYVILLE  
Mr I. Hemmington

Erection of a three bedroom detached stone  
cottage

Target Date: 1/8/14

### **Recommendation**

REFUSE for the following reasons:

1. The applicant has failed to demonstrate that the proposed dwelling is capable of being sustained by the agricultural enterprise. In the absence of an agricultural justification, the proposed dwelling would result in a new residential development in the open countryside, having an adverse effect on the character and appearance of the countryside. The proposal would therefore represent an inappropriate and unsustainable form of development within the open countryside, which would not comply with the Framework's presumption in favour of sustainable development; and insufficient justification has been provided to demonstrate why the proposed development should override local or national planning policy. The proposal therefore fails to comply with Policies CS2 (a), CS5, CS9 and CS17 of the Harborough District Core Strategy and paragraphs 14 and 55 of the National Planning Policy Framework.

2. In the absence of any evidence to demonstrate that the Flood Risk Sequential Test has been applied and Flood Risk Assessment undertaken and given the proposal is in Flood zone 3 with a high probability of flooding. The proposal is likely to compromise the flood plain, lead to proposed development being flooded and increase flooding elsewhere. The proposal is therefore contrary to Policy CS10 of the Harborough District Core Strategy.

### **Site:**

The application site is located in the hamlet of Stonton Wyville on the corner of Main Street. The village has a church and a total of 9 dwellings. The site is bounded by a stream and West View Farm to the south, Stone Cottage to the east and over the road fields to the north and west. The site is currently a field enclosed by wire and timber post fence.

A terrace of several cottages used to be located on the plot and were demolished in 1972/73.

### **The Proposal:**

The application relates to the erection of an agricultural dwelling. The proposal is a double fronted T shaped stone two storey dwelling. There are three bedrooms with an integral garage. The house is sited close to the western boundary of the site with Main Street, with the access off the road to the east. Potential use of renewables will be looked into include ground or air source heat pumps, SUDs drainage and rainwater harvesting.

Whilst the applicant has stated that he will contribute to affordable housing in the District. However, if there is a genuine agricultural need for the dwelling, this contribution is waived.

### **Policy**

National:

Para.14 and 55 (Isolated dwelling in the countryside)

Section 12 Conserving and enhancing the historic environment

Harborough District Core Strategy:

Policy CS2 – Delivering new Housing

Policy CS5 – Providing sustainable transport

Policy CS9 – Addressing climate change

Policy CS10 – Addressing flood risk  
Policy CS11 – Promoting Design and the Built heritage  
Policy CS17 – Countryside, Rural centres and rural villages

Local Guidance:

4 - Residential developments in the countryside

**Consultations / Representations:**

Highway Authority:

No objection, see standing advice with regard to access geometry, gradient/drainage, parking, surfacing.

Leicestershire County Council (Ecology):

No further comment

Leicestershire County Council (Archaeology):

No objection, subject to conditions relating to programme of archaeological work.

Environment Agency:

Objection, The application site lies in Flood zone 3 as having the highest probability of flooding. Therefore Sequential test and Flood risk assessment is required no evidence has been submitted.

*The applicants are investigating the flooding issue and an expert is visiting the site w/c 15/9/14*

Agricultural Advisor:

Advises that there is NO agricultural support for the proposed agricultural dwelling as the agricultural enterprise is unable to satisfy the criteria in paragraph 55 of The Framework, comply with the sustainability element of The Framework, or satisfy the criteria within paragraph 3 of Annex A to PPS7. Furthermore, the application is for a retirement dwelling which is contrary to paragraph 6 of Annex A to PPS7 and the separation of the application site from both the tenancy of West View Farm and its ownership by the Brudenell Estate would be contrary to paragraph 5 of Annex A to PPS7 and any consent could leave the Local Planning Authority open to an application for the removal of any agricultural occupancy condition applied to the consent in the future as the dwelling would not be part of an agricultural holding, or enterprise.

English Heritage:

Advise that the application is determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. We advised the applicant that the Heritage Statement should consider the potential impacts of the proposed development on the significance and settings of the Grade II\* Listed Church of St Denys (NHLE 1061650) and the scheduled monument of the Medieval village earthworks, fishponds and mill leat (SM 17050; NHLE 1017616), as well as on the Grade II Listed Stone Cottage adjacent to the proposed development (NHLE 1360673), and the Grade II Listed Manor House (NHLE 1104927).

We recommended that the heritage statement considered the significance of these former buildings in relation both to other listed buildings and the historic development of the village as a whole.

We advised that, in our opinion, in order to minimise potential negative setting impacts on designated heritage assets the detail of the overall proposed design, including elements such as doors, windows, landscaping and boundary treatments should respond to the character of the existing traditional buildings in the village and reflect the historic development of the settlement. We advised that the quality of design and selection of materials would be important in minimising potential harmful effects of the proposed development on the settings of those heritage assets.



Thus in determining the planning application, your authority should take account of the desirability of sustaining and enhancing the significance of heritage assets [NPPF 131]. Since significance can be harmed or lost through development within a heritage asset's setting [NPPF 132], any harm or loss to significance resulting from the proposals should require clear and convincing justification [NPPF 132].

Conservation officer:

The Village of Stonton Wyville has scheduled monuments to the north and west and therefore these play an important part in the preservation of the special character of the village. It is appreciated that historically there were a row of terraced dwellings on the application site, these were adjoining 'Stone Cottage' and protruded in a westerly direction, and around the corner on to Main Street. Although the current proposal does not completely reflect this with regards to position and orientation of the dwelling the siting of the proposal is not considered to be so different from the historical situation for it to be considered unacceptable. The design of the proposal is in keeping with the character of the village and therefore on balance it is considered that this modest dwelling in this location would not harm the significance of the setting of the scheduled monuments or the surrounding Listed Buildings and therefore conforms with chapter 12 of the NPPF.

Parish:

Villagers have been notified

Representations:

5 letters of support have been received raising the following points: (1) the village which is a farming village is required to have to have sufficient housing accommodation to support farming families and their employees (2) unique village of natural and historical beauty (3) should only be developed with this single application as it will directly support farming interests (4) should be considered in the interests of an economic requirement to provide housing for farming families within the farming envelope and should be retained permanently tied to the farm that it supports (5) proposal is for a small cottage where a row of cottage once stood 40/50 years ago (6) its in the heart of the village (7) thoughtful design will fit perfectly with the surroundings (8) no residential amenity impacts (9) no traffic or access issues (10) enhance the character of the village (11) the applicant has gone into great detail so the new cottage will blend in with its surrounding (12) erected where cottage once stood (13) village security enhanced by the location of the cottage (14) give village more community feel

1 letter of Comment (1) well-respected and worthy member of the community lived and worked in the community for over 40years should be permitted a house so he can continue to be involved with the farm (2) in this exceptional circumstance its appropriate to build a house (3) village is a beauty spot many people come there to set off on walks and bike rides to enjoy the peace, open space and views from the millennium bridge towards the bridge, church and medieval fishponds (4) if approved the scale and materials are important

1 letter of Concern/object (1) understand Mr Hemingtons requirements but could it be built a house on the other side of the stream or alter any of the brick outbuildings into a dwelling, both would be nearer to his workplace and existing farmhouse and suitable for his retirement. This would not alter the character of the beautiful village. The proposal would not be in character and spoil that lovely open entry to the village.

**Additional information submitted by Agents**

Design and access statement

Heritage Statement

Planning Report

Photographs 1967

## **Other Information**

Public Rights of Way: n/a

History: none

## **Planning Considerations:**

### **Policy Assessment:**

As this application is for the erection of an agricultural dwelling in open countryside, adjacent to Scheduled Ancient Monument and Listed buildings. Policies CS17 and CS11 are considered most relevant. Policy CS17 strictly controls development in rural areas, only development required for the purposes of agriculture, woodland management, sport and recreation, local food initiative and renewable energy production will be appropriate. Also rural development should be located and design in such a way that is sensitive to its landscape setting.

Policy CS11 requires a number of criteria to be met, such as the proposal must not have a detrimental impact on the residential amenity of neighbouring properties, it should not have a detrimental effect on the visual amenities of the surrounding area, and it must not result in a sub-standard level of on-site parking. In addition, Heritage assets within the District, and their setting, will be protected, conserved and enhanced.

### **Principle of Development:**

The proposed dwelling is located in the countryside, in a hamlet village which lacks all key services save a church, and therefore is an isolated location, one in which future residents would be almost totally reliant on the use of private cars. Paragraph 55 of the Framework states that, LPAs should “avoid new isolated homes in the countryside unless there are special circumstances”.

The proposed dwelling is ONLY acceptable in this location if it is justified by reason of agriculture, i.e. is required to enable agricultural or forestry workers to live at or in the immediate vicinity of their place of work. One of the special circumstances mentioned by para 55 is, “*the essential need for a rural worker to live permanently at or near their place of work in the countryside*”. The central thrust of the Framework (cf. para 14) is that development must be sustainable, i.e. *capable of being sustained*, and the business planned on a sound financial basis.

In a recent appeal decision for a proposed agricultural dwelling (appeal ref. 11/2165756, decision 18 June 2012), the Inspector stated:

*10. It is no longer part of national planning policy to verify that a new business requiring a dwelling on site is a genuine enterprise that is reasonably likely to succeed. However, it was common ground that in order to protect the countryside from unnecessary development it is a reasonable test to apply. I agree with this assessment and consider the test to be an important tool in assessing this application. On this basis if the business passed this test the residential presence should be granted on a temporary basis to see if the business is able to prosper and establish itself as a viable concern.*

The same conclusion has been reached in other appeal decisions. In appeal ref. 12/2171046, decision 2 Aug 2012, the Inspector stated:

*8. ...Firstly, the essential need for a rural worker to live permanently at or near their place of work in the countryside has to be judged objectively; secondly, whilst it is no longer the case that evidence of essential need must be assessed against the tests set out in Annex A, this does not mean that evidence that shows that the requirements of Annex A are not met cannot be taken into account; thirdly, the Annex A test remains an appropriate way to assess ‘essential need’ as it is well established and well understood, even though it no*

*longer forms part of Government policy. It is, therefore, still open to decision makers to assess need against the tests set out in Annex A and conclude, in particular local circumstances, when those tests have not been met, even though PPS7 can no longer be cited as the authority for carrying out such an assessment.*

And in appeal ref. 13/2197662, decision 18 Sep 2013, the Inspector stated:

*7. ...The tests in PPS7 Annex A are no longer government policy. However, the main parties' agricultural advisers' representations generally reflect that approach. As the PPS7 Annex A tests provide an objective basis for considering the essential need for a permanent dwelling, I shall take them into account in this appeal.*

*12. ...to allow a permanent dwelling that need should also be sustainable. So, the enterprise, including the cost of the proposed dwelling, should be financially viable, and it should have a reasonable prospect of remaining so.*

*17. it is an established principle that it is the needs of the enterprise, rather than those of the appellant, that would be relevant in determining the size of dwelling that would be appropriate to a particular [land based business]*

It is therefore necessary to establish whether the proposed resultant dwelling is,

- (a) essential - including its provision, its siting and its size
- (b) economically sustainable - i.e. the farming enterprise is required to be financially viable, and able to sustain the cost of the proposed dwelling after the deduction of all costs, including a minimum farm workers' wage for the number of people employed on the holding, and a rental charge either actual or notional on all of the land farmed.

(a) Is there an essential need?

Based on the supporting information given, the application site is currently part of West View Farm, which is a 109.27 hectare (270 acre) holding rented by the applicant Mr. I. Hemington from the Brudenell Estate on a full Agricultural Holdings Act Tenancy with one further succession available for the applicant's son who farms in partnership with him. It is a condition of the Tenancy that "The tenant" occupies the principal farm house.

The applicant is seeking to retire, and allow his son to succeed to the tenancy of West View Farm. The landlord has indicated that the succession would not be opposed.

In addition to West View Farm the applicant owns 31.5 hectares (78 acres) of land towards Cranoe, and a further 20 hectares (50 acres) of pasture, is rented on a three year Farm Business Tenancy in the area. The Advisor considered the tenancy of the 20 hectares of pasture is insecure, and should therefore be ignored for the purposes of this agricultural appraisal as it may not be available in the long-term to sustain the cost of the proposed new dwelling.

The applicants submitted appraisal states that the secure holding is currently cropped with 116.5 hectares (288 acres) of arable crops, no details of individual crops has been given, and 24.3 hectares (60 acres) of grassland. The holding including the insecure land is currently stocked with 210 ewes, which it is proposed to increase to 400 at some stage in the future. In addition, an undisclosed number of turkeys and cockerels are reared for the Christmas market.

In addition to the secure holding and the three year Farm Business Tenancy land, approximately 556 hectares (1,375 acres) of stubble to stubble contracting is undertaken for other farmers in the area together with a haylage and straw enterprise. Again the Advisor considers the stubble to stubble contracting is insecure and should be ignored for the purposes of this agricultural appraisal.

The holding is currently farmed in partnership by the applicant and his son, who proposes to take over the tenancy of West View Farm, together with one full-time worker, and one other worker who is almost full-time with casual help at peak times from two others, and further casual labour at Christmas to assist with the poultry enterprise. It is calculated that the secure holding as currently stocked – but excluding the poultry as no numbers have been given – has an existing standard labour requirement for one full-time person which will increase to 1.33 full-time persons if the ewe flock is increased to 400 as proposed, this again excludes the Christmas poultry enterprise.

The applicant, Mr. I. Hemington, currently occupies the existing farmhouse at West View Farm, as a condition of his tenancy. His son, who works full-time in the business, currently rents a cottage in the village. It is rented on an Assured Shorthold Tenancy from the Brudenell Estate who own the majority (if not all) the properties within Stonton Wyville and land in the surrounding area.

It is proposed that when the applicant (Mr. I. Hemington) retires from the tenancy and his son (Mr. David Hemington) succeeds, Mr. I. Hemington will move out of the existing farmhouse into the proposed new dwelling, to allow Mr. D. Hemington to comply with the Tenancy Agreement by occupying the Farmhouse. I therefore, consider the proposed dwelling would be a retirement dwelling for the applicant Mr. I. Hemington.

Paragraph 3 of Annex A to PPS7 sets out five criteria which must be satisfied to justify a permanent agricultural workers dwelling these five criteria are:-

Paragraph 3 (i) states “There is a clearly established existing functional need (see paragraph 4 below); - The secure holding of West View Farm, and the 31.5 hectares of owned land, has a standard labour requirement for one full-time person. I consider there is an essential/functional need for that one full-time person i.e. the tenant/owner/farmer, to live at West View Farm within the existing farmhouse. As it is a condition of the tenancy that the tenant of West View Farm lives in the farmhouse, I consider the farmhouse will provide the necessary dwelling to fulfil the essential/functional needs of this holding. Therefore, this criteria has not been satisfied for an additional dwelling.

Paragraph 3 (ii) states “The need relates to a full-time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;” – As the secure unit/enterprise has a labour requirement for less than two full-time persons, and there is no essential/functional need for two persons to live at or near the holding, and the proposed occupant is to be Mr. I. Hemington who is retiring, this criteria has clearly not been satisfied.

The applicant argues that there is an extensive range of farm related activities that requires someone on site, often at odd hours, whilst other members of the team are carrying out time critical and essential field based operations on their own or third party land. i.e. crop spraying which requires long term accommodation for two individuals. Staff need to be available at short notice, available to work long hours often on time critical operations. The need for someone else to be there is made to ensure chemical deliveries are met, chemicals secured and checked (60 deliveries per annum). Livestock activities and general security. On the limited occasions that this happens, it does not justify an additional agricultural workers dwelling and security is currently provided by the existing dwelling. It is therefore considered that the applicant has failed to demonstrate that there is an essential need for the proposed dwelling and so fails with para.55 of the Framework.

(b) Is the proposed dwelling economically sustainable?

Paragraph 3 (iii) states “The unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so (see paragraph 8 below);” – The unit and the agricultural activity concerned have clearly been established for at least three years, however, no accounts for the business have been provided for the last three years, (as is required to

enable a financial test to be carried out, or to enable the sustainability element of The Framework to be assessed). The only financial information provided with the application are the trading profits pre labour and the surplus post employed labour but excluding the drawings of the partners and then only for the year ends 5<sup>th</sup> April, 2012 & 2013. This information is insufficient to enable a financial test, or sustainability calculation to be undertaken, and therefore, these criteria have not been satisfied. It is therefore considered that the proposed dwelling is not economically sustainable, and that the enterprise would be unable to sustain the proposal in the long-term, and the proposal therefore fails to accord with the presumption in favour of sustainable development, and would fail to accord with Core Strategy Policies CS17 and paragraphs 14 and 55 of the Framework.

c) Is the functional need fulfilled by another dwelling?

Paragraph 3 (iv) states “The functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned;” – The essential/functional need for the enterprise is currently being, and will continue to be, fulfilled by the existing farmhouse at West View Farm. In addition, there is a cottage within the village, which is currently occupied by the applicant’s son, which although not required to fulfil any essential/functional need could be available to house the applicant in the future, and would clearly be suitable as a retirement dwelling. Therefore, the criteria in paragraph 3 (iv) has not been satisfied.

Paragraph 6 of Annex A to PPS7 is also relevant to this application, as its last sentence states “Nor can agricultural needs justify the provision of isolated new dwellings as retirement homes for farmers.” It is therefore considered this application is contrary to this guidance.

Impact upon character and appearance of the rural area:

The hamlet is entirely designated open countryside. Whilst the field was previously occupied by dwellings, this is some 40 years ago and there is no visible evidence of the dwellings on the ground. The grassy level field is open and rural in character and appearance. It is considered that the erection of a dwelling and associated residential paraphilia will adversely affect the open and grassy appearance of the area. Also given its location at the gateway to the village its open rural character is considered particularly important to the character and appearance of the rural hamlet. The proposal therefore adversely affects the character and appearance of the open countryside. The application is therefore considered to be contrary to Policy CS17 of the Harborough District Core Strategy.

Affect on the setting of the listed building and schedule ancient monument:

St Denys Church is a Grade 2\* listed church (opposite side of the road to the north-east) and Stone Cottage is Grade 2 listed building (immediately to the east). The Scheduled Ancient Monument of Medieval village, earthworks, fishponds and mill leat are located to the West of West View farm and north of The Meet and village.

Stonton Wyville has shrunk in size since the late medieval period (MLE10048), leaving large areas where the remains of medieval occupation are preserved below ground. The application site lies within an area where similar remains are likely to be present. Early Ordnance Survey mapping indicates that there has been previous development on the site and part of it will have been disturbed by this. However, there is a likelihood that archaeological remains, albeit in truncated form, still survive within the application site and will be impacted by the proposed development.

The applicant has heeded some of English Heritages comments, as they have very briefly in the Heritage Statement acknowledged the impacts of the proposal on the heritage assets, the significances of the former buildings in relation to other listed buildings and the historic development of the village and the proposed details of the design.

The siting of the dwelling fronting west on the main road into the village is similar to the previous location of the cottages on the site, (see photos and historic maps) which were sited abutting

the roadside. It is a simple and traditional form of design. The proposed materials (ironstone/welsh slate, cast iron guttering and painted timber windows) of the cottage are in keeping with dwellings in the existing village. Whilst the proposal is 12metres wide, it is only 5.5metres wide and 6.9metres high therefore it does not appear large scale dwelling in the street scene and reflects other dwellings close-by.

Also siting the dwelling slightly set back from the front wall of Stone Cottage (21 metres from northern boundary of the site with Main Street) and set away from the side boundary with Stone cottage ensures the setting of the Listed building is not harmed, and the corner of the road junction remains open.

The applicant explained in the design and Access statement that the garages are on the east side of the plot behind the dwelling out of view from the road leading into the village. Also the ridge height of the proposed dwelling (6.9m) is lower than Stone Cottage, (although the applicant has not indicated what this is). The proposed boundary estate fencing reflects the existing fence opposite. The driveway runs adjacent to the existing hedgerow on the east side of the plot.

The Conservation Officer comments that whilst the position of the dwelling is not exactly as previous, the difference is not so great from the historic position so as to be unacceptable. Also the design is considered in keeping with the village and the scale on balance is modest. Therefore it is considered that the proposal does not adversely affect the setting of the Schedule Ancient Monument and listed buildings. The application is therefore considered to be in accordance with Policy CS11 of the Harborough District Core Strategy.

#### Residential amenity:

The two storey section of the proposed dwelling is to the side of and 20metres from Stone Cottage, therefore it is no considered overbearing to residents of Stone Cottage. The single storey section is close to the new double garage. The rear elevation of the proposed house has three windows serving, landing, bathroom and en-suite. These windows can be conditioned so they don't cause loss of privacy. The application is therefore considered to be in accordance with Policy CS11 of the Harborough District Core Strategy.

#### Highways and parking considerations:

Highways officer has no objection to the formation of an access along the northern boundary. The details are to be covered by condition relating to drainage, surfacing and parking. Therefore there are no highway safety concerns, subject to conditions. The application is therefore considered to be in accordance with Policy CS5 of the Harborough District Core Strategy.

#### Flooding:

The application site lies within Flood Zone 3 defined by the Environment Agency Flood Map / Strategic Flood Risk Assessment as having a high probability of flooding. The applicant stated that he has lived in the village for nearly 45 years and this site has never flooded or looked like flooding.

Paragraph 101 of the National Planning Policy Framework requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'. The sequential test demonstrates that there are no reasonably available alternative sites in areas with a lower probability of flooding that would be appropriate for the type of development proposed. In this instance no evidence has been provided to indicate that this test has been carried out.

Paragraph 103, footnote 20 of the National Planning Policy Framework (NPPF) requires applicants for planning permission to submit a Flood Risk Assessment (FRA) when development is proposed in such locations. An FRA has not been submitted. An FRA is vital if the local planning authority is to make informed planning decisions. In the absence of an FRA,

the flood risks resulting from the proposed development are unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission. As such the proposal is contrary to Policy CS10 of the Harborough District Core Strategy.

**Conclusion:**

The proposal would not adversely affect residential amenity and highway safety. Due to the location of the proposal and a lack of evidence the flood risk is unknown. Even if there was agricultural justification for the proposal, the proposed dwelling would adversely affect the character and appearance of the open countryside.

The proposed dwelling is not capable of being sustained by the current enterprise. Furthermore, the separation of the proposed retirement dwelling from both the tenancy of West View Farm and ownership by Brundenell Estate would be contrary to acknowledged tests and any consent would leave the Local Planning Authority open to an application for the removal of any agricultural occupancy condition applied to the consent in the future, as the dwelling would not be part of the agricultural holding or enterprise.

Further, in the absence of agricultural justification, the proposed dwelling would result in inappropriate development in the countryside, introducing new residential development in the open countryside. The proposal would therefore represent an inappropriate form of development within the open countryside; that would not comply with the Framework's presumption in favour of sustainable development; and insufficient justification has been provided to demonstrate why the proposed development should override local or national planning policy.

**Reason:**

1. The applicant has failed to demonstrate that the proposed dwelling is capable of being sustained by the agricultural enterprise. The absence of an agricultural justification, the proposed dwelling would result in new residential development in the open countryside, having an adverse effect on the character and appearance of the countryside. The proposal would therefore represent an inappropriate and unsustainable form of development within the open countryside, which would not comply with the Framework's presumption in favour of sustainable development; and insufficient justification has been provided to demonstrate why the proposed development should override local or national planning policy. The proposal therefore fails to comply with Policies CS2 (a), CS5, CS9 and CS17 of the Harborough District Core Strategy and paragraphs 14 and 55 of the National Planning Policy Framework.

2. In the absence of any evidence to demonstrate that the Flood Risk Sequential Test has been applied and Flood Risk Assessment undertaken and given the proposal is in Flood zone 3 with a high probability of flooding. The proposal is likely to compromise the flood plain, lead to proposed development being flooded and increase flooding elsewhere. Therefore the proposal is contrary to Policy CS10 of the Harborough District Core Strategy.

Applicant: Mr Philip Monks

Target Date: 26/08/14

End of consultation period: 14/08/14

### **Recommendation**

**APPROVE** for the following reason and subject to the appended conditions:

The development hereby approved will respect and enhance the local character, building materials and distinctiveness of the area in which they are situated and respect their landscape setting. The scale and design of the development will not damage the character of the area and residential amenity will be safeguarded. The proposal is therefore considered to accord with Harborough District Core Strategy Policies CS11 and CS17 and no other material considerations indicate that the policies of the development plan should not prevail, furthermore the decision has been reached taking into account 186-187 of the National Planning Policy Framework.

### **Site:**

The application site is on the edge of the village of Gaulby. The entrance to the field is from Norton Lane and also from the garden of 3 Norton Lane where some existing stables are located. On the southern boundary of the site, next to Norton Lane, is a high hedge and there is also a hedge along the western boundary of the site. There is an existing ménage and paddock and on the boundary beyond this is a post and rail fence and very early signs of a hedgerow. Between the proposed development site and the existing stables there are large trees that are prominent due to their height. South of the ménage and the development site there are paddocks and some more stables positioned next to the boundary of the residential curtilage of 3 Norton Lane. There is a high hedge on the boundary to the north of the site next to Stoughton Road which restricts views into the site.

### **The Proposal:**

The proposal is for the erection of an American barn and a horsewalker. The barn is to be 14.1m x 10.4m and an overall height of 3.962m. It is to be constructed of timber. The horsewalker is a maximum of 4.065m high and has a diameter of 14.3m. These sizes have been clarified with the agent as different diameters had been stated in the application documents.

The American barn is nearest to the neighbouring property of Intwood House. At its closest point there are 14m between the corner of the barn and the corner of Intwood House. The horsewalker is approximately 29m at its closest point to Intwood House.

### **Policy:**

**National Planning Policy Framework (“the Framework”) (published 27.03.2012)**

#### **Local Policy:**

Harborough District Council Core Strategy:

CS11 – Promoting Design and Built Heritage

CS17 – Countryside, Rural Centres and Rural Villages

### **Consultations / Representations:**



### Environmental Health:

"There have been concerns raised concerning noise, odour, air quality as well as potential increases of fly infestations, rats and other vermin should the development be permitted. It would be very difficult to quantify the impact this application would have on any neighbouring residents and I therefore feel it would be difficult for the applicant to provide supporting statements/documents demonstrating that the above concerns would not materialise.

Ultimately, I would suggest that there is little control the planning authority could have over these issues as they would be management issues of the day to day running of the development – e.g., ensuring horses are cleaned out regularly, manure stored appropriately, etc.

I am not sure how the proposed development would have a bearing on air quality and this concern is not expanded upon. Although I see no reason why it would.

I would also advise that these matters could be investigated as potential statutory nuisances under Environmental Health's legislation, should the development be permitted".

### Representations:

2 letters of objection have been received, one from Intwood House and one on behalf of the residents of Intwood House, raising the following points (for more details please refer to the letters on file):

- Strongly object due to an invasion of privacy, impact on the character and appearance of the area, increase in noise, smells, environmental issues related to noise and air quality plus potential increase of infestation of flies, rats and other vermin.
- Loss of views over open pasture land. Rights to privacy and family life should be considered.
- Stabling for ten horses is beyond 'personal use'.
- From 6am to 10pm we have shouting, floor sweeping and brushing, gate slamming, strong smell of manure and large amount of flies. Potential stabling for more horses will increase the noise.
- Collection of manure to one convenient spot is not acceptable and should be reviewed.
- Lighting on basis of safety lights is not acceptable, this would impact on our home and the wildlife around us.
- It will be 12m from our house, the corner of our living room and above, our bedroom.
- It is not for personal use but we hear it is a stepping stone for commercial use. Three people working there (Helpers) can not be personal use.
- Noise, the proposed horse walker is extremely close to our house, this will constantly be heard. A constant click/clock. Question flooring substrate and height.
- Should be positioned on lower part of the field where there would be no impact on anyone other than the applicant or next to their existing stables.
- On the approved planning request hedging was shown and they have never completed this. We attempted to grow hedging to reduce noise but due to continuous chemical spraying in the ménage this has killed our plants and the soil seems to be contaminated.
- Policy CS17 states that development should be 'strictly controlled'.
- EV/5 indicates development in the countryside will be 'strictly controlled' and it needs to comply with certain criteria. It doesn't appear to comply with several of these criteria.
- Detrimental impact on the character and appearance of the countryside in views from both Norton Lane and Stoughton Road.
- The equestrian activities have already had a detrimental impact on our client's residential amenity and this proposal will exacerbate the situation.
- The proposed structures have not been sited in a manner that minimises their impact.
- The proposals will not maintain or enhance local character.
- No landscaping scheme has been submitted (though we do not consider that one would satisfactorily mitigate the otherwise detrimental impact).
- Concerned with the impact of the barn on the trees that it immediately adjoins.

- Policy EV/8 indicates that the keeping of horses can adversely affect the appearance of the countryside particularly through the erection of fencing and buildings of varying design and materials and that proposals will be granted so long as the proposal does not detrimentally impact on the character and appearance of the area or upon residential amenity. It does impact on residential amenity and so contrary to this policy.
- There is a significant line of trees that when the village is approached from the west provide a strong and clear identifiable edge to the settlement. The barn has a floor area of 154 sq m, the horse walker has a diameter of 13m, both are approximately 4m in height. Individually significant structures which would be in a relatively open field landscape, beyond the existing settlement edge, have a significant detrimental impact on the presently attractive entrance to the village.
- The level of development has not been explained. Goes well beyond the level of accommodation reasonably required for a private equestrian interest. The ménage was conditioned to be for personal use, yet this proposal would establish a commercial scale of development and it would be difficult to resist a commercial use in the future if it was sought.
- Could be located within applicant's residential curtilage rather than in the open countryside.
- No arboricultural survey has been submitted to establish if the barn would impact on the root protection area of the adjacent trees. Consider it likely. Hope a survey is requested as it would be unfortunate if these trees died or had to be removed.

1 letter of support has been received from 1 Norton Lane:

- No objection to this work being carried out at the property.
- It will have no impact on our property.

#### Supporting Information:

Supporting information was submitted further to the above representations and further to the planning officer asking for clarification about the trees, why the facilities are needed and if there is scope to relocate the proposal. This information stated:

- This is for their own use and not, now or at anytime in the future, for commercial use.
- The small American barn has four stables, a tack room, feed store and hay/straw store. The north facing wall will be 2.5m high rising to just short of 4m. 2m from the boundary and built of tannalised shiplap wood. 15cm concrete base which is designed to not damage tree roots. Position is further away from the neighbour's property than the existing facility granted permission and erected 7 years ago.
- Horsewalker is 2.3m high, 4m if optional roof included. Applicants are willing to exclude roof if this helps. Designed to stand on 1m deep foundations but further from trees so will not affect roots. Rubber outer frame and walkway to minimise any noise and aid welfare of the horses. The free running noise level is that of a quiet conversation.
- The small development is made of natural materials and is tucked into a corner where it will have minimal impact from both Stoughton Road (where it will not be seen due to the height of the hedge) and Norton Lane where it will have a backdrop of the trees. Elsewhere in the field it will have a far greater impact on the appearance of the countryside and also have far greater earth movement due to the excessive slopes in such an area, this was discussed two years ago with regards the ménage.
- Minimal impact on neighbours as the applicant's have agreed to plant a new hedge/tree line and an appropriate line of fencing could further mask the barn and horse walker.
- Applicants are determined that the trees will not be affected with minimal foundations and the possible removal of the odd branch. The same hedge and line of trees extended until recently across the front of Intwood House but these were removed completely. If 5m of hedge and one or two trees had been retained this would have screened the development.
- The applicants strongly disagree that they make a lot of noise and shouting. It is a particularly quiet yard which is neatly kept. Sure this was seen on the Officer's visit.

The manure is put in a trailer away from the neighbours and taken away by a farmer on a regular basis.

- The development is for private use (Mrs Monks supports her niece's two horses also) and there are five horses only. The horsewalker is important for the proper care and welfare of the horses, particularly in the winter, and the proposed barn/stabling in one facility is more convenient for the horse's care, particularly when it is dark.
- There will be minimal impact on the neighbouring property and it will be well sheltered from Intwood House once the hedge matures. Fills in a redundant corner close to the Monks house which is flat and will have minimal impact on the surrounding countryside. Horses can be checked easily at night and are well away from the road for security reasons. Elsewhere in the site will mean a great deal more earth moving, will require extensive drainage and would spoil views of the countryside.
- Neat and well kept site and the Monks wouldn't want to destroy the environment they love so much.

### **Other Information:**

#### **Reason for Report to Committee**

This application is being reported to the Planning Committee for determination because Councillor Charlish called it in.

The application was deferred at the last Planning Committee to enable a further tree survey to be carried out. If received this will be reported to committee.

### **Planning Considerations:**

#### **Policy Assessment:**

Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the relevant policies contained within the development plan unless material considerations indicate otherwise.

At the present time the Development Plan for the site comprises the adopted Harborough District Core Strategy, and the retained policies of the Harborough District Local Plan (HDLP). National guidance in the form of the National Planning Policy Framework, together with Government White Papers and Reviews, is also relevant.

Policy CS11 states that, in recognition of the importance of good design and the built heritage of the District, the highest standards of design in new development will be sought to create attractive places for people to live, work and visit. This will be achieved in the following way:

- (a) Development should be inspired by, respect and enhance local character, building materials and distinctiveness of the area in which it would be situated
- (b) All development should respect the context in which it is taking place and respond to the unique characteristics of the individual site and the wider local environment beyond the site's boundaries to ensure that it is integrated as far as possible into the existing built form of the District. New development should be directed away from undeveloped areas of land which are important to the form and character of a settlement or locality.
- (c) Development should be well planned to:
  - i) Incorporate safe and inclusive design, suitable for all to access;
  - ii) Make the most of local built and natural assets;
  - iii) Be of a scale, density and design that would not cause damage to the qualities, character and amenity of the areas in which they are situated;
  - iv) Ensure that the amenities of existing and future neighbouring occupiers are safeguarded;
  - v) Reflect the landscape or streetscape in which it is situated and include an appropriate landscaping scheme where needed.

Policy CS17 refers to the countryside, Rural Centres and Rural Villages. Policy CS17 states that development in the countryside will be strictly controlled and that only development required for the purposes of agriculture, woodland management, sport and recreation, local food initiatives, support visits to the District and renewable energy production will be appropriate in the Countryside. It states that rural development will be located and designed in a way that is sensitive to its landscape setting, retaining and where possible enhancing the distinctive qualities of the landscape character. It must conserve and where possible enhance local landscape and settlement distinctiveness, safeguard important views and landmarks and protect the landscape setting of individual settlements.

Impact on the character of the area:

The proposed barn is to be situated next to the field boundary. To the east are some large trees and then existing stables, which are both within the applicant's residential curtilage. To the west of the proposed barn is the proposed horsewalker. To the immediate north is a post and rail fence and the early signs of a hedge but this presently offers no screening. The land in this area is flat and to the immediate west is a ménage.

It is considered that this site will have the least obtrusive impact on the surrounding countryside as the proposals are sited next to the existing ménage and boundary of the site and on an area of flat land and this means that the development is kept together and that earth movements and excavation is kept to a minimum. The site is well screened by a high hedge on the northern boundary with Stoughton Road and there is also a hedge on the western boundary of the field and the southern boundary with Norton Lane. The trees next to the site are an attractive feature in the landscape and at present they would create a back drop to the proposal. However, if they were not present the back drop would be the residential curtilage of 3 Norton Lane and Intwood House and therefore it is not considered that the siting could be classed as open countryside. The materials proposed, such as the timber for the barn, are sympathetic to the countryside setting and the overall height is no more than approximately 4m. Due to all of these factors it is considered that the development is located and designed in a way that is sensitive to its landscape setting and that it complies with Policies CS11 and CS17 of the Harborough District Council Core Strategy. A condition has been recommended that a native hedgerow is planted alongside the existing post and rail fence immediately to the north of the development. This is to soften the view of the development from Intwood House. However, because the site is otherwise well screened and respectful of its landscape setting it is not considered that any further landscaping condition is required.

The expected additional tree survey may help inform a decision. Nevertheless there is no proposal to remove significant trees and no evidence the development cannot proceed without taking appropriate measures to retain trees. Whatever the outcome of an additional tree survey it is unlikely in this context and setting that a Tree Preservation Order, for example, would be necessary and appropriate on any retained trees.

Residential amenity:

Concerns have been raised by the residents of the neighbouring property and Environmental Health have been consulted. Habitable room windows of Intwood House face west and it is appreciated that in their views they will see the proposed horsewalker and barn. However, due to the relationship and distance between the house and the proposals (14m at its closest point) it is not considered that the proposals could be regarded as being overbearing and it is not considered that there would be a loss of privacy as the back of the barn faces the neighbouring property and the horsewalker is to be positioned next to a ménage where people can already ride. The developments will be in their view but it is not considered that this would result in such a significant affect on residential amenity to warrant this scheme being not acceptable.

The concerns raised about noise, odour, manure for example can be investigated as potential statutory nuisance under Environmental Health legislation, if problems occur. However, with regards to Planning the introduction of a barn and horsewalker themselves will not literally cause the above concerns to materialise and therefore it would not be reasonable to refuse the

application because of something that could happen, when if it were to happen different legislation (Environmental Health) would potentially lead to investigation if found necessary. It is therefore considered that with considerate management of the site that residential amenity would not be adversely affected and if people and their management lead to the above concerns materialising this would be considered through different legislation. The proposal is therefore considered to comply with Policy CS11 of the Harborough District Core Strategy.

**Access and parking:**

The parking and access arrangements are to remain as existing and there is an existing gate and track leading from Norton Lane. Comments from the Highways department at Leics County Council have not been sought as the proposal is for personal use. However, any approval would be conditioned to be subject to it remaining for personal use. If commercial use is ever proposed then an application would be required and this would be assessed and the Highways department would be consulted to see if an increase in traffic movements would be acceptable. The recommended planning condition states that the use shall remain ancillary to 3 Norton Lane and that the proposal can not be used for business or commercial purposes. However, it is not considered that it would be reasonable to condition the approval to only be specifically for the applicants as if they moved and another family moved in, as long as the use remained personal and not a business use, there would not be any additional harm generated.

**Trees:**

There are some large trees to the east of where the American Barn is proposed. The clients intend to retain these trees and the barn is to be positioned on a concrete base. However, a tree survey has been requested to assess any potential impact upon the trees in accordance with BS 5837:2012 'Trees in relation to design, demolition and construction – Recommendations'.

**Conclusion:**

Overall it is considered that due to the siting, materials, design and height of the proposed horsewalker and barn that the development will respect its landscape setting and not harm the character and appearance of the surrounding area. The proposed horsewalker and barn will not adversely affect residential amenity and the proposal will also not lead to an unsafe highway situation. The proposal is therefore considered to comply with Policies CS11 and CS17 of the Harborough District Core Strategy.

**Conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**Reason:** To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The use of the American barn and horsewalker shall remain ancillary to the dwelling house currently known as Norton Gorse, 3 Norton Lane. In addition, no business or commercial operations shall be carried out from the application site.  
**Reason:** For the avoidance of doubt and in the interests of residential amenity and to accord with Policies CS11 and CS17 of the Harborough District Core Strategy.
3. A native species hedgerow must be planted at the first available planting season after works have commenced alongside the post and rail fence immediately to the north of the application site.  
**Reason:** To ensure that the proposal is sensitively incorporated into the surrounding landscape, to help preserve residential amenity and to comply with Policies CS11 and CS17 of the Harborough District Core Strategy.
4. The proposed materials shall be as detailed in the application for the barn and as detailed in the application for the horsewalker along with the rubber outer frame and walkway as detailed in the supporting information dated 13<sup>th</sup> August 2014.

Reason: To ensure that the development is in keeping with the character and appearance of the surrounding countryside and to comply with Policies CS11 and CS17 of the Harborough District Core Strategy.

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

Reason: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site and to accord with Harborough District Core Strategy Policy CS11

**Notes to Applicant:**

1. The applicant is advised that there should be no burning of manure on site and that it should be regularly removed to avoid accumulation which could lead to smell, flies or vermin.

14/00875/FUL - MARKET HARBOROUGH  
Ridgeway Primary School

Creation of a ball Court (to include ground remodelling, retaining wall, hard surfacing and the erection of a weldmesh fence) (retrospective) and the erection of an acoustic boundary fence (revised scheme of 13/01283/FUL, The Ridgeway Primary School, The Ridgeway).

Target Date: 19/08/14

### **Recommendation**

Delegate to Development Control Manager (DCM) to **APPROVE** for the following reasons and subject to the appended conditions and subject to DCM taking into account any new material considerations being received prior to the expiry of the consultation period on the 10<sup>th</sup> October 2014:

The development hereby approved, by virtue of it being an appropriate educational use, size and design, and subject to the mitigation measures secured by the attached conditions would not adversely affect amenities of adjoining residents, nor result in additional traffic which would give rise to a road safety hazard or have an adverse impact upon the character of the surrounding countryside and the Area of Separation. The proposal is therefore considered to accord with Harborough District Core Strategy Policies CS8 & CS11 and no other material considerations indicate that the policies of the development plan should not prevail.

### **Application Site:**

The school is located to the northern edge of Market Harborough within an existing residential development. To the north the site is bounded by open countryside, with dwellings adjacent to both the east and west boundaries of the site. The metal fence fencing surrounds the ball court area adjacent to the eastern boundary of the site, whilst the platform lift is adjacent to the recently approved new classroom building.

### **The Proposal:**

The proposal is retrospective in nature and seeks to regularise the formation of play area, including the excavation of land and erection of metal fencing and retaining walls. The play area surrounded by the metal fence is used as a ball court during play times and also for Physical Education lessons.

There have been a number of meetings between the applicants and their representatives, the residents and their representatives and Officers and Members of the Council with the aim of achieving a scheme to mitigate the impact caused by the development. As a result of these, amended plans and supplemental information have been received during the course of the consideration of the application. These have related to technical specification of the acoustic fence, details relating the clip system, details of location and design of the fence and corrections to the plans.

It is proposed that the acoustic fence will sit 1m inside the existing hedgerow in order to afford provision for the maintenance of both the fence and hedgerow. Furthermore, a 1.2m strip of mature planting will be provided on the school side of the fence in order to prevent balls being kicked against the fence. An additional return of the Acoustic Fence along the southern boundary of the ball court is currently being assessed by Acoustic experts.

### **Relevant Policy Considerations:**

National Planning Guidance

*National Planning Policy Framework (published 27/03/12) – “The Framework”*

*Circular 11/95: Use of Conditions in Planning Permission*

This Circular explains that conditions on planning consents should only be imposed where they robustly satisfy the six tests.

*Planning for schools development – August 2011*

### The Development Plan

Section 38(6) of the Town & Country Planning and Compulsory Purchase Act 2004 requires that all determinations under the Act are made in accordance with the Development Plan unless material considerations indicate otherwise.

### Local Development Framework

Harborough District Council is well underway with work on its Local Development Framework (LDF). The Core Strategy Development Plan Document “Version for Council Adoption” was adopted on 14/11/11 to guide future development in the District to 2028.

### Core Strategy

**Policy CS11** promotes the highest design standards in all development and protection and enhancement of the built heritage of the District.

### **Consultations / Representations:**

(Representations received are available to view in full online or on request.)

### LCC Archaeology (Comments made in relation to 13/01283/FUL):

Archaeological attendance during groundworks was recommended on the previous application (12/01305/FUL) and appears to have been carried out, so no further archaeological work will be required as part of this scheme. I'm not clear what the extent of excavation was that actually took place, or whether this could have impacted archaeological remains. The submitted plans don't seem to suggest any significant disturbance outside of previously disturbed areas.

### HDC Environmental Health (Comments made in relation to 13/01283/FUL):

Free-field measurements were undertaken in the rear garden of the property using a fully calibrated Norsonic-140 type 1 sound level meter (serial number. 1404059). The meter was calibrated before and after the monitoring using a hand-held calibrator within calibration (serial number.32728) and no drift in sound pressure level was observed. The sound level meter was placed on a tripod between 1.2-1.5m off the ground.

Weather conditions were favourable for monitoring; dry, cloudy, slight ESE breeze, approx.15C.

Noise from the school was associated with the mid-morning breaks, which appeared to be staggered between the younger pre-school children who came outside first and the older children who came outside later. Unlike what was witnessed on 30 September, all of the play was concentrated on the newly surfaced area directly adjacent to 66 The Ridgeway. We were not aware of any play taking place on the field. The character of the noise was basically the same although there was more screaming associated with the younger children and more emphasis on the ball games from the older children.

Noise measurements included the following noise sources:

- Pre-school children playing on the newly surfaced hard-standing directly adjacent to 66. The Ridgeway. The main noise source from the general play was high-pitched screaming.
- Children playing football and basketball on the newly surfaced hard-standing. As well as shouting, there was the continuous dull-thud of balls bouncing and being hit against a wall and the chain-linked fencing that surrounds the complex.

Overall noise measurements varied between 60.8dB LAeq (when the pre-school children were outside) and 62.9dB LAeq (when the older children were outside).



LAmx levels varied as follows:

Screaming –	61-65dB
Shouting –	66-74.6dB
Balls hitting the fence –	61-62dB
Balls bouncing/hitting the wall –	57-64dB
Lock on door to enclosure being opened/shut -	60.9dB

The noise emissions produced by balls hitting the fencing and supporting walls are 'newly introduced' by the new development.

Screaming and shouting from kids playing is to be expected from a school, however it seems that the development that has taken place has drawn these noise sources closer to 66 The Ridgeway and other residential properties, by re-locating play areas and tarmacking over existing greenery that was not previously used for outdoor play. Therefore, not only has this development introduced new noise sources, but it seems to have intensified existing ones.

Subjectively, the noise emissions from the new play areas are loud and annoying at times. The dull thud of balls bouncing is incessant, and the noise created when a ball hits the fencing can be alarming.

In trying to quantify the noise emissions objectively, reference can be made to the World Health Organisation *Guidelines for Community Noise*, 1999. The preface of the guidance refers to playgrounds and sports events, so the guidance has relevance for this particular case. The Guidance states:

*To protect the majority of people from being seriously annoyed during the daytime, the outdoor sound level from steady, continuous noise should not exceed 55 dB LAeq on balconies, terraces and in outdoor living areas. To protect the majority of people from being moderately annoyed during the daytime, the outdoor sound level should not exceed 50 dB LAeq. Where it is practical and feasible, the lower outdoor sound level should be considered the maximum desirable sound level for new development.*

It is evident that noise from the use of the playground and newly developed sports pitches significantly exceeds both the levels of 50 and 55dB LAeq. There is clearly harm to the local amenity from the new development that has been introduced and remedial measures are required to address the issues.

HDC Environmental Health (Comments made in response to Acoustician's letter on behalf of objectors(See below)):

On the matter of Statutory Nuisance, Cass Allen are obviously entitled to their opinion however this does not change the Council's position. The Council have undertaken an investigation under section 79. of the Environmental Protection Act 1990 and have concluded that the noise is not a Statutory Nuisance. The reasons for this have been outlined in previous correspondence with the complainants. We have no reason to revisit this decision. The complainants have been informed that they have a right to take private action under section 82. of the same legislation.

In relation to the comments concerning the specification of the acoustic fence, the clip-fixing system and the planting of a suitable hedge and maintenance thereafter, I am happy for you to take these comments into consideration for the preparation and submission of suitable planning conditions.

Market Harborough Civic Society:  
Supports the Proposal

Representations:

4 letters of objection received (from the following 4 properties: 60; 64 and 66 The Ridgeway; 13 Fernfield Close) making the following points: 1) The Ball Court and hard-surface play area were

erected/created (without Planning Permission) in May/June 2013, ready for use just prior to the Summer break. 2) The Ball Court is within 5 metres of our garden. 3) The hard-surface play area is within 2 metres of our property and home. 4) Due to the horrendous noise created by the hard-surface play area and Ball Court, we contacted the Environmental Health Department in Market Harborough for their assistance. 5) The measurements of noise recorded by the Environmental Department, Market Harborough<sup>1</sup> and Sharps Redmore do not take into account the noise from the play-area from 08.25-09.00 hours to a slightly less degree and 15.00-15.40 hours. Other instances of noise occur during the day. 6) It should also be noted that at no time decibel measurements have not been taken from within our home. 7) Due to the excavation of many tons of soil in order to install the hard-surface play area, thus causing an amphitheatre effect, which in turn amplifies the level of noise we are now forced to endure has made it impossible for us to open the patio doors and windows and it is impossible for us to sit in our garden or indeed to work in the garden when the children are out at play! 8) The proposed erection of the acoustic fence must be of the highest quality to enable us to have the right of peace in our home and garden. Also mature planting must be carried out on the school side of the fence to prevent the fence being used as 'goal posts' by the children playing football. 9) Finally, It is essential that consideration will be given as to the loss of light to the side of our property. 10) This appears to be a rehash of 13/01283/FUL. 11) It is in the wrong place. 12) at no point has an impact assessment been carried out prior to the removal of the previous temporary classrooms (also sited without planning permission) and therefore a noise assessment was not carried out. 13) The newly constructed play area built without permission has had to be closed to Children as it has not met H&S legislative obligations. 14) The issues with the current structure warrants a noise abatement order, this has not been issued.

Representations from Town Planning Services on behalf of neighbouring resident:

We write on behalf of our client Mrs and Mrs Stretton in respect of the above application. Our clients are the owners of 64 The Ridgeway, Market Harborough and have continued concerns over the effect of the development on their amenity. Whilst the applicant has indicated the provision of mitigation measures within this revised submission (which are welcomed), the application fails to provide sufficient details to demonstrate that these will achieve the necessary reduction in noise, and ensure an acceptable living environment for local residents. As you will be aware, the ball court within the site was constructed over a year ago without the benefit of planning permission. When assessing the previous application, the Council's Environmental Health Officer confirmed that:

*" ... There is clearly harm to the local amenity from the new development that has been introduced and remedial measures are required to address the issues ... "*

It has been widely accepted that the existing situation results in significant harm and is entirely unacceptable. Consequently, the applicant now proposes to provide mitigation. Specifically, the plans indicate the inclusion of a "clip fixing system" applied to the existing mesh fence, together with the erection of an "acoustic close boarded fence".

The measures intended to reduce noise impact are of course appreciated. However, we do not believe that the proposals will achieve the necessary results. Following discussion with local residents, the applicant sought advice from acoustic consultants, Sharps Redmore Partnership. Their initial advice was provided in February 2014 and considered the 'existing' situation. Sharps Redmore Partnership was asked to provide recommendations. At the outset, it should be recognised that given the retrospective nature of the application, no surveys could be undertaken prior to the development. It is now therefore impossible to determine its true effect on the acoustic environment. Nevertheless, it was recommended that<sup>2</sup>:

*" ... If we consider the maximum noise levels against the clay pigeon analogy guidance then with maximum noise levels of 71-72 dB LA<sub>max</sub> in the gardens generally, we are looking for reductions of at least 7 dB, and preferably closer to 12 dB. However from the ball court activity (against the fence) we are looking preferably for a 6 dB reduction, and general ball activity at preferably a 9 dB reduction ... "*

<sup>1</sup> See "HDC Environmental Health (Comments made in relation to 13/01283/FUL):" above

<sup>2</sup> Sharps Redmore Partnership 'Report' 20 February 2014 Paragraph 4.9

Sharps Redmore Partnership went on to identify two potential options to achieve a reduction in noise. The first was the use of the 'clip fixing system' with neoprene strips applied to the existing fence to secure the metal framework. The second was the introduction of a "solid close boarded acoustic fence". It was suggested that the height of the fence should be as high as the ball court fence, reducing to the eaves level of the neighbouring property, 66 The Ridgeway. Sharps Redmore Partnership confirmed that the introduction of both measures would work most effectively.

Whilst the application submitted reflects these recommendations, it fails to provide sufficient detail concerning the precise specification of the works. Most critically, it fails to identify the characteristics of the acoustic fence: the submitted plans refer simply to an "acoustic close boarded fence".

It is evident that the success of the mitigation measures will be wholly dependent upon the quality and characteristics of the fencing materials employed, as well as the quality of construction and implementation. For example:

- The fence should be solid, with good quality timber (no warping, knot holes or damage)
- The thickness should be consistent in all places, including where boards overlap
- Boards should continue across the front of posts to minimise gaps
- Wide overlaps should allow for timber expansion and contraction over time

It should be noted that the specification for a "close-boarded fence" contained in BS1722 (frequently specified as the standard for timber fencing) is not of adequate construction to provide any acoustic function.

Given the retrospective and highly sensitive nature of the development, these details must be determined at this stage. Before granting planning permission, the District Council must be clear and confident that the mitigation measures proposed will achieve the level of remediation sought by the Environmental Health Officer at the outset. Under the circumstances, this should not be left to a condition. Whilst the application is accompanied by the original advice provided by Sharps Redmore Partnership, this was undertaken to assess the situation and to provide recommendations: it does not offer a specific noise assessment of the development now presented, confirming the specification of the materials to be used. This would typically be expected within a statement prepared to support a planning application. We would suggest that Sharps Redmore Partnership be instructed to update their assessment accordingly.

The District Council will also be aware that our clients have suggested the inclusion of other measures that would assist in mitigating the noise and disturbance. In the first instance, these include the provision of landscaping along the line of the proposed acoustic fence, designed to prevent the acoustic fence itself from being used as a further opportunity for ball play (as a 'back board'), thereby exacerbating the problem rather than solving it.

Although this is shown on the proposed plans and is welcomed, it is evident that the extent of landscaping proposed may be inadequate. The plans suggest a landscape strip of 120cm, but do not specify the nature of the planting. Again, this detail is necessary to determine the extent to which this is likely to be successful at discouraging play: whereas a low level boarder with shrubs is unlikely to have any effect, a mature, evergreen hedge of sufficient height would be more appropriate. This level of detail should again be provided within the application prior to determination, and cannot be left to determine through a condition.

Our clients suggested other measures including:

- The introduction of an angled 'return' on the top of the acoustic fence to contain noise within the ball court.
- The provision of an acoustic fence along the southern side of the ball court, with a landscape buffer to prevent use as a 'back board'.

It is disappointing that these measures have not been incorporated. We would also suggest that the height of the acoustic fence be increased at its northern end, where the Academy has now placed a basketball hoop, thereby introducing a further source of noise.

The assessment by White Young Green of the impact of the proposed fence on the occupants of 66 The Ridgeway would appear flawed. The assessment explains that the BRE "25 degree rule" requires that measurements must be taken from the centre of the lowest window. However, the diagram indicated (Figure 2) shows the measurement taken from the *top* of the window (although the scale of the drawing makes this rather difficult to distinguish). It is further evident that the report is "based on a desktop review of the site using Google Maps". The assessment goes on to confirm its reliance on an image from 2009, and suggests that a site survey may need to be undertaken to confirm the position. Furthermore, it is accepted that

*" ... more detailed 3D modelling may be required to establish a more accurate picture of the potential impacts on daylight from the proposed acoustic fence ... "*

We would suggest that little weight, if any, could be placed upon this report; and if anything, the diagram submitted suggests that were the appropriate measurements taken from the centre of the window as recommended, it is likely to fail the standards identified. As such, the proposed acoustic fence may well result in unacceptable harm to residential amenity. If this is the case, then a more fundamental solution is required - namely the relocation of the ball court to a more sensible position within the school grounds, away from neighbouring residential properties (an option that the applicant has sadly given little consideration). Given the sensitivity of the circumstances, we would suggest that White Young Green be instructed to undertake a full and proper assessment based on actual measurements, rather than placing reliance upon "Google Maps". Without this, the Local Planning Authority cannot reach an informed view of the application and its actual effect on residential amenity.

In conclusion, we welcome the applicant's acceptance that measures are required to remedy the existing, unacceptable circumstances. However, we remain of the view that the Local Planning Authority cannot properly determine the extent to which the suggest measures will achieve the desired outcome, without seeking further information and detail. In the meantime, it would be wholly inappropriate to progress with the determination of the application: the application is for a retrospective development that was constructed without permission over a year ago, and has continued to cause significant disturbance and distress to neighbouring residents since then. Given the sensitivity and retrospective nature of the development, it cannot be left to a condition. In the absence of this detail, we maintain our objection to the application.

Without prejudice to our position, the continued retention of mitigations measures in *perpetuity*, together with their on-going maintenance must be clearly controlled through the imposition of an appropriate condition in the event that planning permission is to be granted. We would also suggest that the Council should impose a condition to require that the acoustic measures be tested after implementation (allowing time for settlement). This should ascertain their true effect, and ensure that any remedial measures undertaken as necessary. We are aware that the Council has imposed similar, standard conditions elsewhere.

#### Representations from Town Planning Services on behalf of neighbouring resident in relation to amended plans:

We have now had an opportunity to review the amended plans. These do not offer any substantive alterations when compared to the previous editions. However, as we discussed, it is understood that you are expecting further details in relation to the specification of the acoustic fence. This will be consulted upon separately.

As you are aware, the absence of information concerning the acoustic fence is fundamental to our client's concerns, and it is entirely proper that this detail is submitted during the application stage given the retrospective submission and the ongoing impact on residential amenity. It is necessary and appropriate to consider any amendments in conjunction with the specification for the acoustic fence, as there is an obvious relationship between the two. Nevertheless, we would make the following comments in relation to the details submitted.

In the first instance, we consider the fence to be too short at its northern end, adjacent to the new classroom building. The arrangement of buildings in this location results in the reflection of noise in to the neighbouring gardens and the fence should be increased in height at this point to prevent this. This point has been raised previously.

Secondly, the elevations suggest that the acoustic fence will be faced only on one side (facing the neighbouring residents). While we would agree that this side should be faced, we would suggest that the side within the school grounds should also be faced. Obviously the full details for the fence are awaited, but we would suggest that a double-faced fence would offer a number of benefits in terms of its acoustic performance; its visual appearance; and its structural integrity and stability.

Thirdly, we note that the proposed details continue to omit any return on the southern side of the ball court. Again, this point of concern has been raised previously.

Having regard to the above, we maintain our client's concerns over the performance of the proposed acoustic fence and the continued harm to residential amenity.

We have also discussed the matter of conditions and I understand that it is the Council's intention to require that the fence be installed within a defined period of time following the grant of permission. We would support such a condition. The condition should also require the retention of the fence in perpetuity, with provision to secure ongoing maintenance to retain the acoustic properties of the fence. Similarly, the proposed landscaping provision should be retained in perpetuity rather than any standard five year condition. Clearly, the details of landscaping will need to be submitted – i.e. species, planting density etc. Again, this would need to be planted within a defined period of time.

#### Acoustician's letter on behalf of neighbouring resident:

As requested, I have reviewed the following documents relating to noise from the new ball court associated with the Ridgeway Academy School, including:

- Mr Ian Bartlett's (Environmental Health Team Leader) comments as set out in his email dated 3rd October 2013;
- The Sharps Redmore (SR) acoustic report dated 20th February 2014;
- Drawings of the ball court and surrounds, including the proposed modifications (drawings NR1 and NR2 dated April 2014).

My comments in relation to the acceptability of the noise from the ball court development are set out below.

- Given the proximity of the resident's properties to the school, which is an established noise source in the area, it is not unreasonable for the residential properties to accept some noise from the school. However, it is unreasonable to expect the residents to accept either significant increases in school noise, or exposure to new school-related noise sources that generate significant noise levels, as the result of new development.
- The balls hitting the fence and supporting walls of the ball court are a newly introduced noise source caused specifically by the ball court development. It is also understood that ground modelling and excavation works have also altered the acoustic environment and exacerbated existing noise emissions from the school.
- It is clear from the results of the various noise surveys that the noise from the balls hitting the fence and supporting walls are clearly audible in the gardens of the adjacent residential properties. Mr Bartlett describes the noise as subjectively "loud", "annoying at times", and "can be alarming". It is therefore unsurprising that the noise has provoked formal complaints from the residents of the properties.
- On the basis of the above, I believe there is a strong case to be made that a statutory noise nuisance is occurring due to the ball court development. The Environmental Protection Act 1990 places a duty on local authorities to investigate complaints of noise nuisance and to serve a formal notice requiring the abatement of any noise nuisances that are identified. In this case, such a notice would require that the ball court should not

be used until mitigation measures had been put in place to prevent the nuisance from reoccurring.

- It is understood that the ball court does not have planning permission and the Academy has applied for retrospective planning permission. The design of the ball court development must comply with relevant planning policy on noise, as set out in section 2 of the SR acoustic report.
- As stated in the SR report, where it is identified that noise from a development may have an effect on surrounding uses - "... all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life whilst also taking into consideration the guiding principles of sustainable development. This does not mean that such effects cannot occur."
- In the context of the ball court development this would mean reducing the noise levels from the ball court down as far as is reasonable practical, considering both the feasibility of the noise control measure(s) and the resultant noise levels at the residences. As per the SR report, there are no directly applicable acoustic criteria in this case.
- The current proposals to reduce the noise impact of the ball court include the use of a 'clip fixing system' incorporating neoprene strips on the existing pc weldmesh fencing around the ball court and the construction of an 'acoustic' fence along the eastern boundary of the academy site (which varies in height from around 2-3m).
- In my view the proposed noise mitigation measures will offer an appreciable reduction in the ball court noise levels at the residential properties, subject to the follow provisos:
  - The 'acoustic fence' should be imperforate and have a minimum mass of 12.5kg/m<sup>2</sup>. If a close-boarded timber fence is used this should be designed so that any timber expansion or contraction over time will not result in gaps in the fence. The type of fence proposed should be reviewed and approved by the Council prior to planning permission being granted, rather than being dealt with by condition.
  - The 'clip fixing system' should be commissioned by SR (or other appropriately qualified acousticians) to ensure that it is installed correctly and that an adequate noise reduction is achieved. The commissioning could be controlled by the imposition of a suitably worded planning condition.
- Given that a statutory noise nuisance appears to be occurring at present, in my view the ball court should not be used until the above noise mitigation measures have been fully implemented.
- It will also be important to ensure that the acoustic fence is not used as a 'backboard' by children playing outside of the ball court. To achieve this, an evergreen hedge (or other suitably high and robust planting) should be planted in front of the fence. The planting will need to be robust to ensure it is not worn away by children trying to play against the fence. The use of a high evergreen hedge (or similar approved) would also dissuade graffiti on the fence. It is strongly recommended that the planting is detailed in the planning application and secured by condition to avoid the scenario where children start using the acoustic fence as a backboard and further complaints are provoked from the residents.

In summary of the above, due to the substantiated complaints from the residents, the ball court should not be used until noise mitigation measures have been implemented. The proposed mitigation measures should be fully detailed in the planning application for the ball court and secured through the imposition of suitable planning conditions, including commissioning testing of the 'clip fixing system'. Suitably robust planting will also be required in front of the acoustic fence and this should also be detailed in the planning submission and secured through the imposition of a suitable planning condition. Conditions should also ensure that the noise mitigation measures are retained for the lifetime of the ball court and maintained to ensure their effectiveness.

57 letters of support received (from 41 Market Harborough properties, 1 property in Great Bowden, 1 property in Kibworth, 1 property in Husbands Bosworth, 2 properties in Desborough,

2 properties in Countesthorpe and 2 properties in Leicester) making the following points: 1) I fully support the use of the ball court and playground. 2) My suggestion is that if you don't like the obvious noise from the children at school, then don't move next door to a school. 3) I have seen how disappointed the children have been when this facility was taken away from them. 4) Whilst I understand there has been some objection on the grounds of noise, the school are taking all reasonable steps to address this. 5) The clips and boundary fence which are proposed will reduce the noise - which I believe is a noble move when, at the end of the day, we are talking about a primary school where a certain amount of noise in the playground is expected and normal.

**Statement in support of application from Head Teacher:**

The school was delighted when it was informed that it would have a new classroom block built to replace 3 old mobile classrooms. It was difficult to find a suitable space for the new block and it was reluctantly agreed that some of the existing playground space would need to be used. The school had real concerns that this would lead to a reduction of playground space particularly from October to April when the children are unable to use the field. It was therefore vital that the plans included additional playground space and somewhere for ball games to be safely played without endangering the safety of younger children. The ball court and hard play area are essential to ensuring that all of our children have the opportunity to play outside in a safe environment where they can run and have fun. The school has listened to the concerns of our neighbours and believe that the measures agreed with L.C.C. will reduce the noise levels of the schoolchildren to their properties.

**Other Information:**

**Reason for Committee Decision**

This application is being reported to the Planning Committee for determination following a “Call in” by the Ward Cllrs.

**History:**

<b>Plan No.</b>	<b>Decision / Date</b>	<b>Nature and Location of Development</b>
12/01305/FUL	APPROVED	Erection of a three classroom block (to replace existing mobiles), formation of play area
13/00208/PCD	APPROVED	Discharge of conditions 2 (materials schedule) 3 (archaeology) and 5 (tree protection) of 12/01305/FUL
13/00846/NMA	REFUSED	Installation of platform lift, erection of retaining walls and 3m high chainlink ball court fencing and additional planting strip (non-material amendment of 12/01305/FUL)
13/01283/FUL	WITHDRAWN	Erection of three classroom block, formation of play area (to include excavation of land and erection of metal fencing) and installation of platform lift (retrospective), (revised scheme of 12/01305/FUL)

**Planning Considerations:**

**Design and impact on Streetscene**

The creation of the ball court is seen within the context of the school play area. When viewed from the street, the ball court is seen against the backdrop of the recently constructed classroom block which sits on elevated ground. Furthermore, the ground remodelling and retaining wall would not be readily visible from the streetscene. As such, it is not considered that the ball court would have a detrimental impact upon the character of the streetscene. The proposed acoustic fence ranges in height from 1.75m (at its southernmost extent) to 3.175m (adjacent to the rear elevation of 66 The Ridgeway) and runs along the eastern boundary of the school. The fence would extend beyond the extent of the ball court along the side of 66 The Ridgeway and would protrude beyond the front of this property by 10m. Whilst this is not an

ideal situation, the residents of this property could, under Permitted Development, construct a 2m high boundary fence in this location. As such, given this legitimate fall back position, it is not considered that a reason for refusal could be substantiated on this basis. It is therefore considered that, in terms of visual impact, the proposal complies with Policy CS11 of the Harborough District Core Strategy.

### Residential Amenity

In terms of this proposal, there are two elements which need to be considered in relation to residential amenity. The first is the impact of the noise created by users of the already constructed ball court, and how this can be mitigated. The second arises from the potential impact of the mitigation measure upon the residential amenity of the occupiers of 66 The Ridgeway in terms of being overbearing and resulting in a loss of light.

Concerns have been raised by local residents regarding the impact of the development upon residential amenity by virtue of the noise created by children using the facility. Noise measurements have been taken at the property, and, as outlined above, indicate that the noise created is considerable and in excess of recommended levels. Consideration must be given to the existing use of the site, and as such, how the noise levels have changed as a result of the development. The area where the ball court is located was previously occupied by a mobile classroom block. As part of the original planning permission for the 3 class teaching block (12/01305/FUL), consent was granted for the surfacing of this area following the removal of the mobile block. Furthermore, the site was previously, and still is, in educational use, and as such, the use of the lands has not changed. As such, children's play could lawfully occur in this area, and any additional noise can only be attributed to the presence of the ball court. The area immediately adjacent to the garden of 66 The Ridgeway was previously grassed with some trees and bushes and also a shed. This area has now been hard-surfaced and is utilised as additional play area, predominantly for the younger (Foundation and Key Stage 1) pupils of the school. Noise from this area, immediately adjacent to the garden of 66 The Ridgeway was recorded as being 61 and 74dB. As noted previously, the use of the land in this area has not changed. It was, and still is in educational use. However, the surfacing of this area has had the effect of transplanting existing sources of noise closer to the residential properties by virtue of the all weather surface. Concerns have also been raised by residents about the area to the south of this, adjacent to the bungalow at 66 The Ridgeway, stating that the reconfiguration of the play area has resulted in more noise coming from this area. No operational development has occurred in this area, and the way in which the School use their existing facilities is an operational decision on their part and can have no bearing upon the consideration of this application. As such, the areas for consideration are:

- 1) The noise created by the impact of balls being struck against the metal fence and retaining wall of the ball court
- 2) The noise created by children playing on the small area of additional hard standing (approximately 9m x 9m) created immediately adjacent to the garden of 66 The Ridgeway.

Taking the first issue first, following a meeting between HDC Planning Officers and EHO, representatives of the School and local residents, it was agreed that the School would commission a noise report to look at mitigation measures. As a result of this, a method of noise mitigation was proposed. This consisted of clip system to reduce the level of noise created when balls strike the fence, coupled with the erection of an acoustic fence to the boundary of the school. The clip system would be installed to all boundaries of the ball court. Full details of this product, and the acoustic fence have been submitted and are currently being assessed by HDC EHO's. Additionally, the benefits of a further return of the fence along the southern boundary of the ball court are currently being assessed by the applicants Acousticians and may form part of a further amendment. Moving on to the second issue, the additional area of hard standing is relatively small, however, its presence does result in children playing in this area for extended periods of the day, throughout the year, whereas previously, it is expected that children would have been discouraged from going on the grass for large parts of the year. However, it is not just the surfacing of this area which has altered the noise environment. The removal of trees and the shed will have had the result of removing acoustic barriers, albeit of



indeterminate value. Furthermore, the removal of these trees and the shed would not have required consent, and as such, should have no bearing upon the consideration of the application. As has been indicated previously in this section of the report, the use of the land has not changed, rather, it is the manner in which the school operates which has altered. Whilst the hard surfacing of this area has relocated a noise source closer to the existing residential property and as such intensified the disruption to the property it is not considered that this element is substantive enough so as to warrant the refusal of the application. Furthermore, due to the location of the proposed acoustic fence, this will also attenuate noise from this source. Whilst it is accepted that the ball court is not currently in use, it is not considered to be reasonable to stop the use of the ballcourt pending the construction of the fence. As such, a condition has been recommended to ensure that the acoustic fence and planting are put in place within 8 weeks of the date of this consent.

As outlined above, there are 2 issues related to residential amenity, the second being the impact of the proposed acoustic fence upon the living conditions of the neighbouring property, 66 The Ridgeway. The fence will, due to its height and location, have an impact upon the residential amenity of the property. Having said this, it would not be uncommon for a hedgerow to be allowed to grow to a similar height in similar proximity to the property. There is currently a fence along the boundary of the site, and then a fence on the school side of this. The acoustic fence would be a further 1m inside this hedgerow. This means that the acoustic fence would range between 2.5m and 3.175m from 66 The Ridgeway. As such, it is considered that, whilst there would be some impact as a result of the proposed fence, this would not be so demonstrable as to outweigh the benefits of the fence in terms of the noise level reductions it will provide.

On the basis of the above, it is considered that the proposal complies with Policy CS11 in terms of residential amenity, both in relation to noise and overbearing impact.

#### Other Issues – Archaeology

Concerns have been raised by local residents that the excavation carried out to facilitate the ball court could have had a detrimental impact upon significant archaeological interests in the area. The Bowden Ridge is acknowledged for its archaeological significance. LCC Archaeology were consulted upon the application, and their comments can be seen in the consultations section of this report.

#### **Conclusion:**

The development represents a form of regularisation of an operation which has been carried out without the benefit of Planning Permission. The layout and set up as constructed allows for a more structured play area for the pupils of the school. Concerns have been raised regarding the noise emanating from the School. A certain level of noise is to be expected from such a facility, however, in this case, it is the nature of certain noises which cause concern. Mitigation against this noise has been sought, and it has been demonstrated that this mitigation can reduce noise levels to an acceptable level. In light of this, it is considered that the proposal is in accordance with Policy CS11 of the Harborough District Core Strategy.

#### **Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. Within 8 weeks of the date of this permission, the acoustic fence, clip system and landscaping noise referred to in the details submitted 25/09/14 shall be installed. If the noise attenuation measures are not installed within 8 weeks of the date of this consent, enforcement proceedings may be commenced in order to ensure that the use of the Ball

Court ceases. The applicants shall notify the LPA in writing of the date of the completion of the installation of the noise attenuation measures and landscaping within 7 days of such date. The noise attenuation features shall be maintained and retained in perpetuity.  
REASON: To protect the amenities of the neighbouring residents so far as possible and to ensure compliance with Policy CS11 of the Harborough District Core Strategy.

3. A 1.2m deep mature planting buffer as indicated on drawing reference NR2 Revision A shall be carried out in the first planting and seeding season following the date of this consent. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by children. Any trees or plants which die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. The planting scheme shall be maintained in perpetuity.

REASON: To ensure a satisfactory landscaped setting for the development and to stop the acoustic fence becoming a source of annoyance by virtue becoming a new noise source and to accord with Harborough District Core Strategy Policy CS11

14/00876/FUL – Bruntingthorpe  
Applicant: Mr B Drake

Erection of two storage buildings with associated access and parking, land at Bruntingthorpe Industrial estate, Mere Road, Bruntingthorpe..

Target Date:27/08/14

### **Recommendation**

**APPROVE** for the following reasons and appended conditions

The development hereby approved, by virtue of its scale, design, form and massing, would not adversely affect the amenity of local residents, or result in additional traffic which would give rise to a road safety hazard; would respect the character and distinctiveness of the site's surroundings and respond appropriately to the site's characteristics. The proposal accords with Core Strategy EM/2 and CS/11 would help to support the local economy in accordance with Paras 28 and 34 which recognise that sustainable transport solutions vary from urban to rural areas. By virtue of its location, the proposal would not normally be considered sustainable conflicting with Policies CS5, CS7(f) and CS17 of the adopted Core Strategy but the economic benefits are considered to outweigh any harm identified.

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

### **Site:**

The application relates to an overgrown site located within the established Bruntingthorpe industrial estate, where there are a variety of older industrial and storage buildings used in connection with various businesses. The western part of the industrial estate falls within the area known as the Industrial Area West of Bruntingthorpe and subject to Policy EM/22, whilst the remainder of estate has no designation. The main Airfield site is located to the west adjoining the area covered by EM/22. Access to the site is via the Bruntingthorpe Road and larger vehicles have been routed such that they do not travel past Upper Bruntingthorpe.

10 and 11 are modern units which are located immediately to the east and south of the site and access would be through the existing hardstanding/access.

### **The Proposal:**

The current application seeks permission for the erection of two industrial storage (Class B8) units comprising 401/495 sq.m. The buildings have a pitched roof and maximum height of 8.27m. The buildings have an industrial appearance with materials listed as lower brick and profiled metal sheeting. 18no parking spaces are provided and there is space for turning /manoeuvring. A total number of 11 full time jobs will be created. There is scope to provide additional landscaping to the site boundaries.

### **Policy**

#### **National Planning Policy Framework (“the Framework”) (published 27.03.2012):**

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

#### **Local Policy:**

Local Policy – adopted Harborough District Core Strategy

CS1 – Spatial Strategy  
CS5 – Promoting Sustainable Transport  
CS7 – Enabling employment and business development  
CS11 – Promoting Design and Built Heritage  
CS17 – Rural Centres, Rural Villages and Countryside

Local Policy – retained Harborough District Local Plan

EM/2- Control of Development on employment sites.  
EM/22 Bruntingthorpe.

Local Supplementary Planning Guidance Notes<sup>3</sup>:

SPG Note 1: Design principles  
SPG Note 7: Industrial and commercial development.  
SPG Note 9: Landscape & New Development  
SPG Note 10: Trees & Development

Other

*The national Planning Practice Guidance Suite (06.03.14)*  
*Appendix A of Circular 11/95 – Use of conditions in planning permission*  
*Circular 06/05 – Biodiversity including statutory obligations within the planning system*  
*Community Infrastructure Regulations 2010*  
*Planning for Climate Change (supplementary national guidance) (April 2012)*

**Consultations / Representations:**

Highways (LCC):

The Highway Authority has no objections to this proposal as it could not be demonstrated it would result in a material increase in traffic visiting the site.

Recommends parking condition.

Environmental Services (HDC):

Contaminated land condition recommended and restricted hours of construction.

Archaeology (LCC):

None received

Leicestershire County Council Ecology:

No comments received

Parish Council:

No comments received

Representations:

None received

**Other Information**

History –

Various other industrial units have been approved in the immediate vicinity.

Reason for Report to Committee:

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This application is being reported to the Planning Committee for determination because one of the joint applicants is Councillor Dewes.

### **Planning Considerations:**

#### **Policy Assessment:**

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the relevant policies contained within the Development Plan unless material considerations indicate otherwise. At the present time the Development Plan for the site comprises the adopted Core Strategy, and the 'saved' policies of the Harborough District Local Plan (HDLP). Core Strategy Policies CS1, CS5, CS7, CS11 and CS17 and saved policy EM/2 are considered most relevant to this application, along with certain paragraphs of the Framework (quoted above).

Policy CS17 states that outside Rural Centres and selected rural villages (as explained at para 6.62 of the Core Strategy), new development in the Countryside "and other settlements not identified as selected rural villages" will be strictly controlled, and that only development required for the purposes of agriculture, woodland management, sport and recreation, local food initiatives, tourism and renewable energy generation will be appropriate in principle.

Policy CS5 states that the majority of development will be located in areas well served by local services to reduce the need to travel, where people can gain convenient access to public transport services, and Policy CS9 states that new development will be directed towards the most sustainable locations.

Policy CS7 states that economic and employment development will be focused on Market Harborough as the principal town within the District and in other locations which reinforce the strategy for settlements set out in the Core Strategy. Policy CS7(f) states that the Council will support employment development within the countryside, beyond towns and villages, "only where it contributes to the retention and viability of rural services or land based businesses, aids farm diversification, or promotes the conversion and re-use of appropriately located and [suitably] constructed existing buildings".

Saved Policy EM/2 states that permission will be refused for uses other than B1, B2 and B8 on existing commercial and industrial estates in the District.

Paragraph 19 of the Framework states that the planning system should proactively support sustainable economic growth, and that significant weight should be placed on the need to support economic growth through the planning system.

Para 28 states that policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development and the expansion of all types of businesses in rural areas.

Para 30 expects Councils in preparing local plans to support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport. Core Strategy Policies CS5, CS9 and CS17 are not inconsistent with these elements of the Framework.

Para 34 recognises that sustainable transport modes should be maximised, however this needs to take account of other policies particularly in rural areas.

#### **Principle**

The site is quite unusual in that it is within an existing established industrial area and outside of identified industrial areas as recognised in the Saved Local Plan policies EM/22-24.

However, it was considered as part of the Council's existing employment sites review 2012 ref 23. The site was assessed as category B "General Employment Area", which is generally fit for purpose for business uses but subject to policies to support and upgrade wider employment based uses. The review notes that there is a fair demand for this type of unit with no vacancies which suggests market demand.

Thus whilst this location is not sustainable in the context of CS17 and CS7, it is recognised that this is an existing industrial estate and given the location of the site by its very nature transport options will be limited. This is recognised in para 29 of the Framework which refers to opportunities for sustainable transport varying from urban to rural communities.

The proposal would provide local job opportunities and meet a need in the market for smaller scale industrial units. Thus the economic benefits are considered to represent a key material planning consideration which should be afforded significant weight.

#### Impact on visual amenity / character and appearance of countryside

The buildings are sympathetically designed and are of a similar size and height to surrounding buildings such that they will be viewed in the overall site context, with the trees behind creating a backdrop screen. The buildings not readily visible outside of the site and from Upper Bruntingthorpe given their position with the Proving ground behind.

#### Impact on residential amenity

Given the location within the site with other similar units located closer to Upper Bruntingthorpe (which is some distance away) and the nature of the use, it is not envisaged that there would be any adverse impact on residential amenity.

#### Highways and parking considerations:

The highways officer considers that there would be no significant impact on the local road network given the scale of the development and the nature of the use.

#### Economic benefits

The proposal would create 11 full time jobs and provide the opportunity for local businesses to occupy a relatively small unit, meeting market need.

#### Conclusion

The proposal would not adversely affect residential amenity, local highway safety or – subject to appropriately worded conditions as recommended – the character or visual amenity of its surroundings and would support the local economy, providing employment opportunities and the later is given significant weight, recognising that the nature of the location is not sustainable and the particular circumstances of this established industrial estate...

#### Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be constructed entirely of the materials as detailed in the Design and Access Statement. REASON: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policy CS11.
3. The car parking and any turning facilities shown within the site shall be provided hard surfaced and made available for use before the dwelling is occupied and shall thereafter be permanently so maintained. REASON: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to accord with Harborough District Core Strategy Policy CS11
4. A landscaping plan for the site shall be submitted and approved in writing prior to the commencement of the development.  
All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or

the completion of the development, whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years from the date of first occupation of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features and to accord with Harborough District Core Strategy Policy CS11

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting or amending that Order with or without modification), the site shall be used solely for purposes within Class(es) B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment)(England) Order 2010 (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification). REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use, other than a use within the same class(es), having regard to the circumstances of the case.
6. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
  - a) the parking of vehicles of site operatives and visitors;
  - b) wheel cleaning facilities;
  - c) hours of construction work, including deliveries; andhas been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and to accord with Harborough District Core Strategy Policy CS11
7. No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
  - o BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
  - o BS8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
  - o BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
  - o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:
  - o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

- o Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

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

8. Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development. Prior to occupation of any part of the completed development, a report showing the findings of the Verification Investigation shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
  - o Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
  - o Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
  - o 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;
  - o Contain Test Certificates of imported material to show that it is suitable for its proposed use;
  - o Demonstrate the effectiveness of the approved Remedial Scheme; and
  - o Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

#### Notes to Applicant

1. You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. Market Harborough 821090). As such please be aware that complying with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.
2. It is recommended that no burning of waste on site is undertaken unless an exemption is obtained from the Environment Agency. The production of dark smoke on site is an offence under the Clean Air Act 1993. Notwithstanding the above the emission of any smoke from site could constitute a Statutory Nuisance under section 79 of the Environmental Protection Act 1990.



14/00935/FUL – Great Easton

Change of use from Horsiculture to dog day care centre and erection of two timber buildings, Land Off, Stockerston Lane

Applicant: Mr M Leckenby

Target Date: 01/09/14

**Recommendation:**

**Approve** for the following reasons and subject to the appended conditions:

The development hereby approved, by virtue of it being an appropriate use, size and design would not adversely affect amenities of adjoining residents, nor result in additional traffic which would give rise to a road safety hazard. Furthermore, the development will generate employment opportunities in the district. The proposal is therefore considered to accord with Harborough District Core Strategy Policies CS7, CS11 and CS17, and no other material considerations indicate that the policies of the development plan should not prevail, furthermore the decision has been reached taking into account 186-187 of the National Planning Policy Framework.

**Site:**

The application site is located to the north of Great Easton, approximately 800m from the edge of the village. Approximately 600m to the east of the site lies Eyebrook Reservoir which is a SSSI. The site is currently unused, and is partially overgrown with an untidy appearance. There is an existing access to the site from the highway to an area laid with stone which has subsequently become overgrown.

**The Proposal:**

The application proposes the change of the land to a Dog Day Care centre along with the erection of two buildings. The two buildings would be constructed from timber and measure 10.5m wide by 4.5m deep by 2.8m to ridge for the day care building and 8.5m wide (with a small lean to “extension”) by 3.5m deep (with a small protrusion from and back) by 3m to the ridge for the Reception and grooming building. The application does not state the number of dogs which would be accommodated at the site, however, a separate application to licence the establishment has been made on the basis of 15 dogs.

The applicants have stated that the site was previously used for “Horsiculture”, including the provision of 2 stable buildings on the “existing site layout” plan, however, there is no evidence of this on site, neither is there any planning history on the site to substantiate anything other than agricultural use of the site. As such, the consideration of this application is to be made on the basis of a change of use from agriculture to Dog day care centre

**Policy**

**Local Policy:**

Harborough District Council Core Strategy

CS7 – Employment and Business Development

CS11 – Promoting Design and Built Heritage

CS17 – Countryside, Rural Centres and Rural Villages.

**Consultations / Representations:**

Highways (LCC):

No comments due to existing land use

Highways (LCC) (further clarification on previous comments:

The fact that there is no extant horsiculture use does not alter the acceptability of the proposal in principle from the H.A's viewpoint.

I am mindful of 2No appeal decisions; 2011/0814/03 went to appeal for an application for a similar use to the north west of North Kilworth and the Inspector acknowledged this type of use needs to be in a rural setting and dismissed concerns raised on transport sustainability grounds. I am also mindful of the very recent decision for 2013/01530/03 at Peatling Parva where although this was for a completely different use and the appeal was dismissed considerable weight was given by the Inspector in terms of protecting / enhancing the rural economy.

When considering the aforementioned, there would be no grounds for the H.A to resist from a sustainability viewpoint or in relation to any severe traffic impact on the surrounding road network. As the proposal will lead to an increase in traffic to and from the site I would recommend that if members are minded to permit they condition the following:-

- car parking to be provided
- gates back 5 metres
- hard surfacing for 5 metres
- Turning within the site

#### Environmental Health (HDC)(Contaminated Land)

Due to the historic use of the site for the quarrying of sand gravel and clay, the permission should be conditioned

#### Environmental Health (HDC))

Further to your consultation on this application I can confirm that I do not have any objections based on the rural location and size of the operation.

There are currently 2 operational dog day care centres that are licensed by the Council for larger numbers of dogs which do not give rise to noise complaints. Should problems with noise arise then the issue can be investigated under our powers given in the Environmental Protection Act 1990.

The applicant will need to apply for a licence to operate an animal boarding establishment before any business starts operating from the site.

An appropriate waste collection service needs to be implemented before operation.

#### LCC Ecology:

We have no survey recommendations for this application. However, badgers have been recorded in the vicinity, we would therefore recommend that a note is forwarded with any permission granted reminding the applicant of the need to stop work should protected species be discovered.

#### Eyebrook Reservoir Wildlife Group

I would like to add my objection to the proposal for the change of land use on Stockerston Lane. Many of the reasons that this scheme should not go ahead have already been previously stated and I can only agree with them. Eyebrook Reservoir is a Site of Special Scientific Interest (SSSI) that was set up to protect the varied local wildlife including some scarce and rare species. There have been instances of uncontrolled dogs running loose within the reservoir grounds causing major disturbance to the wildlife and worrying the sheep and cattle that graze there. Should this proposal go ahead it will only heighten the risk of this happening again.

The adjacent local farmer has worked long and hard to establish a wildlife friendly farm and has encouraged the public to enjoy it with the provision of the permissive footpaths. If this scheme

leads to the closure of the footpaths it will not only be a loss to those who use them but an undeserved setback for what he seeks to achieve.

#### Great Easton Parish Council:

The Great Easton Parish Council enters a number of objections to this application:

1. The Applicant seeks a change of use from Horsiculture (D2) to dog day centre (D1). In the living memory of landowners and users of the surrounding properties the application site has never been used for the pasturing or exercising of horses. This is agricultural land.
2. We share the concerns of the local farming community that the continuous barking associated with kennels and worryingly, a significant increase in dog walking, probably in large groups, will distress and disturb grazing livestock. Dogs breaking free, as can happen on occasions, would present a danger to cattle in or with calf or sheep that are lambing.
3. The owner of Rectory Farm, Great Easton who works the fields adjacent to the application site provides and maintains footpaths on the margins of his lands for the use and enjoyment of people visiting this area of outstanding natural beauty. The farmer has informed the Parish Council that, from fear of being in breach of his tenancy agreement by supporting the activities of a commercial undertaking, he will close the footpaths if Planning Permission is granted. This would be a very significant loss of an amenity for villagers and visitors to the area.
4. Stockerston Road is a single track highway. A significant daily increase of traffic visiting and leaving a dog care day centre would create driving hazards and lead to the destruction of the verges.
5. The proposed site is above the Eyebrook Reservoir within and overlooking a quiet, peaceful rural area of outstanding natural beauty. In addition to grazing livestock, the area provides habitats for a proliferation of relatively undisturbed wildlife. The Parish Council question and object to a Planning Application for a questionable commercial undertaking that will disturb and intrude upon this area. Whilst possibly not material to a Planning Application, the Parish Council suggest that in this particular case the Application should be supported by the Business Plan that, presumably, justifies the proposal

#### Representations:

11 letters of objection have been received (Great Easton x9; Great Glen x1; Bury St Edmunds x1) raising the following points (for more details please refer to the letters on file):

- 1) Disruption to the tranquillity of the area, particularly the Eyebrook Reservoir.
- 2) Increase in traffic.
- 3) Impact on wildlife in adjoining fields.
- 4) Noise of barking dogs.
- 5) Increase in dogs on the roads.
- 6) Increase in faeces in area
- 7) Could lead to a house being built.
- 8) Security of the dogs
- 9) We have permissive paths neighbouring the development site, used by the village to provide walks and an opportunity to view the beautiful scenery here. These paths are a great asset to the community however should they be used commercially by the dog walking centre they would have to be closed.
- 10) In the application it states 'change of use from Horsiculture' this field has never been used for horses, it has been used for purely agricultural with grazing sheep and haymaking prior to this application.
- 11) Where will the dogs be exercised.
- 12) Reservoir is a SSSI.
- 13) Sheep have been killed by dogs escaping from the village

#### Other Information

##### Reason for Report to Committee:

This application is being reported to the Planning Committee for determination because the application of the number of letters of counter-representation which have been received.

Concerns have been raised that no site or press notice or public consultation has been carried out on the application. The application site is remote from residential properties, and as such, there are no immediate neighbour to which notification of the application could be sent. A site notice was posted at the site on the 5<sup>th</sup> of August, however, there are concerns that this was subsequently removed. A further site notice was posted on the 4<sup>th</sup> September, and was subsequently checked by Officers on the 14<sup>th</sup> September at which point it was still in situ. The application is not of a type or scale which would merit a press notice.

Pre-application advice:

No pre application advice has been given in relation to the proposal.

Relevant Appeal Decisions:

On the issue of sustainability, Appeal ref: APP/F2415/A/14/2221013 change of use from agricultural building to function centre. (Peatling Lodge Farm, Bruntingthorpe Road, Peatling Parva) issued 23 September 2014 stated:

*“17. Although in a rural area, the site is located some 15 km south of Leicester and a similar distance from Market Harborough. It also has access to the motorway and trunk road network some 7 km away. In my view it is not unduly remote or inaccessible in the context of its proposed use. Moreover, it is not suggested that the road network leading to the site is inadequate to cope with the additional traffic anticipated. Indeed it is already used by traffic visiting the proving ground and other facilities in the area, such as the large and busy Shires Inn pub and restaurant in Peatling Parva. The Council draws attention to a recent appeal decision in the area. However, this related to proposed live/work units which are not comparable with the current proposal and which the Inspector considered would conflict with policy for housing in the rural area.”*

*“18..... It is therefore concluded on the second main issue that the proposed change of use would have no materially harmful effect on sustainable development objectives with respect to accessibility and the rural economy.”*

APP/F2415/A/11/2165756 (HDC referenece11/00814): Appeal allowed for Erection of dog boarding kennels and siting of temporary residential accommodation, Land OS 2373 And 3589, Kilworth Road, Kimcote. Cost award against HDC.

*5. For reasons of ease of access and to reduce greenhouse gas emissions associated with car use, the Framework identifies that the proximity of services and facilities to where people live is an important aspect of deciding whether a development is sustainable. Policies CS7 and CS17 of the Harborough Core Strategy seek to direct services to towns and rural centres within the District where they can be readily accessed by walking, cycling or public transport. Certain land uses the Core Strategy recognises, however, require a rural location. Whilst the boarding kennels would be insulated barking is likely to be an issue when dogs arrive, or depart, and possibly when they are exercised. As a consequence, a boarding kennel is an example of a service which requires a rural location, away from residential areas.*

*6. In terms of distance, the appeal site at approximately 2 miles from Husbands Bosworth, the nearest rural centre identified by the Core Strategy, is not close to a population centre. However, even if it was closer it is unrealistic to expect that dogs would be taken to, or collected from, the kennels by public transport, cycling or walking. Furthermore, on the basis of the market research carried out by the appellant, the boarding service is likely to attract customers from nearby towns. As a consequence, whether the site was within a few hundred metres of a centre of population or 2 miles away would make little material difference in terms of sustainability.*

*7. Several appeal decisions have been cited against the proposal. However, those decisions are materially different to the appeal proposal as they relate to commercial and residential development, which unlike the appeal proposal do not require a rural location*

*8. Taking all these matters into account, I therefore conclude that the kennels would be in a sustainable location for development and would comply with the objectives of policies CS7 and CS17 of the Core Strategy and the Framework.*

These appeals are for different proposals to 14/00935/FUL but notwithstanding it must be decided on merit they are recent decisions with similarities of some relevance.

Planning Considerations:

Policy Assessment:

Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the relevant policies contained within the development plan unless material considerations indicate otherwise.

At the present time the Development Plan for the site comprises the adopted Harborough District Core Strategy, and the retained policies of the Harborough District Local Plan (HDLP). National guidance in the form of the National Planning Policy Framework, together with Government White Papers and Reviews, is also relevant.

Policy CS7 states that economic and employment development will be enabled within Harborough District in support of the sub-regional economic growth of Leicester and Leicestershire. To achieve this, the spatial strategy seeks to:

f) Support employment development within the countryside, beyond towns and villages, only where it; contributes to the retention and viability of rural services or land based businesses, aids farm diversification, or promotes the conversion and re-use of appropriately located and suitable constructed existing buildings (particularly those adjacent to or closely related to towns and villages).

Policy CS11 states that, in recognition of the importance of good design and the built heritage of the District, the highest standards of design in new development will be sought to create attractive places for people to live, work and visit. This will be achieved in the following way:

(a) Development should be inspired by, respect and enhance local character, building materials and distinctiveness of the area in which it would be situated

(b) All development should respect the context in which it is taking place and respond to the unique characteristics of the individual site and the wider local environment beyond the site's boundaries to ensure that it is integrated as far as possible into the existing built form of the District. New development should be directed away from undeveloped areas of land which are important to the form and character of a settlement or locality.

(c) Development should be well planned to:

i) Incorporate safe and inclusive design, suitable for all to access;

ii) Make the most of local built and natural assets;

iii) Be of a scale, density and design that would not cause damage to the qualities, character and amenity of the areas in which they are situated;

iv) Ensure that the amenities of existing and future neighbouring occupiers are safeguarded;

v) Reflect the landscape or streetscape in which it is situated and include an appropriate landscaping scheme where needed;

vi) Enable adaptation, allowing for mixed uses with the potential to change use where appropriate;

vii) Enable adaptation, ensuring suitability for today's users and capability for alteration to suit users in a future changing climate;

viii) Where appropriate, encourage travel by a variety of modes of transport;

ix) Minimise waste and encourage re-use and recycling wherever possible.

Policy CS17 states that, beyond Market Harborough, Lutterworth, Broughton Astley and Leicester PUA, development over the plan period will be focussed on Billesdon, Fleckney, Great Glen, Husbands Bosworth, Kibworth and Ullesthorpe. As Rural Centres they will be the focus for rural affordable and market housing, additional employment, retail and community uses to serve the settlement and its rural catchment area. In other selected rural villages development will be on a lesser scale. In all cases development will be on a scale which reflects the size and character of the village concerned, the level of service provision and takes into account recent development and existing commitments. Outside these rural settlements, new development in the Countryside and other settlements not identified as selected rural villages will be strictly controlled.

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

#### Principle of Development

As the proposal is for the creation of a low key business in the countryside, policies CS7, CS11 and CS17 are of particular relevance requiring a number of criteria to be met. This is a unique scheme and it is recognised that this rural location is required due to potential of noise and disturbance from the dogs. An accessible position next to a road and relatively close to a Great Easton and Corby is also beneficial. The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Whilst the location is not wholly sustainable, other factors are material and the Applicant proposes to use the collection/drop off service to reduce journeys to the site. A recent appeal decision in the District looked at this issue and concluded that although the site was located some 15 km south of Leicester and a similar distance from Market Harborough, it did benefit from access to the motorway and trunk road network some 7 km away. It was the Inspectors view that such a location was not unduly remote or inaccessible in the context of its proposed use. Moreover, it is not suggested that the road network leading to the site is inadequate to cope with the additional traffic anticipated. Whilst the site currently under consideration does not have close access to either the motorway or trunk road network, this is not considered to be necessary in the context of the proposed use. However, of more relevance to the proposed use is the proximity of the site to surrounding settlements, such as Great Easton (1km), Caldecott (3.7km), Cottingham (5km), Corby (7km), Medbourne (8km) and Uppingham (10km). Furthermore, advice received from LCC Highways does not suggest that the road network leading to the site is inadequate to cope with the additional traffic anticipated. Allied to this, the applicants have stated that they will be operating a collection service using their own vehicle in order to reduce the number of vehicular movements to and from the site. As such, it is not considered that the proposal would have no materially harmful effect on sustainable development objectives with respect to accessibility and the rural economy.

#### Impact on the character of the area:

The proposed new buildings are low key and of a modest style giving a semi agricultural feel to the development. Under agricultural permitted development, the adjoining land owner could erect a building of up to 465sq metres and up to 12m in height compared to the proposals combined of floorspace of less than 100sq m with a maximum ridgeheight of 3.5m. The exercise area is well related to the proposed buildings and can be further screened by fencing/planting (Details of fencing and additional landscaping need to be agreed by way of suggested condition 7). The administration building and parking are well related to the road and are in a position that can utilise the existing access. The currently overgrown area adjacent to the site access would provide adequate parking and turning facilities without necessitating any further hardstanding to be created. Lighting would be controlled by way of condition which would also relate to the exercise area. Concerns have been raised by local residents regarding the impact of the proposal upon the tranquillity of the area through introduction of barking dogs. The walking of dogs can already occur in the area on the permissive footpaths in the fields adjacent to the site, the public right of way 600m to the south west of the site and also the public highway adjacent to the site, and as such it is not considered that a reason for refusal based upon the impact of the proposal upon the character of the area could be substantiated (see for example APP/F2415/A/11/2165756 where costs where this concern could not be substantiated).

#### Residential amenity:

Concerns have been raised by a number of local residents in relation to potential noise from the dogs and raising other issues. Environmental Services have been consulted but raise no objection to this particular use. The site is in close proximity to the adjacent roads and there is background noise from this which must be borne in mind. Furthermore, the closest adjacent dwelling to the site (Bush House Farm) is located some 380m away, however, this is an agricultural related property. The closest non agricultural dwelling (The Bungalow) is

approximately 840m away from the site. Hours would be restricted and the number of dogs would be limited to 10, thus minimising potential noise and disturbance. Lighting is proposed to be controlled by way of condition.

#### Access and parking:

On the basis of existing land use, it is not considered that refusal of the proposal could be reasonably justified and defended at Appeal, although the non-sustainable location is referred to. The applicants have stated that dogs would be collected by their vehicle in order to minimise vehicular movements to and from the site. The currently overgrown area adjacent to the site access would provide adequate parking and turning facilities without necessitating any further hardstanding to be created. A number of conditions have been recommended to ensure that the use remains compatible with the highway network.

#### Other issues

Issues have been raised by residents and also the Chair of the Eyebrook Wildlife Group regarding the potential for escaped dogs to disrupt the wildlife which inhabit the reservoir which is a SSSI. This could also be said of dogs who's owners walk them at the Reservoir, as pointed out by the Chair of the Wildlife group, or towards dogs who reside at properties within surrounding villages of Great Easton, Caldecott or Stoke Dry. Furthermore, it is in the interests of the operators of the facility to ensure that dogs do not have the opportunity to escape from the site. It is not considered that a reason for refusal on this basis could be substantiated.

A request has been made for a full contaminated land survey of the site prior to development due to the site's previous use as a quarry. There is no sign of such a use having been carried out on the site, although the 1885, 1904, 1952 OS maps for the area do indicate that there was an old sand pit approximately 250m to the south west of the site. However, by 1968, reference to the Old Sand Pits had been removed from the OS maps. Based upon this, it is not considered to be reasonable to require a condition for a full contaminated land survey by condition for this proposal.

#### Conclusion

The proposal has potential to provide economic growth through the provision of accommodation for a new business. Government statements in Planning for Growth and the National Planning Policy Framework (NPPF) generally underline the importance of economic development.

It is concerning that the site is within open countryside representing sporadic development possibly having an impact, and very concerning that it is in an unsustainable location. However, these concerns can be addressed by control over scale and appearance of building. The non sustainable location is mitigated by operational mechanisms suggested by the applicant and as such, it weighs in favour of the proposals benefits, and the fact that such a use would result in increased conflict with existing residential properties if it were located in a more sustainable location. Recent appeal decisions, albeit for different proposals, APP/F2415/A/11/2165756 & APP/F2415/A/14/2221013 suggest the Local Planning Authority will find it difficult to substantiate concerns on sustainability are so great to withhold consent.

In light of the above reasons, the application is recommended for approval.

#### Conditions

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

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

2. Prior to the commencement of the development, a management plan to restrict the number of visitors to the site shall be submitted and approved in writing by the District

Planning Authority. This shall include details in relation to the proposed mini-bus pickup and drop off and staff/visitor movements. no access to the site by the general public and any dog grooming shall be ancillary to the dog day care, for dogs enrolled in the facility. The management plan shall be maintained at all times thereafter and available for inspection by the District planning Authority upon written request.

REASON: To ensure that traffic movements are minimised in the interest of highway safety and sustainability, and to accord with Core Strategy Policies CS7 and CS17.

3. There shall be no more than 15 dogs on the site at any one time and in connection with the dog day care use.

REASON: To ensure that the use remains compatible with the character of the surrounding area and reduce vehicular movements and to accord with Core Strategies CS7 and CS17.

4. Prior to the commencement of the development a scheme for the disposal of waste shall be submitted and approved in writing by the District Planning Authority, and implemented in accordance with the approved details thereafter.

REASON: To ensure that the use remains compatible with the surrounding area and to accord with Core Strategy CS11.

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

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site and to accord with Harborough District Core Strategy Policy CS11

6. There shall be no operation of the facility except between the hours of 07:00 and 19:00 hours Mondays to Fridays and 08:00 and 18:00 hours Saturday, Sundays and Bank Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area and to accord with Harborough District Core Strategy Policy CS11

7. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:
  - (a) indications of all existing trees and hedgerows on the land;
  - (b) details of any trees and hedgerows to be retained;
  - (c) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
  - (d) finished levels and contours;
  - (e) means of enclosure (ie fences);
  - (f) hard surfacing materials;
  - (g) programme of implementation

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

REASON: To enhance the appearance of the development in the interest of the visual



amenities of the area and to accord with Harborough District Core Strategy Policy CS11

8. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development, whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years from the date of first occupation of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

9. No development shall commence on site until the colour and finish of the approved buildings shall be agreed in writing with the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details and shall be retained as such in perpetuity.

REASON: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policy CS11.

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

REASON: To ensure the satisfactory drainage of the site and to accord with Harborough District Core Strategy Policy CS10

11. Before first use of the development hereby permitted, its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the Highway boundary and thereafter be permanently so maintained.

REASON: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) and to Harborough District Core Strategy Policy CS11

12. If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the Highway boundary and shall be hung so as to open inwards only.

REASON: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway and to accord with Harborough District Core Strategy Policy CS11

13. The parking provision and turning facilities shown on the permitted plan shall be constructed and made available for use before the development is brought into use and shall be retained thereafter for this purpose on a permanent basis.

REASON: To ensure that adequate parking facilities are provided and maintained to accord with Harborough District Core Strategy Policy CS11

**Notes to Applicant:**

1. A watching brief for protected species must be maintained at all times throughout the development. In the event of any protected species being discovered works shall cease, whilst expert advice is sought from Natural England
2. The applicant is advised that formal consent of the Council is required for anyone wishing to operate a dog boarding business.
3. The applicant is advised that there should be no burning of animal waste on site and that it should be regularly removed to avoid accumulation which could lead to smell, flies or vermin.

<p>14/01082/FUL – Lutterworth</p> <p>Applicant: Mr Chris McDonagh</p> <p>Target Date: 30/09/14</p>	<p>Change of use from Class B1 (Business) to Class A3 (Restaurant and Cafe) and A4 (Drinking Establishment), alterations to shopfront, and installation of 2no air conditioning units to rear elevation, at HDC Service Shop, 19 - 21 Market Street, Lutterworth, Leicestershire, LE17 4EJ</p>
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### **Recommendation**

**APPROVE** for the following reason and subject to the appended conditions:

The development hereby approved, by virtue of its scale, design, form and massing, would not adversely affect the living conditions of local residents, or result in additional traffic which would give rise to a road safety hazard, or adversely affect highway safety in the locality; would complement the character and distinctiveness of the site's surroundings and preserve or enhance the form, character and appearance of the settlement, and would respond appropriately to the site's characteristics. The proposal therefore complies with Policies CS1, CS5, CS6, CS7, CS8, CS9, CS10, CS11 and CS14 of the Harborough District Core Strategy, and retained Harborough District Local Plan Policies SH/1 and LW/9, and no other material considerations indicate that the policies of the development plan should not prevail.

### **Site:**

The application relates to a mid-terraced, three-storey office building, with single and two-storey extensions to the rear, and former service shop / public interface at ground floor. The site is bounded to the south by an estate agent (on Market Street) and B1 offices and residential neighbour (on Chapel Street), and by retail units and the Co-Op car park to the north. The site is within Lutterworth's Limits to Development, its designated Principal Shopping and Business Area (PSBA) and its designated Conservation Area.

### **The Proposal:**

The application seeks full planning permission for the change of use of the property from Class B1 (Business) to Class A3 (Restaurant and Cafe) and A4 (Drinking Establishment), alterations to shopfront, and installation of 2no air conditioning units to the building's rear elevation.

A paved garden terrace is proposed to the rear of the building, in place of part of the existing car park; the terrace area would span 9.3m in width (the width of the existing car park) by approx. 10.0m depth. It would be edged by a 'low level timber picket fence' (max height 0.5m)

The ground floor windows to the front would be replaced, and a new entrance canopy is proposed over the main front door. The existing signage would be removed; a new sign is proposed, between the first floor windows, but this requires separate Advertisement Consent.

The opening hours proposed are 1000 to 2300 hrs on Sundays to Wednesdays, and 1000 to 0000 hours Thursdays, Fridays and Saturdays.

The proposal would not result in the loss of residential accommodation. The proposal is anticipated to result in the creation of 5 FTE jobs.

### **Policy**

**National Planning Policy Framework ("the Framework") (published 27.03.2012):**

Paragraphs 6–9, 13, 14, 17 (presumption + core planning principles), 18–20 (economy), 29–36 (transport), 47, 49, 50, 52 and 54 (housing), 56–66 (design), 69, 70, 75 (healthy communities), 93, 96–99, 100–104 (climate change and flooding), 109–125 (natural environment), 126–139 (historic environment) and 186–206 (decision taking)

### **Local Policy:**

#### Harborough District Council Core Strategy

CS1 – Spatial Strategy for Harborough (parts (a), (b), (h), (i) and (l) are relevant)

CS5 – Providing Sustainable Transport

CS6 – Improving Town Centres and Retailing

CS7 – Enabling Employment and Business Development

CS9 – Addressing Climate Change

CS10 – Addressing Flood Risk

CS11 – Promoting Design and Built Heritage

CS14 – Lutterworth

#### Harborough District Local Plan

HS/8 – Limits to development

SH/1 – Principal Shopping and Business Areas

LW/9 – Principal Shopping and Business Area (Lutterworth)

#### Local Supplementary Planning Guidance Notes<sup>4</sup>:

SPG Note 1: Design principles

SPG Note 13: Crime Prevention & Reduction

#### Other

*The national Planning Practice Guidance Suite (06.03.14)*

*Appendix A of Circular 11/95 – Use of conditions in planning permission*

*Circular 06/05 – Biodiversity including statutory obligations within the planning system*

### **Consultations / Representations:**

#### Highways (LCC):

No objections

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

##### Drainage Engineer (HDC):

No comments received.

#### Environmental Health Officer (HDC):

Comments awaited

#### Lutterworth Town Council

Members RESOLVED to SUPPORT the application.

#### Representations:

Five letters of objection and four letters of support received; issues raised by objectors include:

(1) Noise and disturbance – Impact on neighbours, especially those adjacent to the yard; would be wary of drinking till midnight; neighbouring property has a number of windows right next to

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<sup>4</sup> Supplementary Planning Guidance Notes were adopted by the Council in March 2003 following public consultation, and supplement the policies of the Local Plan. Full Council has voted to retain the said SPGs and link them to Core Strategy policies as applicable, until a new Supplementary Planning Document is produced.

the proposed garden terrace – as the trading hours are effectively all day potential smoke from smokers may be an unwanted nuisance; increased use of the access would have adversely affect these neighbours; the noise created by vehicles / car park area and the terrace would affect the sleep of people staying at the Greyhound Hotel. There is already enough late night noise on Market St (especially at weekends) emanating from existing establishments such as the proposed and it should not be added to.

(2) Proposed opening hours – far too late in evening for an establishment which is adjacent to residential property and should be revised.

(3) Lack of information/focus on the elimination of noise and vibration through the party wall of 19 and 17a Market St. When 19-21 operated as a service shop, noise (e.g. from cleaning and doors slamming) could be heard from No.19; the proposal would generate a much greater level of noise from music and general hubbub – No. 17a must be protected from noise and vibration by eliminating its transmission through the party wall by additional insulation and by refusing a music licence.

(4) Increase in anti-social behaviour – Potential physical damage to neighbouring properties, from drunken revellers; increased probability of anti-social behaviour

(5) Extraction system – the plans make no provision for extraction, filtering and deodorising of cooking smell. The siting of these units should not be adjacent to 17a Market Street due to the noise and vibration they create; The air conditioning unit on the plan is adjacent to a residential bathroom with window opening; adverse impact on neighbour from noise and vibration

(6) Inadequate level of parking – Parking is listed as having 6no spaces once the garden terrace area for the property is created. This seems very optimistic given the space involved and area available for manoeuvring vehicles (turning space is very tight);

(7) Impact on highway safety - From increased use of the access; deliveries and waste – the access doors to three properties open directly onto this access road and with no footpath it is a potential danger if a vehicle is passing; cafes/restaurants and drinking establishments require regular deliveries of goods – the access to the yard at the rear is inadequate and unsafe; vehicles exiting the rear of the 19-21 do not have clear views of traffic on Chapel Street and would no doubt try to turn right, into traffic accessing the Chapel St car park

(8) Access – the access road to the parking area is extremely narrow (max. 4.4m width); delivery vehicles would be unable to use this access and, if they could negotiate the access, would have insufficient space to turn; goods deliveries to the front a regular recurring basis would require parking on double yellow lines

(9) Parking for customers – No customer parking should be allowed at the rear of 19-21; the additional and repeating traffic would go through an extremely narrow private access used by up to 4no residential properties

(10) Waste storage and collection – no arrangements have been made for safe storage and collection of waste material. There is no provision of refrigerated and secure waste food storage in the plan.

Also:

(11) Lack of information re anticipated number of movements to the premises in question, esp re concerns that the restaurant and cafe customers may use this road to access parking.

(12) Unclear whether the rear garden terrace area would allow access from Chapel Street and be used as a rear entrance to the property late into the night along the un-lit access road and past a residential property.

(13) Use of the first (and second) floors not specified

(14) The submitted plans do not show how the floors would be divided internally to accommodate all the necessary elements for the proposed uses, esp stores and kitchen

Non-material considerations:

(1) Not aware of any sale material re the property – has the Council really sold the premises? Is Certificate A therefore correct in stating the owner to be Mr Chris McDonagh?

[Officer comment: HDC has sold the property. It is now owned by the applicant.]

Issues raised by supporters include:

- (1) Proposal would be a good addition to the town centre – As a local business, supporter has been trading for 4 years, and has gradually seen this part of town regenerated and thinks this would be a valued addition to the area; improved kerb-side appeal
- (2) The town centre is missing a sophisticated venue – While catered for with more traditional pubs, Lutterworth would be much improved with a venue offering a more sophisticated environment in which to socialise and meet
- (3) Proposal would be a much used venue for the local community and would help with passing trade for local businesses, would give some much needed footfall to help support businesses in the top part of town – can only be a positive
- (4) Lutterworth has recently attracted a number of businesses catering for affluent shoppers and customers. I understand that a delegation from Lutterworth recently attended a meeting in London to showcase the Town to attract commuters from the capital
- (5) Use of an empty building in a prominent spot – It's never great for a town's image to have empty buildings in prominent spots (and we do have more than enough charity shops!)
- (6) If we want Lutterworth's town to thrive and expand with the new, higher priced family homes currently being built, we must embrace changes and support entrepreneurial ventures that encourage residents to spend their cash within the Town and attract visitors from the surrounding area.
- (7) I think it's fantastic for the Town!
- (8) As resident opposite, with young children, we do not object provided there is no loud music late at night. Other than that I think the town would benefit a new place to eat/drink.

### **Other Information**

#### History:

- 95/00333/3D - Change of use from retail shop to office use – granted, conditions, 25.04.95
- 77/00899/3M - Erection of one storey extension at rear of shop to provide additional workshop accommodation – granted
- 70/00102/LRDC - Alterations to buildings to form shop and showroom and alteration of access (00102/70) – granted
- 69/00050P/LRDC - Installation of new shop fronts (00050/P/69) – refused

#### Reason for Report to Committee:

This application is being reported to the Planning Committee for determination because there have been five or more letters of counter representation.

### **Planning Considerations:**

#### Policy Assessment:

Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the relevant policies contained within the development plan unless material considerations indicate otherwise. At the present time the adopted Harborough District Core Strategy, and the retained policies of the Harborough District Local Plan (HDLP). Core Strategy Policies CS1, CS5, CS11 and CS14 are considered most relevant to this application, along with certain paragraphs of the Framework (quoted above).

#### Principle:

The application site is in a highly sustainable location for Class A uses, within Lutterworth's defined Limits to Development and its Principal Shopping and Business Area (PSBA). Retained Local Plan Policies SH/1 and LW/9 are therefore relevant to this application. Between the Greyhound Coaching Inn & Hotel to the south and the Co-Op entrance to the north, the following services operate:

- No. 11-13 = Class A2/B1 (offices to the Greyhound)
- No. 15 = Class A1 (hairdresser)
- No. 17 = Class A2 (estate agent)
- No. 19-21 = Class B1 (offices, with ancillary A1/A2 HDC service shop at part of ground floor)

No. 23 = Class A1 (computer repair shop)  
No. 25 = Class A1 (mobile phone repair shop)  
No. 27 = Class A1 (wool shop)

Both proposed uses (Class A3 and Class A4) fell within the old Class A3 which was operational at the time of the Local Plan's publication (April 2001). Since the last use of the ground floor of the premises was within Class B1, the proposal would result in an additional Class A1/A2/A3/A4/A5 use, and therefore delivers the principal objective of Local Plan LW/9 to retain and enhance provision of Class A1/A2/A3 uses within the PSBA.

Within the run of units between the Greyhound Hotel and the Co-Op as highlighted above, there are 4no Class A1 uses, 1no Class A2 use and 2no Class A2/B1 uses. Therefore the proposal would not result in an 'excessively long frontage of Class A2 and/or Class A3 uses', and therefore accords with the other element of Policy LW/9.

In summary, therefore, the principle of the proposed development in this location is considered acceptable, and accords with Policies CS6 and CS7 of the Harborough District Core Strategy and retained Policies SH/1 and LW/9 of the Harborough District Local Plan.

Impact on the character of the area:

It is considered that neither the proposed use (given the considerations above re principle) nor the proposed shopfront alterations (given the character and appearance as existing) would *in principle* detract from the character of the local area. The proposal would respect the qualities and character of the locality and, subject to a condition to require further details of the new fenestration and canopy as well as the materials for the terrace area to the rear, would thus accord with Policy CS11 in visual amenity terms.

Residential amenity:

The proposed development may have an impact on the amenities of the neighbouring residential properties, principally through noise and emissions, and four of those neighbours have objected to the proposal (issues raised summarised above). The applicant's proposed hours of use are to midnight Thursday – Saturday and 11pm Sunday to Wednesday.

Regard must be had to the site's location within the town centre, where such uses are to be supported in principle, particularly at ground floor level. Two of the four neighbours objecting are at upper floor level to either side of the application premises, and it is a reasonable concern that 'after hours' noise could have a detrimental effect on those neighbours' amenity. However, subject to suitable noise insulation, it is not considered that the proposed hours of use at ground floor level would adversely affect the living conditions of neighbours, and the Environmental Health Officer has confirmed that subject to said condition, he has no objections to this element of the proposals.

Two of the further neighbours objecting live immediately adjacent or very close to the site of the proposed courtyard terrace to the rear. Again, given its proximity to these neighbouring residents, it is considered that the hours of use of the terrace should be restricted to 6pm. The existing lawful use may carry on during normal office hours, i.e. up to 6pm. In addition, it is considered that 6pm represents a clear cut-off point between normal day time and night time trade patterns.

The courtyard terrace would be bounded by 0.5m-high timber picket fence. It is considered that, to make the separation between terrace and the car park area sufficiently clear, a more substantial means of enclosure is likely to be necessary, and this should be required by condition.

Parking to the rear would serve staff only, and a condition should also be imposed on any consent to require customers to leave via the front of the premises, in order to protect the living conditions of neighbouring residents. For the same reasons, a condition should also be

imposed to require further details, including sound attenuation, of the proposed extraction equipment.

Subject to these conditions, and having regard to the traffic generated by the lawful B1 use, it is considered that the proposal would safeguard the living conditions of the neighbouring occupiers, and therefore accord with Policy CS11 of the Harborough District Core Strategy in this regard.

#### Access and parking:

The site is a highly accessible, town centre location, it is therefore considered appropriate not to require customer parking within the site. In terms of staff car parking, the applicant states that there would be provision for 6-7no car parking spaces (cf. Section 10 of application form) but, in Officers' opinion (planning officers used the existing car park daily for approx. 12 months from February 2013 to January 2014), the extent of the proposed 'garden terrace' means that only 5no parking spaces would be achievable, i.e. four adjacent to the terrace and one other at the far end of the existing courtyard. Notwithstanding, given (1) the size of the premises, (2) the number of full time staff (3no) proposed, and critically (3) the existing lawful B1 office use, the proposal is not considered to result in adequate parking. It is noted that the local highway authority (LHA) has no objections to the proposal.

It is noted that objectors have all raised concerns related to highway safety, including the substandard nature of the access and the level of parking provision. However, one must have regard to the existing lawful B1 office use, including that there would often be 15no Council staff (Building Control, Housing, Strategic Planning, Development Management and Enforcement) in the building at the same time, sometimes more. The access to the car park, between Candlemas Cottage and 17a Market St / The Old Chapel, is relatively tight, but was successfully negotiated by Council officers for the duration of HDC's tenure of the building.

For these reasons, and having regard to the lack of objection from the LHA, it is therefore considered that the proposal accords with Policies CS5 and CS11 of the Core Strategy in this regard.

#### Drainage:

Given the size of the premises and its existing/lawful B1 use, it is considered that there are no drainage implications arising from the current proposal. The proposal therefore complies with Core Strategy Policy CS10 and the aims and objectives of the Framework in this regard.

#### Conclusion:

The proposal is sited within Lutterworth's defined Limits to Development and would result in an additional A Class use in a sustainable and accessible location within the town's Principal Shopping and Business Area. The proposal would be likely to have economic benefits, both in terms of job creation and increasing footfall to this part of the town centre. The proposal makes adequate parking provision and a satisfactory access is provided, and would not result in the loss of residential accommodation. Subject to conditions (as discussed in this report), the proposal would not adversely affect the character or appearance of the area, and would safeguard the living conditions of neighbouring residents, and therefore complies with Core Strategy Policies CS5, CS6, CS7, CS9, CS10, CS11 and CS14.

Overall, it is considered that this proposal would result in an acceptable form of development that would accord with the aims and objectives of the Framework, and the application is therefore recommended for approval.

#### Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: To accord with the provisions of Section 91 of the Town



and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Except where amended by details approved in writing by the Local Planning Authority pursuant to the other Conditions of this planning permission, the development hereby permitted shall be carried out in accordance with the following approved plans: "100", "101", "300A", "301" and the Site Location Plan. Reason: In the interests of good planning, and for the avoidance of doubt.

3. Notwithstanding the details shown on the submitted plans, no development shall commence on site until full details of (i) the design, materials and joinery of the new fenestration, (ii) the design and materials of the canopy to front elevation, (iii) the materials and external surfaces of the courtyard terrace to the rear, and (iv) the height, materials and appearance of the means of enclosure between the courtyard terrace and the car parking area, have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented fully in accordance with the approved details, and retained as such in perpetuity. Reason: In the interests of visual amenity and to ensure that the development will harmonise with its surroundings and preserve the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policy CS11.

4. Prior to the first use or occupation of the development hereby approved details of the provision for the storage of refuse and materials for recycling shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details and shall be retained as such in perpetuity. REASON: To ensure the adequate provision of facilities and in the interests of visual/general amenity and to accord with Harborough District Core Strategy Policy CS11

5. Prior to the first use or occupation of the development hereby approved, a total of 5 car parking spaces shall be provided, hard surfaced and made available for use by staff working at the premises, within the curtilage of the premises. The parking spaces so provided shall not be obstructed and shall thereafter be permanently so maintained. REASON: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to accord with Harborough District Core Strategy Policies CS5 and CS11.

6. Prior to the first use or occupation of the development hereby approved, full details of secure cycle parking facilities for staff working at, and visitors to, the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times. REASON: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to accord with Harborough District Core Strategy Policies CS9 and CS11.

7. Within two months of the date of this planning permission a scheme for the monitoring of noise occurring at events hereby permitted and the provision of any associated and/or required mitigation and/or attenuation shall be submitted to and approved in writing by the Local Planning Authority. The use shall thereafter only take place in accordance with the approved scheme. Reason: To safeguard the living conditions of neighbouring residents and to accord with Harborough District Core Strategy Policy CS11.

8. No sound-amplifying equipment, loudspeaker or public address system shall be installed or operated or music played outside of the application building at any time; and no sound-amplifying equipment, loudspeaker or public address system shall be installed or operated or music played within the application building outside of the hours of use of the application building stated in Condition 11 of this planning permission. REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the

interests of the amenity of the area and to accord with Harborough District Core Strategy Policy CS11.

9. Notwithstanding the details shown on the submitted plans, prior to the first use or occupation of the development hereby approved full details showing ventilation and extraction equipment within the site (including details of its position, appearance and details of measures to prevent noise emissions) shall be submitted to and approved in writing by the Local Planning Authority. The ventilation/extraction equipment shall be installed prior to the building/extension hereby approved being first occupied and shall thereafter be maintained in accordance with the approved details. REASON: In the interests of the amenities of the area and to accord with Harborough District Core Strategy Policy CS11.

10. The site shall be used for Class A3 (cafe/restaurant) or a mixed use of Class A3 (cafe/restaurant) and Class A4 (drinking establishment) and for no other purpose, except in the case of changes to Class A1 (shops) and/or Class A2 (financial and professional services) as permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking or re-enacting or amending those Orders with or without modification). REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.

11. There shall be no customers or members of the public within the application building outside of the hours of 0900 - 0000 from Thursdays to Saturdays and 0900 - 2300 hrs from Sundays to Wednesdays; and there shall be no customers or members of the public on the remainder of the site, that is, outside of the application building, outside of the hours of 0900 - 1800 on any day. REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area and to accord with Harborough District Core Strategy Policy CS11.

12. No customers shall leave the premises other than by the door(s) to the front of the premises, that is, Market Street. REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area and to accord with Harborough District Core Strategy Policy CS11.

13. There shall be no cars parked within the application site, including any staff car parking, outside of the hours of 0800 - 1800 on any day. REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area and to accord with Harborough District Core Strategy Policy CS11.

#### Notes to Applicant

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

2. The applicant is advised that this permission does not grant consent for the proposed advertisement(s) for which separate consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 is necessary.

3. The applicant is advised that consent will be required from the local highway authority (Leics County Council) for any canopy or other part of the building extending over the public highway.

4. The applicant is advised that there must be no obstruction of the highway to the front of the property.

14/01088/OUT – Thurnby / Bushby

Applicant: Bloor Homes Limited

Erection of up to 275 dwellings and up to 500m<sup>2</sup> of retail use (Use Class A1) with associated infrastructure, access, open space and landscaping (means of access to be considered only) (Revised scheme of 13/01306/OUT), Land at Uppingham Road, Bushby

Target Date: 05/11/14

### **Recommendation**

**APPROVE for the following reason and subject to the appended conditions and the completion of a satisfactory S106 Agreement:**

1. The proposal will help deliver increased levels of housing supply to meet identified levels of housing need in a location adjoining the Leicester Principal Urban Area in general conformity with policy CS15. Whilst contrary to Harborough Core Strategy policy CS2 by virtue of being beyond defined limits to development, the Core Strategy housing delivery policies (included CS2) should be considered out of date due to the fact that the Council cannot demonstrate a five year supply of housing land, the adverse impact of the proposals are not so harmful as to significantly and demonstrably outweigh the benefits when assessed against Framework paragraph 14 presumption in favour of sustainable development and Framework taken as a whole.

### **Site:**

The application site is countryside. It is located outside the eastern edge of the retained Local Plan HS/8 limits to development of Thurnby and Bushby. The site is approximately 15.8ha, and comprises of agricultural land sub-divided into fields by hedgerows. It also includes part of the disused railway. The site is delineated by the A47 Uppingham Road to the south and hedgerow boundaries to the east and north. The Wadkins Sports Ground and the rear gardens of existing residential properties in the Bushby Woods development lie to the west. Existing residential properties are also located on the south side of Uppingham Road. The existing Charity Farm buildings, its farm house and a bungalow are located in the south west corner of the site with a frontage to Uppingham Road. The northern parcel of the site is sited within the valley bottom to the north of the existing Bushby Woods development. It is, however, separated from the existing properties in that development by the heavily vegetated disused railway line which runs east west. A public footpath runs diagonally through the field. Agricultural fields lie to the west and north of the site with residential development in Bushby (along Station Road) and Scraftoft (along Covert Lane) beyond. However, the intervening field between the site and Bushby to the west has the benefit of a planning permission for residential development. Open countryside lies to the east of the site.

### **The Proposal:**

The planning application seeks outline planning permission for up to 275 residential units and a retail unit of up to 500m<sup>2</sup>, with associated infrastructure, including highway and pedestrian access, open space and landscaping. It is proposed that 40% of the dwellings will be affordable homes. The development would comprise a mixture of dwelling types and sizes (ranging from 1 to 5 bedrooms), including semi detached and detached style properties. It is proposed that the maximum height of all units would be limited to 2 storeys, with the potential for some bungalow properties in specific locations.

The principal vehicular, pedestrian and cycle access to the proposed development would be via a new junction with Uppingham Road to the south. A simple priority junction is proposed, together with speed reduction measures along Uppingham Road adjacent to the site access point. The entrance road would extend north descending the slope and passing the former railway line before turning west into the northern parcel of the site. Furthermore, an agreement

has been reached with the developers of the site adjacent to the western boundary of the site to allow a pedestrian / cycle link between the two sites.

Small parcels of residential development will take place to the west of the road (and accessed from it), adjacent to the sports ground and existing residential development. The land within the site to the east of the road would be retained as public open space, and a community orchard is proposed. Landscaping in the form of a tree belt is also proposed on the alignment of the disused railway line. The majority of the residential development will take place in the northern parcel of land.

The application is accompanied by documents including:

- Planning Statement
- Design and Access Statement (DAS)
- Landscape and Visual Assessment (LVA);
- Heritage reports;
- Ecological and Arboricultural reports;
- Planning Consultation Statement;
- Flood Risk Assessment;
- Drainage Reports;
- Risk Assessment;
- Transport Assessment.

All issues other than the principle of the development and the means of access to the site are currently reserved for future consideration.

## **Policy**

### **National Planning Policy Framework (“the Framework”) (published 27.03.2012):**

Paragraphs 6 – 9, 13, 14, 17 (presumption + core planning principles), 18, 19, 20 (economy), 29 – 36 (transport), 47, 49, 50, 52 (housing), 56 – 66 (design), 69, 70, 75 (healthy communities), 93 – 104 (climate change and flooding), 109 – 125 (natural environment), 126 – 139 (historic environment), 186 – 206 (decision taking)

### **National Planning Practice Guidance**

#### **Local Policy:**

##### **Harborough District Council Core Strategy**

CS1 – Spatial Strategy for Harborough (parts (a), (b), (d), (h), (i) and (l) are relevant)

CS2 – Delivering New Housing

CS3 – Delivering Housing Choice and Affordability

CS5 – Providing Sustainable Transport

CS8 – Protecting and Enhancing Green Infrastructure

CS9 – Addressing Climate Change

CS10 – Addressing Flood Risk

CS11 – Promoting Design and Built Heritage

CS12 – Delivering Development and Supporting Infrastructure

CS15 – Leicester Principal Urban Area

##### **Harborough District Local Plan:**

Policy HS/8: Limits to Development

Policy EV/3: Separation of Settlements

##### **Local Supplementary Planning Guidance Notes :**

SPG Note 1: Design principles

SPG Note 2: Major Housing Sites

SPG Note 9: Landscape & New Development  
SPG Note 10: Trees & Development  
SPG Note 11: Hedges & Development  
SPG Note 13: Crime Prevention & Reduction  
SPG Note 16: Requirements for the provision of land for outdoor play space in new residential developments  
SPG Note 20: Monitoring of Housing Land  
SPD Affordable Housing (adopted February 2006)  
Planning Obligations Developer Guidance Note (June 2009)  
Assessment of Local Community Provision and Developer Contribution (October 2010)

#### Other

*Harborough District Landscape Character Assessment (2007)*  
*Leicester PUA Landscape Character Assessment and Landscape Capacity Study (September 2009)*  
*Area of Separation Review (December 2011)*  
*Ministerial Statement – ‘Planning for Growth’ (23.03.11)*  
*Planning for Climate Change (supplementary national guidance) (April 2012)*  
*Circular 11/95 – Use of conditions in planning permission*  
*Circular 06/05 – Biodiversity including statutory obligations within the planning system*  
*Community Infrastructure Regulations 2010*  
*Circular 01/2006 – Guidance on changes to the Development Control System*  
*Safer Places – ODPM - (April 2004)*

#### S106 Policy

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

Section 106 Agreements impose obligations on both the Developer and the Council. The Council's Planning Obligations Developer Guidance Note and supporting document Provision for Open Space Sport and Recreation were adopted by the Council's Executive on 21st September 2009.

#### **Consultations / Representations:**

##### Environment Agency:

The proposed development will be acceptable if the prescribed conditions are attached to any permission granted.

##### English Heritage:

The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

##### Natural England:

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes

We have not assessed this application and associated documents for impacts on protected species.

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature.

#### Highways (LCC):

This application is the same as the previous application reference 2013//1306/03 except that in highway terms, it is proposed to provide footpath/cycleway links from the proposed development into the adjacent Jelson Limited Development off Pulford Drive.

The provision of the footpath/cycleway links will enable residents to access bus services on Pulford Drive in addition to bus services on Uppingham Road and therefore the Highway Authority would remove its previous objection with respect to transport sustainability.

The proposed access and highway works on Uppingham Road as illustrated on drawing 12506/001 Revision C are acceptable.

#### LCC Public Rights of Way:

The above application has recently come to my attention and I would like to make the following comments.

If the development were to proceed it would have an unacceptable effect on the local rights of way network outside the development itself; specifically, Public Footpath D20. This footpath starts on Dolby Avenue and runs in a generally north easterly direction between gardens before crossing the dismantled railway line and entering the northern half of the proposed development, which it dissects diagonally.

The current surface of this footpath is adequate for light use by occasional walkers accessing the adjacent countryside.

However with the development of 275 homes immediately to the north the footfall on this footpath will increase dramatically as it will provide a significant pedestrian link leading to the old village centres of Bushby and Thurnby. This, in turn will lead to degradation and eventual destruction of its current surface.

The development would have an unacceptable impact, unless action were to be taken by the developer to improve the surface to cope with the increased footfall.

Therefore the development would have an acceptable impact if the prescribed conditions were met.

#### Environmental Health (Contaminated Land (HDC)):

Conditions recommended on any approval

#### Thurnby and Bushby Parish Council:

OBJECT to the application on the following grounds:

- the proposed site is outside the 'limits to development';
- the excessive number of proposed dwellings, which remains at 275 despite the inclusion of a retail outlet within the proposed development;
- the impact of additional traffic volume onto and from the A47, both from the dwellings and the retail outlet and associated increase in traffic through the villages of Thurnby and Bushby;
- the detrimental impact of the retail outlet on the street scene and associated issues relating to noise, lighting, opening hours, parking and disruption;
- the site is unsustainable (access to doctor's surgery, church, post office, shops and other amenities in Thurnby, Bushby and Scraftoft) with areas of the site being more than 400 meters from the single access point on the A47 and the pedestrian/cycle access point through the Jelson development on Pulford Drive;
- the catchment primary school would be St Luke's and not Fernvale, with children having to cross the A47 to access St Luke's or parents driving children, thus adding further to congestion and parking problems on Main Street;
- the inadequacy of infrastructure including public transport and other services.

Thurnby and Bushby Society:

The Committee of the Thurnby and Bushby Society **objects** to this Application for the following reasons.

- Site is unsustainable.
- Fails to meet Planning Criteria
- Previous Reasons for Refusal still stand
- The weight attached to the lack of a 5 Year Housing Land Supply
- The proposed Pedestrian and Bicycle Access to Pulford Drive does not make the application site sustainable
- The Site is Inappropriate for Development because it is:
  - Outside the 'Limits to Development' for Thurnby & Bushby in the saved Local Plan
  - Greenfield, contrary to the Adopted Core Strategy Strategic Objective 3 to encourage the re-use of brownfield sites
  - On good quality farming land, an asset which should not be regarded as dispensable
- Difficult Access to the A47:
- Sustainability Problems:
- Potential Drainage Problems:
- Impairment of Wildlife Corridor:
- Loss of Rural Amenity
- Misleading Road Plan
- Adverse Impact on New Local Plan
- No Shortage of Local Housing Supply
- Contrary to National Planning Policy Framework

Scraftoft Parish Council:

**Objects** to this Application for the following reasons:

- Too many houses in the open countryside
- One step nearer to the erosion of the separation area and parish boundaries
- Timing of this application is considered cynical given that Scraftoft is in the latter stages of preparing its Neighbourhood Plan. This will emphasise the need to preserve the separation area.
- Aesthetically detrimental affect on Scraftoft, a "blot" on Scraftoft's landscape across the valley with a view of houses – a skyline more impaired than Thurnby.

It would make more sense if developers waited for the Local Plan to be adopted when a better judgement could be made where in the District of Harborough housing development could be placed.

#### Save Bushby Countryside:

The 'Save Bushby Countryside Group' represents hundreds of people who have posted objections to this development, under all of its separate applications, on the Harborough District Council Planning web page. Our objections from previous correspondence are still relevant, so these are listed below with updates added where necessary in relation to any new information, or concerning revisions to the previous application. We object to the above application for the following reasons

- The site is outside the limits to development
- It will create traffic and safety issues
- A previous application has already been rejected
- This development is opposed by the Parish Council
- Loss of Countryside and Wildlife
- Poor Drainage and Flooding
- Contrary to an Integrated Planning Process
- Village Identity and Amenities
- Sustainability / Constraints of the site
- Archaeological
- Strength of Community Objections

#### Response to Amendments to the Original Proposal

Policy CS2 (a) states that housing development will not be permitted outside the Limits to Development unless at any point there is less than a five year supply of deliverable housing sites AND the proposal is in keeping with the scale and character of the settlement concerned.

The new calculation methodology , (if correct after the TABS appeal) should be given time for the Council and Community to adjust to and pass developments that are in keeping with HDC and National Planning policies rather than be forced to pass any application regardless of their merits, via opportunistic timing by the developers.

Even if the 5 year supply figure is accepted this should not outweigh the fact the development detracts from the character and appearance of the area, especially when there is a significant amount of houses currently being built within the PUA.

The two pathways that have been added do not increase the sustainability of this site in any reasonable manner. The isolated development will result in many more car journeys from the site as it does not provide, or even provide access to, everyday services and needs.

#### Section 106 requirements:

Given the size of the site proposed for residential development the application triggers a requirement for Section 106 obligations in respect of affordable housing, community facilities and additional school places. Should Members be minded to grant permission for the development, the following requests have been made for Section 106 monies:

- Education:
  - **Primary School Sector Requirement £364,059.21**  
The site falls within the catchment area of Thurnby St Luke's C of E Primary School. The School has a net capacity of 216 and 283 pupils are projected on the roll should this development proceed; a deficit of 67 places. There are currently 21 pupil places at this school being funded from S106 agreements for other developments in the area. This reduces the deficit at this school to 46 (of which a surplus of 6 is existing and a deficit of 46 is created by this development).



There are two other primary schools within a two mile walking distance of the development:

- Fernvale Primary School Deficit 1 (after 43 S106 funded places discounted)
- Houghton On The Hill Church of England Primary School Surplus 16

The overall deficit including all schools within a two mile walking distance of the development is 31 places. The 52 places generated by this development can therefore be partly accommodated at nearby schools and a claim for an education contribution of 31 pupil places in the primary sector is justified.

In order to provide the additional primary school places anticipated by the proposed development the County Council would request a contribution for the Primary School sector of £364,059.21.

This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Thurnby St Luke's C of E Primary School.

The contribution would be spent within five years of receipt of final payment. Please note that there are other developments in this area which if given planning permission may increase the claim in this sector of up to £618,138.42

- **High School Sector Requirement £594,025.13**

This site falls within the catchment area of Gartree High School. The School has a net capacity of 793 and 850 pupils are projected on roll should this development proceed; a deficit of 57 pupil places. There are 8 pupil places at this school being funded by S106 agreements from other developments in the area to be discounted. This reduces the deficit at this school to 49 (of which 15 are existing and 34 are created by this development). There are no other high schools within a three mile walking distance of the site. A claim for an education contribution in this sector is therefore justified.

In order to provide the additional high school places anticipated by the proposed development, the County Council requests a contribution for the high school sector of £594,025.13.

This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Gartree High School.

The contribution would be spent within 5 years of receipt of final payment.

- **Upper School Sector Requirement £455,207.97**

This site falls within the catchment area of The Beauchamp College. The College has a number on roll of 2136 and 2280 pupils are projected on roll should this development proceed; a deficit of 144 pupil places. A total of 34 pupil places are being funded at this college from S106 agreements for other developments in this area which reduces the total deficit for this college to 110 (of which 85 are existing and 25 are created by this development). There are no other upper schools within a three mile walking distance of the site. A claim for an education contribution in this sector is therefore justified.

In order to provide the additional upper school places anticipated by the proposed development, the County Council requests a contribution for the upper school sector of £455,207.97. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at The Beauchamp College.

The contribution would be spent within 5 years of receipt of final payment.

- Civic Amenities:  
No contribution sought

- Libraries:  
No claim from Library Services. Proposed development would be served by Leicester City Libraries.
- Affordable Housing:  
40% requirement would yield 110 dwellings, 66 for rent, 44 for shared ownership. 5 bungalows would reduce the requirement to 100 dwellings
- Highways:
  - (i). Public Transport  
To comply with Government guidance in NPPF the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use:
    - Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
    - 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £350.00 per pass – NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).
  - Improvements to 2 nearest bus stops (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
  - Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display.
  - Bus shelters at 2 nearest bus stops; to provide high quality and attractive public transport facilities to encourage modal shift. At £4,908.00 per shelter.
  - Contribution towards equipping the nearest bus stop(s) with Real Time Information (RTI) system; to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice to encourage modal shift. At a total of £5150.

However if the configuration of the site should change, we would expect to be consulted again.

(ii). Travel Plan Monitoring

The sum of £6000.00 for Travel Plan monitoring

(iii). A47 Uppingham Road/Station Road Signal Controlled Junction.

The sum of £5000.00 for upgrading and re-validation of the MOVA control system.

- Leicestershire Constabulary:  
The proposed development will increase the overnight population of this settlement by at least 671 people. It is a fact that 275 additional houses will bring additional Policing demands and particularly as there is no Policing demand from what is currently open land. I do not doubt that there will be a corresponding increase in crime and demand from new residents for Policing services across a wide spectrum of support and intervention as they go about their daily lives at the site and across the Policing subregion.

£79171 is sought to mitigate the additional impacts of this development because our existing infrastructures do not have the capacity to meet these and because, like some other services, we do not have the funding ability to respond to growth whenever and wherever proposed. We anticipate using rate and home Office revenues to pay for staff salaries and our day to day routine additional costs [eg call charges on telephony and Airwaves, vehicle maintenance and so on].

Police expect to agree a programme to procure these additional facilities and have no difficulty including this as a clause in a legal agreement. We are committed to procure these items subject to the contribution sought. Contributions are only sought that are related in scale and kind to the development and so some infrastructures will not be entirely funded by a particular development. Police will pay the remaining amount if no other developers contribute towards Policing in Harborough. This will mean that funds will have to be diverted away from other areas of deployment which is less than ideal but ensures that front line

services are maintained. Information presented here has been gleaned from across the Force from lead officers responsible for delivering these infrastructures/facilities.

As a further justification of our request, we confirm that the contribution will be used wholly to meet the direct impacts of this development and wholly in delivering Policing to it. Without the development in place it is reasonable to forecast the impacts it will generate using information about the known Policing demands of comparable local development. We believe the Framework encourages this.

The development should make provision to mitigate the direct and additional Policing impacts it will generate and cannot depend on the Police to just absorb these within existing facilities with limited capacities and where Police have no flexibility in our funding to do this. This has been the situation since 2006 when Leicestershire Police started to seek contributions. It is not forced by current spending reductions although strictures across the public sector re-enforce the need to ensure developments mitigate the direct impacts they cause.

Because of the very serious implications for Policing of major developments, like this one, Police nationally have taken advice about the best way to proceed in the transition period prior to the CIL regime. As a result Leicestershire Police no longer make requests based on a formula but solely in relation to the development under consideration; its direct impacts on Policing and the necessary mitigations that it should provide. I should add that this is consistent with Inspectors and Secretary of State views in recent appeal decisions. What follows is a detailed explanation of Methodologies used to calculate the contribution and our application of the NPPF tests to justify each part.

- Open spaces:
  - (i) New provision on site
    - Parks and Gardens - £0 (Not required)
    - Sports Facilities - 1.012ha at 60,867.87 per ha **£61,598.28 (£68,127.70 plus 10.6% since 2009)** commuted sum for maintenance
    - Amenity Greenspace - 0.56925ha at £96,923.84per ha **£55,173.90 (£61,022.33 plus 10.6% since 2009)** commuted sum for maintenance
    - Children and young people - equipped play area required on site (minimum of 2 LEAP and 1 NEAP). 0.18975ha at £1,316,375.00 per ha **£249,782.16 (£276,259.06 plus 10.6% since 2009)** commuted sum for maintenance
    - Semi Natural Greenspace – 5.37625ha at £112,200.00 per ha **£603,215.25 (£667,259.06 plus 10.6% since 2009)** commuted sum for maintenance of urban snags
    - Allotments - £0 (Not required)
    - TOTAL - £1,160,081.16 (£1,283,049.76 plus 10.6% since 2009)** commuted sum for maintenance
  - (ii) New provision / Enhancement off site
    - Parks and gardens - enhancement off site £80.00 per person x 632.5 **£50,600.00 (£55,963.60 plus 10.6% since 2009)** or New provision off site £90.00 per person x 632.5 **£56,925.00 (£62,959.05 plus 10.6% since 2009).**
    - Sports Facilities - enhancement off site £742.00 per person x 632.5 **£469,315.00 (£519,062.39 plus 10.6% since 2009)** or New provision off site £785.00 per person x 632.5 **£496,512.50 (£549,142.83 plus 10.6% since 2009).**
    - Amenity Greenspace – enhancement off site £64.00 per person x 632.5 **£40,480.00 (£44,770.88 plus 10.6% since 2009)** or New provision off site £85.00 per person x 632.5 **£53,762.50 (£59,461.33 plus 10.6% since 2009)**
    - Children and young people – enhancement off site £34.00 per person x 632.5 **£21,505.00 (£23,784.53 plus 10.6% since 2009)** or New provision off site £41.00 per person x 632.5 **£25,932.50 (£28,681.35 plus 10.6% since 2009)**
    - Natural and Semi Natural Greenspace – If off site provision is sought for urban areas enhancement off site £883.00 per person x 632.5 **£558,497.50 (£617,698.24 plus**

**10.6% since 2009)** or New provision off site £1,087.00 per person x 632.5 **£687,527.50 (£760,405.42 plus 10.6% since 2009)**

- Allotments – If off site contributions sought for allotments - enhancement off site £19.00 per person x 632.5 **£12,017.50 (£13,291.36 plus 10.6% since 2009)** or New provision off site £27.00 per person x 632.5 **£17,077.50 (£18,887.72 plus 10.6% since 2009)**
- Cemeteries and Burial Grounds – £79.06 per person for new population of development as off site contribution New provision off site £79.00 per person x 632.5 **£49,967.50 (£55,264.06 plus 10.6% since 2009)**

**TOTAL – off site enhancement contribution 1,152,415.00 (£1,274,570.99 plus 10.6% since 2009) or new provision off site contribution £1,387,705.00 (£1,534,801.73 plus 10.6% since 2009)**

- Community facilities:  
Comments awaited
- PCT

Based on the requirements outlined, the figure requested is £14,151.98

In each case, a detailed justification has been provided and these are available from Officers as background papers.

#### Representations:

60 letters of objection (from 39 separate households) have been received (from the following areas (Scrivener Close x4; Dalby Avenue; Uppingham Road x3; The Cedars x4; The Pines x5; Wadkins Way; Devenports Hill x6; Station Lane; Wintersdale Road; Highfield Street; Carisbrooke Road; Ironworks Road; Hushwaite Lane; Herford, Seven Kings; Harrow; London; Birmingham; Doncaster; Bexleyheath; and Bratislava) raising the following points (for more details please refer to the letters on file): 1) Impact on wildlife in the woods on the former railway line. 2) Safety of adventure playground. 3) No need for further housing. 4) Loss of privacy. 5) Traffic impact. 6) Noise from new residents. 7) no change to previous application. 8) Out of keeping with the area. 9) Open countryside, not infill development. 10) Impact on biodiversity. 11) builders seem to be flexing their muscles because the government planning policy is in disarray. 12) Save Bushby Countryside. 13) We need to preserve our farm land for the next generation. 14) The housing market is being exploited for commercial gain and not for need. 15) It seems the Wind in the Willows was half right. Stoats and weasels will steal our birthright. But there are MANY more in Parliament than Toad Hall. 16) Same reason as last time, how many times do we have to repeat Mr Pickles? What ever happen to localism bill. 17) Loss of heritage. 18) Bloor Homes have not listened to the Bushby Residents previous objections regarding the SOLE VEHICULAR ACCESS onto the A47 For up to 275 houses and now in addition a small retail park to be sited near the sole A47 entrance. 18) We own the whole width of that part of the footpath (from Dalby Avenue to Mr Renner's field) which runs through our garden and which crosses the old railway line. We also own the old railway line at this point. I understand that there has been some interest by the Highway Authority in upgrading this - were the development to be approved. Clearly we would wish to be consulted if this were the case. The development will inevitably generate substantial additional pedestrian traffic 'through our garden', in which case we would want to be assured that the biodiversity of the area is conserved and that the remainder of our garden is secure from intrusion. To date we have been happy for people to use the railway land freely, but this scale of development will mean that we will have to change this policy.

234 identical letters of objection have been collated and submitted by the Save Bushby Countryside group (from the following areas: Devenports Hill – 47; Wadkins Way – 67; Goddard Close – 12; Hartopp Close – 22; Scrivener Way – 34; Dalby Avenue – 31; Bramley Orchard – 10; The Driveway – 5; Wanlip Lane (Birstall) – 2; Glen Way (Oadby) – 4) in support of the case put by Save Busby Countryside.

1 letter of objection has been received in Slovakian to which no material weight can be given.

## **Other Information**

### **Reason for Committee Decision**

This application is being reported to the Planning Committee for determination because the application proposes more than ten dwellings and represents a departure from the Development Plan. Application 13/01306/OUT is currently being appealed by the applicants. The Public Inquiry has been set for the 18<sup>th</sup> February 2015 and Statements of Case are required to be submitted by all parties by the 17<sup>th</sup> October 2014. It is for this reason that the application is being presented to Planning Committee prior to the release of the Councils forthcoming revised 5 year Supply figures.

### **11/00003/OUT Refusal reasons:**

1. The site is within a countryside location beyond the built form and Limits to Development of Thurnby & Bushby. The proposed development would have an adverse impact on the rural character and appearance of the countryside and would result in a visually obtrusive form of development that fails to integrate well with the village or the surrounding landscape, and which does not represent a suitable site for housing as defined in paragraph 69 of PPS3. The proposal is therefore contrary to Policy EV/5 of the Harborough District Local Plan and the aims and objectives of PPS1, PPS3 and PPS7 and PPG13.
2. Insufficient information has been provided to assess the extent, nature and significance of potential archaeological remains on the application site, the presence of which is indicated by the submitted Desk-Based Assessment and Geophysical Survey reports. An archaeological trial trench evaluation would be required to assess the archaeological impact of the proposals and enable the preparation of a suitable mitigation strategy to avoid or minimise damage to any archaeological remains of significance resulting from the proposed development, in line with the advice provided in PPS5.

### **13/01306/OUT Refusal reasons:**

1. The proposal will be out of keeping with and detract from the character and appearance of the area by introducing housing into countryside outside defined limits to development. This harm is not outweighed by delivery of housing, including affordable housing, and a material consideration is that a five year supply of land for housing can be demonstrated. The proposal is therefore contrary to Harborough Core Strategy policies CS2, CS15 and outside limits to development shown by retained Local Plan policy HS/8.
2. The Applicant has failed to demonstrate that their proposal will be in a location where services are readily and safely accessible by walking, cycling and public transport. Leicestershire County Council policy contained in the Local Transport Plan 3 & Policy IN6 of the 6Cs Design Guide seeks to deliver new development in areas where travel distances can be minimised, and genuine, safe and high quality choices are available (or can be provided) for people to walk, cycle and use public transport facilities and services nearby. The LTP3 and the 6Cs Design Guide reflects Government guidance contained in the NPPF. The proposal is therefore contrary to Harborough Core Strategy policy CS5.

Several objectors question why the Council is even entertaining this planning application, in light of the refused application for the previous scheme. The perception appears to be that by handling the planning application, the Council is endorsing the proposal. The Local Planning Authority is statutorily obliged to assess any planning application it receives. It does not necessarily invite any planning application, and has no control whatsoever on what applications are made and when they are made. The only instance where the Council can refuse to entertain (i.e. handle) a planning application is a repeated, identical submission. Whilst the current application is identical to the previous application, there has been a significant change in circumstances which is outlined below.

Pre-application advice:

No formal pre-application advice has been given in relation to this application. Formal pre-application was given in relation to the previous application.

EIA Screening Opinion:

The Council considers that the application relates to a development within paragraph 10(b) of Schedule 2 to the Regulations

The Council considers that the application is not EIA development.

History:

<b>Application number</b>	<b>Decision / Date</b>	<b>Name of Applicant</b>	<b>Nature and Location of Development</b>
11/00003/OUT	REFUSED 09.03.11	Sugar Hill Homes	Residential development for up to 150 dwellings together with access, drainage, services and open space
13/01306/OUT	REFUSED 22.01.14	Bloor Homes	Erection of up to 275 dwellings and up to 500m2 of retail use (Use Class A1) with associated infrastructure, access, open space and landscaping (means of access to be considered only)

*Appeal Conclusion (extracts from APP/F2415/A/11/2165170)*

28. The introduction to Policy CS2 states that a fundamental objective of the CS is to meet strategic housing needs including the need for affordable housing. HDC's own evidence indicates that it is failing to meet the targets set out in the CS. The G L Hearn report of September 2011 commissioned by local authorities in Leicestershire indicates that the objectively assessed housing needs are significantly higher. In addition the CS by reference to the Strategic Housing Market Assessment (SHMA) 2008 notes that to meet affordable housing need, 75 per cent of the annual housing requirement in the District would need to be affordable. Policy CS3 requires a minimum of 40 per cent of dwellings to be affordable in the highest value areas. Thus even if overall housing supply targets are met, the District's unmet need for affordable housing will continue to increase. In these circumstances the contribution the proposed development would make to market and affordable housing supply weighs substantially in its favour.

29. CS13 to C17 are place based policies. Policy CS17 which is referred to in the reasons for refusal of planning permission and which on adoption of the CS replaced LP Policy EV/5, addresses development in the Countryside, Rural Centres and Rural Villages. CS15 refers to the Leicester Principal Urban Area (PUA). It is evident from the policy itself, the introduction and the explanatory text that it addresses development in and adjoining the communities of Scraftoft and Thurnby/Bushby and is clearly the relevant place based policy in this case.

Housing Land Supply Position:

Paragraph 47 of the Framework requires local planning authorities to ensure that there is a continuous five year supply of deliverable sites within their District. To be deliverable sites need to be available, i.e. available now; suitable i.e. the site offers a suitable location for development now and would contribute to the creation of sustainable, mixed communities; and achievable i.e. there is a reasonable prospect that housing will be delivered on the site within five years. Paragraph 49 of the Framework states relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

As at 30th September 2013 the Council published position demonstrated a 6.45 years of land for housing supply (which includes the NPPF advised 5% additional buffer). Secretary of State (SoS) (17<sup>th</sup> April 2014) decision on APP/F2415/A/12/2183653, (Crowfoot Way, Broughton

Astley) includes: *For the reasons given at IR15-25 the Secretary of State agrees with the Inspector's conclusion that the Council does not have a 5 year housing land supply (IR26). .... He agrees with the view expressed in the appellant's representations that the need figure of 440 dwellings per annum in the 2013 Harborough Housing Requirements Study represents the most up-to-date evidence available and renders the regional strategy-based housing requirements in the Core Strategy out-of-date.*

APP/F2415/A/14/2211933 (Waterfield Place, Market Harborough) decision by Inspector Martin Whitehead (19<sup>th</sup> May 2014) includes: *...In concluding on this main issue, I have found that a 5 year supply of deliverable housing land has not been demonstrated in accordance with the Framework. Therefore, relevant policies for the supply of housing are not to be considered up-to-date, in accordance with paragraph 49 of the Framework*

In light of the above reference Appeal decisions, HDC re-considered its baseline housing supply figure and also the methodology for calculating its 5 year supply (5YS) of available housing land. The outcome of this is explored in more detail later in the report.

#### Other Appeal Decisions

Every proposal is considered on individual merit. The following decisions are nevertheless helpful in demonstrating the weight to be applied to material considerations including strategic housing assessments, five year supply, Development Plan policy including retained policies and landscape character assessments.

APP/T2405/A/10/2135068 Countesthorpe, Leicestershire including (para.17)

*"...landscaping is important to provide a green structure and setting for development and to enable integration into the landscape, but is not a means of making otherwise unacceptable developments acceptable, especially with a long lead in period to achieve any degree of maturity and substantial screening"*

APP/F2415/A/10/2128267 Berry Close, Great Bowden (para.15).

*"The SHLAA and LCS recognise the ability of the site to accommodate housing, but this must be seen in the context of the status of the land as open countryside and the conclusions of these reports do not outweigh the aims of the Local Plan policies in this regard"*

Extracts from a 14th February 2013 appeal decision,

Appeal Ref: APP/F2415/A/12/2179844, Land north of Bill Crane Way, Lutterworth (paras 9+10)

*"The Council acknowledged that at the time it took the decision to refuse ... it did not have a five year supply of housing land. However, recently published figures confirmed that at 30 September 2012 a supply in excess of five years and including a 5% buffer as required by paragraph 47 of the Framework was available. ...Notwithstanding [Policy CS2], there is no reason to resist development which may result in this figure being exceeded, particularly in light of the guidance in the Framework which seeks to boost significantly the supply of housing."*

APP/F2415/A/14/2211933 (Waterfield Place, Market Harborough)

(para 40) *In terms of the environmental role, the proposal would result in additional built development that would be outside the defined settlement boundary and within an area of separation. However, I am satisfied that the proposal would include a sufficient level of mitigation to ensure that its overall impact on the character and appearance of the surrounding countryside would not be significant. Therefore, taking the above roles together, I find that, on balance, the proposal would represent sustainable development in accordance with the Framework.*

(para 41) *I have concluded that the proposal would not have a significant adverse effect on the purpose and function of the area of separation between Market Harborough and Great Bowden or on the character and appearance of the surrounding countryside. In addition, it would represent sustainable development in accordance with the Framework. As such, I find that any adverse impacts and the proposal's conflict with HDLP Policy EV/3 and HCS Policy CS17 are*

*insufficient to significantly and demonstrably outweigh its benefits, when assessed against the policies in this Framework taken as a whole.*

Extracts from a 2<sup>nd</sup> June 2014 appeal decision,  
Appeal Ref: APP/F2415/A/14/2214166, 60 Springfield Crescent, Kibworth:  
*...the 5 year housing land supply provisions in the National Planning Policy Framework do not operate as a ceiling...*

Extracts from Appeal dismissed for up to 50 dwellings: APP/F2415/A/12/2167768, 16 August 2012, Land off Uppingham Road, Bushby, Leicester.

*Conclusion*

*17. Paragraph 49 of The Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. And that, relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Criterion a) of CS2 takes a similar approach in advising that housing development will not be permitted outside Limits to Development unless at any point there is a less than 5 year supply of deliverable housing sites. The clear thrust of these policies is that where there is a less than 5 year supply of housing land, less weight may be given to policies which in effect restrict housing land supply.*

*19. The proposed development would contribute to meeting the identified shortfall in housing land and provide much needed affordable housing units. The allotments and play area would be a welcome addition to local facilities. I conclude these benefits are not sufficient however in this instance to outweigh the serious adverse effect the proposed development would have on the character and appearance of the countryside.*

Extracts from Application refused (by the Planning Inspectorate) for up to 220 dwellings: S62A/2014/0001, 22 July 2014, Land to the North of Hospital Lane, to the South of Mill Lane and to the East of Bouskell Park, Blaby.

*55. There is some dispute about the precise distances on foot to various facilities. The preferred maximum walking distances identified by the Institute of Highways and Transportation are in some cases exceeded, but the bulk of the facilities would be more or less 1km from the centre of the site. Some, such as the Thistly Meadow primary school and the park, would be closer. Overall I am satisfied that the site is reasonably, if not always ideally located to most facilities, and closer than several other existing residential areas of Blaby.*

*56. The town centre, where many facilities are concentrated, is accessed along Hospital Lane and Welford Road, which are considered acceptable by the Highway Authority; and, at least in daylight hours, through the park and its proposed extension to Church Street. A Grampian-style condition (No14) has been suggested with a view to improving the Wigston road pedestrian route. Within 2km are employment areas and a secondary school. Connectivity to the footpath and national cycle network would be very good, and would be upgraded as part of the development in accordance with a phasing scheme required under suggested condition 2. South Wigston station is only some 2.5 Km distant.*

*57. The site is presently not well-served by bus services. This would be addressed by the applicant making a financial contribution by means of the S.106 agreement to the provision of a bus service through the site for a period of 5 years; a bus stop within the site and a "real time" information system. The timing of the provision of the bus stop would be linked to that of the new accesses and the loop road between them, under suggested condition 10.*

*58. A travel plan would also be prepared (under suggested condition 15) that seeks to encourage sustainable travel; and this would be monitored under provisions also set out in the S.106 agreement. The agreement contains an additional clause which would oblige the applicant to fund bus passes for a period of six months for new occupiers. I accept that this may be desirable in the interests of promoting bus travel and may help new residents get into the habit of using buses. However, I agree with the applicant that it cannot be considered strictly*



*necessary to the acceptability of the development, over and above the provision of the service itself. While I am satisfied that the provisions of the agreement with respect to the contributions towards the bus service; the travel plan; the travel plan monitoring and the real-time information system all meet the tests for planning obligations, that concerning bus passes fails the test of necessity. I therefore accord no weight to this element of the agreement in reaching my decision. The remaining provisions are material considerations in the determination of this application.*

*59. I conclude that, subject to conditions and to the matters addressed in the S.106 agreement, proposed development would be reasonably well located with respect to local facilities without the occupiers having undue reliance on the use of the private car, in accordance with the objectives of Policy CS10. It would score reasonably well when assessed against the “Building for Life 12” design assessment tool, discussed in more detail under the “Design” heading below, with respect to the “connections” and “facilities” topic.*

### **Planning Considerations:**

#### **Policy Assessment:**

Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the relevant policies contained within the development plan unless material considerations indicate otherwise.

At the present time the Development Plan for the site comprises the adopted Harborough District Core Strategy, and the retained policies of the Harborough District Local Plan (HDLP). National guidance in the form of the National Planning Policy Framework, together with Government White Papers and Reviews, is also relevant.

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

Policy CS2 deals with delivering new housing and advises that the District’s total housing requirement of 7,700 dwellings (880 within the PUA) will be provided in a sustainable manner. The Limits to Development boundary will be used to shape the town’s future development, and will be reviewed through the Allocations DPD is needed in order to enable the scale of new housing required to be accommodated. Housing development will not be permitted outside the Limits to Development (either before or following their review), unless at any point there is less than a 5 year supply of deliverable housing sites and the proposal is in keeping with the scale and character of the settlement concerned.

Policy CS3 deals with delivering housing choice and affordability and sets out a requirement that all residential developments within the District will be required to contribute towards meeting affordable housing needs. At sites within the Harborough Rural North and Central housing sub-market area a minimum of 40% of the total number of dwellings will be affordable.

Policy CS5 advises that the majority of future development will be located in areas well served by local services to reduce the need to travel, where people can gain convenient access to public transport services for longer journeys and where local journeys may be undertaken on foot or by bicycle.

Policy CS11 states that, in recognition of the importance of good design and the built heritage of the District, the highest standards of design in new development will be sought to create attractive places for people to live, work and visit.

Policy CS12 deals with delivering development and supporting infrastructure and requires developments to make contributions to infrastructure necessary to support the development

Policy CS15 specifically refers to the Leicester PUA, stating that Development within or adjoining the built up parts of Scraftoft, Thurnby and Bushby will be of a scale and type that will safeguard their identity, and not undermine the regeneration and development objectives of Leicester City and of Oadby and Wigston. Transport interventions delivered in association with additional development in and around the Leicester Principal Urban Area will focus on providing improved local links within the existing urban area for bus services, walking, cycling, and the effects of traffic generation on key junctions and corridors e.g Station Lane and the A47. New retail development within Scraftoft, Thurnby and Bushby will only be granted planning permission where such proposals support the viability of existing local retail centres and serve the everyday convenience shopping and service needs of the residents of Scraftoft, Thurnby and Bushby. Proposals of a greater scale, which could adversely affect the retail function of the District Centre at Oadby or the Local Centres of Downing Drive, Evington village, Thurncourt Road, Humberstone Road and Hamilton, will be resisted. The principle of a separation area will be maintained to the east of Station Lane and south of Covert Lane, to ensure the retention of identity of the Leicester Urban Fringe settlements and prevent coalescence between the villages of Scraftoft and Thurnby / Bushby. Support will be given for proposals in this area which protect and enhance the natural green space, improve accessibility through the provision of walking and cycling routes and leisure activities, and promote biodiversity.

#### *The Framework*

Paragraph 14 sets out the much vaunted “presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.” For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

Paragraph 17 sets out 12 core land-use planning principles that should underpin decision making.

Paragraph 32 states that all developments that generate significant amounts of movement should be supported by a Transport Statement or Assessment. Decisions should take account of whether: (a) the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, (b) safe and suitable access to the site can be achieved for all people; and (c.) improvements can be undertaken within the transport network that cost-effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Paragraph 35 states that developments should be located where practical to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities.

Paragraph 47 states that, where there has been a record of persistent under delivery of housing, Councils should have an additional buffer of 20% (over the five years worth of housing, i.e. a Sixth Year) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. This is not land over and above HDC’s housing target or 15 year supply of developable sites or broad locations but rather a frontloading of supply, i.e. the trajectory changes but not the overall total.

Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development, while paragraph 52 encourages new residential development to follow the principles of Garden Cities.

Paragraph 56 states that good design is a key aspect of sustainable development and indivisible from good planning. Paragraph 59 states that developments should establish a strong sense of place, create attractive and comfortable places to live and visit, optimise the potential of the site to accommodate development, respond to local character, and be visually attractive as a result of good architecture and appropriate landscaping. Paragraph 61 states that while visual appearance is very important, the development also needs to integrate well into the natural, built and historic environment. Paragraph 69 states that decisions should aim to achieve developments are safe and accessible, and contain clear and legible pedestrian routes and high quality public space, which encourage the active and continual use of public areas.

Paragraph 99 states that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

### Main Issues

Aside from an assessment of the proposal's impact the living conditions of neighbouring residents, on highway safety, wildlife and archaeology, the two key issues in this case relate to:

(1) the provision for strategic housing requirements in the District, including the required five-year supply (plus additional 20% buffer) of deliverable housing land, and consequent need for release of Greenfield land for residential development outside the Limits to Development; and

(2) the extent to which the proposal complies with Policies CS1, CS2 and CS15 of the Core Strategy, in particular the proposal's visual and landscape impact and its impact on the surrounding countryside.

### Principle / Five Year Housing Land Supply

The application site is a greenfield countryside site, outside the Limits to Development. The site is accessible to public transport and community facilities and services. The site's proximity to built form and to key services makes for a moderately sustainable location. The initial without prejudice pre-application consultation response from Harborough District Council (letter dated March 2013) referred to the benefits of providing an element of service provision within the development in a location that can serve the proposed development and the existing surrounding community. This aspiration was highlighted again during the consideration of the previous application. The shortage of retail services in the settlement, and the opportunity to make some retail provision in the proposed scheme was also highlighted in the stakeholder and public consultation undertaken by the applicants prior to submission of the previous application. Investigations by the applicant during the course of the previous application highlighted an opportunity to provide a small scale (a maximum of 500m<sup>2</sup>) convenience store close to the site access from Uppingham Road to serve the new development and the existing settlement. Subsequently, the applicants have secured a strong expression of interest in the proposed retail unit from The Co-Operative. Furthermore, the Harborough District Retail Study (2007) concludes (para 9.30) that any new proposals for convenience sector floorspace in the area (Zone 8), which will increase the local (spend) retention rates (which are very low at under 30%), should be viewed favorably (subject to meeting national planning policy). The application was therefore submitted to include an element of retail provision as part of the scheme which will further improve the sustainability of the proposal and will provide a much needed facility, not only for the development, but also for the surrounding residential areas.

However, it remains the case that the site is countryside. As such, a permitted application would introduce residential development into the open countryside, beyond the Limits to Development. Policy CS2 (a) states that housing development will not be permitted outside the Limits to Development unless at any point there is less than a five year supply of deliverable housing sites and the proposal is in keeping with the scale and character of the settlement concerned.

Policy CS2 (a) states that housing development will not be permitted outside the Limits to Development (either before or following their review) unless at any point there is less than a five year supply of deliverable housing sites and the proposal is in keeping with the scale and character of the settlement concerned.

As at 31st March 2014 the Council had 4.64 years of housing supply (including a 20% buffer), and thus the Local Planning Authority (LPA) is currently unable to demonstrate an up-to-date five year supply of deliverable sites for housing. Furthermore, Policy CS2 of the Core Strategy sets out the level of residential provision expected over the course of the plan period for the PUA. This sets out that 880 dwellings are required. As of the August 2014, 320 dwellings had been built within the PUA, with a further 419 committed. This leaves a surplus of 141 dwellings to be provided within the PUA over the plan period.

Framework paragraph 14 includes: *At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**...For **decision-taking** this means: approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out- of- date, granting permission unless:*

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;*
- or
- *specific policies in this Framework indicate development should be restricted*

In light of recent appeal decisions and the subsequent publication of the 5YS figure the Framework should be applied and resisting the proposal on the principle of it being beyond defined limits to development is almost certainly not sustainable at any appeal. Recommended condition 2 requires details of any subsequent Reserved Matters to be submitted to the LPA within 2 years of the decision date rather than 3 in order to help bring forward the housing within a shorter timeframe.

#### Landscape character analysis:

The *Leicester PUA Landscape Character Assessment (LCA) and Landscape Capacity Study (September 2009)* provides a detailed analysis of the landscape capacity of land in and around the Leicester Principal Urban Area (PUA), with a view to assessing potential suitability in landscape terms to accommodate future development. The application site was considered as Parcels 22 and 23. The Landscape Capacity Study concludes that both land parcels had a medium-high capacity for development in landscape terms.

#### Impact on the character of the area:

Scraptoft, Bushby and Thurnby are three separate but coalesced settlements, situated on the far eastern fringes of Leicester. The settlements sit within the 'High Leicestershire' landscape character area, contiguous with Leicester. As a result of their direct association, physical connection and proximity to the edge of Leicester, they are typical 'Urban Fringe' settlements. The Harborough District Landscape Character Assessment (HDLCA), describes the character of the settlements and adjacent countryside. The HDLCA states:

*"Thurnby lies on the boundary of the Leicestershire Vales Landscape Character Area (94) and the High Leicestershire Landscape Character Area (93) as defined by Natural England. The landscape setting of Thurnby is influenced by these landscapes."*

The application site is not subject to any landscape designation, but the landscape character and visual amenity of the area has been examined in the submitted Landscape and Visual Appraisal (LVA) that also accompanies the planning application. The LVA highlights that the site lies within the High Leicestershire Character Area, and the Leicester Fringe sub-area, as defined by the Harborough District Landscape Character Assessment (HDLCA) and Leicester PUA Landscape Character Assessment and Landscape Capacity Study (LLCA). The LLCA concludes that the landscape character area has a moderate strength of character and is in

moderate condition, and therefore, is of moderate sensitivity with a general strategy to “improve and conserve”. Moreover, the urban fringe sub areas that contain the application site are concluded to have an overall landscape capacity of “medium/high” to accommodate development.

In terms of visual amenity, the LVA highlights that views of the site from the surrounding area are generally limited by the urban form, topography and vegetation, most notably to the south and west. Where views to the site do exist the existing urban form of Thurnby and Bushby is a notable influence, particularly the housing along the eastern edge of Bushby Woods, and the housing area around Pulford Drive where the land rises up towards Scraftoft. The development of the committed development site (which has recently commenced) adjacent to the application site will increase this further. However, by introducing housing into countryside and notwithstanding other potential development, the proposal will nevertheless adversely detract from the intrinsic character and beauty of the countryside.

The Secretary of State has stated through other Appeal decisions (see above) that the District currently can not demonstrate a 5 years supply of available housing land, and the Authority has subsequently published its revised 5YS position. In light of this, whilst development of this site would ordinarily be (and was recently) considered to be contrary to CS2 being beyond retained local plan policy HS/8 defined limits to development, an assessment of the proposal against para 14 of the Framework falls to be carried out.

The various landscape assessment findings are important considerations which carry weight in favour of the proposal. Additionally, as will be discussed in more detail later in this report, the provision of the retail unit to the southern edge of the site, and the securing of a pedestrian / cycle link to the recently commenced Jelson’s development, result in the proposal being one which would constitute sustainable development. Furthermore, taking account of the fact that HDC can not demonstrate that a 5 years supply of available housing land can be provided and the fact that the application site is located in a sustainable location and will provide a substantial number of new houses, including Affordable Houses, would significantly and demonstrably outweigh the harm of introducing housing into countryside at this location. In refusing 13/01465/OUT on an adjacent site, conflict with CS15 was stated as the development by virtue of its scale would adversely impact the countryside. That concern was rebutted by the applicant (Jelsons) at that time and following the decision in a letter dated 6<sup>th</sup> March 2014 suggesting that was unreasonable, and that should the Council persist with the inclusion of policy CS15 at the appeal then they would intend to seek a partial award of costs against the Authority. Taking account of that and new material considerations conflict with CS15 can no longer be sustained as a refusal reason.

#### Impact on the designated Area of Separation

Retained Local Plan Policy EV/3 refers to the area of separation between Thurnby / Bushby and Scraftoft, adjacent to which the application site lies and states that, in this area, proposals will be refused that would adversely affect the predominantly open character of the land or result in a reduction in the existing open land separating the settlements concerned.

Core Strategy policies CS1(h) and CS15(d) reflect the Council’s intention to retain the principle of an area of separation between the two settlements. CS policy CS11(b) refers to the context of sites and their wider local environment and states that new development should be directed away from undeveloped areas of land which are important to the form and character of a settlement.

Although the application site is outside the currently defined Area of Separation, it does lie adjacent to it. However, the element of the Area of Separation to which the site lies adjacent does benefit from an extant planning consent for residential development. Furthermore, the application site does not form part of an area of land which has been identified as part of the Area of Separation Review for inclusion within a new designation. As such, it is not considered that the proposal would compromise the Area of Separation.

### Layout, scale and appearance

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

Development of this site would have a relatively significant visual impact and would result in a significant change in character to this part of the settlement. The site retains a rural, countryside character, and the proposed development would form the new edge of the town with the countryside. .

Although in outline form at the moment, and notwithstanding representation received, e.g. concerning character and appearance, the submitted indicative layout plan shows scope for a range of standard house types and sizes, and the scheme has potential to create a balanced community. A large area of open space is proposed to the eastern side of the site.

The proposal's net density at c.30 dwellings per hectare (dph) is in accordance with Policy CS2, however, it is considered appropriate that, on what is a visually sensitive, edge of settlement location, the fringes of the development should feature a much lower density of development giving a smooth transition to the open countryside. This is something which should be considered at reserved matters stage. In summary, it is considered that the proposed layout, scale and appearance accords with Core Strategy Policy CS2(b).

### Sustainable Development

The NPPF requires to LPA's to grant planning permission for sustainable development. Para 7 of the NPPF provides: "There are three dimensions to sustainable development: economic, social and environmental". In terms of economic considerations additional housing would provide employment during the construction period and the eventual residential occupiers would contribute to the local economy. Furthermore, the retail unit proposed as part of the scheme would provide employment opportunities in the locality. In social terms, the development would provide much needed housing, 40% of which would be affordable, which would help to meet the needs of the local community. Environmentally, there would be some adverse impacts which would detract from the character and appearance of the area by introducing housing into countryside. However, this adverse impact would not be so significant or demonstrable to outweigh the benefits, namely the proposal would significantly boost the housing the supply within the District, therefore on balance the proposal would represent sustainable development in accordance with the Framework.

### Access and parking:

The local highway authority considers the proposed development to be acceptable and recommends conditions variously relating to Highways design standards, surface water drainage, vehicle wheel cleansing facilities, parking provision and minimum internal dimensions for garages. In addition, Informative Notes relating to works within the limits of the Highway and, where concerning roads to be adopted, the need to enter into a S38 agreement. Its Section 106 requirements are listed in the Consultations section earlier in this report.

Furthermore, given the securing of a pedestrian and cycle link from the site into the adjacent Jelsons Ltd development, and subsequently on to Pulford Drive, the Highways Authority has removed its reason for refusal imposed upon the previous application in terms of sustainability. This link, combined with the proposed retail unit to the southern end of the site ensures that all of the site is within 800m walking distance of services (either the new retail unit or the facilities in Cranbrook Drive) and also bus services on either Uppingham Road or Pulford Drive.

Overall, having regard to the LHA's comments, the proposal is considered acceptable in highways terms subject to the imposition of appropriately worded conditions and s.106 contributions in respect of public transport.

### Residential amenity:

The proposal is in outline form, and as such, it is not possible to assess the finer detail of the impact of the proposal upon the residential amenity of the neighbouring properties, rather, this would be assessed at a subsequent Reserved Matters stage were the current application to be approved.

### Archaeology:

Having regard to the comments of the County Council archaeology team made in relation to the previous application, it is considered that overall the proposal is acceptable in this regard, subject to the imposition of appropriate conditions, specifically to require (1) a programme of archaeological work including a Written Scheme of Investigation (WSI), (2) no demolition/development to take place other than in accordance with the WSI, and (3) no development to be occupied until the site investigation and post investigation assessment has been completed and provision made for analysis, publication and dissemination of results and archive deposition secured.

### Ecology:

Paragraphs 98 and 99 of Circular 06/05 (Biodiversity including statutory obligations within the planning system) states as follows:

*“The presence of a protected species is a material consideration...It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision... The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances... However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected ...”*

Having regard to the comments of the County Council (LCC) ecology officer made against the previous application, it is considered that there is scope to mitigate any significant effect on protected species of wildlife, and overall, subject to suitable conditions being imposed the proposal would not likely cause harm to protected species and thus accords with Policy CS8 and paragraph 117 of the Framework.

### Drainage:

As part of the application, the applicants submitted a full Flood Risk Assessment (FRA). The relevant consultees have no objection to the proposals, provided that a condition is imposed to any consent, requiring a detailed surface water drainage strategy. The Development Framework submitted in support of the application indicates a number of swales throughout the site which would be consistent with s SUDs approach to the drainage strategy.

### Other Issues:

LCC Footpaths have requested that the footpath link through the woodlands to the south of the site to Dalby Avenue be improved by way of surfacing to a standard width. It is considered by Officers that such alterations would considerably alter the character of the footpath in this area. The footpath is currently very quiet and secluded in nature, and also quite steep in places. There are trees growing very close to the path in places, and to surface the path make necessitate the removal of some of these trees. Furthermore, there is a wet at the bottom of the slope and this would need to be “bridged” by some means. It is considered that the proposed alteration would be to the detriment of the character of the footpath, and given other pedestrian links which are and will be available, it is not considered that the surfacing of the footpath is necessary.

### S106 Agreement or similar

Representations received make various s106 requests including contributions towards affordable housing, open space provision, medical care provision and education. These representations are available for inspection as background papers. The suggested contributions have a detailed justification related to the proposal consistent with the Council's Planning Obligations, Developers Guidance Note 2009 as well as the NPPF, and CIL Regulations. Any approval should therefore be subject to obligations to secure these contributions. Consideration has been given to the potential location of playing fields within the development. There is an on-site requirement for approximately 1ha of playing field provision. This would equate to approximately the two southernmost blocks of the development. There is a case for on-site provision to be accommodated in this location, adjacent to the existing Wadkins Way recreation ground, however, Officers are of the opinion that, to locate this amount of open space in this location would result in the access road to the site appearing as an alien feature in the landscape. Furthermore, it would also potentially result in the retail unit being accommodated elsewhere on the site which would result in it not giving the desired benefits to the wider community whilst also potentially weakening the marketability of the site. There is an opportunity to provide for off-site sports pitch provision, furthermore, recommended condition 6 requires details of the open space provision to be included with the Reserved Matters submission.

### **Conclusion**

The proposal's visual impact on the countryside and its impact on the designated Area of Separation between Thurnby / Bushby and Scraftoft which it is situated adjacent to, and its contribution to 5 year housing land supply and affordable housing provision, are the key issues to be considered in determining this application.

The site is within open countryside and the proposed development would result, by reason of its scale and type, in an extension beyond retained Local Plan policy HS/8 defined limits to development into countryside. The proposal will therefore have an adverse impact on the character and appearance of the countryside, detracting from the predominately open character of the land through the introduction of housing development. Whilst the previously refused 13/01306/OUT stated failure to comply with Policies CS2a) and CS15 of the Harborough District Core Strategy were reasons to refuse, this can no longer be sustained in light of new considerations.

The proposal will make a contribution to the delivery of housing, including affordable housing for Harborough District which weighs significantly in its favour. Of significance when refusing 13/01306/OUT the decision notice stated *a material consideration is that a five year supply of land for housing can be demonstrated*. This supply was 6.45 years at that time.

Following the Secretary of State decision APP/F2415/A/12/2183653 and other subsequent appeals the Council have confirmed that a five year housing land supply cannot be shown. Accepting this, currently Framework paragraph 49 applies and policies for the supply of housing cannot be considered up-to-date. This proposal should therefore be assessed in the context of the presumption in favour of sustainable development (para. 14 of The Framework). Whilst the adverse impacts identified are significant it is not considered that they are so significant or demonstrable as to outweigh the benefits of the proposal, including the contribution it will make to boost significantly and demonstrably the supply of housing. It is therefore considered that the proposal satisfies the presumption in favour of sustainable development as set out in Paragraph 14 of The Framework and that consent should be granted.

### **Conditions:**

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.



REASON: The application was made for outline planning permission and is granted to accord with the provisions of Section 92 of the Town and Country Planning Act 1990 and Part 2 (5) of the Town and Country Planning (Development Management Procedure) Order 2010.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.

REASON: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990.

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

REASON: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4) The landscape details referred to in condition 1) shall include details of all existing trees and hedgerows on the site, indicating which are to be retained and which removed. No hedge or tree indicated for retention shall be felled, uprooted or otherwise removed during or after the construction period.

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

5) The landscape details referred to in condition 1) shall include details of the position, design, materials, height and type of boundary treatment, as well as details of the planting to path boundaries. The boundary treatment shall be provided to each dwelling before that dwelling is first occupied or in accordance with an approved phasing plan.

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

6) The layout details to be submitted in accordance with condition 1) shall include open space, amenity areas and play areas, the defined boundaries for these areas, their proposed uses, the age groups for which they are intended and the items of equipment, means of enclosure and all other structures to be installed, together with a programme for their provision and a phasing plan for the development as a whole. Development shall be carried out in accordance with the approved programme and phasing.

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

7) No development shall take place until details of storage facilities for refuse and recycling materials have been submitted to and approved in writing by the local planning authority. The approved storage facilities shall be provided for each dwelling before that dwelling is first occupied in accordance with the approved details and thereafter be retained.

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

8) No development shall take place, including any earthworks, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v) wheel washing facilities
- vi) measures to control the emission of dust and dirt during construction
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works

viii) hours of work on the site

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

9) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

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

10) No development shall take place until details of a foul water drainage scheme and the implementation, maintenance and management of a sustainable drainage scheme for surface water have been submitted to and approved by the local planning authority. The foul water drainage shall be implemented in accordance with the approved details. The sustainable drainage scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

**REASON:** To ensure the satisfactory drainage of the site and to accord with Harborough District Core Strategy Policy CS10

11) Prior to the occupation of the first dwelling on the site, the applicants shall construct, complete and open for use the proposed access and highway works illustrated on bsp consulting drawing numbered 12506/001 Revision C.

**REASON:** In the interests of highway capacity and safety and to ensure a satisfactory form of development.

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

Note: Your attention is drawn to the requirement contained in the Highway Authority's current design guide to provide Traffic Calming measures within the new development.

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

13) Before first use of the development hereby permitted the proposed pedestrian/cycle links from the development to the adjacent consented Pulford Drive development as shown on the the development framework plan numbered DE071\_006 Revision C shall be completed and open for use.

**REASON:** In the interests of sustainability of the development and to encourage walking and cycling and allow transport choice

14) No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

**REASON:** To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.

15) No part of the development as approved shall be brought into use until details of an updated Residential Travel Plan has been submitted to and agreed in writing by the Local Planning Authority. The Plan shall address the travel implications of the use of the whole site as if the development approved were to have been fully completed and occupied. The Plan shall specify facilities and measures with measurable output and outcome targets designed to:

- Reduce single occupancy vehicle use, reduce vehicular travel at peak traffic times and reduce vehicle emissions for journeys made for all purposes to and from the developed site,
- Increase the choice and use of alternative transport modes for any journeys likely to be made to and from the developed site and, in particular, to secure increases in the proportion of travel by car sharing, public transport use, cycling and walking modes and the use of IT substitutes for real travel,
- Manage the demand by all users of the developed site for vehicle parking within and in the vicinity of the developed site.

The Plan shall also specify:

- The on-site Plan implementation and management responsibilities, including the identification of a Travel Plan Co-ordinator,
- The arrangements for regular travel behaviour and impact monitoring surveys and Plan reviews covering a period extending to at least one year after the last unit of development is occupied or a minimum of 5 years from first occupation, whichever will be the longer.
- The timescales or phasing programmes for delivery of the Plan's proposals and for the achievement of the specified output and outcome targets, and
- Additional facilities and measures to be implemented if monitoring shows that the Plan's targets are not likely to be met, together with clear trigger dates, events or threshold levels for invoking these measures.

The Plan, once agreed, shall be implemented in accordance with the approved details, and thereafter, the implementation of the proposals and the achievement of targets of the Plan shall be subject to regular monitoring and review reports to the LPA and, if invoked, to the implementation of the specified additional measures.

**REASON:** To ensure that adequate steps are taken to achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices to and from the site in order to relieve traffic and parking congestion, promote safety, improve air quality or increase accessibility in accord with Section 4: 'Promoting Sustainable Transport' of the NPPF 2012.

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

**REASON:** In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policy CS11.

17) No development shall commence on site until a biodiversity management plan has been submitted to and approved by the LPA, covering all retained and created habitats (hedges, wetlands, wildflower grasslands, plantations). Any site clearance / removal of trees / scrub / hedges shall be undertaken outside the bird-nesting season.

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

18) No development shall take place/commence until a programme of archaeological work (Strip, Plan and Record excavation) including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- The programme and methodology of site investigation and recording
- The programme for post investigation assessment
- Provision to be made for analysis of the site investigation and recording
- Provision to be made for publication and dissemination of the analysis and records of the site investigation
- Provision to be made for archive deposition of the analysis and records of the site investigation
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

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

19) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 19.

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

20) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 19 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

### **Notes to Applicant**

1) The drainage scheme required as part of condition 10 of this consent shall include the utilisation of holding sustainable drainage techniques with the incorporation of two treatment trains to help improve water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features.

2) Development to be in accordance with the Development Framework (DE071 \_006).

3) SUDS features to be designed to maximise opportunities for wildlife, through creation of wetland habitat features.

4) All landscape tree and shrub planting around the perimeter of the site to be of locally native species only.

5) Your attention is drawn to the requirement contained in the Highway Authority's design document to provide Traffic Calming measures within the new development.

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

7) C.B.R. Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.

8) Please be aware that Leicestershire County Council as Lead Local Flood Authority (LLFA) are currently not a statutory consultee to the planning process for drainage matters. When Schedule 3 of the Flood and Water Management Act 2010 is implemented Leicestershire County Council will become the SuDs Approval Body (SAB) and also a statutory consultee of the planning process. The SAB role is currently anticipated to commence in April 2014. You will need to contact Leicestershire County Council if you have an aspiration for us to adopt any SuDs features associated with the development. Please e-mail [roadadoptions@leics.gov.uk](mailto:roadadoptions@leics.gov.uk) if you wish to discuss further.

9) If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

10) If the applicants do not wish to seek adoption of the roads, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see [www.leics.gov.uk/htd](http://www.leics.gov.uk/htd) or phone 0116 3057198.

11) To accord to Highway Authority standards, car parking spaces should have minimum dimensions of 2.4 metres in width and 5.5 metres in length. Where bounded by walls, fences, vegetation or other similar obstruction, a minimum additional 0.5 metre clear margin will be required to allow full access to and from all car doors (including the boot). For a garage to count as a parking space, it must have minimum internal dimensions of 3 metres width and 6 metres length.

12) Consideration should be given to a layout which features lower density development to the fringes of the site.

14/01168/FUL – TUR LANGTON

Demolition of former public house and erection of 6no. dwellings with associated landscaping and car parking at The Bulls Head, Shangton Road, Tur Langton

Applicant: Langton Homes Limited

Target Date: 21/10/14

### **Recommendation**

#### **REFUSE for the following reason:**

The proposal will have a significant and demonstrable harm on the character and appearance of the settlement and its setting in the countryside by virtue of the size and position of the proposed rear dwellings. This harm is not outweighed by any benefits as the development is in an unsustainable location. The proposal is therefore contrary Paragraph 14 of the National Planning Policy Framework and to Harborough Core Strategy Policies CS2, CS11 and CS17.

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

### **Site:**

The application site is within the village of Tur Langton. The front part of the site contains a vacant public house, which fronts the highway and to rear of this is an area of hard standing and then the site is overgrown. On the northern site boundary is Stone Hill and a hedge and on the rear (eastern) boundary is hedgerow and trees. To the south of the site Fernie House adjoins the Bulls Head and also fronts the highway. Fernie House is a Listed Building, as is Shangton House that presently faces the side of the public house and is on the junction of Shangton Road and Stone Hill.

The existing public house is rendered and painted white and this has now fallen into disrepair. Fernie House is taller than the existing public house and is rendered with a stone plinth.

The Limits to Development of the site run from the rear elevation of the property Mount Pleasant across to approximately 28m to the east of the side elevation of Shangton House. The site is within the Conservation Area.

Consent has been granted for the demolition of the public house and this permission is extant.

### **The Proposal:**

The application is for the demolition of the former public house and the erection of 6 dwellings with associated landscaping and car parking.

### **Policy:**

#### **National Planning Policy Framework (“the Framework”) (published 27.03.2012):**

Paragraphs 6 – 9, 13, 14, 17 (presumption + core planning principles), 18, 19, 20 (economy), 29 – 36 (transport), 47, 49, 50, 52 (housing), 56 – 66 (design), 69, 70, 75 (healthy communities), 93 – 104 (climate change and flooding), 109 – 125 (natural environment), 126 – 139 (historic environment), 186 – 206 (decision taking)

#### **Local Policy:**

Harborough District Council Core Strategy:

CS1 – Spatial Strategy for Harborough  
CS2 – Delivering New Housing  
CS3 – Delivering Housing Choice and Affordability  
CS5 – Providing Sustainable Transport  
CS9 – Addressing Climate Change  
CS10 – Addressing Flood Risk  
CS11 – Promoting Design and Built Heritage  
CS12 – Delivering Development and Supporting Infrastructure  
CS17 – Countryside, Rural Centres and Rural Villages

Harborough District Local Plan:

Policy HS/8: Limits to Development

**History:**

14/01235/PCD – Discharge of Condition 2 (materials), 5 (landscaping), 6 (boundary treatment), 7 (hedge treatment) and 23 (land contamination assessment) of 11/01344/FUL – Pending Consideration

12/00523/FUL – Demolition of public house and erection of 7 dwelling – Refused – Dismissed at Appeal

11/01344/FUL – Erection of five dwellings with associated garaging, hardstanding and landscaping - Permitted 18/11/11 – The three year permission will expire on 18/11/14

11/00538/ETF – Erection of eight dwellings (Extension of Time of 06/01030/FUL) – Permitted 12/08/11 – The permission lapsed on 12/08/14

06/01191/CON – Demolition of public house and outbuildings – Permitted – Extant

06/01030/FUL – Erection of 8 dwellings – Permitted

**Consultations / Representations:**

Environmental Health:

No objections subject to conditions.

LCC Ecology:

“The ecology survey submitted with the application (Curious Ecologists, April 2009) is over 5 years old and can therefore not be considered in support of the application. On our files we have a survey completed in August 2012, which was submitted in support of the appeal for planning application 12/00523/FUL. The survey found no evidence of protected species, but provided mitigation for great crested newts, which are believed to be present in the gardens to the south of the site.

However, this survey is also now over two years old. The Leicestershire and Rutland Bat Protocol states (page 5) that surveys are only valid for two survey seasons and gives the example that a survey completed in June 2010 should be updated in 2012. We would therefore expect to see an updated ecological survey submitted in support of this application. Section 4.1 of the 2012 survey concludes that whilst no bat roosts were present at that time, the building did have the potential to support roosting bats. It is therefore possible that bats may have moved into the building in the interim period. Additionally, we would recommend that the grounds are resurveyed for the presence of badger.

We would therefore recommend that an updated ecological survey is completed and submitted in support of the application. We would also request that the issue surrounding great crested newts is also adequately resolved for this application”.

Representations:

4 letters of support have been received that raise the following points, 1) Supportive of this application as it would be beneficial to the village, 2) The pub is wasted space at the focal point or cross-roads of the village, 3) The site is an eyesore, disgraced our village for years, should have been done years ago, 4) New housing would encourage new families and energy, 5)

Development is overdue, 6) We may see an increase in value of our own properties, 7) The current site is a danger in its current state

1 letter of objection has been received that raises the following points, 1) Part of the development is outside the Limits to Development (HS/8). Highly undesirable and would set a precedent. D & A statement justifies this by quoting CS2 'exception if there is at any point less than a five year supply of deliverable housing sites'. If there is a shortage in supply doesn't the previously granted application for eight dwellings address this? 2) The developer seeks to justify revised plans with inclusion of wooded green belt screening to the north and east of the site. No provision to screen to the south where Plot 6 is within 5m of the gardens of 1 and 2 Cranoe Road. Highly intrusive and would almost certainly result in the death of mature ash trees along this boundary, 3) Supporting ecological survey is poor, inaccurate and out of date. Appears to concentrate on pub buildings and former car park, not wider site. Doesn't include a site plan. The survey identifies a pond approximately 160m away but not the garden ponds on Cranoe Road or the water course on the northern boundary running east to west. Large populations of common newts use these ponds and have photographic evidence of Great Crested Newts in and around our pond, which is approximately 10m from the proposed development. Also have regular bat visitors which must be roosting locally, 4) The former Bulls Head is correctly sighted as an eyesore and not befitting a Conservation Area. This is very true and I think all in the village are keen to see the back of it. The fact is however that previous planning applications have approved its demolition and replacement. The developers have failed to act on this. 5) The developers have sought to put pressure on neighbouring residents stating that if their plans are not supported they may sell the land to a 'less conscientious' developer. Many people may therefore support this application through fear or ignorance. 6) The fact that planning permission for the demolition of the pub and erection of eight houses was previously approved, clearly demonstrates that this current application is an unnecessary breach of the accepted limits to development.

1 neutral letter raising the following points, 1) Only a question of time for this proposal to come about. All the current owner and previous owner has wanted is for this building to fall into such a dilapidated state that demolition is probably the only viable option, 2) Great consideration needs to be given to the highway access as the B6047 main road through this village is already a race track despite a 30mph speed limit being in force it is rarely observed. The increase in traffic caused by this proposal will undoubtedly heighten the possibility for road traffic accidents, 3) The Council should also seek an undertaking to ensure no building on the so-called paddock on the back land of this site will take place in the future.

### **Other Information:**

#### **Reason for Report to Committee**

This application is being reported to the Planning Committee for determination because there are five or more letters of counter-representation.

#### **Housing Land Supply Position**

Paragraph 47 of the NPPF requires local planning authorities to ensure that there is a continuous five year supply of deliverable sites within their District. To be deliverable, sites need to be available, i.e. available now; suitable i.e. the site offers a suitable location for development now and would contribute to the creation of sustainable, mixed communities; and achievable i.e. there is a reasonable prospect that housing will be delivered on the site within five years.

As of the 31<sup>st</sup> March 2014 the Council had a 4.62 years housing supply.

### **Planning Considerations:**

#### **Policy Assessment:**

Section 38 (6) of the Planning & Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the relevant policies contained within the development plan unless material considerations indicate otherwise.



At the present time the Development Plan for the site comprises the adopted Harborough District Core Strategy, and the retained policies of the Harborough District Local Plan (HDLP). National guidance in the form of the National Planning Policy Framework is also relevant.

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

Policy CS2 deals with delivering new housing and advises that the District’s total housing requirement of 7,700 dwellings (880 within the PUA) will be provided in a sustainable manner. The Limits to Development boundary will be used to shape the area’s future development, and will be reviewed through the forthcoming Local Plan and is needed in order to enable the scale of new housing required to be accommodated. Housing development will not be permitted outside the Limits to Development (either before or following their review), unless at any point there is less than a 5 year supply of deliverable housing sites and the proposal is in keeping with the scale and character of the settlement concerned. Housing development will be of the highest design standard, with a layout that makes the most efficient use of land and is compatible with the built form and character of the area in which it is situated. The mix of housing types provided as part of any new development should be informed by the most up to date Strategic Housing Market Assessment or other local evidence.

Policy CS3 deals with delivering housing choice and affordability and sets out a requirement that all residential developments within the District will be required to contribute towards meeting affordable housing needs. At sites within the Harborough Rural North and Central housing sub-market area a minimum of 40% of the total number of dwellings will be affordable.

Policy CS5 advises that the majority of future development will be located in areas well served by local services to reduce the need to travel, where people can gain convenient access to public transport services for longer journeys and where local journeys may be undertaken on foot or by bicycle.

Policy CS11 states that, in recognition of the importance of good design and the built heritage of the District, the highest standards of design in new development will be sought to create attractive places for people to live, work and visit. This will be achieved in the following way:

(a) Development should be inspired by, respect and enhance local character, building materials and distinctiveness of the area in which it would be situated

(b) All development should respect the context in which it is taking place and respond to the unique characteristics of the individual site and the wider local environment beyond the site’s boundaries to ensure that it is integrated as far as possible into the existing built form of the District. New development should be directed away from undeveloped areas of land which are important to the form and character of a settlement or locality.

(c) Development should be well planned to:

i) Incorporate safe and inclusive design, suitable for all to access;

ii) Make the most of local built and natural assets;

iii) Be of a scale, density and design that would not cause damage to the qualities, character and amenity of the areas in which they are situated;

iv) Ensure that the amenities of existing and future neighbouring occupiers are safeguarded;

v) Reflect the landscape or streetscape in which it is situated and include an appropriate landscaping scheme where needed;

vi) Enable adaptation, allowing for mixed uses with the potential to change use where appropriate;

vii) Enable adaptation, ensuring suitability for today’s users and capability for alteration to suit users in a future changing climate;

viii) Where appropriate, encourage travel by a variety of modes of transport;

ix) Minimise waste and encourage re-use and recycling wherever possible.

Policy CS12 deals with delivering development and supporting infrastructure and requires developments to make contributions to infrastructure necessary to support the development.

Policy CS17 refers to the countryside, Rural Centres and Rural Villages. Tur Langton is not a Rural Centre or a Selected Rural Village and Policy CS17 states that development outside of the Rural Centres, in the countryside or not within a Selected Rural Village will be strictly controlled. This is to ensure that development is sustainable. It states that villages not identified as Selected Rural Villages, but that have identified Limits to Development, may be suitable to receive very limited small scale infill development. Part of this development is outside of the Limits to Development and therefore in the countryside. Policy CS17 states that development in the countryside will be strictly controlled and it does not identify residential development as appropriate countryside development. The policy states that rural development will be located and designed in a way that is sensitive to its landscape setting, retaining and where possible enhancing the distinctive qualities of the landscape character. It must conserve and where possible enhance local landscape and settlement distinctiveness, safeguard important views and landmarks and protect the landscape setting of individual settlements.

Retained Local Plan Policy HS/8 shows the Limits to Development.

At present, because the Council does not have a 5-year housing supply, CS2 is considered to be out of date. Therefore the proposal needs to be assessed against paragraph 14 of the National Planning Policy Framework.

#### *National Planning Policy Framework*

Paragraph 14 sets out the much vaunted “presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.” For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

Paragraph 17 sets out 12 core land-use planning principles that should underpin decision making.

Paragraph 32 states that all developments that generate significant amounts of movement should be supported by a Transport Statement or Assessment. Decisions should take account of whether: (a) the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, (b) safe and suitable access to the site can be achieved for all people; and (c.) improvements can be undertaken within the transport network that cost-effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Paragraph 35 states that developments should be located where practical to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities.

Paragraph 47 states that, where there has been a record of persistent under delivery of housing, Councils should have an additional buffer of 20% (over the five years worth of housing, i.e. a Sixth Year) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. This is not land over and above HDC’s housing target or 15 year supply of developable sites or broad locations but rather a frontloading of supply, i.e. the trajectory changes but not the overall total.

Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development, while paragraph 52 encourages new residential development to follow the principles of Garden Cities.

Paragraph 56 states that good design is a key aspect of sustainable development and indivisible from good planning. Paragraph 59 states that developments should establish a strong sense of place, create attractive and comfortable places to live and visit, optimise the potential of the site to accommodate development, respond to local character, and be visually attractive as a result of good architecture and appropriate landscaping. Paragraph 61 states that while visual appearance is very important, the development also needs to integrate well into the natural, built and historic environment. Paragraph 69 states that decisions should aim to achieve developments that are safe and accessible, and contain clear and legible pedestrian routes and high quality public space, which encourage the active and continual use of public areas.

Paragraph 99 states that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

#### Principle / Five Year Housing Land Supply

Tur Langton is not a Selected Rural Village or a Rural Centre. Therefore Policy CS/17 states that development is to be strictly controlled. Tur Langton does however have Limits to Development and so the policy states that it may be suitable for some limited small scale infill development. Policy CS2 states that the housing provision for the district shall be distributed between the main settlements, Rural Centres and Selected Rural Villages.

However, notwithstanding the above, planning permission for housing has previously been granted for housing at the site and this permission is still extant with the Discharge of Conditions application presently being considered. Work will need to commence on site by the 18<sup>th</sup> November 2014 to prevent this planning application lapsing. Also it needs to be considered that the site presently has an adverse impact on the character and appearance of the Conservation Area due to the appearance of the run down public house and that the redevelopment of the site would enhance the Conservation Area and the street scene.

Since the application for 5 dwellings (11/01344/FUL) was approved, a further application was submitted for 7 dwellings (12/00523/FUL). This included three large dwellings being proposed beyond the Limits to Development. This application was refused for the following reasons,

- 1) The development extends nearly 60m outside of the Limits to Development of Tur Langton. This is contrary to the character of the rural settlement and the surrounding countryside and is unacceptable in a village which is not considered suitable for any more than very limited infill development. The proposal is therefore contrary to Policies CS2, CS11 and CS17 of the Harborough District Council Core Strategy and no other material considerations indicate that this policy should not prevail.
- 2) The application is not accompanied by an up to date Ecological Survey and therefore the extent that any protected species may be harmed by the development has not been assessed. This is contrary to the requirements of Circular 06/2205 and Policy CS17 of the Harborough District Council Core Strategy.

This application was then dismissed at appeal (APP/F2415/A/12/2184845).

The application for 5 dwellings (11/01344/FUL) was approved and this was considered acceptable as the two rear dwellings were a lot closer to the existing built form of the village and the development extended a maximum of approximately 10m outside of the Limits to Development. The two rear plots were on lower land than the refused application and this

proposed application and overall this and the siting of the dwellings resulted in the development having less of an adverse impact on the rural character of this part of the settlement.

This new application is now for 6 dwellings and two of these are proposed to be beyond the Limits to Development. However, as the Council does not have a 5-year housing supply Policy CS2 states although housing is not to be permitted outside of the Limits to Development this may be acceptable if the proposal is in keeping with the scale and character of the settlement concerned if there is not a 5-year housing supply. Notwithstanding this, this Policy is presently considered to be out of date due to the lack of housing supply and therefore decisions should be made based on Paragraph 14 of the NPPF. This states that there should be a presumption in favour of sustainable development and that where development plan policies are out of date that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Therefore it needs to be considered whether the scale, siting and design of the development proposed would have an adverse impact that significantly and demonstrably outweighs the benefits and also whether the development is sustainable.

A good starting point is to consider the appeal decision, the Inspector's concerns and whether these have been overcome and then whether the application will have a significant and demonstrable harm and whether it is sustainable.

Appeal (APP/F2415/A/12/2184845):

The main issue was considered to be the effect on the character and appearance of the area, having regard to the location of the development within Tur Langton Conservation Area and within the countryside. The Inspector said,

"The three detached dwellings [plots 5, 6 and 7] would be substantial in size and would bring development much closer to the boundary hedge at the rear of the site. Instead of having a soft entrance of paddocks close to the public footpath, with the backs of dwellings being close in to the existing historic settlement, the dwellings would be on the raised land at the rear of the site"

"The hedgerows could be retained and improved, and permitted development rights could be restricted. Nonetheless, the extension of residential gardens and household paraphernalia within gardens would significantly alter the rural feel of the outskirts of this part of Tur Langton when viewed from the neighbouring public footpath and Stone Hill. Whilst acknowledging that the land has no particularly special landscape characteristics and is overgrown, this does not negate the need to pay attention to its rural context".

"Although the two extant permissions both have dwellings that would straddle the limit of development and would include the land outside the boundary as garden or as paddocks, the position of the dwellings in the appeal scheme would be substantially further out of the settlement than the fall back positions that could both be implemented. This would not respect the rural context and would be contrary to CS policy CS11".

With regards to the Conservation Area and neighbouring Listed Buildings the Inspector said,

"The significance of the Conservation Area is set out in the Conservation Area Character Statement. It identifies the loosely spaced buildings along Main Street, and the loose linear development along its T shape of roads. The Council has not asserted that the development would harm the significance of the designated heritage asset, which includes the adjacent grade II listed Fernie House and Shangton House which are also heritage assets in their own right. The development would not have a significant effect on the character or appearance of Main Street or the Shangton Road frontage. Conditions could control materials and require the submission of details of chimneys".

The Inspector with regards to sustainability stated that,

“It is not a selected rural centre which is to expect much growth. Although the Core Strategy was adopted before the publication of the National Planning Policy Framework (the Framework), the settlement hierarchy seems consistent with the aspirations of the Framework to minimise journey lengths for employment, leisure, education and other activities”.

Impact of the development on the character of the area

The previous application was dismissed because the back three dwellings were substantial in size and would bring development closer to the rear boundary hedge. This new application has reduced the number of dwellings at the back of the site from three to two and has also moved them further from the rear boundary of the site.

Previously Plot 5 was 25-26m from the rear boundary, Plot 6 was approximately 25m and Plot 7 was approximately 24.7m from the boundary. This excludes the single storey rear extensions.

With regards to this application, excluding again the single storey rear extensions, Plot 5 is approximately 33m from the rear boundary and Plot 6 is approximately 31m from the rear boundary.

The dwellings were described as substantial in size and it is considered that this still applies. Previously Plot 5 was 8.966m high, the main house was 13.040m wide and including a single storey side extension the overall width was 15.515m, Plot 6 was 8.986m high, the main house was 13.040m wide and the overall width with single storey side extension was 15.515m and Plot 7 was 9.380 high, the main house was 13.040 wide and with the single storey side extension the overall width was approximately 15.5m.

As part of this application Plot 5 is to be a two storey dwelling house with a one and a half storey stepped extension. The height of the main part of the dwelling house is 9.275m and the width of this part is 13.1m. The highest part of the one and a half storey side extension is 7.985m and the width is 2.7m and the height of the lowest part of the side extension, containing an integral double garage and room above is 7.168m and the width is 6.5m. The overall width of the dwelling house is 22.3m.

Plot 6 is 16.9m wide and 9.23m high. Extending forward of this is an attached front one and a half storey extension containing an integral double garage and bedroom above and this is 7.267m high. These differences are summarised in the following table.

12/00523/FUL	Distance from rear boundary	Height	Overall width	14/01168/FUL	Distance from rear boundary	Height	Overall width
Plot 5	25-26m	8.966m	15.515m				
Plot 6	25m	8.986m	15.515m	Plot 5	33m	9.275m	22.3m
Plot 7	24.7m	9.380	15.5m	Plot 6	31m	9.23m	16.9m

It is considered that the scale and design of Plots 5 and 6 is not in accordance with Policy CS11 of the Core Strategy. This states that development should be of the highest standard of design and should respect and enhance local character and distinctiveness of the area. It is considered that houses of such a large width, and in the case of Plot 6 all being the same height, will result in houses of such a massing and width that they will not be in keeping with the character of the area. The neighbouring existing houses are not as wide. The dwellings could be improved by reducing the width of Plot 5 and by breaking up the 16.9m long roof line of Plot 6.

The proposed dwellings are larger than the refused scheme. The supporting 'Planning and Design Response' states that there is a reduction in the total footprint due to the number of dwellings being reduced and the detached garages being removed, and that there is a reduction in height of 15cm when comparing the original Plot 6 with the proposed Plot 5 and 62cm when comparing the original Plot 7 with the proposed Plot 6. The original Plot 6 was 8.986m high and the proposed Plot 5 is 9.275m high. The difference in height must be due to it being sited on slightly lower land as the proposed house is higher. The original plot 7 was 9.380m high and the proposed Plot 6 is 9.23m high. To state that it is 62cm lower must be due to the slightly lower land level. Nevertheless this reduction in height is very slight and any reduction in the houses impact on the surrounding rural setting is cancelled out by the houses being significantly wider. They are large substantial dwellings and therefore even though they have been relocated slightly nearer to the village it is still considered that they would alter the rural feel of this part of Tur Langton.

The Inspector makes reference to the existing soft entrance of paddocks close to the public footpath and this application therefore incorporates running a paddock along the boundary next to the public footpath on Stone Hill and along the rear of the properties. However, it is considered that the two new large houses will still appear dominant and even with this proposed paddock land the rural feel of this part of the settlement will be lost.

Plot 4 will mainly be within the Limits to Development and Plots 1, 2 and 3 will front the road replacing the Bulls Head public house. Plot 4 is large at 18.75m wide and but it is situated on lower land, before the site starts to rise in level more. It is also located nearer to the built form of the village. The main part of the dwelling is 12.2m and the double garage is lower and slightly set back from the front elevation which breaks up its massing. It is therefore considered that it will not have an adverse impact on the character of the settlement. Plots 1, 2 and 3 are attractive 3-bedroom properties with details such as brick detailing under the eaves and over the windows and stone cills. It is considered that they will enhance and respect the setting of the Conservation Area.

Overall it is considered that the proposed development will have a demonstrable and significant impact on the rural character of this part of the settlement. The two rear houses will still have a negative impact on the rural setting and the approach to the village along the public footpath and due to their width and scale will not respect or enhance the character of the area. The development has not addressed the concerns raised by the Inspector when assessing the previous application. When assessing the application against the policies in The Framework it is considered that the proposal does not recognise the intrinsic character and beauty of the countryside (Paragraph 17) and that the size and scale of the dwellings does not comply with the design principles of section 7 of the Framework. The development of the two rear plots will also not comply with Policies CS11 and CS17 of the Harborough District Core Strategy by virtue of their location, height and width.

#### Sustainable Development

Paragraph 14 of the Framework states that at the heart of the National Planning Policy Framework there is a presumption in favour of sustainable development. This is also present in the Core Strategy where there is a hierarchy of settlements in order to ensure that development is focused in sustainable locations. The Inspector's report states that "the settlement hierarchy seems consistent with the aspirations of the Framework".

Tur Langton is neither a Rural Centre nor a Selected Rural Village, nor is the development very limited infill small scale development. Therefore it is not considered to be a sustainable location for development. However, there is the extant approval for five dwellings that was allowed due to the [at the time] extant permission for eight dwellings (which was originally approved before the Core Strategy in 2006) and due to the fact that developing the site will enhance the Conservation Area, which is presently being harmed by the presence of the run down public house.

However, these two approvals showed that development and enhancement of the site could be achieved without encroaching into the countryside and without being at the harm of the rural character of this part of the settlement. One of these applications could still be implemented. Although this latest application proposes one extra dwelling it is not considered that this provision of one extra house would outweigh the harm caused by the dwellings being located in the countryside and nearer to the rear boundary of the site than the extant application for five dwellings. The benefit of one extra dwelling is also reduced by it being in an unsustainable location.

It is therefore considered that the adverse impact of the harm the development would have on the rural character of the area is not outweighed by the benefits of allowing the proposal and that the proposal is not sustainable development and is therefore contrary to the aims of the National Planning Policy Framework.

#### Affordable Housing:

The extant permission for 5 dwelling houses does not include affordable housing. However the developers are proposing to include one affordable house as part of this scheme. In order for the development to comply with Policy CS3 of the Core Strategy 40% of the housing provision would need to be affordable. This would equate to 2 affordable units.

The proposal fails to comply with affordable housing policy (ie it proposes one instead of two affordable units without detailed justification for the shortfall.) However, it is an improvement in affordable housing terms than the fall back position (11/01344/FUL) which provides no affordable housing on the basis of an accepted viability assessment. In this context it is reasonable to accept the proposed affordable housing unit as satisfactory and not require the cost and burden of additional viability work which will most likely confirm previous assessment.

#### Residential amenity

Policy CS11 of the Core Strategy states that residential amenity must be safeguarded. It is considered that Plots 1, 2 and 3 will not affect residential amenity as they do not extend past the rear of Fernie House and are nearly 22m from the front of Shangton House. Plots 4 and 5 do not affect residential amenity due to their relationship to neighbouring properties.

The relationship between the development and Mount Pleasant is not as favourable as previous approved schemes. Plot 6 is 14m to the rear of the primary windows at ground floor and first floor of Mount Pleasant. However, this is a satisfactory distance when based on guidance in Supplementary Planning Guidance Note 5 which details how far extensions should be from neighbouring properties. The proposed dwelling is on higher land than Mount Pleasant, but then it is sited at an angle to the rear of the property and not directly to the rear. It is also situated to the north east of Mount Pleasant and so will not result in a loss of light. On balance the relationship is not harmful enough to warrant refusal but the previous approved schemes have had a better relationship with the neighbouring properties.

#### Access and parking:

An acceptable level of parking has been provided for each dwelling house and there is room to turn so that cars can leave the site facing forwards.

#### Ecology:

Leicestershire County Council Ecology have advised that the submitted protected species survey is out of date as was carried out too long ago. Therefore an updated survey has been requested. A neighbour has raised a concern about Great Crested Newts and Bats being present in the locality.

#### Trees:

Plot 6 has been situated very close to the mature Ash trees between the site and the rear gardens on Cranoe Road. A tree survey has been requested. These trees are protected because they are within the Conservation Area.

### Conclusion

Although the plots towards the rear of the site have been moved and reduced in number to two dwellings, and even with the provision of the paddock land, it is considered that due to the design, scale and elevated position of the two dwellings that the development will have a significant and demonstrable harm on the rural character of the settlement and that the reasons for the previous application being dismissed at appeal have not been overcome.

The provision of one extra dwelling, compared to the approved scheme that could be implemented without harming the character of the area, is not a benefit that would outweigh the harm as Tur Langton is not a sustainable location and therefore the development is not sustainable development. This is contrary to the aims of the National Planning Policy Framework and the Core Strategy.

The run down condition of the site is a consideration and it is unfortunate that it has fallen into disrepair when there has been consent for housing on the site. However, there is a consent for five dwellings that is extant and the planning conditions have been submitted to be discharged. This consent could be implemented without the need to harm the rural surroundings and this would result in the enhancement of the site and its resulting positive contribution to the Conservation Areas.

In light of the above reasons and those detailed throughout this report, the application is recommended for refusal.