

## **Planning Committee Report**

**Applicant: Hallam Land Management**

**Application Ref: 14/01090/OUT**

**Location: Land North of Lutterworth Road, Lutterworth.**

**Proposal: Business use development (Class B1a), with associated infrastructure, including means of access, open space, landscaping and sustainable drainage features**

**Application Validated: 06/08/14**

**Target Date: Extension of time agreed (due to highways issues) until 20 January 2015. or until completion of legal agreement in regard to highway requirements, which ever is the sooner.**

**Officer Site Visit Date: 22/08/14**

**Case Officer: Louise Finch**

### **Recommendation**

Planning Permission is **APPROVED**, for the reasons and appended conditions set out in the report, subject to:-

- (i) The applicant entering into a legal agreement to provide for the legal obligations set out in the report; and
- (ii) The proposed conditions set out in Appendix B.

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

- 1.1 The application Site (hereafter referred to as the 'Site') comprises an area of approximately 2.2ha consisting of arable land on the southeast of Lutterworth. The site lies to the south of the River Swift on land between a dismantled railway to the west, the M1 to the East and the A4303 to the south.
- 1.2 The site's western boundary is defined by the dismantled railway embankment and established planting. The town centre lies approximately 0.5km to the north west of the site boundary. Also to the west, the other side of the railway embankment is the St Johns Business Park
- 1.3 The site rises from the River Swift to the southern boundary. Although there are no public footpaths crossing the site, there are views northwards across the River Swift to the wider landscape. There is a Public Rights of Way to the North of the site so it will be visible in the context of the motorway and dual carriageway, looking towards the River Swift.
- 1.4 A private access track (serving disused pumping station) runs between to the western boundary of site and dismantled railway embankment from the A4304.

### **2. Site History**

- 2.1 No previous planning applications have been submitted on this site.



### 3. The Application Submission

#### a) Summary of Proposals

- 3.1. The application is for outline planning permission with all matters reserved, apart from access. An Illustrative Masterplan has been submitted which shows that the development can create up to 11,348 square metres of B1 (a) business use floor space within a series of two and three storey buildings. The plan indicates that the higher level development (three storey) will be located to the southern edge, with different sizes of buildings allowing views into the site and reducing massing. The larger buildings would be within the site and to the western and eastern boundaries. The maximum height for all buildings is 12m from ground level to ridge line, excluding any feature buildings. The majority of buildings within the site are indicated as two storey with a maximum height of 8-9m.
- 3.2. Access into the site will be taken off Lutterworth Road. This will be designed as a 5.5m carriageway with a 2m wide footway. The main site access and building facades will be lit for security and safety reasons, however the open space will remain unlit to ensure light spill is kept to a minimum
- 3.3. The proposed development includes an attenuation basin located towards the northern boundary, providing a landscape feature with planting to help create a new wildlife habitat. The basin also acts as a Sustainable Urban Drainage feature controlling surface water run off from the site;



Illustrative layout plan (above).

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

3.4 The application has been accompanied by the following plans...

3.5 The application has been accompanied by the following supporting statements:

- FCPR – Design and Access Statement (including Lighting Assessment), Landscape and Visual Assessment, Arboricultural Assessment, Ecological Appraisal and Protected Species Surveys;
- Marrons Planning – Sequential Assessment;
- Wells McFarlane – Market Evidence
- Brookbanks – Transport Assessment and Travel Plan, Flood Risk Assessment and Geo-Environmental Assessment;;
- LRA – Agricultural Land Assessment;
- CgMs – Heritage Statement and Geo-Physical Survey;;
- Cole Jarman – Noise Assessment; and
- Peter Brett Associates – Air Quality Assessment.

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

3.6 Prior to submitting the planning application, the applicant held a formal pre-application discussion with officers of the Council. Discussions were based on a larger application site including land to the South of the Bypass. Officer's advised the applicant that both sites were in the countryside and would be considered in light of relevant policies including the overarching Framework "golden thread" seeking a presumption in favour of

sustainable development and recognising the economic benefits of such a development. Officers were concerned that the Southern part of the site was not well related to Lutterworth, was visually prominent and had access issues. The Applicants subsequently amended the scheme to include only the northern part of the site which was envisaged to have a better relationship, less visual prominence and a better access solution.

- 3.7 A screening opinion issued by the Council on July 30th confirmed this is not 'EIA development'.
- 3.8 The Applicants also undertook a Public Exhibition and invited local Councillors to attend.

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

- 4.1 Consultations with technical consultees and the local community were carried out on the application:
- 4.2 A summary of the technical consultee responses received are set out below. Where comments relate to developer contributions, these will be discussed in more detail within the main body of the report. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

###### **Environment Agency**

The Agency has no objections to the proposed development subject to conditions relating to surface water drainage and a scheme to install oil and petrol separators

###### **Highways Agency:**

###### *Initial comments:*

Insufficient information has been provided in support of the planning application,, to ensure that the M1 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from vehicles entering and exiting the application site, in the interests of road safety.

###### *Revised Comments:*

Following the receipt of additional information, regarding the proposed signalised left in/left out access for the site on the A4303 load road network as shown in drawing "1358-HL-09", the Highways Agency expect the proposals to have no material impact in traffic terms on the closest strategic route, the M1.

A condition should be applied to any planning permission to be granted. This is due to the site proximity to the Strategic Road Network and still stands.

The condition relates to the interface of the development which might impact on the highway boundary (the bottom of the embankment from the M1 slip road adjacent to the proposed site).

###### **LCC Highways Authority:**

The highway authority raised concerns with the original access proposals for the site and improvements to the A4303/A426 roundabout junction, and subsequently revised proposals including a Stage 1 road safety audit have been submitted. They are now satisfied that the proposals are acceptable in principle subject to detailed design as part of the Section 278 approval process.

The closest bus stop is at Rugby Road, opposite the Fox Inn, which is approximately 475m from the site entrance, and is served by a number of services including Hinckley

Bus 58 – which has a 2 hour frequency Mon – Sat. The nearest bus stops served at an hourly or better frequency is on High Street, and is approximately 720m from the site entrance. The Hinckley Bus 58 routes past the site frontage so siting a stop near the site would be a significant improvement in bus provision to the site to encourage sustainable travel. To achieve this provision of a new bus layby on the northern side of Lutterworth Road is recommended. A new stop in the existing southern layby was also considered to access the Lutterworth bound service, however it is considered undesirable to encourage pedestrians to cross the busy, high speed A4303 in this location.

Contributions required in relation to improvements to bus stops/monitoring and conditions recommended (see Appendix A/B for details).

**LCC (Archaeology);**

*Initial comments;*

Request that the applicant complete an Archaeological Impact Assessment of the proposals.

Following further assessment of the site and the submission of additional information, conditions recommended.

**LCC (Ecology):**

The ecological survey submitted with the application (FPCR, July 2014) states that field to be developed is currently arable and therefore of a lower ecological value. However, the River Swift to the north of the site was found to provide a good habitat and support a number of species including water vole, otter and kingfisher. The current proposed layout provides a buffer between the development and the River Swift and we would recommend that a condition is in place to ensure that this is retained when the full/reserved matters application is submitted.

The hedgerows surrounding the site also provide ecological value. We are pleased to see that the current proposals retain these features and we would request that they are buffered from the development with a 5+ meter gap.

We would also recommend that the applicants' attention is drawn to the recommendations in the ecological report.

Ecological surveys are only valid for 2 years. We would therefore recommend that a condition is forwarded with any permission granted requiring updated surveys two years from the date of the protected species surveys in the current report (i.e. spring 2016).

**LCC (Forestry Team)**

The FPCR report accurately describes the trees and I agree with the categorisations and comments.

The site is quite well-screened by existing trees, hedges and planting plots, and the suggested layout retains all the significant trees. My only reservation would be the proximity of the entrance drive close to T1 - I wonder if there's scope to move this further away to avoid any potential root damage.

Naturally remedial tree surgery work would be required on most of the trees to enable their successful retention in the new landscape surroundings as noted in 4.33 and 4.34 of the FPCR report.

In principle, as an outline application, there would seem to be few if any insurmountable arboricultural reasons for refusal.



### **HDC (Environmental Services)**

No comment with regard air quality and land contamination.

### **HDC ( Neighbourhood and Green Spaces Officer):**

Recommends conditions in relation to a detailed landscape and management plan.

Has also asked Lutterworth Town Council to comment on the possibility of improving or extending the footpath link along the railway line

## **b) Local Community**

### **4.3 Town Council**

Members RESOLVED to SUPPORT the application, however the Town Council would welcome discussions with the developer to encourage them to undertake the following:

- 1) Ensure that the cycleway is not disrupted and made appropriately safe; and
- 2) Sensible pathways for pedestrians to minimise vehicular movement to / from the development and the Town Centre.

4.4 No individual representations received.

## **5. Planning Policy Considerations**

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

## **a) Development Plan**

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

5.3 The DP for Harborough comprises:

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

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

### *o Harborough District Core Strategy*

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

Relevant Policies:

- CS1 - Spatial Strategy for Harborough
- CS5 - Providing Sustainable Transport
- CS6 - Improving Town Centres and Retailing
- CS7 - Enabling Employment and Business Development

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  
 CS14 - Lutterworth  
 CS17 - Countryside, Rural Centres and Rural Villages

## **b) Material Planning Considerations**

- *The Framework*
- 5.6 The Framework published March 2012, replaces previous national guidance set out set in Planning Policy Guidance and Planning Policy Statements.
- 5.7 The overarching policy objective of the Framework is the 'presumption in favour of sustainable development'. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 7). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system (para. 8). The presumption in favour of sustainable development is seen as the 'golden thread' running through plan-making and decision-taking (para.14)
- *National Planning Practice Guidance*
- 5.8 The National Planning Practice Guidance (hereafter referred to as the NPPG) published 6th March 2014 replaces a raft of previous planning guidance documents that have been cancelled as part of the Government's drive to simplify the planning process.
- *New Local Plan*
- 5.9 On 3 December 2012, the Council resolved to prepare a new Local Plan for Harborough District. The new Local Plan will incorporate a focused review of the Harborough CS (adopted in November 2011) and will also identify key areas of land for development, thereby obviating the need for an allocations plan.
- 5.10 The new local plan scoping consultation was completed in April 2013, and the current timetable is for the pre-submission consultation to take place in summer 2015, with an examination timetabled for January 2016. It is envisaged that the plan will be adopted in May 2016.
- 5.11 The Scoping Consultation noted that the Plan Period would be extended to 2031 and that an increase in the annual housing requirement was likely. The Scoping Consultation also set out the Council's intention to replace the Limits of Development around existing settlements in the District with a criterion based policy to determine applications for new housing and other development on non-allocated sites on the edge of settlements. This is to ensure that suitable sites adjacent to sustainable settlements are able to help meet future development needs.
- *Supplementary Planning Guidance*
- 5.12 A series of guidance notes were adopted as Supplementary Planning Guidance (SPG) to the Harborough District Local Plan in March 2003. They cover a range of topics relating to layout and design issues. Council agreed to retain the said SPGs and link them to CS policies as applicable, until a new Supplementary Planning Document is produced.

## **c) Other Relevant Documents**

- 5.13 The following documents are also of relevance in determining this application:
- 2013 Leicestershire and Leicester HMA Employment Land Study
  - Air Quality Action Plan (AQAP) in 2013
  - Harborough District Landscape Character Assessment (published December 2007)
  - Lutterworth and Broughton Astley Landscape Character Assessment and
  - Landscape Capacity Study (undertaken in December 2011)
- *Planning Obligations Developer Guidance Note*
- 5.14 The Planning Obligations Developer Guidance Note was approved by the Council's Executive in September 2009 and sets out the range of infrastructure, services and facilities that the Council will normally seek to secure via planning obligations in relation to development proposals within the District.
- 5.15 The Note advises if the requirement for developer contributions or for the provision of infrastructure result in viability concerns being raised it will be the responsibility of the applicant to provide an independent financial viability assessment to substantiate the situation. If the assessment is accepted as reasonable the Council may request lower contributions for a particular Site provided that the benefits of developing the Site outweigh the loss of the developer contribution.
- 5.16 There are two supporting documents associated with this guidance note:
- Provision for Open Space, Sport and Recreation (September 2009) which provides details of the arrangements for assessing contributions to open space; and
  - Assessment of Local Community Provision and Developer Contributions (October 2010) which provides additional evidence to support the case for developer contributions to local indoor community and sports facilities.

## **d) Other Relevant Information**

### Reason for Committee Decision

- 5.17 This application is to be determined by Planning Committee because of the size and nature of the proposed development.

## **6. Assessment**

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

- 6.1 Policy CS14 for Lutterworth seeks to develop as a Key Centre for the District to provide new housing, employment, retail, leisure and community facilities to serve the settlement and its catchment area; in a manner which seeks to create a more attractive environment for businesses and visitors to the town centre. Employment development will be supported which strengthens the town as a key centre. Locations within or adjoining Lutterworth will be preferred, to reduce the need to travel between home and work and enable the fullest use of sustainable modes of transport. Given the proximity to



Lutterworth and improvements to bus infrastructure as required as part of the planning obligations this is considered to comply with CS14 d)

Any additional proposals for business development in Lutterworth which require access by heavy goods vehicle should be located near the M1, A426 and A4303, also in compliance with the aforementioned policy.

- 6.2 The location of the proposed development falls outside of the development boundary for Lutterworth, although adjacent to, and within open countryside as defined on the Proposals Map, As such its development is contrary to Policy CS17 (Countryside) This must be balanced against, and mindful of, the intention to replace the limits to development as referred to in para 5.12., the strategy for Lutterworth as set out in Policies CS1, CS7 and CS14, and in meeting the need for economic growth and employment land within Lutterworth in the most suitable location which is likely to require the release of greenfield land.
- 6.3 Policies CS1, CS7 and CS14 enable economic and employment development in support of the sub-regional economic growth of Leicestershire. Support is specifically given to additional employment development to serve the settlement of Lutterworth and its catchment area. The scale and location of development is not defined within the Core Strategy, however the supporting text to Policy CS14 makes clear that the underlying policy objective is to increase the availability of land (particularly for offices and light industrial) to the south of the town centre in order to replace former engineering works to the north and avoid adding to through traffic in the town centre Air Quality Monitoring Area (AQMA).
- 6.4 **Employment Land Availability:**  
Housing development is identified for Lutterworth (CS2 - 700dw). Based on the evidence of the SHMA 2014 the new Local Plan is likely to require an uplift in housing growth for the district to 2031, with potential implications for Lutterworth.
- 6.5 The scale / location of future employment development is not covered in detail in policy CS7 (only narrative & Table 11), pending the new Local Plan. The L&L HMA Employment Land Study (April 2013) updated forecasts of employment need will inform the NLP as follows;
- 6.6 Harborough Demand Supply Balance 2012-31

	Offices (sqm)	Industrial (B1c/B2/small B8)	Strategic Warehousing
Forecast Demand	11,000	19.9	40.9
Supply (Tier 1 sites)	40,780	7.175	2.85
Supply (Tier 2 sites)	7,750	6.45	0.00
Balance (effective gap)	29,780	-6.275	-38.05

(L&L HMA ELS 2013 – Tables 4.45-4.56)

- 6.7 Notably, the forecast 'Effective Gap' (or surplus) of office floor space for Harborough District to 2031 has increased on the 2008 figure (of 11,328 sq m) stated in para 5.69 of the CS. The only site in Lutterworth included within the supply figures above is at Leaders Farm (estimated supply - Office B1a/b 5,500m<sup>2</sup>, Industrial 3.3ha), which has since been permitted for residential use with consequent effect on the balance. The study concludes that in Harborough (district) the supply of good quality serviced employment land of potential interest to occupiers is highly constrained and limited to just two sites (both in Market Harborough): Airfield Farm and Compass Point in Harborough.

- 6.8 Two extra pieces of evidence have been published to inform the new local plan in terms of CS7c-e) (to identify Key Employment Areas) and confirming a portfolio of sites for employment use); the Employment Land Availability Assessment (2012), Existing Employment Areas Review (2013) (EEAR).
- 6.9 The EEAR recommends that of the existing employment sites assessed (49) across the district the majority may be designated KEA's in the new Local Plan and afforded protection under CS7d), including some 13 of 15 sites in Lutterworth, potentially including the St Johns Business Park adjacent to the application site.
- 6.10 The ELAA assessed 29 submitted sites for their potential for employment development, including 5 in Lutterworth. Ten sites including 2 in Lutterworth were assessed as having, to varying degrees, some potential for employment development, one of which is the site to the south of Lutterworth Road (also subject of pre-app discussions with Hallam Land). In general the pool of sites across the district, from which strategic employment allocations may be selected for the Local Plan, is limited in terms of size and location.
- 6.11 A site larger than the application site (Ref: E/004LT/11) was included in the ELAA (2012), and although it failed the Stage 1 assessment, resulting in identification as 'Without potential for employment development' (ELAA Companion Guide Appendix C) it was noted that an amendment to the site boundary to address flood related issues, may enable its future consideration for employment use. Reference to the ELAA is not made in the applicants Planning Statement. However, the earlier Harborough Employment Land Study 2006 (HELS) which assessed the site favourably in terms of potential for employment use is cited. The area / boundary of the application site has been reduced from that submitted for the ELAA, and flood issues are addressed by other documents submitted with the application.
- 6.12 No information is currently held on the demand for and current supply of available office / industrial property and land in and around Lutterworth (for rent or sale). Hence, the factual accuracy of the Lutterworth Employment Land Market assessment by Wells McFarlane cannot be commented upon.
- 6.13 CS policies pre-date the NPPF, in which a positive approach to support sustainable economic development is encouraged. The employment opportunities to be created by the proposed development are clearly significant.
- 6.14 **Impact on Town Centre-Sequential Approach CS6.**  
Policy CS6 requires a sequential approach to be taken to development proposals for town centre uses outside of the principal shopping and business areas.
- 6.15 The Core Strategy acknowledges the continued growth of the service sector, including office development, and confirms its support for increased employment within offices, recognising the needs of local businesses, the area's economic strengths and the desire to limit out commuting (Core Strategy paragraph 5.67)
- 6.16 A sequential assessment was submitted with the planning application showing that there is not a more centrally located site that is suitable and available for the development proposed in the current application than the application site itself. It has therefore been demonstrated that the requirements of the sequential approach are satisfied.
- 6.17 The application site is proposed for 11,348m<sup>2</sup> of B1(a) office use, constituting a main town centre use, and lies outside the PSBA boundary. In accordance with CS6a) a sequential test is required and has been provided.
- 6.18 The applicant's sequential assessment, its threshold (of sites > 1.5ha) and its argument that the nature of the proposed development is distinct from the type of town centre

office development found in market towns such as Lutterworth is noted. In terms of its consideration of possible alternative sites assessed; 'Town Centre' sites could have acknowledged the L1: Bank Street & L2: Masonic Hall sites identified in the Retail Study (2013), albeit they are below the threshold. In addition 'Edge of Centre' and 'Out of Centre' sites could have considered other known sites in Lutterworth detailed in the published Harborough SHLAA and ELAA, although of these only 1 site (the Vedonis Works E/002LT/11) fits the threshold criteria and may be potentially sequentially comparable. (N.b a planning application has recently been submitted for housing on the Vedonis site).

- 6.19 Nathaniel Lichfield & partners were commissioned to undertake a retail study (2013) to help understand development needs to 2031. It advises that the PSBA for Lutterworth currently acts both as the town centre and primary shopping area boundaries, and recommends that it should be retained as the town centre boundary in the new Local Plan. The advice of the retail study and the intension of the adopted CS is to see future retail growth accommodated principally within the PSBA. Vacant shop units and the redevelopment potential of the 2 sites identified by the retail study could in the medium term meet the majority of forecast need to 2031.
- 6.20 The retail study (2013) does not offer specific forecasts for other town centre uses, nor specific advice in terms of accommodating office uses. However, it is considered unlikely that the development of the application site in the manner proposed will have a significant negative effect on the town centre where office uses are generally of an A2 nature. Indeed the impact of the proposed office development may be greater on more outlying office locations, in terms of direct competition. Instead it is considered that the proposed development may have a positive impact on the viability and vitality of the town centre, in terms of additional footfall from workers given that it location is arguably sufficiently well related and accessible to the town centre on foot, bike and bus. In conclusion, the proposal would offer significant benefits in terms of employment generation and supporting the town centre, and has the potential of contributing to the future needs of the District in a sustainable, well related location.

## **6b) Technical Considerations**

### **6.21 Design**

In recognition of the importance of good design and the built heritage of the District, Policy CS11 seeks to ensure that the highest standards of design in new development will be achieved to create attractive places for people to live, work and visit. Heritage assets within the District, and their setting, will be protected conserved and enhanced, ensuring that residents and visitors can appreciate and enjoy them.

- 6.22 In this case, the Masterplan demonstrates that with the use of a variety of designs and with a restriction in height, that the development can be accommodated without significant adverse impact on the surrounding area. The taller buildings are shown to the southern boundaries, creating "gate-way" buildings with the scope to enhance the approach to Lutterworth, particularly with the use of high quality/sustainable products.
- 6.3 The scheme will be further enhanced through the retention and enhancement of boundary treatment, particularly existing trees and hedges. It is considered that the scheme also reflects the character of the adjoining St John's Business Park.

### **6.4 Drainage/Flooding**

Policy CS10 advises development will be directed towards areas at the lowest risk of flooding within the District. All new development will be expected to ensure that it does not increase flooding experienced in other areas and that surface water run off should

be managed in all developments to minimise the net increase in the amount of surface water discharged into the local public sewer system.

- 6.5 Assessment of fluvial flood risk shows that the site lies to the south of the River Swift and entirely within Flood Zone 1. Assessments show the land to have a low probability of flooding from overland flow, ground water and sewer flooding. Proposals will include a detention basin (balancing pond) within the north western perimeter of the site. The FRA has identified no prohibitive engineering constraints in developing the proposed site. The site is considered to comply with NPPF guidance together with associated local and national policy guidance.

## **6.6 Ecology**

The proposals include areas of retained habitats, including a buffer/ flood zone along the river, as well as new green infrastructure such as areas of planting and creation of an attenuation feature. Native hedges and trees will be retained and additional planting will need to be agreed.

- 6.7 The implementation of a mitigation plan, a comprehensive buffer and working under good practise methods along the river will ensure there are no significant impacts on protected species.

## **6.8 Heritage**

There are no Conservation Areas, Scheduled Ancient Monuments, Listed Buildings, or Historic Parks and Gardens on or close to the site. The desk-based assessment has established that on the basis of the available information, the site is considered to have high potential for Bronze Age remains. The study site is considered to have low potential for remains of all other archaeological periods. Following the submission of a further assessment and subject to conditions, no harm is identified.

## **6.9 Highways**

Vehicular access into the development will be taken by means of a road link off the A4303 Lutterworth Road. The location of the site with its close links to the M1 and Lutterworth Bypass would also meet the requirements of Policy CS14 which seeks to avoid adding to through traffic in the town centre Air Quality Monitoring Area (AQMA). The site is relatively well connected to Lutterworth town centre which is within walking/cycling distance of the site, and contains a wide range of services and facilities which could be accessed by users of the proposed development.

- 6.10 The site has an existing pedestrian/cycle link to the town centre and an additional bus stop would also be provided adjacent to the site. A further bus stop on the other side of the by-pass was considered but crossing the road was assessed as too dangerous and improvements to nearby existing bus stops considered more appropriate.
- 6.11 New pedestrian access and informal recreational routes to the north of the proposed development with views over the River Swift will be included as part of the Green Infrastructure framework.

## **6.12 Landscape and Visual Impact**

Harborough District Landscape Character Assessment published December in 2007 undertaken by Atkins, identifies that the site lies within the Lutterworth Lowlands. The key characteristics of the area are; Open and relatively flat, to gently rolling area, lack of large woodland areas, farming is predominately grazing, scattering of small villages with larger settlements of Kibworth and Fleckney to the north and Lutterworth to the south, The M1 and the A426 run through the area, which contains Magna Park Distribution Park to the west of Lutterworth

- 6.13 Lutterworth and Broughton Astley Landscape Character Assessment and Landscape Capacity Study also identifies that the site falls within Lutterworth Lowlands – River Swift Open Farmland, and identifies the key characteristics in a similar fashion to include; gently sloping valley landform, heavily influenced by human activity, including sewage works, recycling centres, recreational uses, the M1 corridor and its bridges have a significant influence on the area, predominantly arable farmland with some very large fields units,, pasture and flood meadows along the course of the River Swift, hedgerows are generally low and clipped; and linear belts of tree cover to M1, dismantled railway, River Swift and within Lutterworth golf course.
- 6.14 The Landscape Capacity Study identifies land parcels for potential development. The development site lies within Land parcel 28 with an overall Capacity range of Medium.  
**The report concludes:**  
*‘This Land Parcel is considered to have medium capacity to accommodate development. .... development in this location should be subject to the following mitigation measures’*  
**Retention of existing landscape features and vegetation**  
 The hedgerows around the perimeters of the Parcel should be retained where possible. The mature vegetation along the disused railway line should be particularly retained, as should vegetation along the River Swift.  
**Important views to be retained**  
 Although there are views into this Parcel, none are considered to be essential to retain.  
**Retention of existing routes through the site**  
 A public footpath runs along the northern boundary of the Parcel. This would not be affected.  
**Ground modelling**  
 Extensive ground modelling is unlikely to be appropriate in this location.  
**Additional planting**  
 Enhanced planting along the boundaries of the Parcel could help to contain any development.  
**Maximum building heights**  
 Existing buildings in this locality are generally 2-3 storeys high. Proposals in this Land Parcel should be of a similar height.  
**Development layout**  
 A development in this location would need to be accessed from Lutterworth Road or a new access created across the disused railway line from the west. Any development within this Land Parcel would need to pay careful attention to the interface with properties to the west, the M1 to the east and the flood zone associated with the River Swift.  
**Open space provision and green infrastructure**  
 Existing hedgerows within and around the Parcel could form green infrastructure/open space corridors through any proposed development. The corridor of the River Swift should also be integrated within open space. The corridor of the disused railway could be conserved as an open space.
- 6.15 **The Applicants Landscape and Visual Impact Appraisal** concludes that:  
 “The landscape proposals include the retention of existing landscape features such as existing boundary trees and hedgerows. Whilst the immediate effects on the local character are considered to be **Minor Adverse**, within 15 years and growth of new planting within the open space, effects are considered to be **Minor/Negligible adverse** It is considered that the proposed development of B1 class office buildings with associated car parking is of a scale and nature which can be successfully accommodated within the local landscape without any unacceptable landscape or visual effects.”
- 6.16 **Officer comments:**

The development respects its landscape setting by conserving the site's main landscape features, such as trees and hedgerows. This includes the riverside corridor and associated habitats. The conservation of these features will deliver an immediate mature setting for the built form. It is considered that the indicative Masterplan illustrates that the development can be accommodated without significant adverse impact and accords with the Landscape Character Assessment. Existing hedges and mature trees will be protected within new areas of grassland to ensure that there is appropriate 'set back' and buffer between the new built development and that the mitigation measures identified in the aforementioned report can be achieved.

#### **6.17 Residential Amenity**

Given the separation of the site from nearby residential properties and the buffer created by the dis-used railway line, and that access is off the by-pass it is considered that this type of use is compatible with the surrounding area. Class B1(a) offices are normally viewed as compatible with residential use. In order for the Local Planning Authority to ensure full consideration of alternative uses which may be permitted under latest changes to the General Permitted Development Order (subject to prior notification procedure), it is intended that permitted development rights are withdrawn by way of condition.

- 6.18 The air quality impacts associated with the proposed employment development on a land adjacent to the M1 in Lutterworth, Harborough, have been assessed. The overall air quality impact of the development is considered to be insignificant. Operational noise has been assessed for the proposed development. It is expected that mechanical services plant noise items will be the only concern at this site. Plant noise limits have been set in accordance with the requirements of the Local Authority and good practice. No loss of amenity to any nearby residential property is identified.

#### **6c) Sustainable Development**

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

- Economic

Based on the findings of the 2013 Leicestershire and Leicester HMA Employment Land Study, it is anticipated that the proposed development will create in the region of 600-900 new jobs (based on gross external area per FTE jobs, which will help contribute to the local and wider economy, creating job opportunities and supporting local businesses.

- Social

The scheme would provide a high quality development which has the potential to enhance this important and accessible gateway site. The site is accessible and may help to support local services. It can also be accessed by sustainable modes of transport, including foot/cycleway which may contribute towards health and well being.

- Environmental

The scheme incorporates energy saving technology, such as solar power and incorporates environmental areas and buffer zones. Additional planting and retention of existing hedges and trees will help to improve bio-diversity and enhance the environment.

#### **6d) Planning Obligations**

**REFER TO APPENDIX A**

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



- 7.1 It is concluded that the proposal would create sustainable employment opportunities and support the growth of the local, regional and national economy in accordance with Core Strategy Policies CS1, CS7, CS8, CS9, CS10, CS11, CS12 and CS14 and paras 7, 14 of the Framework. It would not adversely affect the vitality and viability of the town and would result in positive benefits in terms of employment opportunities and support of town centre businesses and support the development of Lutterworth as a key centre, without adversely affected highway safety, ecology, archaeology, heritage assets, or residential amenity. The benefits identified are considered to outweigh any conflict with Policy CS17 in respect of development outside of the development boundary of the town and subsequent impact on the character of the countryside.

## **8. Planning Conditions**

- 8.1 Recommended planning conditions is attached at **Appendix B**

### **APPENDIX A: Contributions**

- 8.2 To comply with Government guidance in the NPPF, the CIL Regulations 2011, and the County Council's Local Transport Plan 3, 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.

- New/Improvements to 2 nearest bus stops on Rugby Road (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 on Rugby Road; to inform new residents of the nearest bus services in the area. At £120.00 per display.
- Bus shelters at 2 nearest bus stops on Rugby Road; to provide high quality and attractive public transport facilities to encourage modal shift. At £4,908.00 per shelter.
- Contribution towards equipping the nearest suitable 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.
- Information display case at the new bus stops on Lutterworth Road; to inform new residents of the nearest bus services in the area. At £120.00 per display.
- A new bus stop on the north side of Lutterworth Road (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities. At £3263.00 per stop (subsequently agreed that this no longer required-see below).
- A monitoring fee of £11337 to enable Leicestershire County Council to provide support to the developers Travel Plan Co-ordinator; audit annual Travel Plan performance reports to ensure Travel Plan outcomes are being achieved and for it to take responsibility for any necessitated planning enforcement.

### **8.3 Additional comment:**

Satisfied with the location and the detail design can be carried out as part of the S278 submission. It would be more efficient to carry out all the civil works at the same time including the raised kerbs so I would be happy to remove the following S106 contribution:

- A new bus stop on the north side of Lutterworth Road (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities. At £3263.00 per stop.

## **APPENDIX B: Conditions:**

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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.

2. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site;

The development shall be carried out in accordance with the approved details.

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.

3. No demolition/development shall take place/commence until a programme of archaeological work 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:

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

No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (1).

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

4. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (1) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

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

5. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year plus 20% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following

the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall also include:

- o Surface water drainage system/s to be designed in accordance with either the National SuDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.
- o Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 20% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- o Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 20% (for climate change) critical rain storm.
- o Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- o Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

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

6. The development hereby permitted shall not be commenced until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

REASON: To protect the water environment in accordance with Core Strategy CS11.

7. Development shall not begin until the details of the interface with the M1 highway boundary particularly regarding earthworks and surface water drainage have been submitted to and approved in writing by the local planning authority in consultation with the Highways Agency. Development shall be carried out in accordance with the approved details. No building shall be occupied or use begun until the work has been completed in accordance with the approved details.

REASON: To ensure that the M1 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 by minimising disruption and protecting the interests of road safety on the trunk road resulting from the works, in accordance with Core Strategy CS11.

8. Development shall not begin until details of design of the access in general accordance with Brookbank Consulting plan no. 1358-HL-09 have been approved in writing by the local planning authority; and no use of the development shall occur until that scheme has been constructed in accordance with the approved details. For the avoidance of doubt the scheme shall include details of the realignment of the existing field access to ensure it falls within the signal control on the east bound approach of the A4303 to the new junction, MOVA control of the junction, evidence that a suitable PSV is achieved to comply with highway authority standards, provision of a layby to accommodate a new bus stop, and extending the 40 mph speed limit on the eastbound carriageway of the A4303 to J20 of the M1.

REASON: To ensure a safe access to accommodate the levels of traffic associated with the development is provided and to encourage use of sustainable forms of transport in accordance with Core Strategy CS11

9. Development shall not begin until details of the design for off-site highway works being improvements to the A4303/A426 roundabout junction in general accordance with the Brookbanks Consulting plan no. 1358-HL-08, and the extension of the 40 mph speed limit on the eastbound carriageway of the A4303 to J20 of the M1, have been approved in writing by the local planning authority; and no use of the development shall occur until those schemes have been constructed in accordance with the approved details. For avoidance of doubt the proposals at the A4303/A426 roundabout junction have been modelled with a flare length of 20m, and an entry width of 9.7m, and shall include the realignment of the existing cycleway/footway to maintain its existing width.

REASON: To ensure the additional traffic generated by the development does not lead to increased congestion at the junction in accordance with Core Strategy CS11.

10. No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

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

11. 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.

REASON: To ensure a safe form of development and in the interests of highway safety in accordance with Core Strategy CS11

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

REASON: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users in accordance with Core Strategy CS11.

13. 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 in accordance with Core Strategy CS11.

14. No part of the development as approved shall be brought into use until details of a Framework 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.

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.

15. No development shall commence on site until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas 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 the establishment and management of the landscaped areas and to accord with Harborough District Core Strategy Policy 11

16. No development shall commence on site until an Arboricultural Method Statement (as set out in BS5837:2010) has been submitted to and approved by the Local Planning Authority. The method statement shall be carried out as approved and shall be maintained as such in perpetuity.

REASON: To enable the Local Planning Authority to assess the effect of the proposed development on the existing trees and to ensure the long-term survival of those to be retained and to accord with Harborough District Core Strategy Policy CS11

17. The existing hedgerow(s)/trees on site as indicated on the submitted plan shall be retained and in no way disturbed.

REASON: To ensure that the existing hedgerow(s) on the site can be retained, to enhance the development and to safeguard the appearance of the area and to accord with Harborough District Core Strategy Policy CS11

18. No development shall commence on site until full details indicating the method and nature of construction of the access has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and retained as such in perpetuity.

REASON: To ensure that proper steps are taken to safeguard the trees during the course of development and to accord with Harborough District Core Strategy Policy CS11

19. 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

20. 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) storage of plant and materials used in constructing the development;
  - c) wheel cleaning facilities;
  - d) hours of construction work, including deliveries; and routeing of delivery vehicleshas 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

21. The development hereby approved shall be implemented in accordance with the approved mitigation measures detailed in the Ecological Survey by FPCR dated July 2014 and an updated survey shall be submitted two years from the date of the protected species surveys in the current report (i.e. spring 2016) and every 2 years thereafter prior to implementation.

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

22. The development shall be in accordance with the broad principles/layout as shown in the Masterplan, including the attenuation basin and buffer zone.

REASON: To ensure a satisfactory layout in accordance with Core Strategy CS11.

23. No development shall commence on site until full details (including details of noise attenuation) of plant and associated equipment been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use/occupied until the approved equipment has been completed in accordance with the approved details and it shall be subsequently maintained in accordance with the approved details thereafter.

REASON: In order to safeguard the amenities of the area in which the development is located and to accord with Harborough District Core Strategy Policy CS11

24. 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) B1(a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment)(England) Order 2010 (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification). REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use, other than a use within the same class(es), having regard to the circumstances of the case in accordance with Core Strategy CS11 and CS14.

#### Notes to Applicant

1. During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsters, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.
2. You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.

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.

3. 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. If Schedule 3 of the Flood and Water Management Act 2010 is implemented Leicestershire County Council may become the SuDs Approval Body (SAB) and also a statutory consultee of the planning process. 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.
4. An order is required to change the speed limit on Lutterworth Road and you should contact the highway authority for details of this process including any costs associated with it.
5. You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. Market Harborough 821090). As such please be aware that complying with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.

## Planning Committee Report

**Applicant: Mr I P Crane**

**Application Ref: 14/01388/OUT**

**Location: Land off Crowfoot Way, Broughton Astley**

**Proposal: Erection of 50 dwellings including scout hall, land for new pre-school or other school use, provision of allotments, public open space, access and associated landscaping (all matters reserved) (revised scheme of 10/01579/OUT)**

**Application Validated: 16.10.2014**

**Target Date: 15.01.2015**

**Consultation Expiry Date: 20.11.2014**

**Site Visit Date: 23.10.2014**

**Case Officer: Nathanael Stock**

## Recommendation

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

The application site is not allocated for housing development within the Broughton Astley Neighbourhood Plan (BANP), and the proposal therefore fails to accord with Policy H1 of the BANP. In addition, the application site is in a relatively inaccessible location, over 2km from the nearest post office, library and GP surgery, and 1km from the nearest public house. The proposal therefore fails to accord with Policies CS5, CS9 and CS11 of the Harborough District Core Strategy. Notwithstanding the extant consent at the application site, and that the relevant policies in the development plan related to housing supply are to be considered out-of-date, very substantial negative weight should be afforded to the proposal's conflict with the BANP. The proposal's identified harm in this regard would significantly and demonstrably outweigh the benefits of delivery of housing, including affordable housing, when assessed against the policies in this Framework taken as a whole.

### 1. Site & Surroundings

- 1.1 The application Site (hereafter referred to as 'the Site') which extends to approximately 1.04 hectares, is comprised of agricultural land (one field) to the north-east of Dunton Road, opposite properties on Speedwell Drive and Trefoil Close. The site is bounded to the east by residential properties on Fretter Close and Dunton Road, to the north-west by a disused railway line and to the north-east by agricultural land forming open countryside. No public footpaths cross the site. The application site is outside the defined Limits to Development of Broughton Astley (and also outside any designated Conservation Area) and there are no other specific policy or land use designations.

The site is relatively low lying at 92m to 94m AOD (above ordnance datum), rising gently from its lowest point on north-west boundary (at a point where Plot 26 is proposed) to its highest point on the north-east boundary (immediately west of the farm access), a distance of approx. 80 metres. By way of comparison, Dunton Road by Fretter Close is at 95.3m and approx. 93.5m at its junction with Speedwell Drive, dropping to 92.6m at the Red Admiral public house.

## **2. Site History**

### **2.1 The Site has the following planning history**

13/01678/PCD – Discharge of Conditions 13 (crime prevention and security measures) and 16 (ecology) of 10/01579/OUT – granted, 30.01.2014

13/01654/PCD – Discharge of Conditions 6 (levels), 7 (materials), 10 (drainage), 12 (trapped gullies), 14 (drainage), 15 (construction traffic), 17 (external lighting) and 19 (construction method statement) of 10/01579/OUT – granted, 13.05.2014

13/01652/PCD – Discharge of Condition 12 (ecology - disused railway) of 12/01633/REM – granted, 30.01.2014

13/01492/PCD – Discharge of Condition 18 (archaeology) of 10/01579/OUT – granted, 25.11.13

13/01075/PCD – Discharge of Condition 8 (footpath and railway bridge improvements) of 10/01579/OUT – granted, Planning Committee, 23.10.13

13/01028/PCD – Discharge of Conditions 4 (contaminated land assessment), 9 (tree and hedges protection), 11 (landscape management plan), 22 and 23 (landscape details) of 10/01579/OUT – granted, 20.11.13

13/00962/VAC – Variation of Condition 2 of 10/01579/OUT to allow commencement before 1st Feb 2015 (within 2 years of date of approval of reserved matters) – granted, with conditions, Planning Committee, 20.09.2013

12/01633/REM – Erection of fifty dwellings, a scout hall, land for new pre-school or other school use, provision of allotments, public open space and associated landscaping (reserved matters of 10/01579/OUT) – granted, with conditions, Planning Committee, 01.02.2013

12/00494/OUT – Erection of 111 dwellings, a sports hall, neighbourhood centre, sports pitches and associated parking, open space, access and landscaping (outline application - all matters reserved) – refused, by Planning Committee, 22.08.2012, appeal dismissed, 17.04.2014

10/01579/OUT – Erection of fifty dwellings including scout hall, land for new pre-school or other school use, provision of allotments, public open space, access and associated landscaping (all matters reserved) – granted, with conditions, Planning Committee, 24.11.2011

## **3. The Application Submission**

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

3.1 The application, a revised scheme of 10/01579/OUT, seeks Outline planning permission for the erection of 50 dwellings, scout hall, land for new pre-school or other school use, provision of allotments, public open space, access and associated landscaping (all matters reserved).

### **b) Documents submitted**

#### **i. Plans**

3.2 The application has been accompanied by the following plans:

- 214218DWG 102 – Site Location Plan
- 209032DWG 201 A – Indicative Masterplan
- 214218DWG 101 – Indicative Masterplan
- 209032DWG110 – Construction traffic routing plan

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

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

- Planning Statement
- Design and Access Statement (DAS)
- Indicative Masterplan;
- Specification of Tree Works;
- Tree Protection Plan;
- Tree Schedule;
- Ecological assessment(s);
- Archaeology Statement;
- Ground Investigation Report;
- Flood Risk Assessment;
- Construction Method Statement;
- Harborough Mail articles dated 22.08.14 and 17.09.14;
- Transport Assessment (2009);
- Transport Assessment (2012);
- Travel Plan (2012);
- Scheme of Improvements to Railway Bridge; and
- Railway Line Management Plan.

#### **c) Additional information and Supporting Documents**

- 3.4 The applicant's agent has latterly submitted (1) an amended Flood Risk Assessment, and (2) evidence in relation to an apparent commencement of development on site.

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

- 3.5 Prior to submitting the planning application, the applicant held a formal pre-application discussion with officers of the Council. Among other things this referred to the extant consent and confirmed that the site scored well in the 2011 LCA, and confirmed the Council's five year housing land supply position.

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

- 4.1 Consultations with technical consultees and the local community were carried out on the application: firstly at the initial consultation stage.
- 4.2 Firstly, a summary of the technical consultee responses received are set out below. Where comments relate to developer contributions, these will be discussed in more detail within the main body of the report. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

- 4.3 Highways (LCC): No objections subject to conditions (see Conditions at foot of this report)
- 4.4 Environment Agency: No objections subject to conditions: "the proposed development will be acceptable if planning conditions are included requiring... a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, and a scheme for the disposal of foul drainage" (full comments available from officers).
- 4.5 Highways Agency: No comments received
- 4.6 Natural England: Makes general comments in relation to the LPA's duty to consider the proposal's effects on local wildlife sites and Sites of Special Scientific Interest, and to

consider the opportunity for the proposal to provide biodiversity and landscape enhancements.

4.7 Neighbourhood and Green Spaces Officer (HDC): Comments as follows-

1. As there is not a detailed landscape plan available my comments are based on the indicative masterplans 214218DWG 101 and 209032DWG 201 and the Design and Access Statement.
2. I note the POS provided on site incorporates allotments, semi natural green space and the LEAP provision for Children and Young people. This is satisfactory; however, it is not possible with the master plan to measure the amount of each typology that is proposed. I would suggest that the large central portion of semi natural green space should be planted with a wild flower mix and perimeter tree planting as the plan appears to illustrate. When preparing the ground for a wild flower or meadow planting the depth of topsoil should be reduced to keep the fertility of the ground low. Grass paths should be laid out in the area to allow access with close cutting on a higher frequency.
3. The LEAP should be constructed to reflect the semi natural setting of the open space using natural play structures and equipment that compliments these (such as wood or robinia poles.)
4. The allotment should be laid out in 150m<sup>2</sup> plots with an access path between plots and 3 water troughs provided for irrigation. 2 car parking spaces should be provided at the entrance for plot holders and a vehicular access road running the length of the site. I believe this is indicated on the master plan.
5. The provision for Parks and Gardens has not been indicated on site. As previously commented, it would be worth considering amending the landscape plan to change the small piece of open space on the northern boundary to Parks and Gardens Provision to give a more formal landscaped area and improve the offer of open space to residents.
6. Further comments can be given when the detailed landscape plan is available
7. Sports provision requirement is generated by the development, and I note this is not provided on site. Unless other provision is made then a contribution for off site provision of sports facilities should be given. This is itemised in the spreadsheet provided (attached)
8. Contributions towards burial provision off site will also be required, and this will be used to increase the burial plot provision at Frolesworth Road Cemetery BA.

4.8 Rights of Way (LCC): No comments received

- 4.9 Trees Officer (LCC): There are few if any arboricultural constraints here. The main features are the hedgerows/plots around the perimeter and along the old railway line, which are to be maintained and protected during the development. The rest of the plot is essentially an open field with no constraints. The attached arboricultural reports give the appropriate survey information and the constraints/protection plan correctly specifies the necessary works to protect these features.

4.10 Water authority (Severn Trent Water): No comments received

- 4.11 Environmental Services (HDC): No objections subject to conditions requiring contaminated land assessment and to control hours of construction. Clarifies that the condition need to be re-imposed due to the findings of the ground investigations, i.e. the current remedial scheme requires revising in line with the new layout.

4.12 Leicestershire County Council Archaeology: No comments received

4.13 Leicestershire County Council Ecology: Comments as follows-

*Badgers*

The ecological survey submitted in support of the current application (Philip Irving, September 2014) identifies that the badger sett immediately to the south of the site is still active. However, the badger activity in the wider area appears to have changed since the previous survey, with badgers now foraging to the west of the site rather than towards the dismantled railway. It is

therefore important that foraging links are maintained to the west. The Indicative Masterplan (Drawing 214218 DWG 101) suggests that a buffer will be retained on the southern edge of the site and we welcome this proposal. This area should be planted with predominately native species as it will form a buffer between the development and the countryside.

I note that the same badger mitigation plan (Protected Species Report, Badgers, Wildlife Consultants, January 2014) has been submitted in support of this application as was previously submitted to discharge an earlier condition for development on this site. This mitigation plan is acceptable in principle; however, it requires a 30m buffer between the badger sett and the development. This was achievable with the previously approved layout, but the current application provides a smaller area of open space adjacent to the sett. Can it please be confirmed that this 30m buffer can still be achieved? I am unable to do this as I do not have an accurate plan showing the current location of the sett. I would request this information prior to the determination of the application, in order to be sure that this mitigation plan is suitable for this development and, in turn recommend a suitable condition.

#### *Great Crested Newts*

The site is within 500m of a large pond. It is possible that this pond may support great crested newts. However, there are barriers between the application site and the pond and the application site itself is of low ecological value. We are therefore in agreement with the recommendations detailed in the September 2014 ecological report and would request that compliance with these is required as a condition of the development.

#### *Dismantled Railway*

As you will be aware from previous discussions, we consider the dismantled railway to the east of the site to be a valuable wildlife corridor in the area. We previously objected to a layout similar to this, where the development was immediately adjacent to the railway. However, this principle has previously been accepted by the LPA and we assume is therefore valid on the current application.

There should be a boundary in place between the allotments and the dismantled railway in order to minimise the likelihood of green waste being 'dumped' over the fence.

A management plan should be in place to protect the dismantled railway and to ensure that it is managed for its wildlife benefit. I have previously received and approved a plan on this basis and would request that a condition is forwarded with any permission granted to require this management plan to also apply to this development. The management plan was produced by First Environmental Consultants Ltd (October 2013, version 04 15th January 2014).

#### *Proposed planting*

We welcome the areas of semi-natural planting within the development and the inclusion of native species. We would, however, recommend that these areas are managed for wildlife, with sections of hedgerows/shrubs being allowed to flower and fruit each year. This is particularly relevant for the boundaries which border countryside.

#### *Lighting*

At no stage should artificial lights be installed on, or overlooking the dismantled railway. The area surrounding the badger sett should also not be artificially lit.

#### *Updated Ecological Surveys*

Protected species are mobile and given the presence of badgers immediately adjacent to the application site, it is essential that the badger survey is updated every 2 years and immediately prior to the development commencing to ensure that badgers have not moved onto the application site. Should the sett have extended into the development area, the applicant must be aware that an updated mitigation plan will be required. We would request that updated surveys are made into a condition of the development.



4.14 Broughton Astley Parish Council: The Parish Council has always strongly objected to this application and continues to do so, on the following grounds.

#### *Location*

The site is not included in the Broughton Astley Neighbourhood Plan (BANP). Permission was granted before the Neighbourhood Plan was adopted and so was not included in the consultation period. However, the reasons for the Parish Council objections have not changed. The Parish Council disagrees with point 7.8.8 on page 20 of the supporting statement as the site is not considered easily accessible via the existing road network and will not be well connected to public transport.

The site is considered to be in a remote location quite a distance from the village centre. It would be poorly supported by public transport, the nearest bus route being quite a distance away, through the adjacent housing estate. Traffic to the new development would also have to travel through an already busy housing estate to get to their homes. The Parish Council considers that the existing boundary is currently as far as the village should extend. This development is an extension too far.

#### *Traffic*

The development would cause an increase in traffic through an already busy estate. The additional residents from the new development would cause an increase to existing school traffic to Hallbrook Primary school. This in turn would add to additional parking problems at the school. Car parking in the area is an existing problem with cars constantly parked on curbs to the side of these roads adding to the dangers and potential congestion.

The route for construction traffic is not very straight forward as traffic has to wind its way through windy narrow roads and already busy streets of the existing housing estate. This would cause increased disruption to existing residents.

Should this application be permitted this would affect the likelihood in approval of the application for a further 111 dwellings, currently awaiting a decision at the High Court and if this is permitted then this would further increase all the points stated above.

#### *Allotments*

Adequate provision for allotments for the residents of Broughton Astley has already been obtained with the extension to the original Western Willows site, called the Sutton Site. The waiting list currently held for these allotments is currently exhausted and a couple of vacancies are left. Due to the new site there is no need for additional allotments on this site. If they were to be included in the development the Parish Council would have concerns regarding the responsibility for the running of the new allotments including the maintenance, water supply and site facilities.

#### *Badgers*

The Committee would like to draw attention to the existence of a badger sett on the development site which is confirmed by the reports of Phillip Irving and the Wildlife Consultants Limited. The badgers will not be constrained by the boundaries of the development. Although space has been left along the badger path and close to the badger sett it does not follow that the badgers will stay away from residents gardens. There is potential for future conflict between the residents and the badgers. Some residents will own dogs. It is known locally that there are other badger setts around Clump Hill and this development may force the badgers close to the site to encroach on these areas. This reduces their foraging area and constricts their territory. In the conclusion from the Wildlife Consultants Limited they acknowledge that the proposed development of the site will have an effect (disturbance) on the badgers and the sett beyond this site.

*Site for a Further 111 Dwellings 12/00494/OUT*

This application is currently going through the appeal process. The application for the 50 dwellings (10/01579/OUT) is seen as a gateway to the adjacent application. Both of these sites have never been supported by the Parish Council. This is backed up by many previous objections from residents in Broughton Astley. Unlike application 10/01579/OUT for 50 houses, application 12/00494/OUT for 111 dwellings was included in the consultation process of the Neighbourhood Plan. This site was never chosen and has always been unpopular with villagers and the residents of the existing Jelson estate. Had application 10/01579/OUT been included it would almost certainly have been rejected as well.

As this is a full planning application with considerable changes to layout and type of housing the Parish Council does not consider that previous planning permissions can be taken into consideration. This application should be treated as a new and separate submission.

Permission for this application was originally granted in November 2011. The applicant has not developed the site since this time and has received permission for an extension until November 2016. This delay has meant that housing has not come forward as a contribution to the housing needs of the District.

The BANP has positively planned to meet the development needs of the village. The BANP provides for an additional 528 properties. Taking into account the 68 dwellings (excluding the original application for Crowfoot Way) already built or given planning permission the total allocated in Broughton Astley amounts to a total of 596 dwellings. This allocation is over and above the quota of 400 given by Harborough District Council with a sufficient buffer to not need these 50 dwellings or the 111 from the adjacent site. Broughton Astley should not have to take the District shortfall in housing.

4.15 Leicestershire Police: Formal objection to this application on sustainability grounds and that the development is unacceptable in Planning terms without the necessary contribution. Requests contribution of £14,973 towards policing arising from the proposal, and withdraws objection if this is forthcoming.

4.16 NHS England (Leics and Lincs area): The PCT rated the Broughton Astley practice premises DEEP AMBER meaning that the building is in greater need of development because of issues relating to workload, standards and capacity. In addition the PCTs load/capacity model measured the size a building should be for a given population and compared this with the actual size of an existing building. In the case of the Broughton Astley GP premises the load/capacity model indicated that for the existing population there is already a deficit and population increases would add to this.

The Practice is operating at full capacity currently. The premises have been extended three times since their inception and there is no further capacity for expansion of the building. The rooms within the building are operating at full capacity and, on occasion, we are experiencing difficulties in accommodating all clinical staff. In addition to the impact upon the clinical services provided by our Practice, in the event of an increase in our Practice list size, this will require an expansion of the administrative team. After careful consideration we do not consider that any further expansion is possible.

Therefore, in summary, we do not feel we can provide adequate medical services to meet the needs of an increased list size, both clinically and administratively, within the existing surgery premises. The Practice has concluded that the only way to address their capacity issues is through a new surgery development.

A capital contribution is requested from the developer towards that part of the GP premises development which is attributable to the proposed population in Broughton Astley. The indicative size of the premises requirements has been calculated based on current typical sizes of new surgery projects factoring in a range of list sizes recognising economies of scale in larger

practices. The cost per sqm has been identified by a quantity surveyor experienced in health care projects.

4.17 **Housing Manager:** The AH requirements / unit types / and location have already been discussed and agreed in consultation with Roz Hair and Rachel Padfield (Sworders) for this proposed scheme for 50 units. Our 30% requirement = 15 AH units (9 units as Affordable Rent and 6 as intermediate / shared ownership) to be provided as follows:

Area 1: 2 x 1 bed (Affordable Rent) / 1 x 2 bed (Affordable Rent) / 1 x 3 bed (Shared ownership) / 1x 2 bed (Shared ownership)

Area 2: 4 x 1 bed (Affordable Rent) / 4 x 2 bed (2 x 2 beds to be provided as Affordable Rent and 2x2 bed to be provided as Shared Ownership) / 2 x 3 bed (Shared Ownership)

## **b) Local Community**

4.4 41 letters of objection have been received from 32 separate addresses, raising the following points (for more details please refer to the letters on file):

### **Contrary to Neighbourhood Plan**

The application site is not included in the adopted Neighbourhood Plan (BANP), which was adopted after discussion and democratic consultation and voting by residents on several village sites; the Plan has the overwhelming approval of the local community; although outline planning permission was granted (10/01579/OUT) for development of this site new factors have emerged which significantly change the situation – the BANP itself has identified enough available sites for increased housing, and provides for more housing than is required in Broughton Astley Parish, in sites which are more appropriate for development / in more accessible and appropriate areas of the village, that are far better suited to provide viable growth of the community; it would seem that potential Developers agree with this point of view as witnessed by their total lack of interest in acting on the present outline planning permission; this proposed area off Crowfoot Way was rejected / not allocated for development; the Secretary of State has given significant weight to Neighbourhood Plans including Broughton Astley's when deciding on development applications; the SoS has reaffirmed that councillors and village residents should be allowed to decide the best place for developments and infrastructure provisions; approval of this application would challenge the government's guidelines set out in the Localism Act for Neighbourhood Plans to give communities more power in decision making; it is essential that the BANP stands up to this test and that the application is refused; the first outline planning application was granted prior to the BANP; approval would set a dangerous precedent and bring the validity of the BANP into question, with far reaching consequences across the entire country; approval would make a mockery of the BANP; this latest application represents a significant revision to the original proposals, and so should be assessed anew; this is an opportunistic planning application; Broughton Astley has already allocated more than the required minimum of 400 new homes; the total number already approved or committed may exceed 600 = no requirement for the current proposal;

### **Accessibility**

The site is remote from the village centre and is accessed only through the winding narrow roads of the existing housing estate; the site is too far away from the village centre (approx. 30mins walk) to accord with Policy CS5 requirement for good accessibility; it was for this reason that the adjacent site was soundly rejected in the BANP; the remoteness of the site would only encourage car use, and would not encourage sustainable journeys; the nearest bus stop is up to 10 mins walk away; cycling is possible but many, less experienced cyclists would be put off by sharing the road with lorries; the change in housing mix to larger houses would naturally encourage young families, who would be less likely to use the bus or cycle, the great majority

being two car families – this change affects Travel Plan calculations, which were based on a diff mix of housing types and so now are not representative; the Travel Plan also makes reference to the bus schedule – yet the Arriva schedule has changed twice since the Plan was published, the latest being Oct 2014; in this time the service has been cut and re-introduced – in this context it is difficult to consider the bus service as sustainable as it could be reduced or even cancelled at any time; the proposal is thus contrary to many of the objectives in the Leics County Council LTP3 re sustainable transport and providing a transport system that improves the safety, health and security of our residents; new residents would need to use their cars for commuting, shopping and accessing the village facilities; a proportion of school children would require car journeys to reach schools, esp. as the local primary schools are at or near to their capacity; the Travel Plan contains lots of measures that don't make any material commitment to improvement, e.g. asking for the bus stop to be moved or delivering transport newsletters; even though they give no commitment to improvement, they are only required because the development is in an unsustainable location; for all of these reasons the proposal is therefore not sustainable development.

#### **Deliverability / Lack of developer interest**

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It is 4 years since the site was first granted approval for development; It is clear that no developer sees this as a viable site; it is stated by applicant that the original permission was unsuitable for sale to a builder; the site has therefore made no contribution towards district housing supply; the current application is not on behalf of a builder – it is thus difficult to assign any measure of deliverability to the site; how can the Council or residents be sure that the scheme now applied for will be attractive to a builder in the future?; all through the history of this application it has been pushed forwards by a lack of a five year supply of housing in the district; sole purpose is to further delay the process / extend the consent time limit, but is clearly not going to be developed; it is not a realistic development.

#### **Purpose of current application - sole purpose is to further delay the process**

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#### **Impact on existing infrastructure**

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The village has three primary schools, which are all at or near full quota of children at all age groups; objectors have made enquiries and have been told it would be unlikely that siblings would be granted places in the same school due to capacity constraints; children would be forced to go to primary schools outside the village; additional strain on community facilities, including health facilities; offers nothing that helps to consolidate services or promote community growth; not a sustainable development in terms of jobs and infrastructure as required by the Core Strategy.

#### **Highway safety**

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Large increase in volume and frequency of traffic; impact on pedestrian safety; more housing means more traffic on small estate roads which are used by children to walk to local schools; opening up two roads that are currently cul de sacs would mean a significant risk to the many children having to cross these roads to and from Hallbrook School and other children who can safely play outside, and to the elderly and infirm; more houses would result in a significant number of additional car journeys through access points (Murray Close and Gévezé Way) which are inadequate; there is already a 'pinch point' for existing site traffic between 45 and 65 Devitt Way with cars, etc. parking on both sides of the road – further cars from the proposed development would only add to the existing difficult situation; the congestion and queuing at the Byre Crescent exits would become greater; proposal makes no attempt to manage safety issues through its design and is not compliant with the 6Cs design guide.

#### **Application site is outside defined Limits to Development**

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On agricultural / green field land; the proposal would significantly alter the shape of the village in an unsuitable way and would extend the boundary towards the neighbouring village of Leire; the proposal is therefore in conflict with Policy CS2, section 5.14 (page 28)

#### Visual Amenity

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Proposal would dominate the skyline; significant change to character of area, would intrude into the countryside; proposal would be highly visible and dominant due to its elevated position; would be an eyesore; would ruin the wonderful countryside views we currently have

#### Residential Amenity

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The application site is elevated and would be visually intrusive; some of the proposed dwellings, esp. the three-storey units, would restrict the outlook of and cause (total) loss of privacy / severely reduce the privacy of surrounding dwellings, arising from their siting close to existing residents

#### Wildlife

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Habitats would be destroyed through the making of entry points through established hedgerows and trees; impact on existing wildlife habitats and trees – mature trees should be preserved; as well as the well-documented badger sett and the proposal's adverse effect on badgers, the site also supports skylarks (which the BTO describes as being in rapid decline) and is a feeding site for kestrels and bats, and yellowhammer, another species in rapid decline, as well as buzzards, woodpeckers (green and great spotted), owls, field mice and hedgehogs. Re badgers, the layout would place houses next to the badger set located on the site destroying and restricting access to their foraging areas.

#### Archaeology

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Remains of Iron Age settlements have been found on this site (near its centre), since the original consent was granted; these are important finds and should not be destroyed, particularly in view of their close proximity to Hallbrook Primary School and their potential as an educational resource.

#### Supporting documentation

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(including wildlife, traffic and travel) is out of date and of no value; the developer has not undertaken a suitable survey – this explains why there is no mention of several protected species which are threatened by this proposal, including great crested newts and badgers. Much of the supporting documentation for this application is now outdated or reliant upon press articles which lack any depth of analysis.

#### Other

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Inclusion of a Scout hut would result in residents transporting their children from one side of the village to the other increasing the volume of traffic on already busy estate roads.

Lack of community consultation

Lack of local support – not wanted 4 years ago, not wanted now by anyone in village

Non-material planning issues raised include:

(1) Applicant has caused recent local drainage and flooding issues; and has been very aggressive towards local complainants – any grant of planning permission would allow applicant to further damage private property, and the grounds and pathways leading to Hallbrook Primary School; complainant fears reprisals having now spoken out

- (2) Is this not the same proposal that has gone to the high court? Are they just altering slightly in a bid to get it through? Why is the same planning application being allowed to be made for the same piece of land within such a short timeframe, shouldn't there be a restriction?
- (3) HDC has already refused another application to build 111 houses adjacent to this area, citing the BANP as a major factor in its decision
- (4) The submitted layout clearly shows the next phase, which would also contravene the BANP – the issue of precedent is a real and serious one
- (5) Unsettling and inconvenient for the residents within this area to have to experience this whole process again.

## **5. Planning Policy Considerations**

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

### **a) Development Plan**

- 5.2 Section 38(3)(b) of the 2004 Act defines the DP as the DP documents (taken as a whole) that have been adopted or approved in that area.
- 5.3 The DP for Harborough comprises:
- Broughton Astley Neighbourhood Plan 2013-2028
  - The Harborough District Core Strategy adopted November 2011; and
  - The retained policies of the Harborough District Local Plan adopted April 2001.
- 5.4 Material considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land. The material considerations to be taken into account in considering the merits of this application include the DP referred to above, the National Planning Policy Framework (hereafter referred to as 'The Framework'), the National Planning Policy Guidance, together with responses from consultees and representations received from all other interested parties in relation to material planning matters.
- *Broughton Astley Neighbourhood Plan*
    - H1 – Housing Allocations Policy
    - H2 – Provision of Affordable Housing
    - T1 – Transport and Traffic Management
    - L1 – Improved Leisure Facilities
    - W1 – Improved Health Care Facilities
    - CI1 – Contributions to New Infrastructure and Facilities
    - P1 – Phasing of Development
  - *Harborough District Core Strategy*
- 5.5 The Core Strategy (hereafter referred to as the 'CS') was adopted in November 2011 and covers the period from 2006 to 2028.
- Policy CS1 sets out the spatial strategy for Harborough which is to “maintain the District's unique rural character whilst ensuring that the needs of the community are met through sustainable growth and suitable access to services” to, among other things, enable the development of 7,700 dwellings across the District during the period 2006–2028.

Policy CS2 deals with delivering new housing and advises that the District's total housing requirement of 7,700 dwellings (total of 400 at Broughton Astley) 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. 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 in the Blaby Border Settlements sub market area a minimum of 30% 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 CS16 specifically refers to Broughton Astley, stating that all sites on which additional housing is proposed will be examined as to their potential to bring forward land to help expand community, commercial and local employment provision, and proposals that help deliver land for new facilities will generally be supported. Part (a) of the policy states specifically that, "in considering future sites for housing development, mixed use sites which ensure the provision of additional retail, community facilities or employment facilities or employment opportunities to serve Broughton Astley will be supported".

## **b) Material Planning Considerations**

### *o National Planning Policy Framework*

- 5.7 The Framework published March 2012, replaces previous national guidance set out set in Planning Policy Guidance and Planning Policy Statements.
- 5.8 The overarching policy objective of the Framework is the 'presumption in favour of sustainable development'. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 7). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system (para. 8). The

presumption in favour of sustainable development is seen as the 'golden thread' running through plan-making and decision-taking (para.14). For decision-taking this means:

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

Paragraph 17 sets out 12 core land-use planning principles that should underpin decision making, which include (1) Plan-led – “with a high degree of predictability and efficiency”, (4) Design & amenity – “high quality design and a good standard of amenity”, (5) Protection – of the District’s intrinsic countryside character and its ‘urban vitality’, and (12) Health, social and cultural wellbeing, incl. delivering sufficient key services and facilities

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.



- *National Planning Practice Guidance*
  - 5.9 The National Planning Practice Guidance (hereafter referred to as the NPPG) published 6th March 2014 replaces a raft of previous planning guidance documents that have been cancelled as part of the Government's drive to simplify the planning process.
  - *New Local Plan*
  - 5.10 On 3 December 2012, the Council resolved to prepare a new Local Plan for Harborough District. The new Local Plan will incorporate a focused review of the Harborough CS (adopted in November 2011) and will also identify key areas of land for development, thereby obviating the need for an allocations plan.
  - 5.11 The new local plan scoping consultation was completed in April 2013, and the current timetable is for the pre-submission consultation to take place in summer 2015, with an examination timetabled for January 2016. It is envisaged that the plan will be adopted in May 2016.
  - 5.12 The Scoping Consultation noted that the Plan Period would be extended to 2031 and that an increase in the annual housing requirement was likely. The Scoping Consultation also set out the Council's intention to replace the Limits of Development around existing settlements in the District with a criteria-based policy to determine applications for new housing on non-allocated Sites on the edge of settlements.
  - *Supplementary Planning Guidance*
  - 5.13 A series of guidance notes were adopted as Supplementary Planning Guidance (SPG) to the Harborough District Local Plan in March 2003. They cover a range of topics relating to layout and design issues. Council agreed to retain the said SPGs and link them to CS policies as applicable, until a new Supplementary Planning Document is produced.
- 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)
- *Broughton Astley Landscape Character Assessment and Landscape Capacity Study (2011)*
  - *The national Planning Practice Guidance Suite (06.03.14)*
  - *Appendix A to Circular 11/95 – Use of conditions in planning permission*
  - *Circular 06/2005 – Biodiversity including statutory obligations within the planning system*
  - *5 Year Housing Land Supply Statement*

- 5.14 The Council produces bi-annual monitoring reports on the level of housing supply within the District. These reports include a five year housing land supply calculation and a housing trajectory for the remainder of the DP period. The latest report covers the period from 1st April 2014 to 31st March 2019.
- 5.15 Paragraph 47 of the Framework states that where local planning authorities cannot demonstrate an up-to-date five year supply of deliverable sites they should consider favourably planning applications for housing. As at 30<sup>th</sup> September 2014 the Council had 3.99 years of housing supply (including a 20% buffer). In the Secretary of State's 2014 dismissal of the Crowfoot Way appeal (ref. 12/2183653) he concluded with regard to the Council's housing land supply that:
- 12. 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). In reaching this conclusion the Secretary of State has given careful consideration to responses to his letters of 21 January and 12 March 2014. 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.*
- 5.16 The Council accepts this conclusion and has published its 30<sup>th</sup> Sept 2014 position, of 3.99 years, i.e. c.700 houses short, and it is acknowledged that HDC cannot currently demonstrate a robust five year supply.

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

- 5.16 The following documents are also of relevance in determining this application:
- *Harborough Housing Requirements Study*
- 5.17 The Harborough Housing Requirements Study was carried out by independent consultants GL Hearn in March 2013, on behalf of the Council to assess future housing requirements in the District over the period 2011-2031.
- *Planning Obligations Developer Guidance Note*
- 5.18 The Planning Obligations Developer Guidance Note was approved by the Council's Executive in September 2009 and sets out the range of infrastructure, services and facilities that the Council will normally seek to secure via planning obligations in relation to development proposals within the District.
- 5.19 The Note advises if the requirement for developer contributions or for the provision of infrastructure result in viability concerns being raised it will be the responsibility of the applicant to provide an independent financial viability assessment to substantiate the situation. If the assessment is accepted as reasonable the Council may request lower contributions for a particular Site provided that the benefits of developing the Site outweigh the loss of the developer contribution.
- 5.20 There are two supporting documents associated with this guidance note:
- Provision for Open Space, Sport and Recreation (September 2009) which provides details of the arrangements for assessing contributions to open space; and

- Assessment of Local Community Provision and Developer Contributions (October 2010) which provides additional evidence to support the case for developer contributions to local indoor community and sports facilities.
- *Community Infrastructure Regulations 2010*

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

- *Appeal Decisions*

5.23 Within the main body of the report reference will be made to appeal decisions including high court judgements and recovered secretary of state decisions. Whilst every application is considered on individual merit, appeal decisions are helpful in demonstrating the weight to be applied to material considerations.

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/H2835/A/14/2215925 – Irchester, Wellingborough (paras 49 and 50)

*“...at paragraph 58 the Framework says that planning decisions should aim to optimise the potential of sites to accommodate development. The proposal extends to some 12.1 hectares, which would be a significant loss of agricultural land, whilst only accommodating up to 149 dwellings.*

*“At a gross density of 12.3 dwellings per hectare this proposal does not represent an efficient use of land. Whilst I accept that there is a generous provision of open space shown on the notional layout, even the net density at 27 dwellings per hectare is comparatively low and much of the open space is not required to meet the needs of future residents of the development or in the opinion of some third parties, the existing residents of the village. The Council pointed out that the Appellants could, having obtained planning permission, apply to increase the number of houses beyond 150. Whilst this would be the subject of a separate application, I take the Council’s point that this may not be a difficult hurdle to surmount and that the construction of in excess of 150 dwellings would not, in the context of Irchester, be locationally sustainable.”*

APP/H2835/A/14/2212956 – Bozeat, Wellingborough (para 24)

*“...There is a lack of a 5 year housing land supply, relevant Policies for the supply of housing are out of date and the presumption in favour of sustainable development applies. However, the proposal is for a sizeable development and the inaccessibility, lack of services and car dependency is of such order that harm thereby arising on environmental grounds is not offset by the other elements of sustainability referred to in the Framework being met. Thus the proposal does not represent a sustainable development. The harm that would arise would significantly and demonstrably outweigh the benefits.”*

APP/J0405/A/13/2205858 – Winslow, Cheshire (paras 25 and 26 of Secretary of State decision)

*25. The Secretary of State notes the Inspector's conclusions on neighbourhood planning at IR183, but the Winslow Neighbourhood Plan is now made and is part of the development plan. The Secretary of State has given consideration to the policies on neighbourhood planning at paragraphs 183-185 and 198 of the Framework. Paragraph 183 states that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Paragraph 184 states that neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. Paragraph 185 states that, outside the strategic elements of the Local Plan (which is not up to date in Aylesbury Vale District), neighbourhood plans will be able to shape and direct sustainable development. The Secretary of State regards this purpose as more than a statement of aspiration. He considers that neighbourhood plans, once made part of the development plan, should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question. Paragraph 198 is clear that, where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.*

*26. In view of the Framework policy on neighbourhood planning, and after having had regard to all the representations in response to his communications of 2 and 20 October 2014, the Secretary of State places very substantial negative weight on the conflict between the appeal proposal and the Winslow Neighbourhood Plan even though its policies relevant to housing land supply are out of date in terms of Framework paragraph 49. He concludes that this and the other adverse impacts, together, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. He therefore concludes that there are no material circumstances that indicate the proposal should be determined other than in accordance with the development plan.*

- 5.24 This application is being reported to the Planning Committee for determination because the application proposes more than ten dwellings, and because the proposal would represent a departure from the Development Plan.

## **6. Assessment**

- 6.1 The 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; (2) the extent of a fallback position, and the weight to be attached to it, (3) the extent to which the proposal complies with the Broughton Astley Neighbourhood Plan (BANP) and Policy CS16 of the Core Strategy (see below re the weight to be attached to the latter), (4) the proposal's impact on the living conditions of neighbouring residents and (5) highway safety, and (6) the resultant effects, including visual, landscape and wildlife, on the character and appearance of the countryside.

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

- 6.2 The application site is outside (but adjacent to) the Limits to Development, in open countryside. A permitted application would introduce residential development into the open countryside, beyond the Limits to Development. The site is moderately accessible to public transport and to a limited number community facilities and services – taking the centre point of the site as an average it is within approx. 600m walking distance of a food shop and primary school. However, the site is approx. 1km (0.6 mi) from the nearest public house, and approx. 2.1km from the post office, library and GP surgery in the village centre. The site is therefore a relatively inaccessible location, and this weighs against the proposal. The Parish Council's comments suggest this inaccessibility was one of the main reasons for its exclusion from the BANP.
- 6.3 The site relates relatively well to the built up area, with residential development immediately to the north, Hallbrook Primary School to the west and the disused railway line to the east.

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

- 6.4 As at 30<sup>th</sup> September 2014 the Council had 3.99 years of housing supply (including a 20% buffer), and thus the Local Planning Authority (LPA) is not currently able to demonstrate an up-to-date five year supply of deliverable sites for housing. Policy CS2(a) states that, should there not be a five year supply, housing development may be permissible outside the Limits to Development. In addition, while Policy CS1 gives priority to previously developed land, the Core Strategy recognises that the vast majority of Broughton Astley's capacity is on green field land and the Strategic Housing Land Availability Assessment 2011 supports this conclusion. In the context of the NP (discussed below), which makes allocations to meet the scale of development needed, it is considered that the proposal accords with the spirit of Policy CS2a.

#### **c) Broughton Astley Neighbourhood Plan - the Big Plan**

- 6.5 Core Strategy Policy CS2(a) makes it clear that it is for the allocations (the Neighbourhood Plan in this case) process to direct the scale of new development to be accommodated, and to review Limits to Development accordingly. The Broughton Astley Neighbourhood Plan (BANP) was formally adopted by HDC on 20<sup>th</sup> January 2014 and forms part of the Development Plan.
- 6.6 The BANP went through full public consultation, successfully passed through Examination in Sept/Oct 2013, and received an 89% yes vote at Referendum on 16.01.14, then being 'made' by Harborough District Council.
- 6.7 In 2011 Broughton Astley Parish Council made a successful bid to become a Neighbourhood Planning Front Runner. The Parish Council then worked on the background evidence to support the drawing up of policies, including site assessment work, stakeholder and residents' consultation events and questionnaires relating to options for development. Their Neighbourhood Area application was approved in October 2012 (following a 6 week period of consultation) and the Examination Version of the BANP was published 1<sup>st</sup> July 2013 for 6 weeks public consultation (concluding 12<sup>th</sup> August 2013).
- 6.8 The Examination of the BANP took place on 19<sup>th</sup> September at the Village Hall. The Examiner's report was published on 4<sup>th</sup> October and is available on HDC's website at: [https://www.harborough.gov.uk/info/200074/planning/496/neighbourhood\\_planning/7](https://www.harborough.gov.uk/info/200074/planning/496/neighbourhood_planning/7)
- 6.9 The Examiner found the BANP sound in all key respects, including in relation to housing, retail and medical care, concluding,

*“It is my view that the Broughton Astley Neighbourhood Plan reflects the views of the community and sets out a clear and deliverable vision for the neighbourhood area. I have recommended a number of modifications to the Plan. These are intended to ensure that the Plan meets the Basic Conditions and comprises a user-friendly document.”*

- 6.10 Policy H1 of the BANP allocates land for housing development, providing for 500 dwellings within the Plan period. The two allocated sites are projected to deliver 509 dwellings. Factoring on completions and completions between 2006 and 2014 (approx. 69), approx. 578 dwellings would be provided over the Plan period, which is 44.5% more than the minimum of 400 required by the Core Strategy (Policies CS1, CS2 and CS16).
- 6.11 Policy H1 does not include the application site – it is not an allocated site – and so the proposal very clearly conflicts with BANP Policy H1.

#### **d) Weight to be attached to the Neighbourhood Plan**

- 6.12 The next question is how to apply the policy, i.e. what weight it should be given. In this regard, officers note the following:

Para 11 of the Framework states that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

Para 12 of the Framework, which makes clear that the development plan is the starting point for decision making, states that development proposals that conflict with an up-to-date Local Plan should be refused unless other material considerations indicate otherwise.

The recent Crowfoot Way appeal decision (ref. 12/2183653), concerning a proposal for 111 dwellings, dismissed by the Secretary of State, but in which he concluded that, (1) the Council does not have a five year supply of housing land, (2) the relevant development plan policies for the supply of housing are out of date, and (3) the BANP is also out of date with regard to housing supply. However, despite these findings, the Secretary of State dismissed the appeal on the grounds of that proposal's conflict with the BANP, and in doing so he gave the new BANP very substantial weight.

The Secretary of State concluded, at para 19 of his decision letter, that,

*“Paragraph 198 is clear that, where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. In line with paragraph 184 of the Framework, the Broughton Astley Neighbourhood Plan does not undermine the strategic policies in the Local Plan (i.e. the 2011 Harborough Core Strategy) nor provide for less development than is set out in that Plan. Paragraph 185 of the Framework states that, outside the strategic elements of the Local Plan, neighbourhood plans will be able to shape and direct sustainable development. The Secretary of State regards this purpose as more than a statement of aspiration. He considers that neighbourhood plans, once made part of the development plan, should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question, for example to ensure that the best located sites are developed. Consequently, in view of Framework paragraphs 198 and 185 the Secretary of State places very substantial negative weight on the conflict between the appeal proposal and the Neighbourhood Plan.”*

- 6.13 In light of these considerations, the proposal clearly conflicts with BANP Policy H1, and the BANP should be given very substantial weight. The principle of the development is therefore not considered acceptable. This policy conflict weighs heavily against the proposal.

**e) Material consideration weighing against this policy conflict**

- 6.14 There exists detailed planning permission for the erection of 50 dwellings at the application site (12/01633/REM and 10/01579/OUT as varied by 13/00962/VAC), which is extant until 1<sup>st</sup> Feb 2015. This would provide a “fall back position”.

- 6.15 The applicant’s agent states that, all of the pre-commencement conditions having been discharged, “the access roadway was constructed in January 2014”. The applicant’s agent has latterly provided evidence has been submitted in support of this statement, in the form of photographs and receipts. However, what the photographs show is the deposition of hardcore and/or the formation of hardstanding. It is not clear that the material deposited is for the purposes of an adoptable highway or is in the correct location to form one of the approved highways.

- 6.16 The weight to be applied to the fall back position may depend on the likelihood of it being taken up. The Reserved Matters consent was granted 1<sup>st</sup> Feb 2013 and to date there has been no positive developer interest in the site. The applicant’s agent states:

*“Should consent not be granted the applicant has confirmed their full intention to continue with the development of the scheme which already benefits from consent (10/01579/OUT and 12/01633/REM)”, and,*

*“...the applicant currently seeks a revision to the design and layout of the approved scheme under the current application... if this is not successful then the applicant will certainly continue to sell/develop the approved 50 dwelling scheme as per the approved layout and design.”*

*“The outcome of the current application, i.e. whether the approved or proposed 50 dwellings are constructed, will have no bearing on the High Court decision.”*

- 6.17 However, the applicant’s agent also confirms:

*“The site was launched to the market in September 2012 (particulars attached) but remains unsold. Although a significant number of builders were keen on the site, most wanted to buy on a conditional basis subject to them securing planning for more dwellings. Of those willing to accept a limit of 50 dwellings, we still had builders who wanted to revise the consent (and indeed one of them had discussions with Roz Hair re this)”, and,*

*“...the revised scheme responds to market signals which indicate that the proposed dwelling mix would be more attractive to the market than the current consented scheme and immediately developable.”*

- 6.18 It is clear from the agent’s statements that the majority of developers are not interested in the approved development. No proposals for additional development at this or the adjacent site would accord with the BANP. This has the effect of reducing the viability and marketability of the site in question.

- 6.19 Further, it is clear from the agent’s statements that those willing to develop only 50 dwellings would only do so if changes were made to the development’s design. The applicant is not a developer, and therefore the site would only built out if this current

application was granted. Viability is one of the key elements of housing deliverability, and the non-viability of the approved development severely restricts its deliverability.

- 6.20 This significantly reduces the weight to be given to this fallback position. Therefore, while the extant consent provides a fall back position which may weigh in favour of the proposal, the amount of weight to be attached is tempered by the fact that the extant consent is unlikely to be built out. But see (f) Legal opinion, following.

#### **f) Legal opinion from Counsel**

- 6.21 The Council has obtained a legal opinion on the following matters:

- To what extent is the Reserved Matters consent (13/00962/VAC) at the same site for 50 dwellings material to the consideration of the current outline application? The Reserved Matters consent is extant until 1<sup>st</sup> February 2015 (and all pre-commencement conditions have been discharged), but the applicant's agent has advised that there has been no strong/positive developer interest to implement the Reserved Matters permission, hence the submission of a new outline application (14/01388/OUT), with all matters reserved.
- To what extent would it be material to a consideration of the application should certain works have been undertaken within the site to 'make a start' on site? Is the weight to be attached to this affected by the situation described in the first bullet point above.
- To what extent does approving or refusing the current outline application (or making a recommendation) impact on the consideration of the SOS dismissed appeal (for the 111 dwelling scheme on the adjacent site) at the High Court next week?

- 6.22 In respect of the second point, the Council's legal advice is that whether or not certain works have been undertaken within the site to 'make a start' is not significant. And in respect of the third point the Council's legal advice is that the decision reached on this application will not meaningfully impact on the consideration of the dismissed appeal or the High Court decision to be handed down in the New Year.

- 6.23 In respect of the first point, the Council's legal advice is that one must judge the proposals against the development plan which exists at the time of the decision. The Council's legal advice is that, while the original outline consent was known about when the BANP was being drafted, consulted on and examined, the weight to be given to this fact must be tempered by the applicant's statement that if the current application is not successful he will continue to implement the extant consent.

- 6.24 The Council's legal advice concludes on the first point that it would be reasonable and consistent for the Council to refuse the application on the grounds that it conflicts with the spatial strategy of the BANP and that it would be reasonable to accord very substantial negative weight to this conflict.

#### **g) Degree of compliance with Policy CS16**

- 6.25 Core Strategy Policy CS16 identifies Broughton Astley as a Key Centre and sets out a housing requirement of at least 400 dwellings to 2028. Taking into account completions and commitments, and setting to one side the extant consent at the application site, land for approx. 20 dwellings needs to be found through allocations in the plan making process<sup>1</sup>. If one includes the resolution to grant full planning permission for 199 dwellings at Coventry Road, there is an over-provision of approx. 179 dwellings relative to the Policy CS16 requirement.

<sup>1</sup> 400 – 120 built, commenced or committed +50 at the application site – 310 approved at Broughton Way



- 6.26 Although it is accepted that future development will need to be accommodated beyond the current Limits to Development, CS policy for Broughton Astley seeks to redress the imbalance which has developed between housing and services/facilities in the village through support for mixed-use sites which ensure the provision of additional local retail, community facilities and employment opportunities.
- 6.27 The proposal includes allotments, a scout hall and land for school or pre-school use, and so does assist in the promotion of the additional growth of local services and facilities in Broughton Astley, the fundamental driver behind Policy CS16.
- 6.28 However, para 185 confirms that, once a NP has demonstrated its conformity with the strategic policies (CS1 – CS11 of the Core Strategy in this instance) and is brought into force, “the policies it contains take precedence over existing non-strategic policies [CS16 in this instance] in the Local Plan for that neighbourhood, where they are in conflict”.
- 6.29 The BANP is now the relevant policy for the site, and carries more weight than CS16, and therefore the proposal's broad compliance with Policy CS16 carries little weight. In addition, the application site is in a relatively inaccessible location, which further tempers the weight to be attached to its broad compliance with Policy CS16.

#### **h) Delivery of community facilities / Section 106 legal agreement**

- 6.30 The proposal would only accord with Core Strategy Policy CS16 and the relevant policies of the Neighbourhood Plan if it ensures provision of the proposed community leisure/sports building, and in this regard it is imperative for an appropriate legal agreement to be completed.
- 6.31 *BANP Policy CI1 – contributions to new infrastructure and facilities* sets out what the legal agreement will need to include:
- (i) *Financial contributions will be required, as appropriate, to mitigate the impact of the development on essential infrastructure such as public utilities, libraries, policing, waste services and the highway network.*
  - (ii) *Financial contributions will be required, as appropriate, to fund additional healthcare, education and leisure services within the village in accordance with the obligations detailed in the Harborough District ‘Provision for Open space, Sport and Recreation 2009’ (or subsequent provisions)*
  - (iii) *Community priorities in terms of additional local facilities to be provided as a result of new development are:*
    - *Centrally located community building for use as medical centre*
    - *Centrally located community leisure facility provided sports hall, gym and dance facilities, changing rooms, meeting rooms, etc.*
    - *Centrally located community building for use by organised youth groups*
    - *Centrally located multi-use synthetic sports pitch*
    - *Two adult sized football pitches with associated facilities*
    - *BMX/Cycle track facility*
- 6.32 Should this planning application go forward for approval, it is important for the Section 106 agreement to include contributions for the above named facilities, and to set out the links between housing delivery and community facilities provision.

- 6.33 In consultation with the Parish Council, and with the agreement of the developers of Sites 1A/1B and 2, Officers to the Council have established what should be the key requirements of the community leisure/sports building, and what elements should be additional – the difference between these two groups being that the ‘key requirements’ are those required to be provided to ensure compliance with Core Strategy Policy CS16 and meet the BANP’s basic requirements, and the ‘additional elements’ are those for which it is appropriate to seek developer contributions towards delivery, alongside other funding streams, and make the development acceptable. The two groups are as follows:

**1. Key requirements for sports hall/community building**

Four-court sports hall  
Dance facilities and gym/fitness/studio facility  
Indoor changing rooms  
Outdoor changing facilities  
Community meeting space, to include a café and a meeting room  
Administration office and front desk, to include a mezzanine floor

**2. Elements additional to the key requirement**

Medical Centre  
Community building for youth groups  
All weather pitch  
Two adult sized football pitches  
Informal BMX/cycle track facility

- 6.34 Any facility not mentioned has not been named in either the Neighbourhood Plan or the Core Strategy or has not been agreed by the working group.
- 6.35 It has been established that the total cost of delivering the Key Requirements is currently estimated at £2.26 million (+/- 30%). Such a margin allows for variations in the precise specification of facility to be provided and other contingencies, including build cost. The named figure is for a mid-range quality of build, and it is considered an appropriate quality of build (rather than lower or higher end) to require the developers to fund. The figure is based on 2012 costs, and if one year’s inflation of 3.5% is added, the figure would rise to approx. £2.34 million.
- 6.36 The developers (of Sites 1A/1B, 2 and the Reserve Site) would be required to make a pro-rata contribution towards the cost of delivering the community/sports building, except where the developers agreed between themselves on a variation to this, provided it had no effect on the overall amount of developer-contributed money, i.e. that the total contribution from the two developers equalled 100% of the funds requiring to deliver the Key Requirements.
- 6.37 In summary, representations received therefore make various s106 requests including contributions towards affordable housing, open space provision, medical care provision, and education, and sports hall/community building as per above. 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 seeking obligations to secure the necessary contributions.

**i) Layout – an efficient use of land?**

- 6.38 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. It is noted that Layout is a Reserved Matter and not for consideration as part of this current application. However, the site measures 5.77 ha, and 50 dwellings results in a density of 8.67 dwellings per hectare. This amounts to an inefficient use of land, that is incompatible for the built form of the site's surroundings. The recent Inspector's decision at Irchester (see earlier in this report) confirms that weight should be given to the need to make an efficient use of land. The proposal makes an inefficient use of land, and therefore conflicts with Policy CS2(b).

6.39 Turning to the mix of housing types, the applicant states at para 7.2.4 of its Planning Statement that the proposed housing mix is 6 (12%) x 1 bed, 6 (12%) x 2 bed, 6 (12%) x 3 bed, 22 (44%) x 4 bed and 10 (20%) x 5 bed houses.

6.40 Achieving additional housing is only part of meeting objectively assessed housing need (OAHN). In order to meet evidenced future needs, it is critical to achieve a mix of house types in terms of size which fits with broad indicators of the sizes of future households. This will help ensure that the growing number of smaller households can buy smaller housing to meet their needs. Housebuilders should also be taking this information into account and seeking to meet housing need in their business plans. The need to provide lower-cost housing has been underlined by the changing government policy on Affordable Housing.

6.41 Based on the most up to date evidence in this regard (the Leicester and Leicestershire SHMA, June 2014), as required by Policy CS2, the standard housing mix profile that development in Harborough District should be working to is: 1 bed 5.3%, 2 bed 37.8%, 3 bed 41% and 4+ beds 16%. It is acknowledged that this is an indicative mix and that individual site constraints will influence housing mix on a particular development, but it provides a basis for the split of house size that will be acceptable and which should be sought in major development proposals.

6.42 The SHMA states as follows:

*7.51 The mix identified above should inform strategic HMA-wide policies. In applying these to individual development sites regard should be had to the nature of the development site and character of the area, and to up-to-date evidence of need as well as the existing mix and turnover of properties at the local level.*

*7.52 Based on the evidence, we would expect the focus of new market housing provision to be on two and three-bed properties. Continued demand for family housing can be expected from newly forming households. There may also be some demand for medium-sized properties (2 and 3 beds) from older households downsizing and looking to release equity in existing homes, but still retain flexibility for friends and family to come and stay.*

*7.53 The analysis of an appropriate mix of dwellings should also inform the 'portfolio' of sites which are considered through the Local Plan process, including: Site Allocations, Neighbourhood Plans and other planning documents. Equally it will be of relevance to affordable housing negotiations.*

6.43 In support of this, it is noted that Core Strategy Policy CS3 and paragraph 50 of the Framework both refer to the need to seek a housing mix which is reflective of evidenced need. It is noted that there is a particular need for more 2 bed houses at the present time.

6.44 In this instance, the OAHN is for 3 x 1 bed, 19 x 2 bed, 20 x 3 bed and 8 x 4+ beds. The proposal amounts to a significant (26%) under provision of 2 bed homes and a very significant (48%) over provision of 4+ bed homes. While this application is for Outline

only, if the indicative layout and housing mix set out in the Planning Statement was to be pursued, the proposal would fail to accord with Core Strategy Policies CS2 and CS3 and paragraph 50 of the Framework, and this weighs significantly against the proposal.

- 6.45 This is particularly so because of the reason for the submission of the Outline application, that the approved housing mix has not proven viable.
- 6.46 The recent Melton BC appeal decision (ref. APP/Y2430/A/14/2223122) is noted, in which the Council had refused the planning application on its non-compliance with the housing mix recommended by the SHMA for Melton. It is noted that the Inspector disagreed with the Council, allowed the appeal, and awarded costs against the Council.
- 6.47 However, it is also noted, at paragraphs 25 – 29 of the Inspector’s decision, that there were particular circumstances in that appeal which led to the Inspector’s decision, which do not apply in this instance. For example, the Melton SHMA made specific recommendations in relation to the rural north of the Melton authority area (which included the appeal site), and the appeal site lay within the Nottingham Housing Market Area, and therefore it was found not appropriate to apply to the appeal site the recommendations of the Leicester and Leics HMA.
- 6.48 Critically, in relation to the costs appeal, it is noted that the Inspector did NOT award costs in respect of the Council’s refusal reason relating to housing mix.
- 6.49 It is therefore considered that the Melton BC appeal decision is not directly comparable with the current application.
- 6.50 However, while the indicative housing mix in this application fails to accord with Core Strategy Policies CS2 and CS3 and the 2014 SHMA and paragraph 50 of the Framework, and while this application may have been submitted in order to amend the housing mix specifically because the housing mix in the approved scheme had not proven viable, the application is in Outline only and it would therefore not be reasonable to refuse this application on the basis of housing mix. The Council’s concerns relating to inefficient use of land still stand.
- 6.51 The applicant should be aware that, if this application is approved, a Reserved Matters application that pursued the indicative layout and housing mix set out in the Planning Statement of this application would fail to accord with Core Strategy Policies CS2 and CS3.

## **j) Technical Considerations**

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

These are Reserved Matters and not to be assessed under the current application.

### **2. Drainage**

As part of the application, the applicants submitted a full Flood Risk Assessment (FRA). The Environment Agency has no objections to the proposal and recommends that a condition be imposed to any consent, requiring a detailed surface water drainage strategy. It is therefore considered that the proposed development would comply with Core Strategy Policy CS10 and the aims and objectives of the Framework.

### **3. 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, the proposal is considered acceptable in ecology terms, and therefore accords with Core Strategy Policies CS8 and CS17 in this regard, as well as the relevant paragraphs of the Framework.

#### 4. Heritage

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The proposal would have no demonstrable impact in this regard.

#### 5. Highways

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The local highway authority (LHA) considers the proposal to be acceptable in highways terms, subject to the imposition of appropriate conditions – including highways design standards, a construction/site traffic management plan, a construction traffic routing agreement, and a scheme of improvements to public footpath W55 – and s.106 contributions in respect of public transport. These conditions and s106 contributions are considered to meet the requirements of the nPPG and CIL Regulations respectively. The proposal is therefore considered to accord with Policies CS5 and CS11 of the Core Strategy in this regard.

#### 6. Landscape and Visual Impact

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The application site is outside of the Limits to Development and is therefore situated in the countryside. The erection of dwellings on this piece of land would change the open, rural and undeveloped character and appearance of the countryside. If the site was to be developed, it would form the new edge of the town with the countryside, and therefore it is important that the scheme is well designed so as integrate development with existing built form and to be visually unobtrusive.

As noted above, in light of the need to provide a total of 400 dwellings at Broughton Astley over the plan period (up to 2028), and setting to one side the extant consent at the application site, there is a current residual requirement of approx. 20. Therefore there may be a need to develop Greenfield sites, although it should be noted that if one includes the resolution to grant full planning permission for 199 dwellings at Coventry Road, there is an over-provision of approx. 179 dwellings relative to the Policy CS16 requirement.

In order to evaluate the suitability of land around the edge of Broughton Astley, to decide which Greenfield sites are most suitable, i.e. deliverable, the Lutterworth and Broughton Astley Landscape Character Assessment (LCA) and Landscape Capacity Study (2011), was carried out for HDC by The Landscape Partnership. The LCA provides a detailed analysis of the landscape capacity of land in and around Broughton Astley, with a view to assessing potential suitability in landscape terms to accommodate future development. It must be noted that this study relates to visual and landscape impact, and that there are other important considerations (highways, wildlife, etc.) in the assessment of any application.

The application site, together with the land edged in blue on the site location plan, was considered as part of Parcel 4, part of the “Upper Soar – Broughton Astley Open Farmland” Landscape Character Area. The Landscape Capacity Study ranks 22 land parcels around Broughton Astley, finding only one (Parcel 3, south of Speedwell Drive/Foxglove Close) to be inappropriate for development in landscape terms.

The site is one part of Parcel 4, and may be considered the part most open to public and private views. The LCA states that, overall, Parcel 4 is partially contained from public views, and relatively open from private views, with no public rights of way through the parcel; is a single open grass field, of weak character in a moderate condition characterised by fragmented vegetation, edged by dense vegetation to the eastern boundary which contains the site from views. There is good scope to provide mitigation in the medium term in keeping with the existing landscape pattern. (Overall, it is stated that development on Parcel 4 would relate very well to existing built form.)

The LCA concludes that the land parcel has “high capacity” to accommodate residential development, subject to various mitigation measures, including the retention of existing landscape features and vegetation, including existing hedgerow and tree belt to the site’s southern and eastern boundaries, for screening of development, with the east and west boundary vegetation providing green corridors. Views from the existing housing to the north and Hallbrook Primary School need to be considered. The LCA states that, “buffer planting may ...be required to enclose the Primary School in the north-west corner” and that, “any development [of this parcel] would follow a similar layout style to that of the existing residential development [Geveze Way and Murray Close are mentioned] and would need to pay careful attention to the interface with these properties and the flood zone associated with the tributary of the River Soar”.

In summary, it is considered that, subject to conditions to ensure the implementation of the proposed landscaping, the current proposal would accord with the conclusions of the 2011 LCA, and therefore Core Strategy Policy CS2 insofar as it would be sustainable in landscape terms.

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## 7. Residential Amenity

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

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## 8. Affordable Housing provision

The proposal for 30% affordable housing (15 of 50 units) accords with the requirements of Policy CS3; the Council’s Housing Manager (HM) is supportive of this number, and has no objections to the proposed AH mix. It will be important to ensure that the affordable units are well designed and have the same appearance and detailing as the market housing. Therefore the proposal meets the Council’s evidence-based requirements and accords with Core Strategy Policy CS3 (d).

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## 9. Impact on medical facilities

The PCT recognises that medical care provision in Broughton Astley is in need of investment, because of issues relating to workload, standards and capacity, and advises that the existing building is of insufficient size to cater for the existing population, and projected population increases would add to this problem. The PCT recognises that there is no further capacity for

expansion of the current premises (and on occasion even has difficulty accommodating all clinical staff).

It advises that projected housing and population growth for the village will require additional staff and result in additional service demands, which can only be met by development of a new surgery. The PCT therefore requests a pro-rata capital contribution from the applicant towards the provision of this facility.

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

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:

- Leicestershire County Council's Director of Highways, Transportation and Waste Management has requested £0 towards the civic amenity site at Whetstone
- Leicestershire County Council's Library Services Development Manager, Special Projects has requested £2,900 towards library facilities in Broughton Astley
- Leicestershire County Council's Director of Children and Young People's Service has requested an education contribution of £159,417.85, split as follows: £0 (primary education); £78,655.15 (high school education); £80,762.70 (upper school education)
- Public Open Spaces – A total of £167,835.50 (off-site) OR £218,239.92 (on-site) is requested towards off-site provision, with the following breakdown: Parks and gardens £11,060 (off-site enhancement) OR £17,072.86 (on-site); Sports facilities £13,463.97 (on-site) OR £108,526.25 (new provision off-site); Children and young people £4,700.50 (off-site) OR £54,596.65 (off-site); Natural and semi-natural green space £21,567 (off-site) OR £131,849.03 (on-site) and Allotments £1,257.41 (on-site) OR £3,732.75 (off-site)
- Leicester, Leicestershire & Rutland Primary Care Trust requests £39,776.88 towards new GP/care facilities in Broughton Astley
- Harborough District Council's Housing Strategy and Enabling Manager has requested that 15 units are affordable and are divided as per above.

In addition, Leicestershire Highways would request the following (subject to confirmation, to be reported in Supplementary Information List):

- To comply with Government guidance in the NPPF, the CIL Regulations 2011, and the County Council's Local Transport Plan 3, 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 (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) £325.00 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).

- New/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.

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

- 7.1 The application site is in open countryside, though adjacent to the Limits to Development and relatively well contained by development on two sides and dense vegetation on a third, with high landscape capacity to accommodate development, and relates relatively well to the built up area. The Council is unable to demonstrate an up-to-date five year supply of deliverable sites for housing, and therefore finds support from Policy CS2(a). This is a very important material consideration that weighs strongly in favour of the proposal.
- 7.2 In the absence of a five year housing land supply, paragraph 14 of the Framework is engaged, and therefore permission granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits.
- 7.3 The site is relatively inaccessible, being sited within walking distance of only two key amenities, with only three key amenities in total within 2km. This weighs against the proposal, and recent appeal decisions demonstrate that this is a factor capable of turning a decision. In addition, the Parish Council's comments suggest this inaccessibility was one of the main reasons for its exclusion from the BANP, which adds further weight to the conclusion on this matter.
- 7.3 In addition, the proposal makes an inefficient use of land, thus conflicting with Policy CS2(b), and this weighs significantly against the proposal.
- 7.4 The application site is not allocated for development in the adopted BANP, which allocates land for 500 dwellings within the Plan period, 25% than it is required to. Factoring on completions and completions between 2006 and 2014 (approx. 69), approx. 578 dwellings would be provided over the Plan period, which is 44.5% more than the minimum of 400 required by the Core Strategy (Policies CS1, CS2 and CS16). The proposal therefore fails to accord with BANP Policy H1, and with the BANP's overall spatial strategy.
- 7.5 The Secretary of State, in dismissing the appeal for development at the adjacent site under the same land ownership, placed very substantial negative weight on the conflict between that appeal proposal and the Neighbourhood Plan, and the same scenario applies here. This site, although having previously been approved, is not allocated or even mentioned in the BANP, and the BANP's housing numbers and projections do not factor in that previous approval. This policy conflict, as confirmed by the SoS decision, weighs very heavily against the proposal.
- 7.6 The extant planning permission for 50 dwellings at the application site (12/01633/REM and 10/01579/OUT as varied by 13/00962/VAC) provides a "fall back position". The evidence provided in support of an apparent commencement of development on site falls short of demonstrating that the planning permission has been implemented. In addition, to date there has been no positive developer interest in the site, as confirmed by the applicant's agent, and the approved development has so far proven non-viable, which severely restricts its deliverability. Therefore, while the extant consent provides a fall back position weighing in favour of the proposal, the amount of weight to be attached is tempered by the fact that the extant consent is unlikely to be built out. Finally, on this matter, the Council's legal advice is that whether or not certain works have been undertaken within the site to 'make a start' is not significant.
- 7.7 The housing requirement set out in Core Strategy Policy CS16 is met by the BANP allocations at Policy H1, and taking into account completions and commitments, and setting to one side the extant consent at the application site, there is an over-provision of approx. 179 dwellings relative to the Policy CS16 requirement.



- 7.8 The proposal would provide additional community facilities, but the site's relatively inaccessible location tempers the weight to be attached to its broad compliance with Policy CS16.
- 7.9 Conclusion - The Council's housing land supply position weighs significantly in favour of the proposal, and the site's high landscape capacity also weighs in favour of the proposal. The site's relative inaccessibility weighs against the proposal, as does the proposed housing mix and the proposal's inefficient use of land, the weight to be attached to the latter two factors is reduced given the Council's housing land supply position. The proposal's conflict with the Broughton Astley Neighbourhood Plan weighs very heavily against the proposal, in line with the SoS decision on the Crowfoot Way appeal in April 2014. The proposal would contribute additional housing include affordable housing, would be acceptable in residential amenity terms, would (subject to a legal agreement) make a contribution towards a new medical centre in the village and to footpath improvements, and would not adversely affect local highway safety, drainage or ecology. The existing planning permission, extant until 1st February 2015, provides a fallback position, but its non-viability means it has not to date been delivered and deliverability remains very unlikely, and the Council's legal advice is that a start on site of a previous approval is not significant.
- 7.10 Overall, it is considered that it would be reasonable and consistent for the Council to refuse the application on the grounds that it conflicts with the spatial strategy of the BANP and that, in line with the Secretary of State's decision in relation to appeals at Broughton Astley and elsewhere, it would be reasonable to accord very substantial negative weight to this conflict. It is therefore recommended that permission be refused.

## Planning Committee Report

Applicant: Walter Ward Ltd.

Application Ref: 14/01411/FUL

Location: Land off Drayton Road, Medbourne

Proposal: Erection of 6 dwellings (revised scheme of 13/010508/FUL)

Application Validated: 15/10/14

Target Date: 10/12/14

Consultation Expiry Date: 10/12/14

Site Visit Date: 29/10/14

Case Officer: Naomi Rose

## Recommendation

Planning Permission is **APPROVED**, for the reasons and appended conditions set out in the report.

### 1. Site & Surroundings

- 1.1 The application site (hereafter referred to as the 'Site') is to the south of the village centre on the west side of Drayton Road. The site is 0.5 hectares, having a frontage of 115metres and depth ranging from 35-55metres. The site is a relatively flat undulating narrow grassy field grazed by animals, with stables to the northern end of the site and existing gated access to the sewerage pumping station and gas governor. There is a deep trimmed mature mixed roadside hedgerow, the grass verge and ditch to the road. There is an overgrown hedgerow to the field boundary at the rear of the site along the Brook.
- 1.2 The site is bounded by a Brook to the west, which is at a lower level to the application site. There are agricultural fields to the west beyond the Brook. Opposite to the east are a row of semi-detached houses. To the north is sewerage pumping station and gas governor and a compound of garages and to the south is the rest of the field, a small copse of trees and the sewerage treatment works.
- 1.3 The site is outside the village boundary and as such is designated open countryside. It is also not within a Conservation Area. The village boundary line and conservation area line follow the same path along the west side of Drayton Road, stopping north of the garages. The site is not designated Important Open land.

### 2. Site History

- 2.1 The Site has the following planning history 13/01508/FUL Erection of 8 dwellings Refused 20/12/13
- 2.2 The two reasons for refusal were:

1. The site is a significant incursion into the open countryside, and the proposed linear layout will exacerbate countryside impact having a detrimental impact upon the character and appearance of the settlement and conservation area. The proposal is therefore contrary to Policies CS2, CS11 and CS17 of the Harborough District Core Strategy.

2. The applicant has failed to demonstrate that the proposal would not detrimentally affect buried archaeological remains; the application therefore fails to comply with Policy CS11 of the Harborough District Core Strategy and paragraph 128, 129 and 135 of the National Planning Policy Framework.

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

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

- 3.1 The proposal seeks detailed planning for the erection of 6 dwellings. There are 2 x three bedroom semi-detached properties, 1 x 4 bedroom detached property and 1 x 5 bedroom detached property market housing. Plus 2 x three bedroom affordable housing units, (affordable rent/shared ownership). The two larger properties have garages; the other 4 do not have garages, but parking areas to the front and side of the proposed dwellings. The dwellings range in height from 6.7metres (Plot2) to 7.3metres high for Plot1. They are constructed of stone, brick, timber and slate there is one access point into the site, from the existing gated access to the field and sewerage pumping station to the north of the site onto Drayton Road.
- 3.2 Revision to previous refusal:
- 8 to 6 dwellings, therefore reduced the site area
  - One access point, previously 6 access points
  - Layout re-arranged
  - Archaeology report

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

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

- 3.3 The application has been accompanied by the following plans:  
Location plan 8862/6; Site plan and street scene 8862/1; Plans and elevation Unit 1 8862/2; Plans and elevations Unit 2 8862/3; Plans and elevations Unit 3&4 8862/4; Plans and elevations Unit 5&6 8862/5

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

- 3.4 The application has been accompanied by the following supporting statements:
- *Planning and Design Statement, prepared by Walter Ward Contracts Ltd. Oct 2014*
  - *Landscape and Visual Appraisal Iain Reid Landscape Planning Ltd. Oct. 2014.*
  - *Ecological appraisal*
  - *Archaeology report*
  - *Environmental Agency report*

#### **c) Amended Plans and Supporting Documents**

- 3.5 Amended documents have been submitted to address comments raised by Ecology statutory consultee. The amended documents Plans are: Site plan and street scene

8862/1A; Plans and elevation Unit 1 8862/2A; Plans and elevations Unit 2 8862/3A; Plans and elevations Unit 3&4 8862/4A; Plans and elevations Unit 5&6 8862/5A.

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

- 3.6 A public consultation and presentation of the proposal was carried out in Medbourne village hall in April 2013. Pre-application discussions have taken place with the Environmental Agency Anglian Water and LCC Highways. The Council Officer has engaged in pre-application and post-application advice.
- 3.7 Prior to submitting the second planning application, the applicant held a formal post-application discussion with officers of the Council. Officer's advised the applicant to submit archaeology and landscape visual assessment to address the reasons for refusal. Also the Council no longer had a 5 year housing land supply, which would be a key determining factor in the determination of the application.

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

- 4.1 Consultations with technical consultees and the local community were carried out on the application, these are set out below:

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

- 4.2 *Highway Authority:*  
*No objection, subject to conditions to parking, drainage, footpath construction, access width and surfacing*
- 4.3 *Leicestershire County Council (Ecology):*  
*Following receipt of the revised plans showing a 5 metre buffer to the Brook, the County Ecology section has no objection. The existing vegetation should be retained and any new should be native. The ecology survey submitted in support of the application (Eco-location, September 2013) found no evidence of protected species on site. The revised layout includes a 5m buffer zone between the brook and the development. Request that the following are incorporated into a condition(s) of the development:*
- *The 5m buffer must be managed as natural open space. Consideration must be given to this long-term management.*
  - *The post and rail fence identified on plan (8862/1A) must be retained.*
  - *The buffer zone must not be used as garden.*
  - *The 5m buffer zone must be established from the top of the existing eastern bank of the brook.*
  - *The above must be retained and managed appropriately, even through changes of ownership.*
- 4.4 *Leicestershire County Council (Archaeology):*  
*No objection, subject to conditions relating to development details and written scheme of investigation*
- 4.5 *Environment Agency:*  
*As the site is less than 1 ha of new development in zone 2, the application falls to be considered under Flood Risk standing advice, note to applicant regarding flood defence consent*
- 4.6 *Environmental Health (HDC):*  
*No comment*
- 4.7 *Strategic Housing Officer:*

*40 % requirement is equal to 2 units to be provided as affordable units (2x 2 bed room preferred.) The Waterloo Group (one of our Partner RP's) has agreed to take these units. They will consider taking both as affordable rent, or both as shared ownership or a mix of both. The tenure is to be agreed with the RP at a later date.*

- 4.8 Western Power:  
*Note to applicant regarding construction close to equipment*
- 4.9 English Heritage  
No comment
- 4.10 Parish: (1) should the Council judge the previous refusal is no longer relevant and accords with policy-no objection to the principle of development (2) if the Council decides the application is in accordance with policy and the type and size of housing is acceptable the Council has the following comments (a) greater diversity of materials that would fit in with the vernacular of the village (b) further diversity of food lines and pitch (c) 2 cottage style properties look too similar and modular in appearance, like to see a change in design details (3) ecology buffer zone should be a condition (4) include biodiversity enhancements within the site (4) introduce traffic calming measures (5) Pleased to see the site served by a single access point (6) flooding issues.

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

- 4.11 47 letters of objection/comment were received (16 from addresses outside Medbourne). A summary of the representations received is outlined below:

Highways, one bus a week, village unable to take the extra traffic, lack of parking will result in parking on both sides of the road, the massive agricultural vehicles that drive through will plough into the cars, traffic on Drayton road already a problem, the location and scale of proposal would have a significant impact upon highway safety, extra traffic and difficulty of access will affect the whole village, access on a bend, route to Bringhurst school,

Countryside- should not build on open countryside, outside the development line, from Drayton the view across the valley takes you into the Village, should build infill development, blot on the landscape, on the way out of the village the paddock affords long reaching views over the Welland Valley, urbanise entrance to village and the village, the area has a strong aesthetic relationship with open countryside given the field is the start of around 8 fields of the Welland Valley that climb up to the ridge.

Design, disparity between the existing modest houses well set back from the road and the new imposing houses, the builder previous built houses in the village in non local materials, large and out of character, not suitable site or size, massive house will have the effect of closing down the landscape and view of the Welland valley, detrimental to the settlement, in size design and massing, 6 dwellings is a large development, site looks narrow for such a development, effectively an estate on land outside the village, loss of privacy.

Heritage- entrance to conservation village, alter the character of the village, conservation statement says this field and other are important, Medbourne is a special place it attracts tourists and walkers, Important conservation village as such its approaches are an integral part of its attraction/visual amenity,

Other- flood risk as the field is a flood plain, the field has flooded many times, standing water in the winter, we should have a neighbourhood plan after full local consultation, until this we should oppose all development, limited local services (post office shop and

PH), services have gone down, nursery school is moving out, important local green space, no evidence of housing need in the village, site has a wide variety of wildlife with the paddock/brook, , should not be judged as the same as Houghton which is also an SRV but with better transport links, next to sewerage treatment works.

- 4.12 205 signatory petition of objection (same petition as before, more signatures added to, approx.. 114 addresses outside Medbourne, title refers to development of the site in principle.

- 4.13 Planning and transport Advice (Bettina Lange on behalf of SaveMedbourne)  
The points raised are: (1) 6 dwellings constitutes 3 years worth of housing requirement in medbourne (2) Council need to assess housing need, in particular affordable housing, (3) proposal would make a negliable contribution to the 5 year supply (4) Medbourne embodies the unique rural character aas ststed in CS1 (5) can't compare Medbourne to Houghton another SRV (6) proposal will alter the settlement form as a whole (7) the private feeder road is a suburban concept not one found in villages (8) neighbourhood plan in being prepared (9) pre-school is moving, no health centre, restaurant closed (10) view from footpath on Drayton Road offers a mix of pastoral feel of the paddock which leads on through the hedge at the rear to a far reaching landscape of 8 arable fields gently sloping upwards to the ridge of the Welland Valley (11) from the top of Sutton Hill there are views of Drayton Road from 2.8miles (12) existing houses are modest and set back which enhances the character of the road (13) due to the curve of the road on entering the village from Drayton to the view on the right (left?) of the sweep of the Welland valley and the pastoral scne of the paddock (14) the development obstruct the view of the valley/ridge which gives the village its geographical context (15) Welland Valley Character assessment uses mostly Medbourne images recognises that Medbourne is not suitable for development (16) views, gentle approach and openness would all be compromised (17) Area is tranquil (18) the magnitude of landscape effects is high (19) historically village playground close to Roman Road and listed buildings (20) Plot 1 due to its siting would be overwhelming and restrictive (21) design is suburban and repetitive (22) flood risk, no sequential test carried out threat to wildlife.

- 4.14 6 letters of support a summary of the representations received is outlined below:

(1) Improvement on previous application-no thatched roof, service road addition will reduce parking/traffic impact upon Drayton Road, reducing the site area, use of farmhouse, and farmworkers cottages is in keeping with that part of Medbourne. Pleased to see the allotment are gone would have been an eyesore, (2) enhance the village approach, (3) whilst the development is outside the village envelope it is clearly within the village, (4) now that the flood defence scheme has proved so reliable flooding is unlikely to be a problem, (5) design fitting for village (6) Medbourne requires additional housing stock therefore question is what form should this take (6) affordable housing provision welcomed (7) small scale development enhance the village.

## **5. Planning Policy Considerations**

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

### **a) Development Plan**

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

5.3 The DP for Harborough comprises:

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

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

○ *Harborough District Core Strategy*

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

5.6 As this application is for the erection of dwellings in open countryside, Policy CS2, CS11 and CS17 are considered most relevant. Plus policies CS5 (providing sustainable transport), CS8 (Protecting and enhancing green Infrastructure) and CS10 Addressing flood risk).

5.7 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*". Policy 1 sets out a series of criteria that the Council considers necessary in order to achieve the objectives of the spatial strategy to 2028.

5.8 Policy CS2 deals with delivering new housing and advises that the District's total housing requirement of 7,700 dwellings will be provided in sustainable locations, such as Fleckney is defined as a rural centre. Within rural centres and villages at least 2,420 dwellings are proposed. The up to date figure for additional houses that remain to be planned for in rural centres is 429 (March 2012).

5.9 Policy CS2 (a) states that limits to development boundaries around settlements will be used to shape their future development. Housing development will not be permitted outside limits of development 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. All housing should be of the highest design standard and have a layout that makes the most efficient use of land and is compatible with the built form and character of the area.

5.10 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, the proposal should be subordinate in scale, form and design to the main building, it should not have a detrimental effect on the visual amenities of the surrounding area, it should not have a detrimental impact upon the Character and Appearance of the Conservation Area, the building/wall to be demolished should not have make a positive contribution to the Character and Appearance of the Conservation Area and it must not result in a sub-standard level of on-site parking.

5.11 Policy CS17 deals with development in the countryside and rural village and centres. Medbourne is a rural village housing will be on a lesser scale reflecting their size, character and service provision. Rural centres are the focus of additional housing beyond that already built or committed.

## **b) Material Planning Considerations**

### *o The Framework*

- 5.12 The Framework published March 2012, replaces previous national guidance set out set in Planning Policy Guidance and Planning Policy Statements.
- 5.13 The overarching policy objective of the Framework is the 'presumption in favour of sustainable development'. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 7). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system (para. 8). The presumption in favour of sustainable development is seen as the 'golden thread' running through plan-making and decision-taking (para.14)

Section 4: concerns promoting sustainable transport.

Section 6: addresses delivering a wide choice of high quality homes, which explains supply of housing, mix density.

Section 7: requires good design which highlights the need for high quality and inclusive design for all development.

Section 8: promotes healthy communities.

Section 10: addresses Climate change, flooding and coastal change.

Section 11: is concerned with conserving and enhancing the natural environment.

### *o National Planning Practice Guidance*

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

### *o New Local Plan*

- 5.15 On 3 December 2012, the Council resolved to prepare a new Local Plan for Harborough District. The new Local Plan will incorporate a focused review of the Harborough CS (adopted in November 2011) and will also identify key areas of land for development, thereby obviating the need for an allocations plan.
- 5.16 The new local plan scoping consultation was completed in April 2013, and the current timetable is for the pre-submission consultation to take place in summer 2015, with an examination timetabled for January 2016. It is envisaged that the plan will be adopted in May 2016.
- 5.17 The Scoping Consultation noted that the Plan Period would be extended to 2031 and that an increase in the annual housing requirement was likely. The Scoping Consultation also set out the Council's intention to replace the Limits of Development around existing settlements in the District with a criteria based policy to determine applications for new housing on non-allocated Sites on the edge of settlements.

### *o Supplementary Planning Guidance*

- 5.18 A series of guidance notes were adopted as Supplementary Planning Guidance (SPG) to the Harborough District Local Plan in March 2003. They cover a range of topics relating to layout and design issues. Council agreed to retain the said SPGs and link them to CS policies as applicable, until a new Supplementary Planning Document is produced. SPG's 2 and 3 (residential housing developments) are particularly relevant.



- *5 Year Housing Land Supply Statement*
- 5.19 The Council produces bi-annual monitoring reports on the level of housing supply within the District. These reports include a five year housing land supply calculation and a housing trajectory for the remainder of the DP period. The latest report covers the period from 1st April 2014 to 31st March 2019.

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

5.20 The following documents are also of relevance in determining this application:

- *Harborough Housing Requirements Study (2013 GL Hearn)*
- *Strategic Housing Land Availability Assessment (2014)*
- *Strategic Housing Market Assessment (2014)*
- *Harborough Landscape Character Assessment 2007*
- *Medbourne Parish Plan 2004*

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

- 5.21 Planning for Growth (Ministerial Statement March 2011)  
Affordable Housing contribution (Ministerial Statement Nov 2014)
- 5.22 This application is to be determined by Planning Committee because of the level of community interest.

### **6. Assessment**

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

- 6.1 Policy CS2 (a) states that development will not be permitted outside of the Limits to Development unless there is less than a five year supply of housing. 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.
- 6.2 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.
- 6.3 Policy CS2 is considered out of date in terms of housing figures, therefore if the identified harm of this proposal significantly and demonstrably outweighs the benefits, planning permission should be granted. . The scale of the development at 6 dwellings is considered to be appropriate for the size of the village.

- 6.4 Policy CS17 states that rural centres are the focus for development. Medbourne is an identified sustainable rural village (at least 2 services—public house, post office and food shop), therefore some additional development will take place within and on the out-skirts of the village. As stated in the previous paragraph at the heart of the Framework is the presumption in favour of sustainable development.
- 6.5 The site is identified in the Strategic Housing Land Availability Assessment (SHLAA) and considered deliverable in the next 6-10 years. The Local green space issue is a separate matter and not adopted policy. The village is starting to embark on a Neighbourhood Plan. A Screening Opinion was not required as the site does not exceed 0.5ha.
- 6.6 Since the Ministerial Statement at the end of November 2014 on affordable housing provision on sites of 10 or less dwellings. The Council have decided to fully support this policy change, therefore this site no longer needs to provide 2 affordable housing units, this issue now has limited weight.

## **b) Technical Considerations**

### **1. Landscape and Visual Impact**

- 6.7 The proposal is a significant incursion into the open countryside. The revised application seeks to address the previous concerns raised with the original application. As such the long linear frontage extending south has been reduced in length, the house layout made more varied and the siting of the dwellings set further back from the road frontage from 6.5 to 20.5metres. Also the road side hedgerow is to be retained and existing planting along the Brook will be retained and re-enforced.
- 6.8 The design concept as detailed in the Planning and Design and Statement states that the proposed development has been conceived as a series of separate incremental developments rather than a single entity. Plot 1 to the south of the site is designed as a typical Leicestershire farmhouse, at 90 degrees to the road its main frontage faces south and presents a formal elevation to the village. Plot 2 is like an original farm building converted to a dwelling. Plots 3-6 are seen as later additions to the built form.
- The Harborough District Landscape Character Assessment 2007 (HDLCA) Atkins
- 6.9 The assessment identifies the application site as within the Welland Valley Landscape Character Area. The key characteristics are: gently meandering river in wide and shallow valley; little tree cover; pasture on the floodplain; arable farming on the valley sides. The capacity of the LCA to accept development is medium meaning an area able to accommodate development or change with some degradation of existing landscape character. Areas further away from Market Harborough within more rural areas have lower levels of capacity to accommodate development. Mitigation measures would be required to address adverse landscape impacts.
- Landscape and Visual Appraisal Iain Reid Landscape Planning (Oct 2014)
- 6.10 The applicants Landscape and Visual Appraisal concludes that it is an unexceptional area of agricultural land. The site contains no landscape character features of local or district importance, although the Brook is important in terms of ecology. The proposal would change the character of the assessment site from an undeveloped site to a low density built residential development. The development of the site would give rise too slight to moderate landscape effect in respect of landscape receptors (land use, topography, landscape character, vegetation).
- 6.11 The Appraisal also concludes that the visibility of the application site is limited by built development and surrounding landform to the east, north and west. Overall, the

development of the site would give rise to Major/moderate upon properties on the east side of Drayton Road, however, these are private views therefore have limited weight. For Rights of Way and other roads the visual affect is slight. The principle visual effect is along Drayton Road, where views are from a relatively short section of Drayton Road. In these views development on the assessment site will change to a limited extent the form and hence the impression of the southern edge of the village of Medbourne, but will not adversely affect the physical relationship of the village to the Welland valley. The retention of existing hedgerow and new and enhancement of planting to the boundaries will improve the existing settlement edge.

6.12 Officer comment

The Harborough District Landscape Character Assessment does not focus on Medbourne, there the Councils landscape evidence base is limited. There are very limited views of the site from a medium to long distance, any views are mostly from private land. Rights of way (B59 to the n/e, B34 to the west) beyond the site and roads out of Medbourne are some distance away and have far or no views of the site. Primarily views are at close range, along Drayton Road. From the village centre and from Drayton village the views of the site are not evident until very close to the site due to the road alignment and built form.

- 6.13 From the north of the site, Brook Cottage is the last dwelling on the west side of Drayton Road. A single storey building, and due to its siting set well back from the road and single storey height is not a prominent building in the street scene. Indeed the view along this side of the street from the junction is primarily is open and rural in appearance. The garaging and pumping station are lower than the road and hidden by a hedgerow, therefore the appearance of open countryside and views of open countryside begins well before the application site. As a result the proposed development appears detached and separate from the built form of the village. However, the existing houses opposite, means the proposal does not appear entirely separate from the villages built form. Also the significantly gap allows views of open countryside to penetrate into the village, it continue to define the historic character of the village and does not impinge upon the conservation area.
- 6.14 Policy CS17 (c) (v) where all development in the rural area should contribute to safeguarding important views. The site is not within the conservation area and indeed it does not abut the area, which is along the northern boundary of the garages. However, the view of the village from the south is of open green field and views of the historic village beyond. This vista of the conservation area on entering the village would be lost as a result of the proposal. However, as you go along the road, the gap between the proposal and Brook Cottage provides views of the conservation area and the rest of the settlement.
- 6.15 The character of the village is of development along roads out of Medbourne in linear form, it is evident along Main Street and Hallaton Road. The Conservation area Character statement its states that The Medbourne Brook flows predominantly through the village centre. The juxtaposition of the Brook with roads and open space is characteristic of the village, notably where it runs alongside the Drayton Road. Prior to the application site the brook flows close to the Road, at the point of the application site the Brook is some distance from the road.
- 6.16 The design concept of two parcels of development with 3 styles of dwelling, creates an varied small scale residential development in keeping with Medbourne village. Whilst Plot 1 is wide, the heights of the dwellings are only 6.7 to 7.3 metres high, plus 300mm for the flood plain issue. This means these are not high dwellings, and given the set back position will not dominate the street scene. The design features on the dwellings and use of materials (ironstone, and slate) is high quality and in keeping with the

character and appearance of the village. Therefore it is considered that the revised scheme, with the additional information provided, on balance does not adversely affect the settlement and conservation area and as such conforms to Policies CS2, CS11 and CS17 of the Core Strategy.

## 2. Residential Amenity

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- 6.17 The proposal is separated by some distance from nearby neighbours, opposite approx. 44metres and Brook Cottage by 98 metres. It complies with the amenity distance guidance, therefore there is no adverse impact upon existing neighbours amenity. The garden sizes of the proposed dwellings are ample and the relationship with proposed dwellings is also acceptable. The sewerage works to the south of the application site are no closer to the proposed development than the existing dwellings. The proposal therefore does not adversely affect existing and proposed residents and as such is in accordance with Policy CS11 of the Harborough District Core Strategy.

## 3. Heritage

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- 6.18 No7 Brook Terrace (Bridgedale Farm) is a substantial Grade 2\* listed building. It is considered that the separation distance (62m) between the proposed housing and listed building, means the proposal does not adversely affect the setting of the listed building, as such the proposal conforms with Policy CS11 of the Harborough District Core Strategy.

## 4. Archaeology

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- 6.19 The Leicestershire and Rutland Historic Environment Record (HER) shows that the application site lies within an area of significant archaeological interest. To the immediate west of the application site, extensive remains of Roman and prehistoric settlement have been recorded (HER ref: MLE2005, 2013, 2030, 2031, 2033, 2034, 7514, 18339), with further sites recorded to the east and south-east (MLE2062, 2063, 2066, 7040, 7515). Medbourne Roman town (MLE2005) lies c.120m to the west and associated archaeological remains may continue into the proposed development site. A Roman road associated with this settlement crosses the Medbourne Brook in close proximity to, or within, the application site (MLE2292). A second Roman road is thought to run to the east of the site (MLE2067) and is likely to continue to Medbourne Roman town, possibly through the application site, although its precise route is currently uncertain.
- 6.20 Although there has been some minor previous disturbance to the site from a water pipeline, it is considered that archaeological remains will have survived undisturbed outside the immediate impact of the pipe trench. We consider that this site has a very high potential to contain highly significant archaeological remains and that a programme of archaeological evaluation is required to confirm the nature, extent and significance of these remains prior to determination of this application.
- 6.21 An Archaeology evaluation has been carried out following the refusal of the previous application. This involved digging and investigating 6 trial trenches on site. The conclusions were that the site yielded a low density of archaeology revealing undated alluvial palaeo deposits, a possible pond and post medieval stone drain. No evidence of significant settlement or archaeological activity was identified; any remains are likely to be at least 1.5m deeper than current ground levels, therefore unlikely to be impacted upon.
- 6.22 The County Archaeologist stated that the submitted Archaeological Trial Trench Evaluation report (PCA, September 2014) is welcomed and demonstrates the presence

of significant palaeo-environmental deposits. Although currently undated, there is a possibility that these deposits date to the Mesolithic period and could lead to a significant increase in our knowledge of this period. These deposits were largely present at depths of 1.5m+ below current ground level. However, it was notable that the current ground level fluctuated, with significantly lower ground being present in areas adjacent to the road, and thus there is a possibility that the older deposits will be closer to the surface in some areas.

- 6.23 At present there is no information about the depth and extent of proposed ground impacts, including foundations, drainage and services, to ascertain whether the palaeo-environmental deposits would be affected. If so, it would be appropriate to undertake further archaeological investigation to record their extent and date, which may include the need for scientific analysis such as radiocarbon dating. However, these concerns can be adequately addressed by way of suitably worded conditions.

## 5. Flooding

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- 6.24 The site is in flood zone 2, The Environment Agency commented that since the proposed development is for less than 1 hectare of new development in Flood Zone 2, from a flooding perspective, the application falls under the Agency's Flood Risk Standing Advice (FRSA), which states a sequential test and flood risk assessment should accompany the application, and meets the requirements of the Flood risk assessment form submitted by the applicant.
- 6.25 The flooding sequential test applies to the current proposal. It requires consideration of whether there are no other reasonably available sites at lower risk of flooding where the proposal could be located. The applicant has not undertaken this exercise. The council is not aware of any other comparable sites, therefore would not recommend refusal on this basis.
- 6.26 The flood risk assessment form states the finished floor levels (63.50m AOD) are 830mm above the 1 in 100 river flood (62.67m AOD), and 680mm above 1 in 1000 year flood level (62.82m AOD). The flood level information was provided by the Environmental Agency. This accords with the advice on the form that requires minimum ground floor levels to be 600mm higher than 1 in 100 annual probability river flood. On the site plan the FFL are from 63.55 to 63.70, due to the ground level variation. Indeed the flood level data is below the ground level. It is also proposed to implement sustainable drainage systems for run off from roofs, through a combination of water butts, sub surface filled storage tanks and soakaways and to use permeable paving/surfacing to allow for ground water re-charging. This information is considered to address the flooding concerns and as such the proposal conforms with Policy CS10 of the Harborough District Core Strategy.

## 6. Ecology

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- 6.27 The applicant has submitted an ecology survey covering habitat survey and connectivity, species (land and water based). The LCC Ecology noted the revised proposed development retains a 5m buffer between the plot boundaries and the Medbourne Brook. The nature buffer should retain existing vegetation along the length of the boundary as it will ensure that the biodiversity value of the corridor is retained. If there are additional proposals for planting we would recommend that all species used in this buffer are native. The ecology survey submitted in support of the application (Ecolocation, September 2013) found no evidence of protected species on site.

## 7. Highways

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- 6.28 The single access point at the northern end of the site that serve all the dwellings, will link up with the pavement opposite. The Highways Officer has no objection to the proposal subject to conditions relating to parking, drainage, footpath construction, access width and surfacing. The application is therefore considered to be in accordance with Policy CS5 of the Harborough District Core Strategy.

### **c) Planning Obligations**

None

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

- 7.1 The site does not adversely affect residential amenity, highways, ecology, flooding and archaeology interests. However, whilst the site is an incursion into the open countryside and would affect views of the conservation village. Given the revised scheme, lack of a 5year housing land supply, limited visual and landscape impact, it is considered that the harm does not have a significant and demonstrable out weigh the benefits of the proposal. The proposal therefore conforms with Policies CS2, CS11 and CS17 of the Harborough District Core strategy.

## **8. Planning Conditions**

- 8.1 Recommended planning 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. This consent relates to the application as amended by revised plan no. location plan; Site plan and street scene 8862/1A; Plans and elevation Unit 1 8862/2A; Plans and elevations Unit 2 8862/3A; Plans and elevations Unit 3&4 8862/4A; Plans and elevations Unit 5&6 8862/5A. attached to and forming part of this consent.

REASON: For the avoidance of doubt.

3. 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.

4. No development shall commence on site until a detailed design and method statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include existing and proposed ground levels, layout and depths of all foundations, service trenches, drains, landscaping and other groundwork's, and all revisions of such. Thereafter the development shall be implemented in accordance with the approved details and shall be retained as such in perpetuity.

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

5. No development shall take place/commence until the aforementioned development details have been assessed and an appropriate programme of archaeological mitigation work, including a Written Scheme of Investigation, has been submitted to and approved by the District Planning Authority in writing. No development shall take place other than in accordance with the approved archaeological Written Scheme of Investigation.

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

6. No development shall commence on site until a landscape management plan for the 5 metre buffer zone (natural open space), including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, 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 the establishment and management of the landscaped areas and to accord with Harborough District Core Strategy Policy 11

7. The existing hedgerow on site shall be retained and in no way disturbed.

REASON: To ensure that the existing hedgerow(s) on the site can be retained, to enhance the development and to safeguard the appearance of the area and to accord with Harborough District Core Strategy Policy CS11.

8. The 5 metres buffer zone starts from the top of the existing eastern side of the Brook, shall not be used as a residential garden and the post and rail fence identified on plan 8862/1A shall be retained.

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

9. 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, together with measures for their protection in the course of development;
  - (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;
  - (f) hard surfacing materials;
  - (g) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
  - (h) retained historic landscape features and proposed restoration, where relevant.
  - (i) 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.

10. 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.

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

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

REASON: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users and to accord with Leicestershire County Council 6Cs Design Guide.

13. Before first use of the development hereby permitted/occupation of the/any dwelling, 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 XXX 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.

14. Before first use of the development hereby permitted, the vehicular access to the site shall be widened to an effective minimum width of X metres over a distance of at least X metres behind the Highway boundary. The access drive once widened shall be so maintained at all times.

REASON: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway and to accord with Harborough District Core Strategy Policy CS11.



## Planning Committee Report

**Applicant:** Mr D. Chapman

**Application Ref:** 14/01438/FUL

**Location:** 1 Andrews Close, Leire.

**Proposal:** Erection of one detached dwelling (revised scheme of 14/00488/FUL).

**Application Validated:** 22/10/14

**Target Date:** 17/12/14

**Consultation Expiry Date:** 27/11/14

**Site Visit Date:** 06/11/14

**Case Officer:** Louise Finch

### Recommendation

Planning Permission is **APPROVED**, for the reasons and appended conditions set out in the report, subject to:-

- (i) The proposed conditions set out in Appendix A.

### 1. Site & Surroundings

- 1.1 The application site relates to garden land to the east of a 1970's detached dwelling located on the northern side of Andrews Close (No 1), at the northern end of Broughton Lane in Leire. The disused railway embankment is located to the immediate north of the site. The attached garage to 1 Andrews Close previously formed part of the site (now demolished).
- 1.2 The site has a spacious feel with a copse of trees directly to the east. Part of the rear garden comprises part of the railway embankment.

### 2. Site History

- 2.1 The Site has the following planning history
- 2.2 71/00157/LRDC Erection of 6 dwellings and access (app)  
73/00238/LRDC Erection of dwellings and formation of access (app)  
90/01997/3P Change of use, alterations and extensions to provide residential care home for elderly (refused)  
13/01828/FUL Certificate of lawfulness for the existing use of land as residential curtilage (refused-allowed following an Appeal)  
13/00685/FUL Erection side extension and hardstanding (app)  
14/01438/FUL Erection of detached dwelling (refused)
- 2.3 The dwelling proposed under reference 14/01438/FUL had dimensions of 18.9m in length, 10m maximum depth and height of maximum 8.2m. It was refused for the following reason:

“ By virtue of the siting, design and layout, the proposal would harm the established character of the area as it would appear incongruous, over dominant and cramped and would therefore be out of keeping with and would fail to respect and enhance the local character contrary to Harborough District Core Strategy Policies CS2(b) and CS11 and Harborough District Local Plan Policy HS/8.”

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

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

- 3.1 The proposal seeks detailed planning for the erection of one dwelling with integral garage. The width of the house is 15.1m, with a maximum depth of 10.7m and height of maximum 7.2m, with the garage (with accommodation over) at a height of 5.2m. The design reflects the general characteristics of the host property with the fairly shallow pitched roof and 1970's style. The property is set back from the back of the pavement by a maximum of 5m tapering down to 1m.
- 3.2 A double garage is shown and a double drive with minimum depth of 5m.

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

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

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

Proposed layout and elevations.  
Existing layout plan.

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

- 3.3 The application has been accompanied by the following supporting statements:

- *Planning Statement, from the Applicant and further supporting information.*

This Statement sets out the planning policies and guidance of particular relevance to the development proposals. It identifies the extent to which the proposed development complies or conflicts with relevant policies

#### **c) Amended Plans and Supporting Documents**

- 3.4 A brief report by a structural engineer has been submitted by the Applicant to address comments raised on the planning application by and the wider community which states "the construction of foundations for the new dwelling will not adversely affect the stability of the disused embankment even in the short term."

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

- 3.5 Prior to submitting the planning application, the applicant held a pre-application discussion with officers of the Council. Officer's advised the applicant that in order to overcome the previous reasons for refusal the scheme should be reduced in size and should be designed so as to be in keeping with its surroundings.

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

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

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

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

##### **Ecology:**

We note from a previous application on the site (12/01828/CLU) that the vegetation on the railway embankment has recently been cleared. We would therefore have no comments on this application.

##### **Environmental Services:**

Condition recommended.

##### **Highways**

Conditions recommended, to include provision of 3 parking spaces, hard surfacing, garage door set-back, pedestrian visibility splays,

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

No comments received

Previously raised no objection

##### **LCC Archaeology:**

(Previous comments in relation to 14/00488/ful)

We have checked the site against the Leicestershire & Rutland Historic Environment Record (HER) and do not feel that any archaeological work is required as part of the scheme. However, we note that the application site appears to extend across the former Midland Counties Railway line (HER ref: MLE16079) and would recommend ensuring that the structural stability of the associated railway bridge crossing Broughton Lane (HER ref: MLE21159) is not affected by the proposals.

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

##### **4.5 Parish-objects:**

Outside limits to development

Could compromise the railway cutting which is a heritage feature.

Loss of privacy to neighbours

Not in keeping.

Concerned about traffic.

- 4.6 **10 letters (including emails) of objection** were received in response to the initial consultation process. A summary of the representations received is outlined below:

Partly outside limits to development.

Has not changed dramatically since previous. Gross over development, out of keeping, too close to pavement, inadequate space round dwelling. Only in keeping with host property, not rest of close.

Loss of privacy

Parking concerns

Not infill, as no properties to other side.

Damage to embankment and concerns about structural stability and impact on historical feature.

Parish have covenant to access embankment.

Building over sewer.

Consider the proposal contravenes numerous Core Strategy and Framework policies.

4.7 **8 letters of support (2 from relatives)** and all but one from outside of the village.

Needs to be more houses for families in villages.

In keeping with the mixed character of village.

Minimal impact on village/countryside.

## **5. Planning Policy Considerations**

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

5.3 The DP for Harborough comprises:

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

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

### ○ *Harborough District Core Strategy*

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

5.6 As this application is for the erection of a dwelling within the village of Leire but partly outside the limits to development, Policy CS2, CS11 and CS17 are considered most relevant. Plus policies CS5 (providing sustainable transport), CS8 (Protecting and enhancing green Infrastructure) and CS10 Addressing flood risk).

5.7 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*". Policy 1 sets out a series of criteria that the Council considers necessary in order to achieve the objectives of the spatial strategy to 2028.

5.8 Policy CS2 deals with delivering new housing and advises that the District's total housing requirement of 7,700 dwellings will be provided in sustainable locations, such as Ullesthorpe is defined as a rural centre. Within rural centres and villages at least 2,420 dwellings are proposed. The up to date figure for additional houses that remain to be planned for in rural centres is 429 (March 2012).

- 5.9 Policy CS2 (a) states that limits to development boundaries around settlements will be used to shape their future development. Housing development will not be permitted outside limits of development 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. All housing should be of the highest design standard and have a layout that makes the most efficient use of land and is compatible with the built form and character of the area.
- 5.10 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, the proposal should be subordinate in scale, form and design to the main building, it should not have a detrimental effect on the visual amenities of the surrounding area, it should not have a detrimental impact upon the Character and Appearance of the Conservation Area, the building/wall to be demolished should not have make a positive contribution to the Character and Appearance of the Conservation Area and it must not result in a sub-standard level of on-site parking.
- 5.11 Policy CS17 deals with development in the countryside and rural village and centres. Leire is not an identified rural village or rural centre and Policy CS17 A) states that villages not identified, but with Limits to development, may be suitable to receive very limited small scale infill development.
- 5.12 Saved Local Plan Policy Saved policy HS/8 also requires that; 'The design and layout of the development is in keeping with the scale, form, character and surroundings...'.  
b) Material Planning Considerations
- *The Framework*
- 5.12 The Framework published March 2012, replaces previous national guidance set out set in Planning Policy Guidance and Planning Policy Statements.
- 5.13 The overarching policy objective of the Framework is the 'presumption in favour of sustainable development'. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 7). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system (para. 8). The presumption in favour of sustainable development is seen as the 'golden thread' running through plan-making and decision-taking (para.14)
- Section 4: concerns promoting sustainable transport.  
Section 6: addresses delivering a wide choice of high quality homes, which explains supply of housing, mix density.  
Section 7: requires good design which highlights the need for high quality and inclusive design for all development.  
Section 8: promotes healthy communities.  
Section 10: addresses Climate change, flooding and coastal change.  
Section 11: is concerned with conserving and enhancing the natural environment.
- *National Planning Practice Guidance*
- 5.14 The National Planning Practice Guidance (hereafter referred to as the NPPG) published 6th March 2014 replaces a raft of previous planning guidance documents that have been cancelled as part of the Government's drive to simplify the planning process.
- *New Local Plan*

- 5.15 On 3 December 2012, the Council resolved to prepare a new Local Plan for Harborough District. The new Local Plan will incorporate a focused review of the Harborough CS (adopted in November 2011) and will also identify key areas of land for development, thereby obviating the need for an allocations plan.
- 5.16 The new local plan scoping consultation was completed in April 2013, and the current timetable is for the pre-submission consultation to take place in summer 2015, with an examination timetabled for January 2016. It is envisaged that the plan will be adopted in May 2016.
- 5.17 The Scoping Consultation noted that the Plan Period would be extended to 2031 and that an increase in the annual housing requirement was likely. The Scoping Consultation also set out the Council's intention to replace the Limits of Development around existing settlements in the District with a criteria based policy to determine applications for new housing on non-allocated Sites on the edge of settlements.
- *Supplementary Planning Guidance*
- 5.18 A series of guidance notes were adopted as Supplementary Planning Guidance (SPG) to the Harborough District Local Plan in March 2003. They cover a range of topics relating to layout and design issues. Council agreed to retain the said SPGs and link them to CS policies as applicable, until a new Supplementary Planning Document is produced. SPG's 2 and 3 (residential housing developments) are particularly relevant.
- *5 Year Housing Land Supply Statement*
- 5.19 The Council produces bi-annual monitoring reports on the level of housing supply within the District. These reports include a five year housing land supply calculation and a housing trajectory for the remainder of the DP period. The latest report covers the period from 1st April 2014 to 31st March 2019.
- c) Other Relevant Documents
- 5.20 The following documents are also of relevance in determining this application:
- *Harborough Housing Requirements Study*
- 5.21 The Harborough Housing Requirements Study was carried out by independent consultants GL Hearn in March 2013, on behalf of the Council to assess future housing requirements in the District over the period 2011-2031.
- Strategic Housing Land Availability Assessment (date)
  - *Harborough Landscape Character Assessment 2007*
- d) Other Relevant Information
- 5.24 Planning for Growth (Ministerial statement March 2011)  
Affordable Housing contribution (Ministerial Statement Nov 2014)
- 5.25 This application is to be determined by Planning Committee because of the level of community interest.

## **6. Assessment**

## **a) Principle of Development**

- 6.1 Policy CS2 (a) states that development will not be permitted outside of the Limits to Development unless there is less than a five year supply of housing. 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.
- 6.2 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.
- 6.3 Policy CS2 is considered out of date in terms of housing figures, therefore if the identified harm of this proposal significantly and demonstrably outweighs the benefits, planning permission should be granted.
- 6.4 The site is a greenfield site partly within the limits to development of Leire (the limits cut through the rear garden such that the rear portion of the dwelling would be outside of the limits). The principle of new housing in this location may be acceptable subject to it being considered limited infill and meeting the criteria outlined below . Under the latest government guidance NPPF there is a presumption in favour of sustainable development unless there is demonstrable harm caused. Thus, the fact that the limits were breached would not be a reason in itself for refusing the application unless " significant harm" resulted.

## **B) Technical Considerations**

### **1. Design and visual impact**

- 6.5 The application is considered in particular light of Policy CS11 of the Core Strategy which seeks to promote good design; 'Development should be inspired by, respect and enhance local character, building materials and distinctiveness of the area in which it would be situated.'
- Saved policy HS/8 also requires that; 'The design and layout of the development is in keeping with the scale, form, character and surroundings...'. The site is not in a Conservation Area but is a prominent edge of village plot.
- Part c) refers to specific design principles including;
- iii) that development is of a scale, density and design that would not cause damage to the qualities, character and amenity of the area.
- And v) reflect the street scape in which they are situated and include appropriate landscaping where appropriate.
- In this case the property has been reduced since the previous submission and is now of a similar height and design to the host property. The key change is the reduction in frontage size by 3.8m and the height and bulk of the property, particularly with the lower aspect over the garage. Whilst the development on the other side of the close is relatively dense the Close is viewed as a cohesive development with the application plot providing views through to the railway embankment and wildlife corridor and copse of trees adjacent. The dwelling would have an impact on the quality and character of that street scene but the reduction in size would allow some views of the copse and embankment to be retained and, on balance, the proposal would be in keeping with the

host property and close as a whole. Whilst not identical, the scale, design and proportions are not considered to result in demonstrable harm to the street scene or village as a whole, which has a mixed character with varying styles of architecture.

## **2. Highways**

- 6.6 The property provides 2 parking spaces and double garage (6m by 6m). Whilst it is appreciated that garages are not always used for parking purposes, this space still contribute to the overall provision of 3 space required for dwellings of 4+ bedrooms. A condition can be added to ensure that 3 spaces are retained at all times and that the garage is retained solely for parking purposes. The drive provides the required setback to park a car of the road.

## **3. Residential Amenity**

- 6.7 The position of the dwelling is such that it would reflect similar patterns of development between the host property and No 7/8 and given the road (public realm) and distances between principal elevations, which is in excess of 20m, it is not considered to have an adverse impact on residential amenity. Loss of light is also referred to be given the distances and orientation it is not considered that there would be a significant adverse impact.
- 6.8 The nearest windows in the host property are non-principal, thus no significant impact on this property is envisaged which would merit the scheme unacceptable.

## **4. Other issues**

- 6.9 The impact on the structural integrity of the embankment is raised but the Applicant has submitted a report by a structural engineer which states this will not be affected and this aspect would be covered by separate legislation (Building Regulations).

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

- 7.1 On balance, the dwelling is not considered to have an adverse impact on the mixed character of the area or the street scene and the proposal does not have a significant adverse impact on residential amenity, highways, ecology, flooding and archaeology interests. However, whilst the site is partly outside the identified limits to development of Leire the breach of the limits within the approved residential garden is not considered to affect the character of the village, particularly given the position of the embankment behind which acts as a buffer. Given the lack of a 5year housing land supply, and the lack of demonstrable harm identified it is considered that the scheme is acceptable and whilst contravening Policy HS/8 of the Local Plan complies with Policies CS2, CS11 and CS17 of the Harborough District Core strategy and is considered sustainable development in the context of the Framework..

## **8. Planning Conditions**

- 8.1 If Members are minded to Approve the application, a list of suggested planning conditions is attached at **Appendix A**
- 8.2 On balance, the dwelling is not considered to have an adverse impact on the mixed character of the area or the street scene and the proposal does not have a significant adverse impact on residential amenity, highways, ecology, flooding and archaeology interests. However, whilst the site is partly outside the identified limits to development of Leire the breach of the limits within the approved residential garden is not considered to affect the character of the village, particularly given the position of the embankment behind which acts as a buffer. Given the lack of a 5year housing land supply, and the lack of demonstrable harm identified it is considered that the scheme is acceptable and whilst contravening Policy HS/8 of the Local Plan complies with Policies CS2, CS11 and



CS17 of the Harborough District Core strategy and is considered sustainable development in the context of the Framework

**Appendix A:**

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. No development shall commence on site until a schedule indicating the materials to be used on all external elevations of the approved dwelling 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.
3. 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
4. Before first occupation of any dwelling, car parking shall be provided, hard surfaced and made available for use to serve that dwelling on the basis of 2 spaces for a dwelling with up to three bedrooms and 3 spaces for a dwelling with four or more bedrooms. The parking spaces so provided shall thereafter be permanently so maintained.  
REASON: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area 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 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-H shall take place on the dwellinghouse(s) hereby permitted or within their curtilage. REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements and to accord with Harborough District Core Strategy Policy CS11
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage(s) hereby permitted shall not be converted to habitable accommodation. REASON: To safeguard the amenities and character of the area and in the interest of highway safety and to accord with Harborough District Core Strategy Policy CS11
7. No gates shall be erected to the vehicular access. REASON: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway and to accord with Harborough District Core Strategy Policy CS11
8. 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) storage of plant and materials used in constructing the development;
- c) wheel cleaning facilities;
- d) hours of construction work, including deliveries; and

has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. REASON: 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 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 Year 2011 Investigation Of Potentially Contaminated Sites Code of Practice;
  - o BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
  - o LR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

- o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- o 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 Core Strategy Policy CS11

10. 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 Core Strategy Policy CS11
- 11. Any garage doors shall be set back from the Highway boundary a minimum distance of 5.5 metres for sliding or roller/shutter doors, 6.1 metres for up-and-over doors or 6.5 metres for doors opening outwards and thereafter shall be so maintained. REASON: To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway and to accord with Harborough District Core Strategy Policy CS11
- 12. Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained REASON: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users and to accord with Leicestershire County Council 6Cs Design Guide.
- 13. 4 Before first use of the development hereby permitted, 1.0 metre by 1.0 metre pedestrian visibility splays shall be provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway, in accordance with the current standards of the Highway Authority and shall be so maintained in perpetuity.  
Reason: In the interests of pedestrian safety and in accordance with Policy CS11.
- 14. Any garages must have minimum internal dimensions of 6 metres x 3 metres if they are to be counted as a parking space and once provided, shall thereafter permanently remain available for car parking.  
Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area in accordance with Core Strategy CS11.
- 15. Before first occupation of the dwelling, 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 shall be so maintained at all times.  
Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in accordance with Core Strategy CS11.

### **Notes to Applicant**

1. You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. Market Harborough 821090). As such please be aware that complying with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.
2. 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).
3. The proposed dwelling and associated groundwork's could potentially have an effect on the integrity of a highway related structure (I i.e. the historic bridge over Broughton Lane). The Bridge owner should be contacted by the LPA. All the bridge is over a Highway, The Highway Authority are not the owners; the dismantled railway and its embankments do not form the part of any Highway either.

**Planning Committee Report**  
**Applicant: Mr & Mrs Suttle & Brooks**

**Application Ref: 14/01441/OUT**

**Location: Land rear of 118 and 124 Station Road, Broughton Astley**

**Proposal: Erection of 3no chalet bungalows, with associated access and hard and soft landscaping (means of access to be considered only) (revised scheme of 14/00342/OUT)**

**Application Validated: 22.10.2014**

**Target Date: 17.12.2014**

**Consultation Expiry Date: 27.11.2014**

**Site Visit Date: 06.11.2014**

**Case Officer: Nathanael Stock**

### **Recommendation**

Planning Permission is **APPROVED**, for the following reasons, and for the appended conditions:

The development hereby approved, by virtue of its scale, design, form and massing, would not adversely affect the amenity of local residents, would respect the character of the site's surroundings and respond appropriately to the site's characteristics. The proposal therefore complies with Policies CS1, CS2, CS5, CS8, CS9, CS10 and CS11 of the Harborough District Core Strategy. By virtue of the nature and location of the development proposed, the proposal would result in back land development, which would not have a direct highway frontage and which would give rise to additional traffic movements. The proposal would therefore conflict with Policy H3 of the Broughton Astley Neighbourhood Plan (BANP) and paragraph 53 of the National Planning Policy Framework. However, in light of (1) the recent appeal decision in respect of a similar nature of proposal at a different site (36 Dunton Road), which post-dates the adoption of the BANP, (2) the lack of harm identified in this instance other than the proposal's conflict with BANP Policy H3 and (3) the Council's lack of a five year housing land supply, it is concluded that the adverse impacts of granting permission would not significantly and demonstrably outweigh the proposal's benefits, and the application therefore accords with paragraph 14 of the Framework.

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

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

- 1.1 The application site is a parcel of land, 0.15ha in area (including the land required for the access) to the south of Station Road in Broughton Astley and within the defined Limits to Development. The site is comprised of the part of the private rear gardens to 118 and 124 Station Road and a strip of land to the eastern side of 124 adjacent to 126. All of the properties on Station Road from 108 through to 130 have rear gardens of substantial depth, and this is characteristic of the locality, although in several cases in Broughton Astley these large rear gardens have been the subject of either comprehensive or piecemeal residential development. The site slopes gently upwards towards the rear of the site, where it adjoins the rear gardens on Knighton Close. A mixed hedgerow is

situated on this boundary. The application site is bounded by residential development either side and to the rear.

## 2. Site History

### 2.1 The Site has the following planning history

14/00342/OUT – Erection of 3no chalet bungalows, with associated access and hard and soft landscaping (means of access to be considered only) – refused, 14.05.2014  
 13/00141/PCD – Discharge of Conditions 3 (floor levels), 4 (side windows), 5 (materials), 8 (landscaping) and 10 (highways) of 10/01743/ETF – granted, 11.06.13  
 11/00231/PCD – Discharge of Conditions 2 (openings), 3 (levels), 4 (materials), 5 (drainage), 9 (landscaping), 12 (contam land) and 13 (ecology survey) of 07/01886/FUL – granted, 08.03.11  
 10/01743/ETF – Erection of three dwellings and creation of access (extension of time of 07/01886/FUL) – refused (Planning Committee) 16.02.11, allowed at appeal 08.07.11  
 07/01886/FUL - Erection of three dwellings and creation of access (revised scheme of 07/00458/OUT) – granted, conditions, 04.03.08

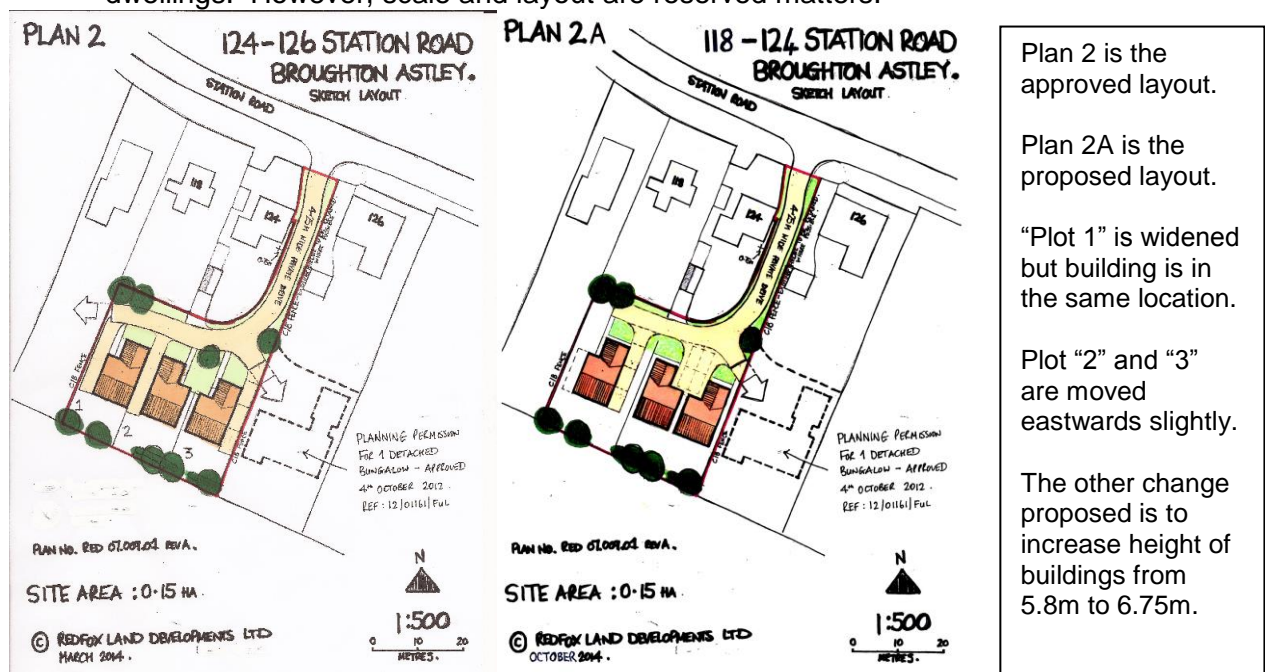
Also, at Land r/o 126 Station Road,

12/01161/FUL – Erection of detached bungalow (revised scheme of 08/00469/OUT and 11/00702/REM) – granted, conditions, 04.10.12  
 08/00469/OUT - Erection of a bungalow (means of access, layout and scale to be considered) (revised scheme of 07/00458/OUT) – granted, conditions, 22.05.08  
 07/00458/OUT – Erection of four dwellings (layout and access to be considered) – granted with conditions, 06.06.07

## 3. The Application Submission

### a) Summary of Proposals

3.1 The application, a revised scheme of 14/00342/OUT, seeks Outline permission for the erection of 3no bungalows, with associated access. The applicant has requested that means of access be considered. The differences between the current proposal and the allowed appeal are: (1) The height of the dwellings is proposed to be 'up to 6.75 metres' (as opposed to 5.8m under the allowed appeal) and (2) The siting of two of the dwellings. However, scale and layout are reserved matters.



## **b) Documents submitted**

- 3.2 The application has been accompanied by “Plan 1” (Site Location Plan), “Plan 2A” (Indicative Layout), “Plan 3” (Access Arrangements) and a Design and Access Statement.

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

- 3.3 Prior to submitting the planning application, the applicant held a formal pre-application discussion with officers of the Council. Among other things this referred to the extant consent and the weight to be attached to this as a ‘fall back position’, and to the proposal’s design and similarities and differences to the extant consent.

## **4. Consultations and Representations**

- 4.1 Consultations with technical consultees and the local community were carried out on the application: firstly at the initial consultation stage.
- 4.2 Firstly, a summary of the technical consultee responses received are set out below. Where comments relate to developer contributions, these will be discussed in more detail within the main body of the report. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

- 4.3 Highways (LCC): No objections subject to conditions re the vehicular access, drainage, parking and turning facilities, construction traffic management, surfacing, visibility splays, access width.
- 4.4 Leicestershire County Council Ecology: No comments
- 4.5 Broughton Astley Parish Council: The parish Council objects to this planning application as the Committee continues to support the Refusal of Planning Permission issued on 14 May 2014 for the reasons given; and that the amendments made to the planning application make no alteration or improvement to the decision made.

In commenting on the previous application, the Parish Council concluded: *“the Committee strongly objects to the whole application as it does not meet the requirements of our Neighbourhood Plan Policy H3.iii due to the additional traffic and unsafe access.”*

## **b) Local Community**

- 4.6 Publicity: 21 letters sent to neighbours, and one site notice posted. One letter of objection received, issues raised include:

### **Scale / introduction of the word ‘chalet’**

The design of the proposed dwellings appears to be changing; for the first time since planning proposals began seven years ago, the description has changed to “Chalet” bungalows; the ridge height on previous plans (egRed:07.009.02) is shown as 5.8m; a chalet bungalow incorporates a first floor, meaning an increase in ridge height and upstairs windows; Para 8.0 of the D&A statement records the ridge height as “up to 6.75 metres”, a 16% increase in potential height of almost 1m; there is evidence nationally that this increase in bungalow ridge height, with concomitant implications of all types of unneighbourly intrusion, is justification enough to refuse this application.

#### Visually intrusive on neighbour

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Neighbour's dwelling is only 12m away from the application site at the closest point; a normal bungalow would be an intrusion; three chalet bungalows would be overbearing, visually intrusive and their presence would be physically dominating; the applicant is seeking to gain implicit acceptance of the change of design via this application.

#### Loss of privacy to neighbour

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would worsen the impact on the neighbour, re height and intrusion, relative to the appeal approval; the proposed access drive would come within 1m of neighbour's summerhouse; the proposal is 'unrestrained, immoderate and biased in favour of the developer'

#### Overbearing to neighbour

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Differences in ground height between the application site and No. 116 (neighbour), of almost 3 metres; another 6.75m ridge height... neighbour would be dwarfed.

#### Noise impact on neighbours from increased traffic

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The layout plan shows standing for 3 cars per dwelling, which allows possibility for a four bedroom dwelling on the site – another sign of the potential size of dwelling intended; the noise and disturbance would have a detrimental effect on the neighbouring houses on Station Road and Knighton Close, contrary to the BANP

#### Inaccuracies in submitted information

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E.g. declares the site is not visible; The Inspector's decision (2011) stated the site was visible; Chalet bungalows, by virtue of the increased ridge height, would change his "barely visible" into quite visible, given that windows are involved, not just roof tiles and ridge tiles; e.g. suggestion that the proposal is a low density development – three houses squashed onto the gardens of two existing dwellings, i.e. 5 dwellings where 2 exist

#### Reserved matters

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Landscaping should not be reserved for future consideration but assessed now; reserving it shows neighbours no consideration; would not want to end up with a 2m high fence, i.e. 4m high 12m from neighbour's kitchen door; most or all of the existing trees would have to be removed, with implications for privacy

#### Impact on highway safety

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The area is already congested, with a number of this type of applications being approved and implemented in a very stretch of road – this has already increased the volume of traffic in an area heavily populated with children during school pick up and drop-off times and is an accidents black spot in recent years

### 5. Planning Policy Considerations

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

#### a) Development Plan

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

5.3 The DP for Harborough comprises:

- The Broughton Astley Neighbourhood Plan 2014;
- The Harborough District Core Strategy adopted November 2011; and
- The retained policies of the Harborough District Local Plan adopted April 2001.

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

○ *Broughton Astley Neighbourhood Plan*

H2 – Affordable Housing

H3 – Windfall and Backland Development

EH1 – Environment

SD1 – Presumption in Favour of Sustainable Development

CI1 – Contributions to new infrastructure and facilities

○ *Harborough District Core Strategy*

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

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

Policy CS2 deals with delivering new housing and advises that the District's total housing requirement of 7,700 dwellings (total of 400 at Broughton Astley) 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. 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 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.



CS8 – Protecting and Enhancing Green Infrastructure  
CS9 – Addressing Climate Change  
CS10 – Addressing Flood Risk

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 CS16 specifically refers to Broughton Astley, stating that all sites on which additional housing is proposed will be examined as to their potential to bring forward land to help expand community, commercial and local employment provision, and proposals that help deliver land for new facilities will generally be supported. Part (a) of the policy states specifically that, “in considering future sites for housing development, mixed use sites which ensure the provision of additional retail, community facilities or employment facilities or employment opportunities to serve Broughton Astley will be supported”.

## **b) Material Planning Considerations**

### *o National Planning Policy Framework*

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

5.8 The overarching policy objective of the Framework is the ‘presumption in favour of sustainable development’. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 7). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system (para. 8). The presumption in favour of sustainable development is seen as the ‘golden thread’ running through plan-making and decision-taking (para.14). For decision-taking this means:

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

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

### *o National Planning Practice Guidance*

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

### *o New Local Plan*

5.10 On 3 December 2012, the Council resolved to prepare a new Local Plan for Harborough District. The new Local Plan will incorporate a focused review of the Harborough CS (adopted in November 2011) and will also identify key areas of land for development, thereby obviating the need for an allocations plan.

- 5.11 The new local plan scoping consultation was completed in April 2013, and the current timetable is for the pre-submission consultation to take place in summer 2015, with an examination timetabled for January 2016. It is envisaged that the plan will be adopted in May 2016.
- 5.12 The Scoping Consultation noted that the Plan Period would be extended to 2031 and that an increase in the annual housing requirement was likely. The Scoping Consultation also set out the Council's intention to replace the Limits of Development around existing settlements in the District with a criteria-based policy to determine applications for new housing on non-allocated Sites on the edge of settlements.

- *Supplementary Planning Guidance*

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

Relevant local Supplementary Planning Guidance Notes:

SPG Note 1: Design principles

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

- *The national Planning Practice Guidance Suite (06.03.14)*
  - *Appendix A to Circular 11/95 – Use of conditions in planning permission*
  - *Circular 06/2005 – Biodiversity including statutory obligations within the planning system*
  - *5 Year Housing Land Supply Statement*
- 5.14 The Council produces bi-annual monitoring reports on the level of housing supply within the District. These reports include a five year housing land supply calculation and a housing trajectory for the remainder of the DP period. The latest report covers the period from 1st April 2014 to 31st March 2019.
- 5.15 Paragraph 47 of the Framework states that where local planning authorities cannot demonstrate an up-to-date five year supply of deliverable sites they should consider favourably planning applications for housing. As at 30th September 2014 the Council had 3.99 years of housing supply (including a 20% buffer). In the Secretary of State's 2014 dismissal of the Crowfoot Way appeal (ref. 12/2183653) he concluded with regard to the Council's housing land supply that:

*12. 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). In reaching this conclusion the Secretary of State has given careful consideration to responses to his letters of 21 January and 12 March 2014. 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.*

- 5.16 The Council accepts this conclusion and has published its 30th Sept 2014 position, of 3.99 years, i.e. c.700 houses short, and it is acknowledged that HDC cannot currently demonstrate a robust five year supply. This proposal would make a small contribution towards meeting the shortfall in the District's housing supply, and some weight must be attached to this consideration.

## **c) Other Relevant Documents**

- 5.16 The following documents are also of relevance in determining this application:
- *Harborough Housing Requirements Study*
- 5.17 The Harborough Housing Requirements Study was carried out by independent consultants GL Hearn in March 2013, on behalf of the Council to assess future housing requirements in the District over the period 2011-2031.
- *Planning Obligations Developer Guidance Note*
- 5.18 The Planning Obligations Developer Guidance Note was approved by the Council's Executive in September 2009 and sets out the range of infrastructure, services and facilities that the Council will normally seek to secure via planning obligations in relation to development proposals within the District.
- 5.19 The Note advises if the requirement for developer contributions or for the provision of infrastructure result in viability concerns being raised it will be the responsibility of the applicant to provide an independent financial viability assessment to substantiate the situation. If the assessment is accepted as reasonable the Council may request lower contributions for a particular Site provided that the benefits of developing the Site outweigh the loss of the developer contribution.
- 5.20 There are two supporting documents associated with this guidance note:
- Provision for Open Space, Sport and Recreation (September 2009) which provides details of the arrangements for assessing contributions to open space; and
  - Assessment of Local Community Provision and Developer Contributions (October 2010) which provides additional evidence to support the case for developer contributions to local indoor community and sports facilities.

## **d) Other Relevant Information**

- 5.21 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.
- 5.22 Under the adopted Core Strategy, \*as amended by Full Council on 15.09.14\*, the proposed development no longer triggers a requirement for Section 106 obligations in respect of affordable housing, and therefore the following policies/documents are not relevant at this time:
- ~CS3 – Delivering Housing Choice and Affordability
  - ~SPD Affordable Housing (adopted February 2006)
  - ~Planning Obligations Developer Guidance Note (June 2009)
  - ~Assessment of Local Community Provision and Developer Contribution (October 2010)

## **6. Assessment**

## a) Principle of Development

- 6.1 The site lies within Broughton Astley's defined Limits to Development, the settlement benefits from all six key amenities (food shop, primary school, public house, library, doctors' surgery and post office) and is therefore a sustainable location for new housing and is identified as a key centre for housing development. The principle of this development would thus normally be considered acceptable.
- 6.2 Indeed, an appeal for a very similar (effectively the same) proposal was allowed 08.07.11 (ref. A/11/2149746). The planning application, for extension of time of a previous approval, had been refused by Planning Committee against officer advice, on the grounds that it would develop a private rear garden within an established run of similarly long, undeveloped gardens, and that this would result in a form of development that would be out of keeping with the form and character of the area. The Inspector considered the main issue to be,
- "whether there have been any significant changes to the development plan policies and other material considerations since the original grant of planning permission, having regard to the impact of the development on the character and form of the village and its impact on residential amenity."*
- 6.3 The Inspector found that, *"there have been no material changes in the physical and environmental circumstances or in the overall character and appearance of this residential area"* (para 6) and that, *"the most relevant development plan policies are those previously mentioned, and there have been no changes to these policies since the Local Plan was adopted or since the original planning permission, which is the subject of this appeal, was determined"*.
- 6.4 At the time of that appeal, the Local Plan was still in place and the examination of the Core Strategy had yet to be concluded, and therefore the Local Plan (along with SPGs) was the relevant development plan policy.
- 6.5 Since that appeal decision, the Harborough District Core Strategy has been adopted (14.11.11). The Core Strategy policies relating to this type of proposal in this location are not significantly different to those from the Local Plan, i.e. they require development proposals not to adversely affect the qualities, character or amenity of the local area.
- 6.6 In addition, the National Planning Policy Framework has been introduced (27.03.12), which requires a positive and speedy response to development proposals that are sustainable.
- 6.7 Also, since that appeal decision, the Broughton Astley Neighbourhood Plan (BANP) has been adopted (20.01.14). The BANP went through full public consultation, successfully passed through Examination in Sept/Oct 2013, and received an 89% yes vote at Referendum on 16.01.14, then being 'made' by Harborough District Council.
- 6.8 The key BANP policy relating to this proposal is Policy H3, which states,
- (iii) In respect to back land and tandem development in gardens of existing properties; such developments will be resisted where they have the potential for loss of amenity of neighbouring properties; through loss of privacy, loss of daylight, visual intrusion by a building or structure, loss of car parking, loss of mature vegetation or landscape screening and additional traffic resulting from the development.*
- (iv) Any windfall, back land or tandem development must have a direct highway frontage.*

- 6.9 The policy makes clear that development proposals for back land and tandem development that have *the potential* for loss of amenity of neighbouring properties will be resisted. A list of potential amenity impacts is then given.
- 6.10 The majority of such proposals will have the potential for loss of privacy and/or visual intrusion, but some will not in practice cause significant harm. All such proposals will by definition result in additional traffic, but some/many will not in practice cause significant harm. Lastly, by their very nature, no proposals for backland or tandem development will have a direct highway frontage – proposals that do directly front a highway will not be behind another dwelling and thus not tandem, and will not be backland in the regular/true sense of the word.
- 6.11 The policy therefore has the effect of prohibiting backland and tandem development, and the proposal very clearly conflicts with BANP Policy H3.
- 6.12 However, the Inspector's decision at 36 Dunton Road (17<sup>th</sup> October 2014, appeal ref. 14/2221252) suggests there are instances where, despite the *in principle* policy conflict with BANP Policy H3, the adverse impacts of granting permission would not significantly and demonstrably outweigh the proposal's benefits. In this instance, a very similar proposal (the 2011 appeal) has previously been found to be acceptable. These appeal decisions may be taken to suggest that, in the context of a lack of a five year housing land supply, such proposals are finely balanced and in some cases may be considered acceptable.

#### **b) Weight to be attached to the Neighbourhood Plan**

- 6.13 The next question is how to apply the policy, i.e. what weight it should be given. In this regard, officers note the following:

Para 11 of the Framework states that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Para 12 of the Framework, which makes clear that the development plan is the starting point for decision making, states that development proposals that conflict with an up-to-date Local Plan should be refused unless other material considerations indicate otherwise.

The recent Crowfoot Way appeal decision (ref. 12/2183653), concerning a proposal for 111 dwellings, dismissed by the Secretary of State, but in which he concluded that, (1) the Council does not have a five year supply of housing land, (2) the relevant development plan policies for the supply of housing are out of date, and (3) the BANP is also out of date with regard to housing supply. However, despite these findings, the Secretary of State dismissed the appeal on the grounds of that proposal's conflict with the BANP, and in doing so he gave the new BANP very substantial weight.

The Secretary of State concluded, at para 19 of his decision letter, that,

*“Paragraph 198 is clear that, where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. In line with paragraph 184 of the Framework, the Broughton Astley Neighbourhood Plan does not undermine the strategic policies in the Local Plan (i.e. the 2011 Harborough Core Strategy) nor provide for less development than is set out in that Plan. Paragraph 185 of the Framework states that, outside the strategic elements of the Local Plan, neighbourhood plans will be able to shape and direct sustainable development. The Secretary of State regards this purpose as*

*more than a statement of aspiration. He considers that neighbourhood plans, once made part of the development plan, should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question, for example to ensure that the best located sites are developed. Consequently, in view of Framework paragraphs 198 and 185 the Secretary of State places very substantial negative weight on the conflict between the appeal proposal and the Neighbourhood Plan.”*

- 6.14 In light of these considerations, while the proposal may reasonably be considered not out of keeping with the character of the local area, it clearly conflicts with BANP Policy H3, and the BANP should be given very substantial weight.

#### **b) Material considerations weighing against this policy conflict**

- 6.15 Evidence has been provided to demonstrate that the works have commenced (on 24th June 2014) to implement the development allowed at appeal, in the form of construction of part of the access road (the appeal planning permission would have expired on 8th July 2014).

- 6.16 It is also suggested that “construction works to foundations” have been commenced. Photographs provided of this work show trenches being dug, and Section 56(4) of the Town and Country Planning Act 1990 states that ‘material operations’ include:

*“(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;”*

- 6.17 In an email to the Local Planning Authority, dated 6th July 2014 at 2107 hrs, Mr Nigel Reeves, agent for application 14/00342/OUT, stated:

*“I am writing to confirm that part of the foundation trenches to the front gable to Plot 3 were dug on Saturday 5th July 2014. The scope of these works were outlined in my earlier email to you dated 5th June and subsequently confirmed in your email to me dated 13th June that this would be treated as a commencement of development.”*

- 6.18 However, Plot 3 in the current proposal is in a different location to that previously proposed (i.e. the Plot 3 in the refused application, the appeal approval, and the previous consents). This means two things: (1) If the current application was approved, the dug trench would need to be filled in and made good. This would mean work had commenced on a development that was not going to be built out. (2) There would be a significantly weaker link between the appeal approval and the current proposal, and consequently a significantly weaker fallback position.

- 6.19 In summary, however, the construction of part of the access road, including the installation of the kerb stones, constitutes a material operation and commencement of development on site, provided that, (a) the works are carried out to an acceptable LCC Highways standard, and (b) the works accord with the approved plans. This may be considered a strong fallback position.

- 6.20 However, the Council has received legal advice in respect of the Crowfoot Way application (14/01388/OUT) on this Planning Committee agenda, which states that whether or not certain works have been undertaken within the site to ‘make a start’ is not significant.

- 6.21 Given that this is a finely balanced case, it falls to consider the proposal’s other effects.

## **i) Technical Considerations**

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

Broughton Astley has been the subject of significant infill development, some comprehensive and some piecemeal, over recent decades, and many examples are to be found locally, including Orchid Place, Thorneycroft Close, Rear of 39-45 Dunton Road, and Station Road post office (in close proximity to the east of the site), as well as Croft Way and Speedwell Drive. There are numerous examples of similar developments, several of those allowed at appeal. The character of Broughton Astley has changed from a linear settlement to one that is a mixture of planned and nucleated – its linear core has been extended by a series of estates and closes, and the result is a settlement the majority of which might be said to lack a defining sense of place.

In this context the current proposal is considered not to result in any significant change to the settlement's character. The long rear gardens of 110 – 130 Station Road, as well as some of the properties on the north side of Station Road, are now relatively rare and are no longer a defining characteristic of Broughton Astley.

Scale and layout are Reserved Matters, and the current application (along with the means of access) seeks to establish the principle only. However, the submitted layout plan "07.009.01 Rev A" shows that three dwellings can be comfortably accommodated, with dedicated parking available for 2 – 3 vehicles, and an acceptable amount of amenity space to the rear (approx. 85 – 90 sq m each).

In light of the planning and appeal history in the locality and having regard to its siting, scale and design, it is considered that the proposed dwellings would not have a significant or demonstrably harmful impact on the character of the locality, and the application thus accords with Policy CS11 of the Core Strategy.

### **2. Residential amenity**

The proposed dwellings, by virtue of their scale and siting, may have some impact to the amenities of neighbouring residents, but in practice this impact would be solely one of visual outlook. There would be a separation distance of 27 metres at the closest point (Plot 1) to the rear elevation 118 Station Road and 25 metres to that of 116 Station Road, and Plot 3 would be 29m away from 124 Station Road. Even adding on the 4 metres separation (refs. SPG Notes 2 and 5) for the additional storey, which may be necessary as the chalet bungalows appear likely to contain first floor habitable rooms, these distances would all accord with separation distance guidelines.

In relation to Knighton Close, there would be distance of 20 metres from Plot 1 to the rear elevation of 9 Knighton Close, Plot 2 would be sited 22 metres from the rear elevation of 11 Knighton Close, and Plot 3 would be 23m from 15 Knighton Close to the rear. Further, there is an existing hedge and shrub planting – which is to be retained – to the rear of the site adjoining the properties fronting Knighton Close, which would further reduce any adverse effect of the proposal to these properties.

The side-facing windows proposed to Plots 1 and 3 would be obscurely glazed which would reduce any loss of privacy on the rear gardens of 116 and 126 Station Road to an acceptable level.

In each case the spatial relationships and distances to neighbouring and nearby dwellings are such that the proposal would safeguard the living conditions of neighbouring residents, and the application would therefore accord with Core Strategy policy CS11(c.).

### 3. Highway safety and parking

The proposed development would involve the creation of a new access, which is proposed to have a width of 4.25m for its entire length. The plans indicate sufficient off-road parking (two – three spaces) for each proposed dwelling. The local highway authority (LHA) has no objections subject to conditions relating to (1) the vehicular access, (2) drainage, (3) parking and turning facilities, (4) construction traffic management, (5) surfacing, (6) visibility splays and (7) access width. These conditions meet the Circular 11/95 tests as they all relate to the development, are reasonable, and are necessary for highway and pedestrian safety reasons. The application is thus considered to accord with Core Strategy Policies CS5 and CS11.

Although the proposal would result in additional traffic and therefore conflicts with BANP Policy H3 it is considered that, for the reasons set out above, it would be unreasonable to refuse the planning application on this basis.

### 4. Economic growth

The planning system has a key role to play in rebuilding the economy and the Government is committed to reforming the planning system so that it promotes sustainable growth and jobs. The Government expects that proposals for development and growth should, wherever possible, be allowed except where this would compromise the key sustainable development principles set out in national planning policy. This is an important consideration to which weight must be attributed accordingly. However, there is considered to be no driving regeneration needs in this part of Harborough District, and the proposal would make only a very minor contribution to local economic growth.

## 7. The Planning Balance / Conclusion

- 7.1 The proposed development would safeguard the living conditions of neighbouring residents, would have a siting, design and massing that, subject to suitable conditions, would respect the character and visual amenity of the site's surroundings, respond appropriately to the site's characteristics and not adversely affect local highway safety. In addition, the proposal would make a small contribution to the Council's housing land supply.
- 7.2 The proposal would result in backland / tandem development which, for the reasons set out above, would conflict with Policy H3 of the Broughton Astley Neighbourhood Plan (BANP), to which substantial weight should be given.
- 7.3 Notwithstanding this policy conflict, a very similar proposal at the same site was allowed at appeal in 2011, albeit prior to the adoption of the BANP, and a similar nature of proposal at a different site (36 Dunton Road) has been dismissed by the Planning Inspectorate, since the BANP's adoption, only on the grounds of lack of affordable housing contribution.
- 7.4 This recent appeal decision suggests that there will be instances where, despite the in principle policy conflict with BANP Policy H3, the adverse impacts of granting permission would not significantly and demonstrably outweigh the proposal's benefits.
- 7.5 In this instance, no harm has been identified other than the proposal's conflict with BANP Policy H3 and therefore, on balance, and in the context of a lack of a five year housing land supply, it is concluded that the adverse impacts of granting permission would not significantly and demonstrably outweigh the proposal's benefits, and the application therefore accords with paragraph 14 of the Framework.

## 8. Planning Conditions



8.1 If Members are minded to Approve the application, a list of suggested planning conditions is attached at **Appendix A**

## **Appendix A**

### **SCHEDULE OF PLANNING CONDITIONS ACCOMPANYING THE PLANNING PERMISSION GRANTED UNDER APPEAL REFERENCE: APP/F2415/A/11/2149746**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: "Plan 1" (Site Location Plan), "Plan 2A" (Indicative Layout), and "Plan 3" (Access Arrangements).
- 3) No development shall commence on site until details of the existing and proposed ground levels and finished floor levels of the development have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 4) Notwithstanding the details shown on the approved plans, the windows in the eastern elevation of Plot 3 and the western elevation of Plot 1 shall be fitted with obscure glass, and shall be fitted with restrictors so that they are not fully openable, the details of which shall be submitted to and approved in writing by the local planning authority before development commences on site. The development shall thereafter be implemented in accordance with the approved details prior to the first occupation of the dwelling and shall be retained in perpetuity.
- 5) No development shall commence on site until full details of all materials to be used on all external elevations of the approved buildings, including windows, 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 retained in perpetuity.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no additional windows, dormer windows or other openings shall be formed in the dwellings hereby permitted, including their roofs, without the grant of further specific planning permission from the local planning authority.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or other form of enlargement to the residential development hereby permitted, nor erection of outbuildings or hardstandings, or gates, fences, walls or other means of enclosure, but excluding development permitted under Schedule 2 Part 40 and Class G & H of Schedule 2 Part 1 shall take place without the grant of further specific planning permission from the local planning authority.

- 8) Prior to the commencement of any development on site, a landscape scheme shall be submitted to and approved in writing by the local planning authority. This scheme shall indicate the treatment proposed for all ground surfaces, together with the species and materials proposed and their disposition, existing trees and hedges to be retained, and fences and walls to be erected.
- 9) The approved landscape scheme shall be carried out during the first appropriate planting season following the date when the development hereby approved has commenced and all planted material shall be maintained and replaced as necessary by the applicant and/or owners of the said land at the time for a period of not less than 5 years from the date of planting.
- 10) All details of the proposed development shall comply with Leicestershire County Council design standards. Such details must include parking and turning facilities, access widths, gradients, visibility and pedestrian splays, signing and surfacing materials. No development shall commence until these details 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 prior to the first occupation of the development and shall be retained in perpetuity.
- 11) No gates, barriers, bollards, chains or other such obstructions shall be permitted within 7 metres of the highway boundary, unless opening inwards.
- 12) Before first occupation of the development hereby approved, visibility splays of 2.4 metres by 70 metres shall be provided at the junction of the access with Station Road. These shall be in accordance with the current Leicestershire County Council design standards and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.
- 13) The shared private drive shall be constructed as shown on the submitted plan, including for radii at its junction with Station Road, prior to any new dwelling being occupied, and once provided shall be so maintained at all times. If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.
- 14) All on site working, including demolition and deliveries to and from the site, associated with the implementation of this planning permission shall only be carried out between the hours of 8.00am and 6.00pm Monday to Friday, 8.00am and 1.00pm on Saturday and not at all on Sunday, Public and Bank Holidays.
- 15) For the period of the construction of the development, vehicle wheel cleaning facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned before entering the highway. The wheel washing facilities provided shall be maintained for the operational construction period of the development hereby approved.

**Planning Committee Report**  
**Applicant: Mrs A. M. Clarke**

**Application Ref: 14/01476/OUT**

**Location: Land rear of 36 Dunton Road, Broughton Astley**

**Proposal: Erection of two dwellings (means of access and layout to be considered)**  
**(resubmission of 14/00394/OUT)**

**Application Validated: 31.10.2014**

**Target Date: 26.12.2014**

**Consultation Expiry Date: 17.12.2014**

**Site Visit Date: 06.11.2014**

**Case Officer: Nathanael Stock**

### **Recommendation**

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

The development hereby approved, by virtue of its scale, design, form and massing, would not adversely affect the amenity of local residents, would respect the character of the site's surroundings and respond appropriately to the site's characteristics. The proposal therefore complies with Policies CS1, CS2, CS5, CS8, CS9, CS10 and CS11 of the Harborough District Core Strategy. By virtue of the nature and location of the development proposed, the proposal would result in back land development, which would not have a direct highway frontage and which would give rise to additional traffic movements. The proposal would therefore conflict with Policy H3 of the Broughton Astley Neighbourhood Plan (BANP) and paragraph 53 of the National Planning Policy Framework. However, in light of (1) the recent appeal decision in respect of an identical proposal at this site, since the adoption of the BANP, (2) the lack of harm identified in this instance other than the proposal's conflict with BANP Policy H3 and (3) the Council's lack of a five year housing land supply, it is concluded that the adverse impacts of granting permission would not significantly and demonstrably outweigh the proposal's benefits, and the application therefore accords with paragraph 14 of the Framework.

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

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

- 1.1 The application site is a broadly rectangular parcel of land, 0.15ha in area (including the existing dwelling and the access point) to the west/south-west of Dunton Road in Broughton Astley and within the defined Limits to Development. Many of the properties on Dunton Road from 27 – 33 and 45 – 65 on the east side, plus 34 – 46 and 56 – 60 on the west side have rear gardens of substantial depth, and this is characteristic of the locality, although in several cases in Broughton Astley these large rear gardens have been the subject of either comprehensive or piecemeal residential development, include Land rear of 1-23 Dunton Rd (Fretter Close), Land rear of 37 Dunton Rd (Thorneycroft Close), Land rear of 39 Dunton Rd, Land rear of 41-43 Dunton Rd, Land rear of 42 Dunton Road and 48 – 54 Dunton Rd (Orchid Place). The site slopes gently upwards towards the rear of the site (rising from 98.0 to 100.3, where it adjoins the rear gardens

on Trefoil Close. A mixed hedgerow is situated on this boundary. The application site is bounded by residential development either side and to the rear.

## **2. Site History**

2.1 The Site has the following planning history:

14/00394/OUT – Erection of two dwellings (means of access and layout to be considered) – refused 15.05.14, dismissed at appeal 17.10.14

14/00235/FUL – Single storey side extension and two storey and single storey rear extensions – granted with conditions, 14.04.14

## **3. The Application Submission**

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

3.1 The application, a resubmission of 14/00394/OUT, seeks Outline permission for the erection of two dwellings, with associated access. The applicant has requested that means of access and layout be considered.

### **b) Documents submitted**

3.2 The application has been accompanied by the following plans: “Location Plan”, “Block Plan”, “13065-05” (Vision Splay), and “13065-04” (Site Layout), and by a Protected Species Survey (Curious Ecologists, December 2013).

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

3.3 None. Planning application submitted 31.10.14 following appeal decision 17.10.14.

## **4. Consultations and Representations**

4.1 Consultations with technical consultees and the local community were carried out on the application: firstly at the initial consultation stage.

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

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

4.3 Highways (LCC): No objections subject to conditions re access drive width, no gates/similar obstructions, no walls, fences or planting to be erected or allowed to grow on the highway boundary exceeding 0.6m, car parking provision, surfacing and drainage.

4.4 Leicestershire County Council Ecology: The ecology report submitted in support of the application (Curious Ecologists, December 2013) found no evidence of protected species on the application site. The lake close to the development was considered to have a ‘good’ potential to support great crested newts (GCN). The current survey indicates that a previous survey in 2012 found no evidence of GCN in the lake. I am unable to find a copy of this survey in our records and would be grateful if the ecologist could forward a copy.

However, notwithstanding the above we are in agreement that the habitat on the development is sub-optimal for GCN, and this and associated barriers between the application site and the lake suggest that there is a low potential for GCN to be impacted by the development. We therefore have no further survey recommendations for this species, but would request that a note is forwarded to the applicant with any permission granted to highlight the requirement to seek advice if any protected species are discovered.

4.5 Housing Enabling and Infrastructure Manager: This is a resubmission of 14/00394/OUT which was refused. As per revised guidance on 1-2 unit contributions, we will require NIL contributions for AH if this application is approved.

4.6 Broughton Astley Parish Council: The Committee objects to this planning application on the following grounds:

That the Parish Council has concerns about the means of access onto an already busy Dunton Road. Access to the development is situated on a bend down a hill where cars parked outside the terraced houses obscure the view of the road.

Concerns also relate to the approved alterations to the existing property where members believe visual splay will be reduced at the entrance to the properties by the garage.

In addition, there is a potential for eight vehicles from the development that would access onto Dunton Road. This goes against BA Neighbourhood Plan Policy H3(iii) Windfall and Backland Development due to the additional traffic which would add risk to an already dangerous road.

## **b) Local Community**

4.4 Publicity: 13 letters sent to neighbours, and one site notice posted. Four letters of objection received, issues raised include:

### **Access / visibility**

Unsuitable/dangerous access, with limited visibility; proposal would make a dangerous / particularly poor situation worse, compounded by large amount of on-road parking; cumulatively the amount of traffic from the two additional properties plus the existing dwelling would cause problems; the curve of the road blocks the sight lines; traffic entering or leaving the road at this point could increase the accident risk; the driveway is on a bend in the road where views are obstructed by parked traffic / it is difficult to view oncoming traffic at this point coming into Broughton Astley from Dunton Bassett – could therefore become an accident hot spot; vehicles negotiating this hazard are often forced onto the kerb; long black tyre skid marks on the road surface where passing traffic has had to brake hard because of the narrow width; would not have direct access to the adopted highway; the proposal would result in three houses sharing a substandard access to the highway; we were not surprised to see that when the existing property was being extended/improved and the builders/plasterers etc. were onsite, they protected their vehicles with strategically-placed wooden pallets and rolls of loft insulation to ensure passing traffic gave them a wide berth and did not knock into them

### **Insufficient turning area within the site**

The layout does not allow vehicles sufficient space to turn round, unless cars on site are always parked in the designated spaces which are primarily inside a garage; therefore additional cars would be forced to either reverse in to or reverse out of the driveway, which would compound the traffic safety concerns on Dunton Rd

## Conflict with the Neighbourhood Plan (BANP)

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The proposal for backland development conflicts with BANP Policy H3, which carries greater weight than Policy CS16 and is more relevant for the purposes of considering this application. The recent referendum backed the BANP which designates areas to which building is to be confined to: this development of two new houses is outside these areas.

## Proposal is out of keeping with its surroundings

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The defining characteristic being substantial gardens in a semi-rural setting, some of which have been developed for housing in a piecemeal fashion over the last few years (Objector notes 42A, a backland development, which objector considers prominent and dominating but that, set within a substantial garden, respects the scale of its surroundings); proposal would result in a form of development that would not respect the character of the surrounding development, i.e. resulting plot sizes would be small, too densely packed, cramped and out of keeping with the surrounding area

## Overdevelopment

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Proposal would result in built development on two thirds of the existing plot with all three residential units having very small gardens, dominated by hard surfacing and would be immediately abutting the boundaries of adjacent properties; the plot is too small for the development, to the extent that both houses are built right along, low level borders of neighbouring gardens 34 & 42A.

## Residential amenity

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Overbearing impact and loss of privacy and amenity to neighbouring residents; visually obtrusive form of development & adverse impact on neighbours' outlook, especially from Plots 1 and 2 to 34 Dunton Rd, where there is no significant boundary screening, and from 11, 13 and 15 Trefoil Close; adverse impact to 40 Dunton Rd from the shared drive immediately adjacent to its boundary; at approx. 8m wide the garden of number 34 for example will have a new (southerly) boundary of more than 38m of housing, which will dramatically reduce daylight; one of the two dwellings is planned right to the borders of both adjacent neighbours, to the extent that the proposed rear garden may only be accessed from within the house; both proposed plots would result in overlooking of 40 and 42A Dunton Road and plot 2 would overlook 18 Orchid Place; the windows to habitable rooms of the extension to 36 Dunton Rd and plot 1 would unacceptably overlook each other – unacceptable distance between the two; 40 and 34 currently enjoy private gardens which would be completely overlooked by the 2 new developments. Increased noise, from multiple vehicles travelling on the long gravel driveway for all immediate neighbours, particularly 42A, 34 and most significantly no 40.

## Ecology

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The Protected Species Survey was undertaken at a sub-optimal time of year (Dec 2013) and cannot be considered a robust assessment of wildlife interest at the site, and little or no weight can be attached to the report; the site is located in close proximity to a locally designated nature reserve, known to be the home to several protected species, inc. badgers, owls and other protected species, inc. some Red Book species (Policy CS8 thus relevant); no assessment made of the site's suitability for foraging, feeding and commuting for several species, including bats

## Other

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Insufficient detail to allow meaningful comment on the proposals, esp. scale and appearance.

The appeal decision is poorly worded and contradictory, which leaves its content open to interpretation – can the content be clarified prior to a final decision being made?

## **5. Planning Policy Considerations**

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

### **a) Development Plan**

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

- 5.3 The DP for Harborough comprises:

- The Broughton Astley Neighbourhood Plan 2014;
- The Harborough District Core Strategy adopted November 2011; and
- The retained policies of the Harborough District Local Plan adopted April 2001.

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

- *Broughton Astley Neighbourhood Plan*

H2 – Affordable Housing

H3 – Windfall and Backland Development

EH1 – Environment

SD1 – Presumption in Favour of Sustainable Development

CI1 – Contributions to new infrastructure and facilities

- *Harborough District Core Strategy*

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

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

Policy CS2 deals with delivering new housing and advises that the District's total housing requirement of 7,700 dwellings (total of 400 at Broughton Astley) 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. 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 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.

CS8 – Protecting and Enhancing Green Infrastructure

CS9 – Addressing Climate Change

CS10 – Addressing Flood Risk

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 CS16 specifically refers to Broughton Astley, stating that all sites on which additional housing is proposed will be examined as to their potential to bring forward land to help expand community, commercial and local employment provision, and proposals that help deliver land for new facilities will generally be supported. Part (a) of the policy states specifically that, “in considering future sites for housing development, mixed use sites which ensure the provision of additional retail, community facilities or employment facilities or employment opportunities to serve Broughton Astley will be supported”.

## **b) Material Planning Considerations**

### *o National Planning Policy Framework*

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

5.8 The overarching policy objective of the Framework is the ‘presumption in favour of sustainable development’. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 7). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system (para. 8). The presumption in favour of sustainable development is seen as the ‘golden thread’ running through plan-making and decision-taking (para.14). For decision-taking this means:

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

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

### *o National Planning Practice Guidance*



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

- *New Local Plan*

5.10 On 3 December 2012, the Council resolved to prepare a new Local Plan for Harborough District. The new Local Plan will incorporate a focused review of the Harborough CS (adopted in November 2011) and will also identify key areas of land for development, thereby obviating the need for an allocations plan.

5.11 The new local plan scoping consultation was completed in April 2013, and the current timetable is for the pre-submission consultation to take place in summer 2015, with an examination timetabled for January 2016. It is envisaged that the plan will be adopted in May 2016.

5.12 The Scoping Consultation noted that the Plan Period would be extended to 2031 and that an increase in the annual housing requirement was likely. The Scoping Consultation also set out the Council's intention to replace the Limits of Development around existing settlements in the District with a criteria-based policy to determine applications for new housing on non-allocated Sites on the edge of settlements.

- *Supplementary Planning Guidance*

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

Relevant local Supplementary Planning Guidance Notes:

SPG Note 1: Design principles

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

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

5.14 The Council produces bi-annual monitoring reports on the level of housing supply within the District. These reports include a five year housing land supply calculation and a housing trajectory for the remainder of the DP period. The latest report covers the period from 1st April 2014 to 31st March 2019.

5.15 Paragraph 47 of the Framework states that where local planning authorities cannot demonstrate an up-to-date five year supply of deliverable sites they should consider favourably planning applications for housing. As at 30th September 2014 the Council had 3.99 years of housing supply (including a 20% buffer). In the Secretary of State's 2014 dismissal of the Crowfoot Way appeal (ref. 12/2183653) he concluded with regard to the Council's housing land supply that:

*12. 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). In reaching this conclusion the Secretary of State has given careful consideration to responses to his letters of 21 January and 12 March 2014. 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.*

- 5.16 The Council accepts this conclusion and has published its 30th Sept 2014 position, of 3.99 years, i.e. c.700 houses short, and it is acknowledged that HDC cannot currently demonstrate a robust five year supply. This proposal would make a small contribution towards meeting the shortfall in the District's housing supply, and some weight must be attached to this consideration.

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

- 5.16 The following documents are also of relevance in determining this application:
- *Harborough Housing Requirements Study*
- 5.17 The Harborough Housing Requirements Study was carried out by independent consultants GL Hearn in March 2013, on behalf of the Council to assess future housing requirements in the District over the period 2011-2031.
- *Planning Obligations Developer Guidance Note*
- 5.18 The Planning Obligations Developer Guidance Note was approved by the Council's Executive in September 2009 and sets out the range of infrastructure, services and facilities that the Council will normally seek to secure via planning obligations in relation to development proposals within the District.
- 5.19 The Note advises if the requirement for developer contributions or for the provision of infrastructure result in viability concerns being raised it will be the responsibility of the applicant to provide an independent financial viability assessment to substantiate the situation. If the assessment is accepted as reasonable the Council may request lower contributions for a particular Site provided that the benefits of developing the Site outweigh the loss of the developer contribution.
- 5.20 There are two supporting documents associated with this guidance note:
- Provision for Open Space, Sport and Recreation (September 2009) which provides details of the arrangements for assessing contributions to open space; and
  - Assessment of Local Community Provision and Developer Contributions (October 2010) which provides additional evidence to support the case for developer contributions to local indoor community and sports facilities.

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

- 5.21 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.

- 5.22 Under the adopted Core Strategy, \*as amended by Full Council on 15.09.14\*, the proposed development no longer triggers a requirement for Section 106 obligations in respect of affordable housing, and therefore the following policies/documents are not relevant at this time:

- ~CS3 – Delivering Housing Choice and Affordability
- ~SPD Affordable Housing (adopted February 2006)
- ~Planning Obligations Developer Guidance Note (June 2009)
- ~Assessment of Local Community Provision and Developer Contribution (October 2010)

## **6. Assessment**

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

- 6.1 The site lies within Broughton Astley's defined Limits to Development, the settlement benefits from all six key amenities (food shop, primary school, public house, library, doctors' surgery and post office) and is therefore a sustainable location for new housing and is identified as a key centre for housing development. The principle of this development would thus normally be considered acceptable.
- 6.2 The Broughton Astley Neighbourhood Plan (BANP) was 'made' (adopted) by Harborough District Council on 20.01.14, having gone through full public consultation, successfully passed through Examination in Sept/Oct 2013, before receiving an 89% yes vote at Referendum on 16.01.14. The key BANP policy relating to this proposal is Policy H3, which states,
- (iii) In respect to back land and tandem development in gardens of existing properties; such developments will be resisted where they have the potential for loss of amenity of neighbouring properties; through loss of privacy, loss of daylight, visual intrusion by a building or structure, loss of car parking, loss of mature vegetation or landscape screening and additional traffic resulting from the development.*
- (iv) Any windfall, back land or tandem development must have a direct highway frontage.*
- 6.3 The policy makes clear that development proposals for back land and tandem development that have the potential for loss of amenity of neighbouring properties will be resisted. A list of potential amenity impacts is then given.
- 6.4 The majority of such proposals will have the potential for loss of privacy and/or visual intrusion, but some will not in practice cause significant harm. All such proposals will by definition result in additional traffic, but some/many will not in practice cause significant harm. Lastly, by their very nature, no proposals for backland or tandem development will have a direct highway frontage – proposals that directly front a highway will not be behind another dwelling and thus not tandem, and will not be backland in the regular/true sense of the word.
- 6.5 The policy therefore has the effect of prohibiting backland and tandem development, and the proposal very clearly conflicts with BANP Policy H3.

### **b) Weight to be attached to the Neighbourhood Plan**

- 6.6 The next question is how to apply the policy, i.e. what weight it should be given. In this regard, officers note the following:

Para 11 of the Framework states that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

Para 12 of the Framework, which makes clear that the development plan is the starting point for decision making, states that development proposals that conflict with an up-to-date Local Plan should be refused unless other material considerations indicate otherwise.

The recent Crowfoot Way appeal decision (ref. 12/2183653), concerning a proposal for 111 dwellings, dismissed by the Secretary of State, but in which he concluded that, (1) the Council does not have a five year supply of housing land, (2) the relevant development plan policies for the supply of housing are out of date, and (3) the BANP is also out of date with regard to housing supply. However, despite these findings, the Secretary of State dismissed the appeal on the grounds of that proposal's conflict with the BANP, and in doing so he gave the new BANP very substantial weight.

The Secretary of State concluded, at para 19 of his decision letter, that,

*“Paragraph 198 is clear that, where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. In line with paragraph 184 of the Framework, the Broughton Astley Neighbourhood Plan does not undermine the strategic policies in the Local Plan (i.e. the 2011 Harborough Core Strategy) nor provide for less development than is set out in that Plan. Paragraph 185 of the Framework states that, outside the strategic elements of the Local Plan, neighbourhood plans will be able to shape and direct sustainable development. The Secretary of State regards this purpose as more than a statement of aspiration. He considers that neighbourhood plans, once made part of the development plan, should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question, for example to ensure that the best located sites are developed. Consequently, in view of Framework paragraphs 198 and 185 the Secretary of State places very substantial negative weight on the conflict between the appeal proposal and the Neighbourhood Plan.”*

- 6.6 In light of these considerations, while the proposal may reasonably be considered not out of keeping with the character of the local area, it clearly conflicts with BANP Policy H3, and the BANP should be given very substantial weight.

#### **b) Material consideration weighing against this policy conflict**

- 6.7 An identical proposal at the same site was refused on 15th May 2014. This was appealed and while the appeal was dismissed (17th October 2014, appeal ref. 14/2221252), the Inspector dismissed the appeal only on the lack of affordable housing contribution – despite the fact that this could have been required by way of condition or Section 106 obligation. (Furthermore, in the period between the appeal site visit and the issue of decision, the Council's Affordable Housing policy changed, such that the appeal may have been allowed were it permissible to forward new information to the Planning Inspectorate at that very late stage of the appeal process.)
- 6.8 The Inspector took the view that the proposal had a direct highway frontage. This is a surprising conclusion, given that neither dwelling would have a direct highway frontage, and the Inspector missed the opportunity to give a clear steer on how NP Policy H3 should be applied, whether it (1) afforded a blanket ban on backland development or (2) should be applied on a case by case basis, with a judgement made on each proposal as to whether the objectives of the policy are offended. The appeal decision fails to provide clarity on the application of NP Policy H3 and on the acceptability of this proposal.

- 6.9 However, the decision has not been challenged by Parish, HDC or neighbouring residents and, as a very recent appeal decision on an identical proposal at the same site, carries very significant weight.
- 6.10 The Inspector's decision suggests there are instances where, despite the *in principle* policy conflict with BANP Policy H3, the adverse impacts of granting permission would not significantly and demonstrably outweigh the proposal's benefits. It also suggests that, in the context of a lack of a five year housing land supply, such proposals are finely balanced and in some cases may be considered acceptable.

## **i) Technical Considerations**

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

Broughton Astley has been the subject of significant infill development, some comprehensive and some piecemeal, over recent decades, and many examples are to be found locally, including Orchid Place, Thorneycroft Close, Rear of 39-45 Dunton Road, and Station Road post office, as well as Croft Way and Speedwell Drive. There are numerous examples of similar developments, several of those allowed at appeal. The character of Broughton Astley has changed from a linear settlement to one that is a mixture of planned and nucleated – its linear core has been extended by a series of estates and closes, and the result is a settlement the majority of which might be said to lack a defining sense of place.

In this context the current proposal is considered not to result in any significant change to the settlement's character. Although in the immediate vicinity there are a mixture of longer and shorter plots, the long rear gardens of 29, 31, 34 and 45 Dunton Road are now relatively rare and are no longer a defining characteristic of Broughton Astley. It is unfortunate that the proposal would leave the garden of 34 Dunton Road landlocked, though future access could potentially be gained via Trefoil Close and the gardens of Nos. 30 and 32.

The dwellings are proposed as "1.5 storey" dwellings, i.e. effectively dormer bungalows, with single storey eaves heights. The layout plan indicates two dormers to Plot 1 (two bedrooms) and four dormers to Plot 2 (five bedrooms). It is noted that scale is not a matter to be assessed, though the heights of the dwellings could / should be controlled by suitably worded condition.

The layout shows the dwellings served by a 4.8m-wide shared access, with timber automatic gates set back approx. 20m from the highway. Garage aside, the front elevation of Plot 1 would be at a distance of approx. 32m from the highway.

In summary, having regard to the site's surroundings and the infill development of Trefoil Close and Orchid Place as well as the recently approved and constructed dwelling to the rear of 40+42 Dunton Rd and immediately south of the application site, it is considered that the proposal would not be out of keeping with its surroundings or have a significant or demonstrably harmful impact on the character of the locality, and the application thus accords with Policy CS11 of the Core Strategy.

### **2. Residential amenity**

The proposed dwellings, by virtue of their scale and siting, may have some impact on the amenities of neighbouring residents. It is important to examine to what extent neighbours would be affected and whether the proposal would cause demonstrable harm in this regard.

Plot 1 – Its side elevation (proposed to contain no windows serving habitable rooms) would be sited approx. 28 metres from the rear elevation of 11 Trefoil Close; its rear elevation would be sited approx. 20.5 metres from the front elevation of the proposed Plot 2; and its front elevation would be sited approx. 20.6 metres from the rear elevation of the two-storey element of the

approved extension to 36 Dunton Road (the applicant). Plot 1 would not comply with the 45 degree rule with respect to the closest element of 40 Dunton Road, though due to the shape of this element there is considered to be no significant or harmful impact as a result. Plot 1 would comply with the 45 degree rule with regard to the conservatory to 40 Dunton Road. It is also noted that the application site lies to the north of No. 40 and therefore would not cause loss of light to the said neighbour.

Plot 2 – Its side elevation (proposed to contain no windows serving habitable rooms) would be sited approx. 24 metres at the closest point from the corner of 15 Trefoil Close, and approx. 27 metres from the rear elevation of 13 Trefoil Close; its rear elevation would be sited approx. 21.5 metres from the rear elevation of 18 Orchid Place; its other side elevation (proposed to be blank) would be approx. 12m at the closest point from the corner of 42A Dunton Road; the proposed dwelling would not face directly towards 42A and would be sited to the north of the said neighbour. The front elevation to Plot 2 would be sited approx. 36 metres from the rear elevation of 40 Dunton Road, and approx. 20.5 metres from the rear elevation of Plot 1.

Further, barring an approx. 7 metre section between 40 Dunton Road and proposed Plot 1, there is an existing hedge to all sides, which is shown to be retained and which would further reduce any adverse effect of the proposal to these properties.

The objections from neighbouring residents are noted, but in each case the spatial relationships and distances to neighbouring and nearby dwellings are such that the proposal would safeguard the living conditions of neighbouring residents, and the application would therefore accord with Core Strategy policy CS11(c.).

### 3. Highway safety and parking

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The proposed development would involve the creation of a new access, which is proposed to have a width of 4.8m for a distance of approx. 31.5 metres back from the highway, and thereafter (serving Plot 2 only) a width of 2.75m. The plans indicate sufficient off-road parking two spaces for Plot 1 and three for Plot 2) for each proposed dwelling. The local highway authority (LHA) has no objections subject to conditions relating to (1) highways design standards / details and (2) no walls, fences or planting to be erected or allowed to grow on the highway boundary exceeding 0.6m. These conditions meet the Circular 11/95 tests as they all relate to the development, are reasonable, and are necessary for highway and pedestrian safety reasons. The application is thus considered to accord with Core Strategy Policies CS5 and CS11.

Although the proposal would result in additional traffic and therefore conflicts with BANP Policy H3 it is considered that, for the reasons set out above, it would be unreasonable to refuse the planning application on this basis.

The concerns of neighbouring residents are noted, with regard to local highway and especially the safety of the proposed access. However, in the recent appeal decision the Inspector made reference to the nature of Dunton Road, stating that the development would not compromise highway safety on Dunton Road. The Inspector concluded:

*“I observed a steady flow of traffic along Dunton Road during my site visit, with the occasional vehicle parked on the highway. Although there is a slight curvature in the road at this point, houses on this section of Dunton Road, including No 36 are set back from the highway, increasing visibility in both directions for drivers exiting the site. The low walls enclosing the front of the adjacent properties are not of sufficient height to obscure visibility. As such, the proposed access arrangements and modest increase in traffic movements associated with the development would not compromise highway safety in Dunton Road”.*

The LHA comments:

*“When considering the Inspectors decision and the access not differing at all to this and the fact that the access proposed is in accordance with our design guidance, the Highway Authority are not in a position to recommend refusal of the proposal.”*

#### 4. Economic growth

The planning system has a key role to play in rebuilding the economy and the Government is committed to reforming the planning system so that it promotes sustainable growth and jobs. The Government expects that proposals for development and growth should, wherever possible, be allowed except where this would compromise the key sustainable development principles set out in national planning policy. This is an important consideration to which weight must be attributed accordingly. However, there is considered to be no driving regeneration needs in this part of Harborough District, and the proposal would make only a very minor contribution to local economic growth.

### 7. The Planning Balance / Conclusion

- 7.1 The proposed development would safeguard the living conditions of neighbouring residents, would have a siting, design and massing that, subject to suitable conditions, would respect the character and visual amenity of the site's surroundings, respond appropriately to the site's characteristics and not adversely affect local highway safety. In addition, the proposal would make a minor contribution to the Council's housing land supply.
- 7.2 The proposal would result in backland / tandem development which, for the reasons set out above, would conflict with Policy H3 of the Broughton Astley Neighbourhood Plan, to which substantial weight should be given.
- 7.3 Notwithstanding this policy conflict, an identical proposal at the same site has been dismissed by the Planning Inspectorate but not on these grounds. The ground on which it was dismissed, affordable housing, no longer applies by virtue of (1) the Council's decision 15th September 2014 not to require commuted sums on developments of 1 and 2 dwellings and (2) the Written Ministerial Statement of 28th November which advises LPAs not to seek affordable housing provision on developments of less than 11 dwellings or up to 1000 sq m. It is considered that very significant weight should be given to this consideration.
- 7.4 This recent appeal decision suggests that there will be instances where, despite the in principle policy conflict with BANP Policy H3, the adverse impacts of granting permission would not significantly and demonstrably outweigh the proposal's benefits.
- 7.5 In this instance, no harm has been identified other than the proposal's conflict with BANP Policy H3 and therefore, on balance, and in the context of a lack of a five year housing land supply, it is concluded that the adverse impacts of granting permission would not significantly and demonstrably outweigh the proposal's benefits, and the application therefore accords with paragraph 14 of the Framework.

### 8. Planning Conditions

- 8.1 If Members are minded to Approve the application, a list of suggested planning conditions is attached at **Appendix A**

## Appendix A

1. The development hereby approved shall be begun within 3 years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 and to enable the Local Planning Authority to review the position at the end of this period.

2. Unless amended by the requirements of the other Conditions of this planning permission, the development hereby permitted shall be carried out fully in accordance with the following approved plans: "13065-04", "13065-05", "Block Plan" and the Location Plan.

Reason: In the interests of good planning, and for the avoidance of doubt.

3. Notwithstanding the details submitted, no development shall commence on site until details of the existing and proposed ground levels and finished floor levels of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented fully in accordance with the approved details.

Reason: To ensure a satisfactory form of development which is compatible with the character of the surrounding locality, safeguards the character and appearance of the area, and safeguards the living conditions of neighbouring residents, and to accord with Policy CS11 of the Harborough District Core Strategy.

4. Notwithstanding the details shown on the submitted plans, no development shall commence on site until a schedule indicating the materials to be used on all external elevations of the approved dwellings, including bricks, tiles, ridge tiles, sills, lintels and headers, windows, doors and other openings, fascias, soffits and bargeboards, 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 retained in perpetuity.

Reason: In the interests of visual amenity and to ensure that the development will harmonise with its surroundings and to accord with Policies CS1, CS11 and CS16 of the Harborough District Core Strategy.

5. The residential curtilage of the dwelling hereby permitted shall fully accord with, and at no time extend beyond that shown by the red line on approved drawing "13065-04", and shall be retained as such in perpetuity.

Reason: In the interests of the amenity of the site and its surroundings, and to preserve the character and appearance of the locality, and to accord with Harborough District Core Strategy Policy CS11.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or other form of enlargement, nor erection of hardstandings or gates, fences, walls or other means of enclosure, or any other form of development under Schedule 2 Parts 1 and 2, shall take place, except in the case of any development permitted by Classes G and/or H of Part 1.

Reason: To safeguard the character and appearance of the development and that of the area, and the living conditions of neighbouring occupiers, and to accord with Policy CS11 of the Harborough District Core Strategy.



7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification) no additional doors, windows, dormer windows or other openings shall be formed in the side elevations of either dwelling hereby permitted, at first floor level or above, including its roof(s), without the grant of further specific planning permission from the Local Planning Authority.

Reason: To safeguard the the living conditions of neighbouring occupiers, and to accord with Policy CS11 of Harborough District Core Strategy.

8. Notwithstanding any details shown on the submitted plans, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall indicate the treatment proposed for all ground surfaces, including all hard surfaces, together with the species and materials proposed and their disposition, existing trees and hedges to be retained, and all fences and walls to be erected. All hard landscaping works shall be carried out in accordance with the details approved pursuant to Condition 8 prior to the first occupation of the development. All soft landscaping shall be carried out in accordance with the details approved pursuant to Condition 8 in the first planting and seeding season following the first occupation of the development, or the completion of the development, whichever is sooner. Any trees, plants or shrubs which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a satisfactory landscaped setting for the development, to ensure that the work is carried out within a reasonable period and is properly maintained and to preserve the character and appearance of the area, and to accord with Harborough District Core Strategy Policy CS11.

9. All on site working, including demolition and deliveries to and from the site, associated with the implementation of this planning permission shall only be carried out between the hours of 8 a.m. and 6 p.m. Monday to Friday, 8 a.m. and 1 p.m. Saturday and not at all on Sunday, Public and Bank Holidays.

Reason: To ensure that as far as possible the proposed use does not become a source of annoyance to the nearby residents and to ensure compliance with Policy CS11 of the Harborough District Core Strategy.

10. The approved shared private drive shall be provided with a minimum width of 4.25 metres for at least the first five metres behind the highway boundary, and shall have a drop crossing of a minimum size as shown in Figure DG20 of the 6CsDG at its junction with the adopted road carriageway. The access drive shall be provided before any dwelling hereby permitted is first occupied and shall thereafter be permanently so maintained.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway. and to accord with Harborough District Core Strategy Policies CS5 and CS11.

11. No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway and to accord with Harborough District Core Strategy Policies CS5 and CS11.

12. No walls, planting or fences shall be erected or allowed to grow on the highway boundary exceeding 0.6 metres in height above the level of the adjacent carriageway.
- Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety. and to accord with Harborough District Core Strategy Policies CS5 and CS11.
13. The gradient of the access drive shall not exceed 1:12 for the first 5.0 metres behind the highway boundary.
- Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety and to accord with Harborough District Core Strategy Policies CS5 and CS11.
14. Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.
- Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users and to accord with Harborough District Core Strategy Policies CS5 and CS11.
15. The car parking and turning facilities (including two garage parking spaces) shown within the curtilage of the dwelling shall be provided, hard surfaced and made available for use before the dwelling is occupied and shall be retained as such thereafter and in perpetuity.
- 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.

#### Notes to Applicant

1. You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. Market Harborough 821090). As such please be aware that complying with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.
2. A watching brief for all protected species of wildlife 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.
3. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (Tel: 0116 3052104 / 0116 3052202).
4. 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.

5. With regard to Condition 10, if the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.
6. This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -  
For 'major' accesses - see Part 6 of the "6Cs Design Guide" at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg)  
For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.
7. The proposed road does not conform to an acceptable standard for adoption and therefore it will NOT be considered for adoption and future maintenance by the Highway Authority.

## Planning Committee Report

**Applicant:** Mr Scott Timmins

**Application Ref:** 14/01485/FUL

**Location:** 38 Main Street, Great Glen

**Proposal:** Erection of a single storey dwelling (access from Higher Green)

**Application Validated:** 03.11.2014

**Target Date:** 29.12.2014 (Extension of Time Agreed with Agent to 09.01.15)

**Consultation Expiry Date:** 10.12.14 (Neighbour and Parish Council 14 day consultation on amended plans)

**Site Visit Dates:** 03.01.2013, 12.11.2014

**Case Officer:** Nick White

## Recommendation

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

### 1. Site & Surroundings

- 1.1 The application site (hereafter referred to as the 'site') lies within the Limits to Development of the sustainable Rural Centre settlement of Great Glen.

The site approximately represents the bottom half of the rear garden of 38 Main Street. Section 14 of the Application Form advises that the site is the "disused former vegetable garden for 38 Main Street". The site is accessed from the Higher Green cul-de-sac and will front onto Higher Green, which is a residential area, with residential land uses in all directions of the site. There a number of reasonably large evergreen trees growing in the highway verges of the cul-de-sac.

A two storey (gable ended) detached dwelling lies to the north of the site (28 Higher Green) and a substantial two storey (hipped roof) detached dwelling lies to the south of the site (25 Higher Green – note application 14/01491/FUL to extend this dwelling at first floor above its garage; recommended for approval). To the front of the site is a dormer bungalow style property (24 Higher Green) and a bungalow dwelling with first floor accommodation (23 Higher Green). In the other corner of the head of the cul-de-sac is a narrow vehicular driveway which leads to a backland plot occupied by the 28a Higher Green dwelling. 28a is a bungalow dwelling with first floor accommodation (utilising rooflights) approved under 04/01806/REM on 12.01.05.

In the surrounding area, there are a mixture of flat and pitched roof garages, dormer windows, roof lights, gable, hipped and flat roof designs, variegated materials and dwelling styles, and new and older properties. Properties in the immediate Higher Green locality generally date from the 1960s/1970s. 25 Higher Green is a replacement dwelling built in the last few years (09/00337/FUL "Erection of a replacement dwelling

house including solar panels and sun pipes on the rear elevation – revised scheme of 08/01077/FUL”). In terms of streetscene character and appearance, it is a not a uniform environment.

There are no steep gradients in the locality, but 28 Higher Green is on higher land.

The site is demarcated by close boarded timber fencing to its side and front boundaries and a hedgerow to its rear (west) boundary. There are a range of trees, shrubs and foliage (evergreen and deciduous) along neighbouring boundaries and in the locality, most notably alongside the northern boundary of the site within the 28 Higher Green plot. There are no Protected Trees or foliage on the site or in the locality.

The site is not within a Conservation Area and the proposal does not affect the setting of Listed Buildings/assets.

Outline Planning Permission was first granted in 2002 for the erection of a single storey dwelling on this site. This permission was renewed up until 10/01146/ETO, which expired on 05.11.13.

## **2. Site History**

2.1 The Site has the following planning history:

<b>Application No.</b>	<b>Decision / Date</b>	<b>Nature of Development</b>
12/01700/REM	WITHDRAWN** 31.01.2013	Erection of a dwelling house (reserved matters of 10/01146/ETO) (access via Higher Green)
10/01146/ETO	APPROVED 05.11.2010	Erection of one single storey dwelling, access via Higher Green (scale to be considered) (extension of time of 07/01344/OUT)
07/01344/OUT	APPROVED 27.11.2007	Erection of one single storey dwelling. Access via Higher Green. (Scale to be considered).
02/01077/OUT	APPROVED 11.09.2002	Residential development (all matters reserved)

\*\*12/01700/REM was to be refused planning permission on two grounds: (1) visual amenity harm and (2) residential amenity harm.

## **3. The Application Submission**

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

3.1 The proposal seeks detailed planning permission for the erection of a single storey dwelling, with attached single garage, associated hard standing and landscaping.

### **b) Amended Plans and Additional Supporting Documents**

3.2 Amended plans have been submitted in an attempt to address comments raised by officers and the wider community during the application process.

The final plans being assessed incorporate the following changes:

1. Ridge line reduced from 6.4m to 5.9m and the eaves reduced from 2.75m to 2.25m.
2. Master bedroom suite adjusted (portion of building footprint removed in this front corner of the dwelling) to improve impact on neighbour to south (No.25 Higher Green).
3. Kitchen/Diner also adjusted to facilitate alteration to the master bedroom suite (portion of building footprint added to rear of the dwelling).
4. Rooflights added to the eastern (x1) and western (x2) roof slopes.
5. Bin store moved rearwards away from front driveway area.
6. Additional notations added to plans re boundary treatments, driveway hard surfacing and landscaping.

### c) Plans and Documents For Assessment

#### i. Plans

3.3 The application seeks assessment of the following amended plans:

- “Proposed Site Plan” (Drawing Number 3775/ST/14/002, Revision G);
- “Proposed Ground Floor Plan” (Drawing Number 3775/ST/14/003, Revision H);
- “Proposed Elevations” (Drawing Number 3775/ST/14/004, Revision F).

#### ii. Supporting Statements / Documents

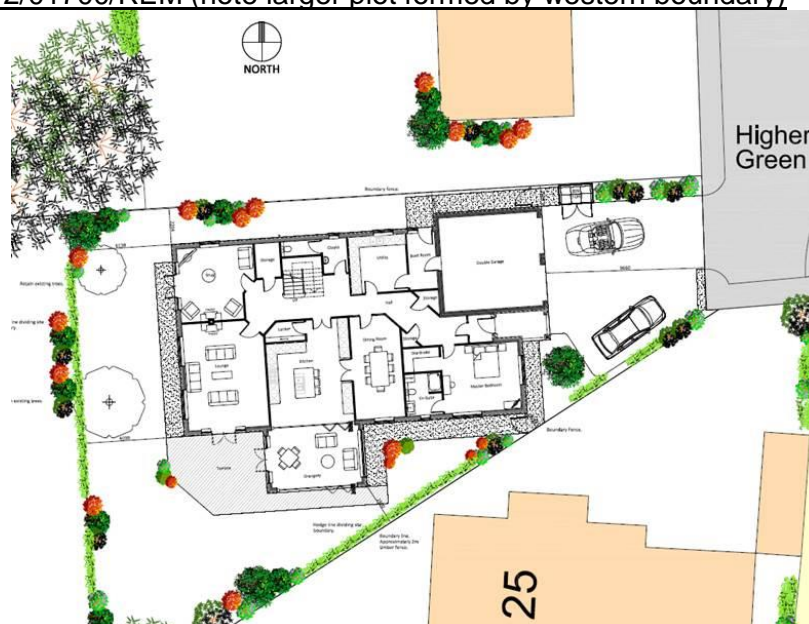
3.4 The application has been accompanied by the following supporting document:

- “Photograph Document” (October 2014).

### d) Pre-application Engagement

3.5 Following Withdrawal of 12/01700/REM, the Applicant’s Agent sought post-application advice. The informal advice given by the Local Planning Authority was that the 12/01700/REM proposal was significantly too large and would cause visual and residential amenity harm in that form. Advice was provided that the proposal should be significantly reduced in size.

Withdrawn 12/01700/REM (note larger plot formed by western boundary)





### Current Amended Plan



## **4. Consultations and Representations**

- 4.1 Consultations with technical consultees and the local community were carried out on the application: first at the initial consultation stage (on 07.11.14) and secondly following the receipt of amended plans (on 26.11.14; with neighbours and the Parish Council).
- 4.2 A summary of the technical consultee responses received are set out below. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

#### 4.3 *Severn Trent Water*

Consulted. No comments received.

#### 4.4 *HDC Technical Services (Drainage Engineer)*

Consulted. No comments received.

#### 4.5 *HDC Environmental Services (including Contaminated Land Officer)*

Consulted. No comments received.

#### 4.6 *Leicestershire County Council Highways Authority (LCC HA)*

“STANDING ADVICE (hard surfacing of access, consider car parking).”

#### 4.7 *Leicestershire County Council Ecology*

“We have no objections to this development. Unless additional evidence is provided we have no further comments on this application.”

#### 4.8 *Great Glen Parish Council*

“The Parish Council object to this proposal on the following grounds: It is overlarge and overbearing for the plot. Its proximity to other properties. It would be detrimental to the streetscene. Its position is out of character to the other buildings in the area.”

### **b) Local Community**

4.9 17 letters (including emails) of objection have been received: 6 from 28a Higher Green (which also owns 28 Higher Green), 4 from other Higher Green addresses, 1 from elsewhere in Great Glen and 6 from properties outside Great Glen.

4.10 One of the above 17 representations is a Right of Light (RoL) report. Although RoL is itself not a material planning consideration, the report refers to material planning considerations and its contents are thus fully evaluated.

4.11 An objection petition signed by 21 people (residents of 9 separate addresses) has been received.

4.12 A summary of the representations received is outlined as follows:

### **Affordable Housing**

- This development suggests Millionaires Row as opposed to affordable housing or even a retirement bungalow.

### **Design**

- The size of the development in both height and footprint is unsuitable for such a modest plot at the head of a cul de sac.
- The proposal is 0.9m higher in ridge line height compared to 28a Higher Green.
- Higher Green is a build of four bed houses interspersed with small bungalows. This development simply does not fit in with the streetscene.



- The development is not of a similar scale, density, style or design to the existing properties on Higher Green and therefore does not comply with Policy CS11.
- The proposal has the impression of being squeezed in.
- The proposal conflicts with the Great Glen Village Design Statement.
- The proposed dwelling is out of character as its depth exceeds its width.
- The usable garden provided on this plot is exceedingly small by comparison with neighbouring properties.
- Property is too far forward to the pavement.
- Does not reflect the "Open Plan style" of Higher Green.
- The development proposes to erect a 900 mm high roll fence to the front boundary of the property which is not in accordance with the open plan aspect on Higher Green (Officer comment – this has now been removed on the plans).
- Allowing three large refuse bins to be sited in front of the proposed development on what is now a front lawn will make a mockery of the current open street scene of Higher Green (Officer comment – this has now been moved on the plans).

### Ecology

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- The proposal will be harmful to protected wildlife species. We have observed snakes, bats, frogs and toads in the garden of 28 Higher Green.
- Great Crested Newts and various species of Bats have been seen which live and feed, on and near to this site. The extent to which protected species may be affected by the proposed development has not been identified.
- ODPM Circular 06/2005 has not been satisfactorily addressed, along with other legislation/guidance to protect ecology, for example, Great Crested Newts.

### Flooding & Drainage

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- Flood risk concerns, related to the large amount of hard landscaping and small garden space, potentially being detrimental to neighbouring properties.
- Although this application lies within Zone 1 and is defined as having a low risk of flooding, the site slopes down towards Main Street which is in Flood Zone 3. Where is the Flood Survey?
- Concerns about the capacity of the main foul sewer system.

### Highways

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- Insufficient parking provisions.
- The additional traffic use of the cul-de-sac is likely to cause an accident.

### Residential Amenity

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- The proposal has an overbearing effect on adjacent properties and will affect the sunlight and daylight enjoyed by the occupants of the existing properties.
- The proposal will cause loss-of-privacy from its rooflights.
- All of the proposed bungalow's windows can be looked into on virtually a regular basis from the garden of 28 Higher Green.
- There are first floor windows to both 25 and 28 Higher Green which will directly overlook the private amenity space of the proposed dwelling.

## 5. Planning Policy Considerations

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the provisions of the

development plan (hereafter referred to as the 'DP'), unless material considerations indicate otherwise.

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

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

5.3 The DP for Harborough comprises:

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

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

5.5 *Harborough District Core Strategy*

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

5.6 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". Pertinent to this application, Policy CS1 advises that this will be achieved by:

- Enabling the development of at least 7,700 dwellings across the District during the period 2006–2028. [Officer comment – this figure is now significantly higher.]
- Developing the communities of Kibworth, Fleckney, Great Glen, Billesdon, Ullesthorpe and Husbands Bosworth as Rural Centres as a focus for rural housing, additional employment, retail and community uses to serve each settlement and its catchment area.

5.7 Policy CS2 sets out the delivery policy for the distribution of a minimum of 7,700 dwellings between 2006-2028, including:

- Rural Centres and Selected Rural Villages will receive at least 2,420 dwellings. [Officer comment – this figure is now significantly higher.]
- (a) Housing development will not be permitted outside Limits to Development (either before or following their review) unless at any point there is less than a five year supply of deliverable housing sites and the proposal is in keeping with the scale and character of the settlement concerned.

[Officer comment – The aspect of Policy CS2 which permits development outside Limits when there is less than a five year supply, but automatically rules it out when there is a five year supply, is judged to be out-of-date and superseded by Paragraph 14 of The Framework. The overarching guidance, advocated by both Policy CS2

and The Framework, is that new housing shall be provided in a sustainable manner and proposals shall be in keeping with the scale and character of the settlement concerned.]

- (b) All housing developments should be of the highest design standards (in conformity with Policy CS11) and have 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.
  - Higher densities are particularly encouraged in locations that offer, or have the potential to offer, a choice of transport options and are accessible to other services and facilities.
- 5.8 Following the amendment of Policy CS3 on 15.09.14 by Executive decision, this proposal is no longer subject to a s106 Affordable Housing Commuted Sum requirement.
- 5.9 Policy CS5 states that (a) the majority of future development will be located in areas that are well served by local services in order 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.
- 5.10 Policy CS8 states, inter alia, that development must (d.vi) avoid demonstrable harm to habitats or species which are protected or which are of importance to biodiversity.
- 5.11 Policy CS9 states that (a) development will be directed towards the most sustainable locations in order to help to reduce the District's carbon emissions.
- 5.12 Policy CS10 states that:
- (a) development will be directed towards areas at the lowest risk of flooding within the District, with priority given to land within Flood Zone 1.
  - (d) All new development will be expected to ensure that it does not increase the level of flooding experienced in other areas.
  - (e) Surface water run off in all developments should be managed to minimise the net increase in the amount of surface water discharged into the local public sewer system.
  - (f) Great Glen is particularly sensitive to any net increase in surface water discharge into the local surface water sewer network.
  - (g) The use of Sustainable Drainage Systems (SuDS) will be expected and design and layout schemes which enhance natural forms of on site drainage will be encouraged.
- 5.13 In recognition of the importance of good design and the built heritage of the District, Policy CS11 seeks to ensure that the highest standards of design in new development are achieved and attractive places are created for people to live, work and visit. Heritage assets within the District, including their setting, will be protected, conserved and enhanced, ensuring that residents and visitors can appreciate and enjoy them.
- 5.14 Policy CS17 specifically refers to the countryside, Rural Centres and Selected Rural Villages, stating 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.

All development in these areas will contribute to:

- (c.i) Protecting and, where possible, enhancing the character and quality of the landscape in which it would be situated;
- (c.ii) Conserving and, where possible, enhancing local landscape and settlement distinctiveness;
- (c.iii) Protecting and, where possible, enhancing local character through appropriate design and management which is sensitive to the landscape setting;
- (c.iv) Avoiding the loss of features and habitats of landscape, historic, wildlife or geological importance, whether of national or local significance;
- (c.v) Safeguarding important views and landmarks;
- (c.vi) Protecting the landscape setting of individual settlements;
- (c.vii) Restoring, or providing mitigation proportionate in scale for, damaged features/landscapes in poor condition; and
- (c.viii) Improving the green infrastructure network including increased opportunities for public access to the countryside and open space assets.

[Officer comment – Paragraph 6.59 of CS17 identifies Great Glen as a settlement with a notable commitment to the Strategy for Housing Distribution figure for the Rural Area, stemming from the 2001 Local Plan allocations. It states that “for this reason...Great Glen is excluded from the list of settlements in the above policy where additional housing is planned. However, this does not preclude limited infill development within currently defined Limits to Development”. It is considered that this policy subtext is not consistent with the aims and objectives of the NPPF, which seeks to deliver high levels of housing growth in sustainable locations. Proposals which accord with the development plan, or where the adverse impacts of a proposal do not significantly and demonstrably outweigh the benefits of the proposal, should be approved without delay. Notwithstanding, the application site lies within the Limits to Development and represents limited infill development.

As outlined in more detail below, the District of Harborough presently has a 5 Year Housing Supply (5YS) deficit, the most up-to-date housing evidence confirms more dwellings per annum are required than previously thought, and it is judged that restrictive Para.6.59 of CS17 is out-of-date. Each site must be assessed on its own merits: any harm stemming from this proposal must be identified and judiciously considered against the strong positive material consideration of approving a new dwelling/s in a sustainable settlement.]

#### 5.15 *The saved policies of the Harborough District Local Plan*

The HDLP was adopted in 2001 with an original end date of 2006. A small number of policies have been “saved/retained” beyond that time. Of the limited number of policies that remain extant, Policy HS/8 (Limits to Development) is of relevance to this application. Pertinent to this application, Policy HS/8 states that the District Council will grant planning permission for development within the defined limits to development of a settlement where:

- (1) The Design and layout of the development is in keeping with the scale, form, character and surroundings of the settlement.
- (3) The development does not adversely affect the amenities of residents in the area.

## **b) Material Planning Considerations**

### **5.16 *The National Planning Policy Framework (The Framework)***

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

- 5.17 The overarching policy objective of the Framework is the 'presumption in favour of sustainable development'. Paragraph 7 of the Framework identifies three dimensions to sustainable development: economic, social and environmental. These dimensions are mutually dependent and should be sought jointly and simultaneously through the planning system in order to achieve sustainable development (Para. 8). The presumption in favour of sustainable development should be seen as a "golden thread" running through both plan-making and decision-taking (Para.14).
- 5.18 The Framework states that proposed development that accords with an up-to-date DP should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise (Para.12). Although the CS pre-dates the Framework, it is considered that the DP as a whole is generally up-to-date and, therefore, this application should be determined in accordance with the DP unless material considerations indicate otherwise. The weight to be accorded to DP housing supply policies are subject to the ability of the Local Planning Authority (hereafter referred to as the 'LPA') to demonstrate a 5 year housing land supply. This is discussed in more detail later in this report.
- 5.19 Paragraph 14 of the Framework states that when making decisions on development proposals the decision maker should "approve development proposals that accord with the DP without delay". It goes on to say that where the plan is absent, silent or where relevant policies are out-of-date, permission should also be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole, or specific policies in the Framework suggest development should be restricted.
- 5.20 Paragraph 17 sets out the 12 core 'planning principles' which should underpin decision making. Summarising, these 12 principles are that planning should: (1) be led by up-to-date local plans which set out a vision for the future of the area; (2) enhance and improve the places where people live; (3) drive sustainable development; (4) secure a high quality of design and a good standard of amenity; (5) protect the diversity of different areas; (6) support the transition to a low-carbon future; (7) help conserve and enhance the natural environment; (8) encourage the re-use of land; (9) promote mixed use developments; (10) conserve heritage assets; (11) make full use of public transport, walking and cycling; and (12) improve health, social and cultural wellbeing.
- 5.21 Paragraph 35 states that developments should, where practical, be located so as to give priority to pedestrian and cycle movements and have access to high quality public transport facilities.
- 5.22 From Paragraphs 47-55, the Framework sets out the Government's key housing objective, which is "to boost significantly the supply of housing". Paragraph 47 sets out how LPAs should achieve this boost in the supply of housing, including a requirement to identify and annually update a supply of deliverable sites sufficient to provide five years worth of housing against their housing requirements, with an additional buffer either 5% or 20% - the latter where LPAs have a record of persistent under delivery of housing.

[Officer comment – Counsel legal opinion (Jack Smyth, No 5 Chambers) was provided to HDC on 10.12.14, which concludes at Para 11.a “For the time being the Council should apply a 20% buffer to its housing requirement.”]

- 5.23 Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. It states that “relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”
- 5.24 Paragraph 56 states that good design is a key aspect of sustainable development and indivisible from good planning.
- 5.25 Paragraph 58 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.
- 5.26 Paragraph 60 states that planning policies and decisions should not attempt to impose architectural styles or particular tastes.
- 5.27 Paragraph 61 states that while visual appearance is very important, the development also needs to address connections between people and places and integrate well into the natural, built and historic environment.
- 5.28 Paragraph 69 states, inter alia, that decisions should aim to achieve developments which are safe and accessible, and contain clear and legible pedestrian routes and high quality public space, which encouraging the active and continual use of public areas.
- 5.29 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, for example, factors such as flood risk mitigation.
- 5.30 Paragraph 118 advises LPAs when determining planning applications “to conserve and enhance biodiversity”.
- 5.31 The Framework advises LPAs to approach decision-taking in a positive way, to foster the delivery of sustainable development, to look for solutions and to seek to approve applications for sustainable development where possible (Paragraphs 186 & 187).
- 5.32 Paragraph 206 advises LPAs to only impose planning conditions where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (see national Planning Practice Guidance ID: 21a “Use of Planning Conditions” for further guidance).
- 5.33 Annex A to the Framework advocates how the Framework should be implemented. In particular, it advocates:
- only due weight should be given to relevant policies in a Local Plan according to their degree of consistency with the Framework; and
  - the weight to be afforded to emerging plans, which is to be determined having regard to their stage of preparation, the extent of unresolved objections and the degree of consistency with the Framework.
- 5.34 *National Planning Practice Guidance*

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

5.35 *New Local Plan*

On 3 December 2012, the Council resolved to prepare a new Local Plan for Harborough District. The new Local Plan will incorporate a focused review of the Harborough CS (adopted in November 2011) and will also identify key areas of land for development, thereby obviating the need for an allocations plan (for example, as referred to Policy CS2).

5.36 The new Local Plan Scoping Consultation was completed in April 2013 and the current timetable is for the pre-submission consultation to take place in summer 2015, with an examination timetabled for January 2016. It is envisaged that the plan will be adopted in May 2016.

5.37 The Scoping Consultation noted that the Development Plan period would be extended to 2031 and that an increase in the annual housing requirement is likely. The Scoping Consultation also set out the Council's intention to replace the Limits of Development around existing settlements in the District with a criteria based policy to determine applications for new housing on non-allocated sites on the edge of settlements.

5.38 *Supplementary Planning Guidance*

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

The following SPGs are considered to be most relevant:

SPG Note 1: Design Principles to be Applied in Harborough District

SPG Note 2: Residential Development

SPG Note 3: Single Plot Development and Development of Small Groups of Dwellings

SPG Note 5: Extensions to Dwellings

SPG Note 9: Landscape and New Development

5.39 *Great Glen Village Design Statement*

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

5.41 *5 Year Housing Land Supply Statement*

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

The most up-to-date report (published 15.12.14) covers the period from 1<sup>st</sup> October 2014 to 30<sup>th</sup> September 2019 and demonstrates that the Council has a 3.99 year supply.

This position takes into account the 2014 appeal decisions at Crowfoot Way (made by SoS) and Waterfield Place (made by PINS), which both concluded that the Council's housing need figure of 350 pa was based on out-of-date evidence. In the Secretary of

State's dismissal of the Crowfoot Way appeal (ref. 12/2183653) he concluded with regard to the Council's housing land supply that:

"12. 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). In reaching this conclusion the Secretary of State has given careful consideration to responses to his letters of 21 January and 12 March 2014. 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."

The current 5YS figure of 3.99 years is based on more up-to-date housing evidence being available (SHMA; June 2014); with the data indicating that an increase from 440 to 475 dwellings per annum is required.

As outlined above in The Framework policy assessment, Paragraph 47 of The Framework states that where local planning authorities cannot demonstrate an up-to-date five year supply (5YS) of deliverable sites they should consider favourably planning applications for housing.

This proposal would make a small, but nonetheless notable, contribution towards addressing the shortfall in the District's housing supply and weight, albeit limited weight, must be attached to this material consideration.

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

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

- 5.43 The identified 5YS shortfall adds material weight in favour of approving this application, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The DP is judged to be robust for the purposes of assessing this application, which lies within a Rural Centre's Limits and for which the principle of development is acceptable. Further materials considerations are evaluated in the "Assessment" Section 6 of this report, below.

#### c) Other Relevant Documents

- 5.44 The following documents are also of relevance in determining this application:
- 5.45 *Harborough Housing Requirements Study*

The Harborough Housing Requirements Study was carried out by independent consultants GL Hearn in March 2013, on behalf of the Council to assess future housing requirements in the District over the period 2011-2031 (this references a figure of 440 dwellings per annum). This has now been superseded by the Strategic Housing Market Assessment (SHMA; June 2014 publication; which references a figure of 475 dwellings per annum).

#### d) Other Relevant Information

*Reason for Committee Decision*



- 5.46 This application is to be determined by Planning Committee because of the level of community interest.

## **6. Assessment**

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

- 6.1 The application site lies within the Limits to Development of a sustainable Rural Centre settlement. The proposal represents infill development and the principle of development is judged to be acceptable.

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

- 6.2 The District's 5YS shortfall adds material weight in favour of this proposal, albeit limited weight as the proposal is for only one dwelling.

### **c) Technical Considerations**

6.3

#### **1. Affordable Housing**

Following amendment of Policy CS3 on 15.09.14, this proposal is no longer subject to a s106 Affordable Housing Commuted Sum requirement.

#### **2. Design**

The proposal will be viewed in the context of the Higher Green streetscene, not Main Street. Higher Green is a streetscene of varied dwelling designs in terms of all design criteria: form (layout), mass, scale, proportions, styles and materials (although buff brick is one common theme, excluding the 28a Higher Green dwelling and brick boundary walls which have been constructed in red brick). The head of the cul-de-sac is largely defined by 28 Higher Green, a property of buff brick, concrete tiles and a large amount of what appears to be UPVC cladding to its front elevation. There are two storey, dormer bungalow and single storey dwellings in the immediate locality, including hipped roofs, gable ends and flat roofs. It is a reasonably diverse streetscene.

The style of the proposed dwelling is judged to be acceptably in keeping with its surroundings – it will not cause harm to the character and appearance of the locality. The proposed elevations plans and Application Form Section 9 indicate a dwelling with a brick and cant brick plinth to 0.8m with render above. Sandtoft clay tiles, timber doors and UPVC windows are proposed. The materials are judged to be acceptable in principle and a Materials Details Condition is recommended in order to agree final details.

Planning Agents Marrons have submitted an objection letter on behalf of 28a Higher Green. The thrust of the objection argument under the section title "Impact on the character of the area and street scene" attempts to demonstrate that the application proposal is 'cramped' within its plot (as defined by the boundaries of the plot), causes harm to the streetscene and should be refused on this basis. It is noted that "built footprint" areas are used for comparison (in the p.3 table in Marrons' letter) and

floorspace is not also quoted, which would be roughly double for most of the examples given. Floorspace may be a useful comparator as it indicates how much outdoor amenity space is provided relative to the amount of internal accommodation. It is also noted that 4 examples are selected from Main Street, which has a streetscene appearance of substantial detached dwellings set back within large plots – a different streetscene appearance to that of Higher Green. The proposal will be seen from the public realm solely in the context of Higher Green and the Main Street examples are not judged to be useful. Nearby plots No.24 and No.23 Higher Green have been excluded, and these compare very similarly to the application site as follows: No.24 is a plot size of circa 575sq.m, with a built footprint of circa 162sq.m = 28% plot coverage; No.23 is a plot size of circa 580sq.m, with a built footprint of circa 194sq.m (including its garage) = 33% plot coverage. The proposal is stated by Marrons to be 31% plot coverage.

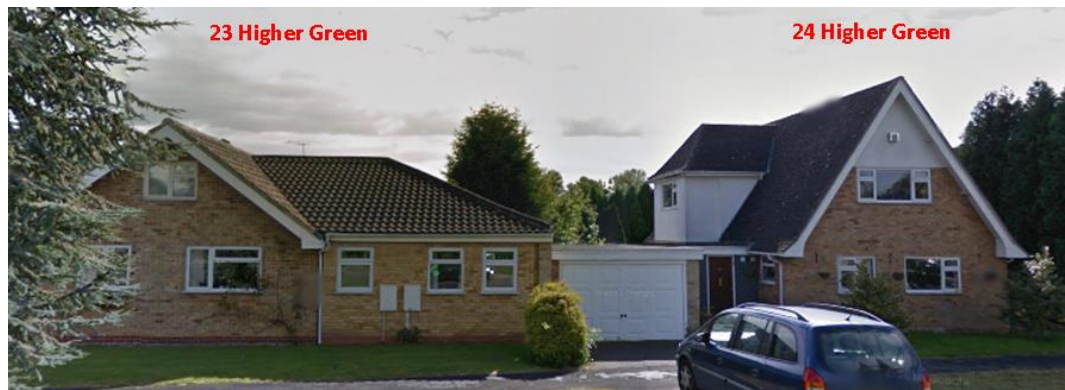
It is considered that using No.28a as a comparison example but including the distorting effects of its access drive leads to a slightly misleading figure. The assertion is made that the narrow access drive to the No.28a property “serves a very important function in making that site more open”. Therefore, the square meter area of the drive (circa 65sq.m) is included in the “plot size” calculation. This leads to a “plot coverage” (the percentage of the plot taken up by built development) figure of 25% for No.28a. No.28a would be circa 28% plot coverage without the access drive.

For the purposes of providing a more legible comparison of how much of the No.28a plot is occupied by the built form of a dwelling/outbuildings, it is considered that the narrow access drive would be best excluded from the calculation (see example image below, with indicative red lines and blue lines for the access drive). The application proposal sits adjacent to the highway, with an active frontage to the plot, while No.28a would be traditionally defined as ‘backland’ development; the dwelling and its parking/garden does not have a highway frontage. Adding in the square meter area of the access drive does not give a realistic understanding of how the No.28a dwelling sits within its surrounding garden space and car parking area in terms of plot coverage, versus that of the application proposal or other plots in the locality. The narrow private driveway which is solely used for access is a unique feature amongst the dwellings listed in the p.3 table. The narrow access drive does little to make the dwelling feel more spacious / less cramped within its plot. The No.28a dwelling sits as close to boundaries and has the same amount of parking & garden space with or without the access drive. It is judged that the No.28a dwelling and the application proposal are similar in their relative plot coverage, and that both are comparable to other dwellings in the Higher Green locality.



Notwithstanding the above rationale, it is judged that the application proposal is tightly spaced between neighbouring dwellings. However, this is typical of dwellings in the immediate locality, for example between 14-15-16-17-18-19-20 Higher Green, and 23 and 24 Higher Green, as shown in these images:



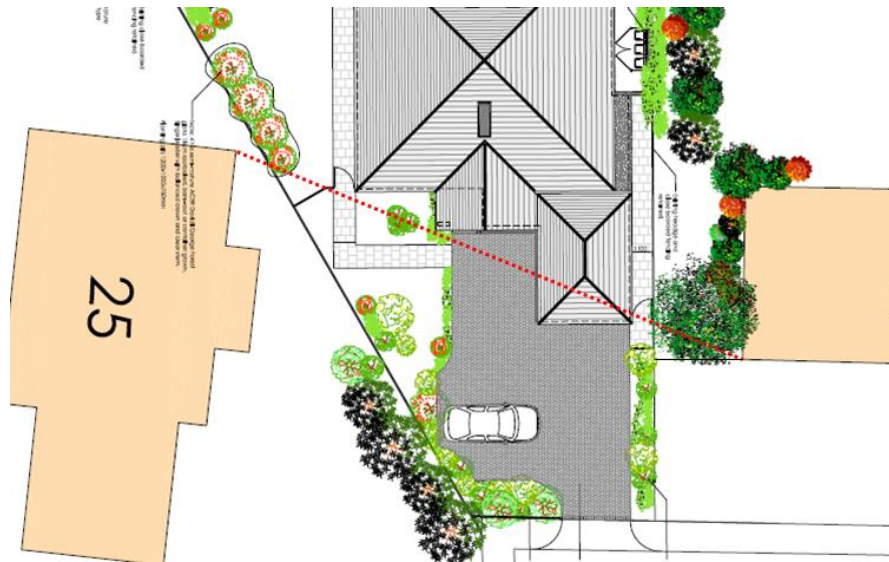


The proposed dwelling will, in the view below, not be seen against the large two storey detached property 25 Higher Green. Views which include 25 Higher Green, the application proposal and 28 Higher Green are obtained when approaching the end of the cul-de-sac. In terms of streetscene spacing between dwellings, the proposed dwelling will have a similar appearance against 28 Higher Green as is shown in the 23/24 image above:





It is noted that the applicant's streetscene impression presents the dwelling as being more open to the streetscene than it would be in reality. The plot widens moving away from the highway edge. The front elevation of the proposed garage is set approximately 1.5m behind the front elevation of 28 Higher Green and the main hipped roof mass of the dwelling starts in line with the rear elevation of 28 Higher Green, some 16m back from the highway edge. The proposal thus sits back from the front elevation line of 28 Higher Green, stepping rearwards in to the plot as it gets nearer to 25 Higher Green. To exemplify this point, a line can be drawn between the 28 and 25 Higher Green dwellings, which shows that the proposal roughly respects this line.



It is noted that the detached two storey dwelling 25 Higher Green is positioned close to the application site boundary. The proposed dwelling will appear less cramped than No.25 by virtue of its lower single storey eaves/ridge heights. The proposal's orientation and distance separations from the boundary are also favourable: No.25 has a ground floor dining room window which faces the shared boundary fence at circa 3m and the centre point of the mass of this two storey building (defined by its front gable and front door) is 5m from the fence; the proposal's "master suite" primary window is 10m from the fence line and the two "kitchen/diner" windows facing this fence are 8.75m and 10.1m respectively. It is arguable that No.25 is uncharacteristically positioned against this shared boundary and, for a two storey building, appears cramped and overlooks the application site. It is noted that it replaced a two storey dwelling. When the proposal is assessed in the context of its current surroundings it is not judged to be uncharacteristically cramped within its plot or the streetscene.

It is considered that satisfactory landscaping details are shown on the submitted "Proposed Site Plan". A prescriptive Landscaping Condition is recommended. Neighbours report that there is a private covenant preventing the enclosure of land to the front of dwellings in Higher Green. Existing General Permitted Development Order (1995) Part 2 legislation prevents the erection of boundary treatments over 1m in height when adjacent to a highway used by vehicular traffic. For planning purposes (protection of visual amenity and highway safety), the GPDO is considered to be satisfactory and it would be unreasonable/unnecessary to impose an additional GPDO Part 2 Restriction on the development.

For visual and residential amenity reasons, a Levels Condition is also recommended, to stipulate that the dwelling shall be no higher than the levels shows on the submitted "Proposed Elevations" plan "Proposed Street Scene East Elevation" (Drawing Number 3775/ST/14/004, Revision F).

The proposed layout, combined with the single storey eaves height of the dwelling, its hipped roof design/mass and the maximum ridge point height of 5.9m, collectively aid to mitigate the dwelling appearing unacceptably cramped in the streetscene: the dwelling is judged to be satisfactorily positioned within the plot and designed in such a manner that it will not lead to harm to the streetscene which could substantiate a reason for refusal. The proposal's design and visual impacts are judged to accord with Policy CS11 of the Harborough District Core Strategy.

### 3. Ecology

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LCC Ecology have reviewed the proposal, twice, and advise that there are no known justifiable ecological constraints to development. Two LCC ecologists have undertaken this evaluation and the Local Planning Authority has received the following final advice “we have reviewed the information provided by Mr Stephenson, (dated 25/11, 27/11, 28/11 and 4/12) and we have no objections to this development. [...] Unless additional evidence is provided we have no further comments on this application.”

LCC Ecology considers that it is unreasonable to assert that ecological interests should be a pre-determination constraint to this application. There is no evidence to suggest otherwise to the Local Planning Authority. Accordingly, the proposal is judged to comply with Policy CS8 of the Harborough District Core Strategy.

A Protected Species Watching Brief Informative Note is recommended, to remind the Applicant of their responsibilities under the Wildlife and Countryside Act 1981.

### 4. Flooding and Drainage

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The site lies in low risk Flood Zone 1, outside the designated 1:100 year Flood Zone 3. This Flood Zone 3 covers a small part of the front garden of No.38 on Main Street and lies approximately 35m+ from the edge of the site.

The HDC Drainage Engineer and Severn Trent Water have been consulted on the application and no comments have been received.

The Applicant is proposing a Sustainable Drainage System (SuDS) to mitigate flood risk – a soakaway. A Condition is recommended that SuDS be used, unless otherwise agreed in writing by the Local Planning Authority. The Applicant is showing a “permeable block paving” on their “Proposed Site Plan” (Drawing Number 3775/ST/14/002, Rev.G). It is proposed to incorporate a permeable paving stipulation into the Landscaping Condition.

LCC Highways Authority has submitted brief comments as they do not consider the proposal is likely to lead to significant detriment to highways safety. They have stated that the Local Planning Authority should consider “STANDING ADVICE (hard surfacing of access, consider car parking)”. As Great Glen is a settlement which has existing flood risk issues and would be very sensitive to development which adds to this, an additional Condition is recommended that there shall be no surface water drainage into the public highway (which would channel into public storm drains and exacerbate run off speeds/times).

The Building Regulations also cover surface water and foul sewage drainage. The Regulations seek to ensure SuDS where test results demonstrate that this is practicable. The Applicant will have to obtain approval from the appropriate water authority/authorities for connection to the main foul sewer. Additional planning

Conditions on this matter are not judged to be necessary (other than the SuDS requirement, permeable paving and 'no drainage into highway' Conditions outlined above).

Subject to the recommended Conditions, the proposal can be reasonably expected to not lead to increased flood risks or drainage problems. The application is judged to comply with Policy CS10 of the Harborough CS in these respects.

## 5. Highways

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Higher Green is a very low traffic volume environment, where vehicles are moving at low speed on average. The application site lies at the end of the cul-de-sac, where traffic volumes/speeds are lowest. The Higher Green roads are narrow, which further suppresses traffic speeds.

The proposed plans show satisfactory off-road car parking hardstanding and garage provisions to accommodate 3+ cars. Turning provisions are shown within the curtilage of the property, although it is not considered that reversing manoeuvres would cause significant detriment to highway safety in this locality.

The County Highways Authority does not object to the proposal, subject to the additional of standard Conditions (see Appendix A).

The proposal is located in a Rural Centre which is considered to have satisfactory public transport links and a reasonable range of shops and services. The site is situated within satisfactory proximity to local shops and services such as to reasonably enable future occupiers to use alternative modes of transport to the private motor vehicle, for example cycling and walking (the site is less than 500m away from a range of shops/services; with 800m generally accepted as the highest recommended distance).

The proposal is judged to accord with Policies CS5 and CS11 in the above respects.

## 6. Residential Amenity

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The proposal has been amended in order to address officer concerns. The front elevation of the dwelling has been set back to avoid sitting wholly in front of the dining room window of No.25 Higher Green. Although this dining room window lies favourably to the south of the proposal, at a distance of 3m from the boundary fence, the former positioning of the proposed dwelling combined with its former elevated eaves height of 2.75m were considered to lead to an overbearing impact on the neighbouring dining room window. The proposal's eaves are now 2.25m and the positioning is significantly improved. The proposal's roof planes all slope up and away from the dining room window. The porch gable (2.25m eaves, 3.9m ridge) on the proposed dwelling is, at closest, 11.80m from No.25's dining room window and the proposed garage is 14.80m away. Supplementary Planning Guidance does not provide clear guidelines on how far a proposal of this design should be situated from neighbours, but useful as a starting tool is the '14m rule' found in SPG Note 2. The 14m rule states that a proposed two storey blank gable end should be a minimum of 14m away from a facing principal window serving a habitable room in a neighbouring property (all other things being equal, such as land levels). A two storey gable could be 5m to eaves and 8m to ridge height and 8m in front-to-rear depth. When it is borne in mind what the impacts would be of a two storey gable being positioned directly in front of No.25, it is clear that the proposal has a lesser amenity impact on the dining room and other windows in No.25 than could otherwise be the case. Views out of the closest first floor bedroom window of No.25 will

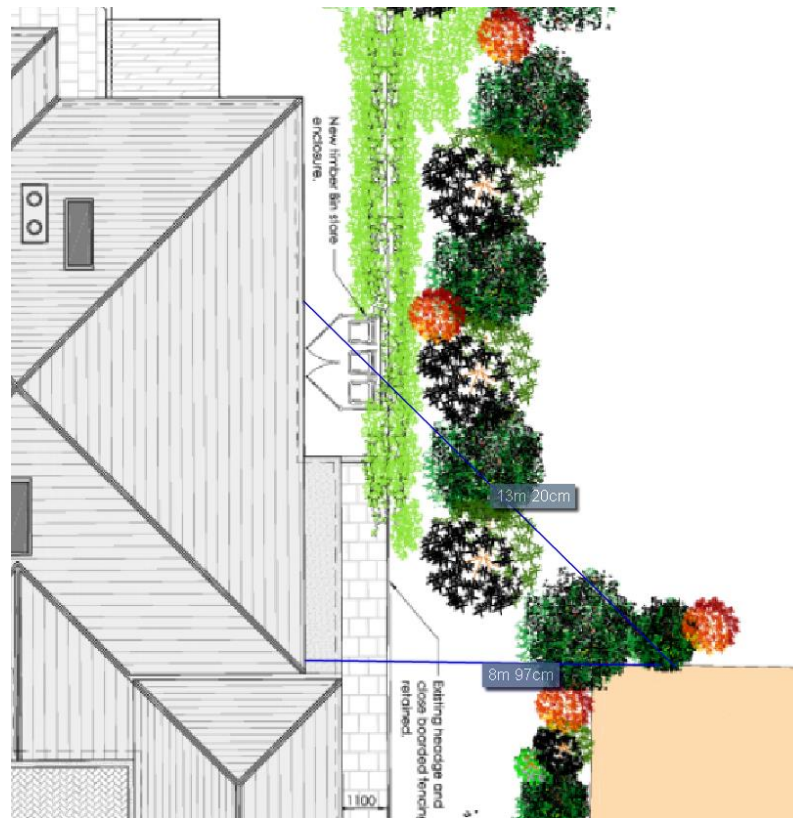
change, but will remain relatively open; light and overbearing impacts will be minimal on first floor windows.

The proposal shows one rooflight in the front roof plane and two rooflights in the rear roof plane. Although these rooflights are shown to provide loft storage space with some natural light, in order to protect neighbouring amenities they are assessed on the basis of serving habitable space, for example a bedroom. By virtue of distance separations, angles of viewing, positioning of the rooflights and size of the rooflights, the rooflights will not cause significant loss-of-privacy to neighbours. The west roof plane rooflights are circa 10m from the boundary with 38 Main Street and 30m+ from this dwelling (the Applicant's property). The rooflights are judged to be acceptable.

However, it is considered that additional rooflights/openings or dormer windows could cause significant loss-of-privacy to neighbour dwellings and/or gardens, particularly if placed in the side roof planes facing north or south. Current GPDO Schedule 2, Part 1, Class B and Class C legislation would require any sideward roof plane openings to be both obscure-glazed and non-opening (unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.) However, this Condition has only existed since 2008 and if it was removed there could be significant amenity harm to neighbours. Furthermore, flat roof dormer windows could cause overbearing impacts (notably to No.28 Higher Green) and visual amenity harm.

The impacts to No.28 Higher Green, which lies to the north of the proposal, have also been considered in detail. The No.28 dwelling possesses two secondary (lounge) fenestration openings in its south gable end elevation, as well as two first floor secondary bedroom windows. No.28's primary lounge windows are in the dwelling's front (east) and rear (west) elevations, as are the bedrooms' primary windows. No.28 lies on higher ground, which slightly lessens the residential amenity impacts of the proposal. There is a 1.8m fence along the north boundary of the site and a substantial range of foliage along this boundary within the garden of No.28. The proposed garage lies in line with the side elevation of the No.28 dwelling. It has an eaves height of 2.25m, ridge height of 3.65m and (owing to its wholly hipped roof design) a ridge line length of 2m. The ridge lies approximately 7.3m away from the side elevation of No.28. Its impacts above the fence and aforementioned foliage are judged to be moderate and do not substantiate significant harm.





The proposal extends a considerable distance behind the rear elevation line of No.28 – circa 14m. There is a breach of the ‘45 degree Guideline’ (SPG Note 5), when approximately measured from No.28’s rear elevation lounge window (as indicated above). However, this breach does not occur until circa 13m along the 45 degree line. The centre point of the No.28 lounge window is circa 9m measured sideward from the proposal’s side elevation. Mindful of these distance separations, which lessen impacts, and the following:

- that the proposal’s roof planes are both sloping up and away where the 45 degree breach occurs (which reduce the height and mass of the part of the proposal which causes the breach);
- the differences in levels, with No.28 set on slightly higher land (although it is noted from the applicant’s streetscene plan that the proposal may be set at a similar level to No.28);
- the single storey 2.25m eaves height of the proposal;
- the 5.9m ridge point (no length of ridge) and roof design/mass of the proposal, with all roof planes sloping down from this point;
- the screening impacts of the 1.8m boundary fence;
- the screening impacts of the substantial foliage within No.28’s garden;
- that there are 4 windows/patio doors providing light to No.28’s lounge and two windows to each bedroom;

it is considered that the proposal’s impacts on the No.28 dwelling and garden in terms of loss-of-light and overbearing will not be so significant such as to warrant refusal of permission.

The owner of No.28 has submitted a Right of Light (RoL) assessment report which contains the following summary:

"We have undertaken a Preliminary Review of the daylight, sunlight and rights of light issue. As a summary we have concluded that the proposal is likely to:

1. Partially breach the 45 degree test in relation to the living room.
2. Reduce the Vertical Sky Component to the two side living room windows.
3. Reduce the hours of sunlight the living room currently enjoys.
4. Reduce the hours of sunlight the garden enjoys where plants are well established."

While RoL is not itself a material planning consideration (as stated by the RICS author), the factors which relate to it in terms of potential loss-of-light and overbearing impacts of development are material considerations. The RoL report also indicates that the planning assessment may have been undertaken "without due care and attention to the impact upon" the daylight and sunlight enjoyed by No.28 because that property (dwelling and grounds) has not been visited. Officers do not consider it is necessary to review the proposal from within the 28 plot; satisfactory assessment can be undertaken from within the site and the public realm. The site has been further viewed from the No.25 Higher Green plot and, historically, from inside No.25 (both ground floor and first floor windows). This permitted views over the site and of No.28. A meeting has been held with the owner of No.28 to establish concerns and, inter alia, clarify amenity queries. There is no basis to require computer calculations in the form of a "daylight and sunlight study" from the applicant, or by the Local Planning Authority, as requested by the objector. The objections made against the application, from No.28 & No.28a Higher Green as well as all other representations, have been taken into account. Notwithstanding the above, a further site visit will be undertaken if possible (by officers and/or Committee members).

A GPDO Schedule 2, Part 1, Class A (along with Classes B and C) restriction Condition is judged to meet the 6 tests for the imposition of conditions. For example, further rearward extensions to the dwelling could exacerbate neighbour amenity impacts to unacceptable levels.

Concern has been raised by a neighbour about the bin store creating vermin. Wheelie bins are proven in their functionality for HDC residents. Poor use can cause vermin, but this is beyond the reasonable control of planning. There is separate Environmental Health legislation to cover any serious problems, but such issues are not expected.

On balance, the proposal is judged to be acceptable in terms of its residential amenity impacts; the proposal complies with Policy CS11 of the Harborough CS in these respects.

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

- 6.4 The NPPF requires LPAs to grant planning permission for sustainable development. Para.7 of the NPPF states: "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 ensuing occupiers would contribute to the local economy.

In social terms, the development would provide much needed housing in a Rural Centre settlement, thereby helping to meet local housing needs.

In terms of environmental considerations, the site is located within acceptable walking/cycling distance to a satisfactory range of shops and services. There are

highway footpaths and street lighting to access the village centre. There are no significant adverse visual/environmental impacts to the proposal.

In accordance with the Section 6 assessment of this report, the proposal is judged to represent sustainable development in accordance with the NPPF.

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

- 7.1 The proposal would deliver residential development within a sustainable Rural Centre settlement. The proposal would contribute to the Council's Five Year Housing Land Supply (5YS), which is a consideration in favour of the proposal as the Council cannot currently demonstrate a 5YS. The proposal, by virtue of its design (form, mass, scale, proportions, style and materials), is satisfactorily in keeping with the character and appearance of the site and its surroundings, would not cause significant harm to the amenities of surrounding residents or general amenities in the area, would not adversely affect ecological or arboricultural interests, and would not cause detriment to highway safety. The proposal accords with Policies CS1, CS2, CS3, CS5, CS8, CS9, CS10, CS11 and CS17 of the Harborough District Core Strategy and no other material considerations indicate that the policies of the development plan should not prevail. When assessed against the District's Development Plan and the National Planning Policy Framework Paragraph 14 (presumption in favour of sustainable development), as well as the Framework taken as a whole, the proposal should be approved without delay. The decision has been reached taking into account Paragraphs 186 and 187 of the Framework, as well as the national Planning Practice Guidance.

## **8. Planning Conditions**

- 8.1 If Members are minded to Approve the application, a list of suggested Planning Conditions and Informative Notes is attached at **Appendix A**.

### **Appendix A**

#### **Recommended Conditions**

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

The development hereby approved shall begin within 3 years from the date of this permission. REASON: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004, and to enable the Local Planning Authority to review the position at the end of this period.

##### **2. Amended Plans Reference**

The development hereby approved shall be carried out in accordance with the following amended plans: "Proposed Site Plan" (Drawing Number 3775/ST/14/002, Revision G); "Proposed Ground Floor Plan" (Drawing Number 3775/ST/14/003, Revision H); and "Proposed Elevations" (Drawing Number 3775/ST/14/004, Revision F). REASON: For the avoidance of doubt.

##### **3. Materials Details**

No development shall commence on site until representative samples and/or satisfactory details of the materials to be used externally in the construction of the approved dwelling have been deposited with and approved in writing by the Local Planning Authority (all bricks, including brick bond style, tiles, including ridge tiles, render type and colour, any

date stone/s, garage door and other doors, windows, sills and lintels, corbel/dentil/string course brickwork, rainwater goods, porch canopies, bargeboards, fascias, soffits, finials and other external materials). Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity. REASON: In the interest of visual amenity, to ensure that the materials are appropriate to the character and appearance of the site and the surrounding area, and to accord with Policies CS1, CS2, CS11 and CS17 of the Harborough District Core Strategy.

**4. Levels**

The hereby approved dwelling shall be set no higher than the levels shows on the submitted "Proposed Elevations" plan "Proposed Street Scene East Elevation" (Drawing Number 3775/ST/14/004, Revision F), unless otherwise agreed in writing by the Local Planning Authority. REASON: To safeguard the character and appearance of the site and the surrounding area, to safeguard neighbouring amenities and to accord with Policies CS1, CS2, CS11 and CS17 of the Harborough District Core Strategy.

**5. Landscaping & Permeable Driveway Surfacing**

Before the development hereby approved is first occupied, the landscaping shall be completed in accordance with the "Proposed Site Plan" (Drawing Number 3775/ST/14/002, Revision G), with the driveway hard surfacing being constructed of a permeable block paving material, unless otherwise agreed in writing by the Local Planning Authority. Thereafter, the driveway surfacing shall be retained as a permeable material in perpetuity. REASON: For the avoidance of doubt, to safeguard the character and appearance of the site and the surrounding area, to mitigate flood risk and to accord with Policies CS1, CS2, CS10, CS11 and CS17 of the Harborough District Core Strategy.

**6. SuDS for Surface Water Drainage**

The surface water drainage for the development hereby approved shall be by way of soakaway (or alternative Sustainable Drainage System), unless otherwise agreed in writing by the Local Planning Authority. REASON: To utilise sustainable drainage techniques, to mitigate flood risk and to accord with Policy CS10 of the Harborough District Core Strategy.

**7. No Drainage into Highway**

Before the development hereby approved is first occupied, drainage shall be provided within the site so that surface water does not drain into the public highway and, thereafter, shall be maintained as such in perpetuity. REASON: In the interest of general highway amenity, to mitigate flood risk and to accord with Policies CS5 and CS10 of the Harborough District Core Strategy.

**8. Parking Provisions**

Before the development hereby approved is first occupied, off road parking shall be provided on the basis of two parking spaces for dwellings of three or less bedrooms and three parking spaces for dwellings of four or more bedrooms. Thereafter, the parking spaces shall not be obstructed and shall be retained for vehicular parking purposes in perpetuity, unless otherwise agreed in writing by the Local Planning Authority. REASON: To ensure that adequate parking facilities are provided and retained, in the interest of highway safety and to accord with Policies CS5 and CS11 of the Harborough District Core Strategy.

**9. Turning Provisions**

Before the development hereby approved is first occupied, turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. Thereafter, the turning facilities shall not be obstructed and shall be retained for vehicular turning purposes in perpetuity. REASON: To ensure that adequate turning

facilities are provided and retained, in the interest of highway safety and to accord with Policies CS5 and CS11 of the Harborough District Core Strategy.

**10. Gates etc. Set Back**

If any gates, barriers, bollards, chains or other such obstructions are to be erected to the vehicular access they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as to open inwards into the site only. Thereafter, the gate/obstruction minimum 5 metre set back distance and inward direction of opening shall be retained as such in perpetuity. REASON: In the interest of highway safety, to enable a vehicle to stand clear of the public highway while the gates/obstructions are opened/closed, in order to protect the free and safe passage of traffic, including pedestrians, in the highway and to accord with Policies CS5 and CS11 of the Harborough District Core Strategy.

**11. No Planting Exceeding 0.9m Adjacent to Highway**

No planting shall be undertaken or allowed to grow on the highway boundary exceeding 0.9m in height above the level of the adjoining highway. REASON: To ensure an adequate line of vision is provided and maintained, in the interest of highway safety and to accord with Policies CS5 and CS11 of the Harborough District Core Strategy

**12. GPDO Restrictions – Classes A, B and C**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning [General Permitted Development] [Amendment] [No.2] [England] Order 2008 [or any Order revoking or re-enacting or amending those Orders with or without modification]), no development within Schedule 2, Part 1, Classes A, B and C shall take place to the hereby approved dwelling, unless otherwise agreed in writing by the Local Planning Authority. REASON: To safeguard the character and appearance of the site and the surrounding area, to safeguard neighbouring amenities and to accord with Policies CS1, CS2, CS11 and CS17 of the Harborough District Core Strategy.

**Recommended Informative Notes**

**1. Building Regulations**

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

**2. Party Wall Act**

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

**3. No Burning of Waste**

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

**4. Construction Hours**

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

**5. Rooflights**

To benefit the visual amenity of the proposal, the Applicant is encouraged to use recessing kits for the rooflights so that they are fitted flush (externally) within the roof plane/s.

**6. Protected Species Watching Brief**

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

**7. Highway Works**

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

## **Planning Committee Report**

**Applicant:** RDC Ltd

**Application Ref:** 14/01497/FUL

**Location:** 37 Eastgate, Hallaton, Leicestershire

**Proposal:** Erection of a detached dwelling and detached outbuilding containing fuel store and cycle store

**Application Validated:** 06/11/14

**Target Date:** 01/01/15

**Consultation Expiry Date:** 10/12/14

**Site Visit Date:** 18/11/14

**Case Officer:** Janet Buckett

### **Recommendation**

Planning Permission is **APPROVED**, for the reasons and appended conditions set out in the report.

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

- 1.1 The application Site (hereafter referred to as the 'Site') is situated within the village of Hallaton. It is within the designated Limits to Development and the Conservation Area. Hallaton is a Selected Rural Village.
- 1.2 The Site is presently garden land and the site is bounded by a hedge and trees. There is an existing access into the garden from near to the start of Crow Alley.
- 1.3 To the north of the site is The Old Tannery, 18 Eastgate which is a Listed Building. To the north-west is 37 Eastgate, which is also a Listed Building. To the west is the garage serving 33 Eastgate and then the dwelling house of number 33. Along the southern boundary of the site are residential properties. 31 Eastgate is the property that is situated most opposite to the proposed dwelling.

#### **2. Site History**

- 2.1 The Site has the following planning history,  
  
89/00285/30 Erection of a dwelling – Refused  
89/00284/3L Erection of a dwelling – Refused

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

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

- 3.1 The proposal seeks detailed planning approval for the erection of a detached dwelling and a detached outbuilding containing a fuel store and cycle store. The dwelling house is to be two-storeys and measures 7.15m high. The ground is to be excavated so that the ridgeline is lower than the eaves height of the property to the rear. The dwelling house contains 3 bedrooms. The outbuilding is to be situated to the west of the dwelling

house. The access to the site is next to the entrance to Crow Alley and will run along the rear boundary of the site to the proposed parking and turning area. This will also lead to the proposed parking area for 37 Eastgate.

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

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

3.2 The application has been accompanied by the following plans –

Location Plan RDC897/200  
Topographical Survey  
Planning Layout RDC897/100  
Proposed Floorplans, Elevations and Sections HS-14-01B  
Location Plan showing position of dwelling house

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

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

- *Arboricultural Impact Assessment, prepared by ACD Arboriculture 28/07/14*
- *Heritage Statement, prepared by MOLA 29/10/14*
- *Design & Access Statement, prepared by RDC Limited*

#### **c) Amended Plans and Supporting Documents**

3.4 Amended floor plans have been received which move the bathroom to the front elevation and the study to the rear elevation. This was at the request of the Case Officer to reduce the number of primary windows at first floor that face 31 Eastgate. The drawing number is HS-14-01B. Supporting information has been received from the agent detailing the reasoning behind the proposal and for the design of the property.

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

3.5 Prior to submitting the planning application no pre-application enquiry was made.

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

4.1 Consultations with technical consultees and the local community were carried out on the application. This occurred on 10<sup>th</sup> November 2014.

4.2 Firstly, a summary of the technical consultee responses received are set out below. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

4.3 *Contaminated Land and Air Quality Officer*  
No objections subject to conditions.

##### *HDC Conservation Officer*

The site is an open area of land which does contribute to the character of the Conservation Area. These open areas are characteristic of Hallaton as a whole as highlighted in the HDC Conservation Area Statement. However, the land is garden land and because of the planting its contribution to openness is somewhat reduced. The



design and position of the dwelling will ensure that the special character of the Conservation Area is preserved and is an acceptable introduction to the street scene. The design and position of the dwelling will not result in any harm to the setting of the neighbouring Listed Building. This complies with Paragraphs 134 and 137 of the Framework.

*LCC Forestry Team Leader*

Concurs with observations in Arboricultural report. As a group the trees enhance the corner but individually most of them are of relatively indifferent calibre. Only Oak T2 has significant longevity. However, it's form is less than ideal. Though it is healthy and has long life potential hesitate to suggest it merits retention at expense of an otherwise acceptable proposal. Proposal is to plant two new oaks. Concern about the ultimate size of such trees and the proximity to the new building and adjacent old cottage. The replacements should be low water-demand trees such as silver or Himalayan birch to reduce risk of subsidence damage with a deeper footing being advisable.

*Hallaton Parish Council*

Object to the proposal. Siting, massing and impact upon residential amenity will have a prejudicial adverse impact upon Conservation Area. Removal of a long established green corner in the midst of the Conservation Area would detract from visual amenity of the village. Replacement tree planting inappropriate. Realigned entrance driveway will be intensified in use and at a significant pinch point to detriment of road safety and residential amenity.

*LCC Highways*

No objections subject to conditions.

*LCC Ecology*

No comments on or objections to this development.

**b) Local Community**

- 4.4 9 letters (including emails) of objection were received in response to the initial consultation process. A summary of the representations received is outlined below:

**Residential Amenity**

Noise and fumes near to bedroom window. Loss of privacy to windows and garden. Loss of light.

**Highways**

The road is very narrow. No pavement. Construction traffic. Children walking to school. Access is difficult.

**Design**

Out of character. Previous cottages were small and unobtrusive. Increase in density. Difference in land levels. Overall appearance of a garage forecourt and Travelodge. Doesn't respect sensitive Conservation Area. Over-development of the site. Removal of open space. Will not be an enhancement. Not modest. Awkward and clumsy intrusion that will detract from settled nature of village. Little merit in quality of build and only minimum standards of materials and sustainability. Affect on drainage. 89/0285/3) was refused.

**Ecology**

Affect on wildlife. Bat roost at neighbouring property.

Other objections were raised but these weren't material planning considerations, such as the new dwelling would be sellable.

- 4.5 1 letter of support was received in response to the initial consultation process. A summary is outlined below:

#### Design

High-grade building in keeping with this part of the village. Desirable infilling. Old plans show a row of cottages along the south edge of the development site.

### 5. Planning Policy Considerations

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

#### a) Development Plan

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

- 5.3 The DP for Harborough comprises:

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

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

##### ○ *Harborough District Core Strategy*

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

The relevant Core Strategy Policies are,  
CS2: Delivering New Housing  
CS11: Promoting Design and Built Heritage  
CS17: Countryside, Rural Centres and Rural Villages

- 5.6 Policy CS2 sets out the housing land requirement and distribution. It advises that all new developments should be of the highest design standards.

- 5.7 In recognition of the importance of good design and the built heritage of the District, Policy CS11 seeks to ensure that the highest standards of design in new development will be achieved to create attractive places for people to live, work and visit. Heritage assets within the District, and their setting, will be protected conserved and enhanced, ensuring that residents and visitors can appreciate and enjoy them. Residential amenity is to be safeguarded.

- 5.8 Policy CS17 states that development will be focused in Rural Centres and in Selected Rural Villages development will be on a lesser scale. Development will be on a scale that reflects the size and character of the village.

## **b) Material Planning Considerations**

### *o The Framework*

- 5.9 The Framework published March 2012, replaces previous national guidance set out in Planning Policy Guidance and Planning Policy Statements.
- 5.10 The overarching policy objective of the Framework is the 'presumption in favour of sustainable development'. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 7). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system (para. 8). The presumption in favour of sustainable development is seen as the 'golden thread' running through plan-making and decision-taking (para.14).
- 5.11 Paragraph 17 sets out the 12 core 'planning principles' which should underpin decision making. Summarising, they: (1) are led by local plans which set out a vision for the future of the area; (2) enhance and improve the places where people live; (3) drive sustainable development; (4) secure a high quality of design and a good standard of amenity; (5) protect the diversity of different areas; (6) support the transition to a low-carbon future; (7) help conserve and enhance the natural environment; (8) encourage the re-use of land; (9) promote mixed use developments; (10) conserve heritage assets; (11) make full use of public transport, walking and cycling; and (12) improve health, social and cultural wellbeing.
- 5.12 Paragraph 56 states that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.
- 5.13 Paragraph 61 advises that planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.
- 5.14 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be (paragraph 132).

### *o National Planning Practice Guidance*

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

### *o New Local Plan*

- 5.16 On 3 December 2012, the Council resolved to prepare a new Local Plan for Harborough District. The new Local Plan will incorporate a focused review of the Harborough CS (adopted in November 2011) and will also identify key areas of land for development, thereby obviating the need for an allocations plan.
- 5.17 The new local plan scoping consultation was completed in April 2013, and the current timetable is for the pre-submission consultation to take place in summer 2015, with an

examination timetabled for January 2016. It is envisaged that the plan will be adopted in May 2016.

- *Supplementary Planning Guidance*

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

- *5 Year Housing Land Supply Statement*

- 5.19 The Council produces bi-annual monitoring reports on the level of housing supply within the District. These reports include a five year housing land supply calculation and a housing trajectory for the remainder of the DP period. The latest report covers the period from 1st April 2014 to 31st March 2019.

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

- *Reason for Committee Decision*

- 5.20 This application is to be determined by Planning Committee because there have been more than 5 letters of counter-representation.

### **6. Assessment**

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

- 6.1 The proposal is for a dwelling house within a Selected Rural Village. Policy CS17 states that development in Selected Rural Villages should be on a lesser scale and respect the scale and character of the village. It is considered that the development of one dwelling house would be in accordance with this policy.

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

- 6.2 The Council presently does not have a Housing Land Supply. If this application were approved it would provide one new dwelling.

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

##### **1. Design and Heritage**

- 6.3 The proposed dwelling is sited to follow the line of the road and will be quite near to the highway. This is in keeping with existing dwelling houses in the street scene when looking from Eastgate towards the centre of the village. It is to be built of red brick and a slate roof which are appropriate materials in this area. Dormer windows are proposed and the overall height of the dwelling is 7.15m. The land is to be excavated so that is only slightly higher than the level of the road and lower than the Listed Building to the rear. It is considered that the design of the dwelling is in keeping with the village of Hallaton and will respect the Conservation Area. The height and its design results in an appropriate design. Due to its height, the excavation, position and design it is considered that it will not harm the setting of the Listed Building of the Old Tannery. This therefore complies with Sections 66 and 72 of the Listed Buildings and Conservation Areas Act 1990.

- 6.4 In 1989 an application for a dwelling house was refused. This was because it was considered that the site formed a prominent and important incidental open space within

the Conservation Area and that its development would be seriously prejudicial to the setting of the surrounding Listed and character buildings and detract from the attractive visual amenities of the locality.

- 6.5 This application was 25 years ago and the planning policies are now different. The reason for refusal suggests that the site was open before whereas now it is enclosed by a hedgerow. If it was more open before then it may have been that there were clearer views of the Listed Building behind and although character properties still exist in the street scene the property opposite has been significantly extended.
- 6.6 In any event, it is now considered that although it is attractive to find an area of greenery within a village it is not considered that it itself enhances the character of the Conservation Area. It is not considered that developing the site with a dwelling house that is in keeping with the character and form of the surrounding dwellings would have a harmful affect on the Conservation Area.
- 6.7 The proposal is therefore considered to comply with Policy CS11 of the Harborough District Core Strategy.

## ■ 2. Residential Amenity

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- 6.8 Concerns have been raised about the affect on residential amenity. The main dwellings affected are 18 Eastgate to the rear and 31 Eastgate, which is opposite the site.
- 6.9 Due to the shape of the proposed dwelling the windows in the western part of the proposal will face number 18 most directly. However, these windows are approximately 21m from the kitchen and dining room windows in the rear element of number 18. This is an acceptable separation distance in accordance with Supplementary Planning Guidance. In addition to this the first floor windows are secondary windows, such as landing windows, and even if the study was used as a bedroom the distance between the window and the garden and habitable room windows of number 18 is such that residential amenity would not be adversely affected. The dwelling will also not be overbearing due to the land being excavated and the height of the proposal which results in the ridge line of the proposal being slightly lower than the eaves height of the neighbouring property.
- 6.10 The rear first floor window in the eastern part of the dwelling is a landing window and will face towards outbuildings. It is therefore considered that this will not adversely affect amenity.
- 6.11 31 Eastgate faces the western part of the proposed dwelling and both dwellings contain primary windows in their front elevation. These will be 14m apart. However, this is across a road and across roads this relationship often exists. At first floor the layout has been rearranged so that one primary window faces 31 Eastgate and the other two windows are bathroom windows. There is a hedgerow along the front boundary of 31 Eastgate and this will break up the view between ground floor windows. On balance it is considered that due to the distance and the road being between the properties that the new dwelling will not detrimentally affect the residential amenity of 31 Eastgate. The proposal is to the north of number 31 and so it is not considered that there will be any loss of light to their front windows.
- 6.12 Overall residential amenity is considered to be safeguarded and Policy CS11 is complied with.

## ■ 3. Ecology

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- 6.13 Although concerns have been raised about impact on the environment LCC Ecology have raised no objections to the proposal.

#### 4. Highways

- 6.14 Concerns have been raised about highway safety as the road is narrow and the entrance is next to a footpath that pedestrians, including school children use. However, LCC Highways have assessed the proposal and raised no concerns subject to conditions. Concerns have also been raised about how use of the driveway could result in a loss of residential amenity. However, it is not considered that the domestic use proposed for this driveway would be of such an intensity to adversely affect residential amenity.

#### 5. Trees

- 6.15 The Forestry Team Leader at Leicestershire County Council concurs with the observations of the Arboricultural report. However, he is concerned about the proposal to plant two new oak trees. This is due to their ultimate size and their proximity to the new building and neighbouring cottage. He suggests that the replacements should be low-water demand trees such as silver or Himalayan birch. The requirement to comply with the requirements of the Forestry Team Leader is included in Condition 6 of the proposed conditions.

#### d) Sustainable Development

- 6.16 The Framework identifies three dimensions to sustainable development – economic, social and environmental. Taking each of these in turn the following conclusions can be reached....
- Economic  
Provides economic development in the building of a new dwelling house.
  - Social  
Provides a new dwelling house, which contributes to housing need.
  - Environmental  
The proposal is in keeping with the character and appearance of the surrounding area and it is not considered that it will have a negative impact on the environment.

#### 7. The Planning Balance / Conclusion

- 7.1 Overall it is considered that the proposed dwelling house is well designed and will not harm the character of the Conservation Area. It is of an appropriate height and scale and is sited to follow the line of the road. Windows have been positioned to minimise the affect on residential amenity to the rear and it is considered that overall due to its siting and relationship with surrounding properties that there will not be an adverse impact on amenity. Highway concerns have been raised but no objections have been received from LCC Highways. Hallaton is a Selected Rural Village and this proposal is of such a scale for this type of village to be supported by the Core Strategy. There is a housing need in the District and this will contribute towards this, though only on a small scale. On balance and taking into account the aims of the Framework and the proposal's accordance with Policies CS2, CS11 and CS17 it is considered that the proposal is acceptable.

#### 8. Planning Conditions

- 8.1 Recommended planning conditions is attached at **Appendix A**.

#### Appendix A

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 in accordance with the following approved plans, Location Plan RDC897/200, Topographical Survey, Planning Layout RDC897/100, Proposed Floorplans, Elevations and Sections HS-14-01B and Location Plan showing position of dwelling house.

REASON: For the avoidance of doubt.

3. No development shall commence on site until a schedule of the materials to be used externally in the construction of the approved building has been deposited with 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, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the development respects the local character and building materials of the area in which it is situated and to accord with the Harborough District Council Core Strategy Policy CS11.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-E shall take place on the dwellinghouse hereby permitted or within their curtilage.

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

5. Notwithstanding the details on the submitted plans; the windows and doors are to be timber. These shall be retained as such in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the materials, design and craftsmanship are appropriate to the character of the Conservation Area and to accord with Policy CS11 of the Harborough District Local Plan.

6. 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, together with measures for their protection in the course of development;
  - (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;
  - (f) hard surfacing materials;
  - (g) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);

(h) retained historic landscape features and proposed restoration, where relevant.

(i) programme of implementation

Thereafter the development shall be implemented fully in accordance with the approved details and retained in perpetuity. This landscaping shall take account of the recommendations from Leicestershire County Council's Forestry Team Leader.

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. 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 not to open outwards.

REASON: To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway.

8. Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

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

9. Before first occupation of the dwelling hereby permitted, turning facilities shall be provided, hard surfaced and made available for use within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall thereafter be permanently so maintained.

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

10. 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.

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

REASON: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.

12. Before first occupation of the dwelling, 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 metres behind the highway boundary and shall be so maintained at all times.

REASON: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

13. Before first use of the development hereby permitted, visibility splays of 2.4 metres by 25 metres shall be provided at the junction of the access with Eastgate. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

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

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

NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

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

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

**Planning Committee Report****Applicant:** County Leasing Limited**Application Ref:** 14/01554/VAC**Location:** Lloyds Chemist, 8 Station Street, Kibworth Beauchamp, Leicestershire**Proposal:** Removal of Conditions 14 and 18 (access provision and surfacing) of 12/00916/FUL**Application Validated:** 17/11/14**Target Date:** 12/01/15**Consultation Expiry Date:** 24/12/14**Site Visit Date:** 12/12/14**Case Officer:** Janet Buckett**Recommendation**

Planning Permission is **APPROVED**, for the reasons and appended conditions set out in the report.

**1. Site & Surroundings**

1.1 The application Site (hereafter referred to as the 'Site') is within the Limits to Development of Kibworth Beauchamp. The site is presently a car park. At the front of the site is Lloyds Chemist which has a flat above. On the opposite side of the entrance driveway is the detached building of 10 Station Street and at the rear of this is a detached garage with a space in front of each that belongs to 12 and 14 Station Street. At the rear of the site is the single storey more modern dwelling of 8A Station Street and opposite the site is a new residential housing development accessed off Isabel Lane.

1.2 The site is within the Conservation Area.

1.3 Kibworth Beauchamp is a Rural Centre.

**2. Site History**

2.1 The Site has the following planning history,

12/00916/FUL – Erection of two semi-detached dwellings, with associated access and hardstanding – Permitted

**3. The Application Submission****a) Summary of Proposals**

3.1 This Variation of Condition application seeks to remove Conditions 14 and 18 from approval 12/00916/FUL. These conditions state,

**Condition 14** - Before first use of the development hereby permitted the 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 7 metres behind the

highway boundary and shall be so maintained at all times. Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

**Condition 18** - The access shall have a minimum width of 4.25m for at least 7m behind the highway boundary and be as shown on the approved plan SKP/1. The access drive shall be provided before any dwelling hereby permitted is first occupied. The access drive once provided shall be permanently maintained at all times. Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

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

The application form states that the reason for removing or changing the condition is that they are not able to comply with Conditions 14 and 18 because the access driveway is a shared ownership with the owners of 10 Station Street who are not willing to alter/maintain the access in accordance with these conditions.

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

- 3.2 Prior to submitting the planning application a pre-application enquiry was carried out with the Case Officer. The Case Officer recommended that they speak to LCC Highways. The applicant met the Assistant Engineer.

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

- 4.1 Consultations with technical consultees and the local community were carried out on the application. This occurred on 21<sup>st</sup> November 2014.
- 4.2 Firstly, a summary of the technical consultee responses received are set out below. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

- 4.3 *LCC Highways*  
No objections. Advised that the conditions can be removed as the applicant can not physically provide them since an agreement broke down with the adjoining landowner. He advised that it is not ideal to lose this element of control but in reality having spoken to the developer it is likely it will get done one way or another in the future. The Highways Authority is not in a position to oppose the removal of the conditions as the applicant simply can not deliver them.

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

- 4.4 No representations had been received at the time of writing this report but the consultation period does not end until 24<sup>th</sup> December 2014.

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

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

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

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

- The Harborough District Core Strategy adopted November 2011; and
  - The saved policies of the Harborough District Local Plan adopted April 2001.
- 5.4 Material considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land. The material considerations to be taken into account in considering the merits of this application include the DP referred to above, the National Planning Policy Framework (hereafter referred to as 'The Framework'), the National Planning Policy Guidance, together with responses from consultees and representations received from all other interested parties in relation to material planning matters.
- *Harborough District Core Strategy*
- 5.5 The Core Strategy (hereafter referred to as the 'CS') was adopted in November 2011 and covers the period from 2006 to 2028.
- The relevant Core Strategy Policies are,  
 CS1: Spatial Strategy for Harborough  
 CS2: Delivering New Housing  
 CS11: Promoting Design and Built Heritage  
 CS17: Countryside, Rural Centres and Rural Villages
- 5.6 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. It also states that priority should be given to the use of previously developed land and that existing sites of important employment use should be safeguarded through the designation of Key Employment Areas.
- 5.7 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 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.
- 5.8 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.

- 5.9 Policy CS17 refers to the countryside, Rural Centres and Rural Villages. Kibworth Beauchamp is a Rural Centre. Although additional housing development isn't required in Kibworth due to existing commitments (CS2), small scale infill is acceptable.

*Harborough District Council Local Plan(HDLP)*

The relevant Saved Local Plan policy is,

HS/8: Limits to Development.

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

**b) Material Planning Considerations**

○ *The Framework*

- 5.11 The Framework published March 2012, replaces previous national guidance set out in Planning Policy Guidance and Planning Policy Statements.
- 5.12 The overarching policy objective of the Framework is the 'presumption in favour of sustainable development'. It identifies three dimensions to sustainable development: economic, social and environmental (paragraph 7). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system (para. 8). The presumption in favour of sustainable development is seen as the 'golden thread' running through plan-making and decision-taking (para.14).
- 5.13 Paragraph 17 sets out the 12 core 'planning principles' which should underpin decision making. Summarising, they: (1) are led by local plans which set out a vision for the future of the area; (2) enhance and improve the places where people live; (3) drive sustainable development; (4) secure a high quality of design and a good standard of amenity; (5) protect the diversity of different areas; (6) support the transition to a low-carbon future; (7) help conserve and enhance the natural environment; (8) encourage the re-use of land; (9) promote mixed use developments; (10) conserve heritage assets; (11) make full use of public transport, walking and cycling; and (12) improve health, social and cultural wellbeing.
- 5.14 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.

- 5.15 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.
- 5.16 Paragraph 56 states that good design is a key aspect of sustainable development and indivisible from good planning. Paragraph 58 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.
- 5.17 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.
- *National Planning Practice Guidance*
- 5.18 The National Planning Practice Guidance (hereafter referred to as the NPPG) published 6th March 2014 replaces a raft of previous planning guidance documents that have been cancelled as part of the Government's drive to simplify the planning process.
- *New Local Plan*
- 5.19 On 3 December 2012, the Council resolved to prepare a new Local Plan for Harborough District. The new Local Plan will incorporate a focused review of the Harborough CS (adopted in November 2011) and will also identify key areas of land for development, thereby obviating the need for an allocations plan.
- 5.20 The new local plan scoping consultation was completed in April 2013, and the current timetable is for the pre-submission consultation to take place in summer 2015, with an examination timetabled for January 2016. It is envisaged that the plan will be adopted in May 2016.
- *Supplementary Planning Guidance*
- 5.21 A series of guidance notes were adopted as Supplementary Planning Guidance (SPG) to the Harborough District Local Plan in March 2003. They cover a range of topics relating to layout and design issues. Council agreed to retain the said SPGs and link them to CS policies as applicable, until a new Supplementary Planning Document is produced.
- *5 Year Housing Land Supply Statement*
- 5.22 The Council produces bi-annual monitoring reports on the level of housing supply within the District. These reports include a five year housing land supply calculation and a housing trajectory for the remainder of the DP period. The latest report covers the period from 1st April 2014 to 31st March 2019. At present the Council does not have a 5-year land supply.

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

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- 5.23 It is considered that only limited weight can be applied to the policies of the HDLP due to their age. At present Policy CS2 of the Core Strategy is out of date because the Council

does not have a 5-year land supply. The emerging Local Plan is given limited weight due to the stage of its production.

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

- *History*

5.24 There is an extant permission on the site for two semi-detached dwellings, with associated access and hardstanding (12/00916/FUL).

- *Reason for Committee Decision*

5.25 This application is to be determined by Planning Committee because it has been called in Councillor King.

### **6. Assessment**

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

6.1 The application site is within the Limits to Development and within a village classed as a Rural Centre. The site is also previously developed land. Therefore the principle of residential development is acceptable and in accordance with Policies CS1 and CS2 of the Core Strategy and this was previously assessed as part of application 12/00916/FUL. The issue is whether the removal of conditions 14 and 18 of 12/00916/FUL would warrant the scheme unacceptable.

6.2 Condition 14 states,  
Before first use of the development hereby permitted the 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 7 metres behind the highway boundary and shall be so maintained at all times. Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

6.3 The surface presently is made up of tarmac and gravel and contains some pot holes. It is presently used as a car park and is an access to a dwelling and parking at the rear. The surface does mean that you need to take care when driving on it. Not all of the access is controlled by the applicant and agreement about carrying out the works to comply with this condition hasn't occurred.

6.4 Condition 18 states,  
The access shall have a minimum width of 4.25m for at least 7m behind the highway boundary and be as shown on the approved plan SKP/1. The access drive shall be provided before any dwelling hereby permitted is first occupied. The access drive once provided shall be permanently maintained at all times. Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

6.5 At present if cars are parked either side of the access it would not be wide enough for two cars to pass. Again this can't be controlled as not all of the access is controlled by the applicant. The access is wider at the front of the site in front of the accountants.

6.4 The Highways Authority have raised no objections to the removal of these conditions. At present the site is used as a car park and cars need to take it steady to avoid pot holes and to pass other cars. This will be the same situation for the residents of the two new dwellings. It is therefore not considered reasonable to not allow the removal of these conditions at the expense of the two dwellings being able to be built. The two 2-bedroom dwellings are situated in a sustainable location within a Rural Centre on

previously developed land. The benefits of the proposal are therefore considered to outweigh the fact that the access surface may remain as it is.

- 6.5 The area immediately in front of the new dwellings and next to the chemist is within the control of the applicant so the parking for the dwellings and shops can be laid out. This is covered by condition 13 of 12/00916/FUL - Before the occupation of any dwelling development commences the car parking for the flats and the shops shall be hard surfaced and marked out and made available for use before the development is brought into use 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.
- 6.6 Weighing all these things up it is considered that the removal of the conditions would be acceptable to allow the development of the site for two dwellings and would comply with Policies CS1, CS2 and CS11 of the Harborough District Core Strategy.

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

- 6.7 The Council presently does not have a Housing Land Supply. If this application were approved it would provide 2 new dwellings in a sustainable location as Kibworth Beauchamp is a Rural Centre.

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

##### **1. Design**

- 6.8 Policy CS11 states that 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. It also states that development should be inspired by, respect and enhance local character, building materials and distinctiveness of the area in which it would be situated and that it is of a scale, density and design that would not cause damage to the qualities, character and amenity of the area and reflect the streetscape in which it is situated. Core Strategy Policy CS2 (b) states that, 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.
- 6.9 It is not considered that removing these conditions would result in the proposal no longer complying with Policies CS2 and CS11 of the Core Strategy.

##### **2. Residential Amenity**

- 6.10 Residential Amenity would still be safeguarded and would not be affected by the removal of these conditions.

##### **3. Highways**

- 6.11 LCC Highways have raised no objections about the removal of the conditions.

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

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

- Economic  
Provides economic development in the building of new dwelling houses.
- Social



Provides new dwelling houses, which contribute to housing need.

- Environmental

The proposal is in keeping with the character and appearance of the surrounding area and it is not considered that it will have a negative impact on the environment.

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

- 7.1 The proposal would provide housing development, within the District, in a sustainable location and it would contribute towards the Council's Housing Land Supply. The National Planning Policy Framework generally underlines the importance of housing delivery and this site is considered to be sustainable. The site is within the Limits to Development and will re-use previously developed land. It is not considered that it would be unacceptable to remove conditions 14 and 18. The surface could remain as it is but on balance it is not considered that this should warrant the proposal for two dwellings, which has the above benefits, to be unacceptable. Residential amenity is safeguarded, the design of the scheme will still be in keeping with the area and LCC Highways have raised no objections to the proposal. The proposal therefore complies with Policies CS1, CS2 and CS11 of the Harborough District Core Strategy.

## **8. Planning Conditions**

- 8.1 Recommended planning conditions is attached at **Appendix A**.

### **Appendix A**

1. The development hereby permitted shall be begun before the 5<sup>th</sup> December 2015.  
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 in accordance with the following approved plans SLP/1, BP/1, PH/1, P/1, P/2, P/3, P/4, SKP/1 and the Design and Access statement. REASON: For the avoidance of doubt.
3. No development shall commence on site until full details and samples of the materials to be used for the external walls and roofs of the approved dwellings 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.  
REASON: To ensure that the development respects the local character, Conservation Area and building materials of the area in which it is situated and to accord with the Harborough District Council Core Strategy Policy CS11.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-E shall take place on the dwellinghouses hereby permitted or within their curtilage. REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements and to accord with Harborough District Core Strategy Policy CS11.
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), no gates, fences, walls or other means of enclosure, other than those shown on the approved plans, shall be erected or placed

- which fronts onto a highway, carriageway or footpath. REASON: In the interests of visual amenity and to accord with Harborough District Core Strategy Policy CS11.
6. No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access. Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway.
  7. No walls, planting or fences shall be erected or allowed to grow on the highway boundary exceeding 0.6 metres in height above the level of the adjacent carriageway. Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.
  8. Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained. Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users.
  9. Before the development hereby permitted is brought into use the hedge to the northern side of the access along the road frontage to the railway bridge shall be trimmed back to the Highway boundary along its entire length and then maintained like this in perpetuity. Reason: To afford better visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.
  10. For the period of the construction, the applicant shall take measures to ensure that the highway is kept free of mud, water, stones etc, in accordance with details that shall have first been approved in writing by the LPA in consultation with the Highway Authority. Reason: To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users.
  11. For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site. Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction.
  12. Before first occupation of any dwelling, car parking shall be provided, hard surfaced and made available for use to serve that dwelling on the basis of 2 spaces for a dwelling with up to three bedrooms and 3 spaces for a dwelling with four or more bedrooms. The parking spaces so provided shall thereafter be permanently so maintained. Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.
  13. Before the occupation of any dwelling development commences the car parking for the flats and the shops shall be hard surfaced and marked out and made available for use before the development is brought into use 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.
  14. No development shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- o BS10175 Year 2011 Investigation Of Potentially Contaminated Sites Code of Practice;
- o BS8485 Year 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.
- o 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.

15. 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.

16. Building works, deliveries, clearance or any works in connection with the development shall only take place on site between the hours of 08.00 - 18.00 Monday to Friday, 08.00 - 13.00 Saturday and at no time on Sunday or Bank Holidays. Reason: To safeguard residential amenity.

#### 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. 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).
3. 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.
4. Public Footpath B2 (School Walk) runs along the southern boundary of the site. 1. The footpath must not be obstructed during development. 2. If scaffolding is required within the footpath the developers will need a licence from Leicestershire County Council. 3. No new fence or wall should be erected on or adjacent to the footpath without prior consultation of the Southern area Rights of Way Inspector. 4. The footpath must not be left partially obstructed or be encroached upon after completion of the development. 5. Any damage to the surface of the path that might occur during development must be made good to the satisfaction of the Rights of Way inspector.

5. This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated 5th December 2012.