

Delegated Report

Planning Ref: 24/01066/FUL

Applicant: Avant Homes (West Midlands)

Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Land West of Westfield Avenue, Earl Shilton

Proposal: Erection of 18 dwellings with associated access, car parking, landscaping and drainage.

1. Recommendations

1.1. Grant planning permission subject to:

- A signed Section 106 Agreement (as per the Heads of terms set out in this report) and;
- Planning conditions outlined at the end of this report.

2. Planning application description

- 2.1. The application seeks full planning permission for the erection of 18 dwellings with associated access, car parking, private amenity space, drainage infrastructure and landscaping on land west of Westfield Avenue, Earl Shilton, Leicestershire.
- 2.2. The proposed development would comprise the land originally approved as 0.6ha of employment land under the original outline permission. The proposed dwellings are arranged around a central green area with two mature oak trees (both TPOd), with linear rows of dwellings positioned both parallel with and perpendicular to Westfield Avenue. There are two points of access to the site, to the north and south.
- 2.3. The proposal is for 18 dwellings, 4 of which are affordable (2 bedroom). Of the proposed 14 open market dwellings, 8 are 2-bedroom, 5 are 3-bedroom, and one is 4-bedroom.

3. Description of the site and surrounding area

- 3.1. The site is located on land to the west of Westfield Avenue and measures 0.6 hectares. The site is bound to the north by residential development constructed by Avant Homes under 14/01279/OUT; to the east by Westfield Avenue, beyond which lies Heath Lane Surgery and a land parcel benefiting from permission 23/00119/FUL for nine dwellings; to the south by two detached dwellings approved under 21/00243/FUL and one detached dwelling approved under 21/00015/FUL; and to the west by allotments.
- 3.2. The site is rectangular in shape and comprises semi-improved grassland with scrub, timber fencing and Heras fencing marking the boundaries. The site is currently used as a temporary materials storage for the construction of Shelton Park- being developed by Avant Homes.
- 3.3. Westfield Avenue, an unclassified road subject to a 30mph speed limit, has not yet formally been adopted by Leicestershire County Council (LCC). Avant Homes intends for LCC to adopt the highway upon completion under a Section 38 Agreement, therefore Westfield Avenue is currently a private road.

- 3.4. Three trees within the site are protected by a Tree Preservation Order. Wood Street lies approximately 100m to the south east which is the main road for shops and local facilities, including a Co-op Food, Post Office and pharmacy. The nearest railway station is in Hinckley approximately 5.5km to the south west. The A47 is located approximately 1km to the south of the site, linking Earl Shilton to Leicester (14km).

4. Relevant planning history

19/01442/REM

- Approval of reserved matters (appearance, landscaping, layout and scale) for residential development of 350 dwellings of outline planning permission 14/01279/OUT
- Permitted
- 27.07.2020

19/00112/CONDIT

- Variation of condition 1 of planning permission 18/00225/REM to amend approved house types
- Permitted
- 09.05.2019

18/00225/REM

- Approval of reserved matters (appearance, landscaping, layout and scale) for residential development of 322 dwellings of outline planning permission 14/01279/OUT)
- Permitted
- 24.10.2018

14/01279/OUT

- Residential development of up to 350 dwellings, 0.6ha of employment starter units, expansion of existing community facilities, access, open space and indicative landscaping (outline – access only)
- Permitted
- 06.07.2017

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents and posting a site notice.
- 5.2. 4 objections have been received from 3 separate addresses, making the following comments:
- Parking concerns
 - Access problems
 - Environmental health concerns (proximity to allotments)
 - Loss of employment site
 - Bungalows more appropriate in this location

6. Consultation

- 6.1. No objection has been received from:
- LCC Ecology (Condition relating to mitigation and enhancement strategy)
 - LCC Archaeology
 - LCC Highways (subject to conditions)
 - HBBC Waste (Condition relating to bin storage and collection point)

- HBBC Drainage (Condition relating to surface water drainage)
- HBBC Affordable Housing
- LCC Drainage
- LCC Developer Contributions
- ICB (NHS) – Requested contribution of £4,347.65.

Officer comment: During determination of 23/00119/FUL, Heath Lane Surgery confirmed that there was sufficient capacity to take on additional patients without further s106 contributions. The LPA therefore considers that this request is not CIL compliant.

- 6.2. No comments received from Earl Shilton Town Council, Severn Trent Water, LCC Public Rights of Way.

7. Policy

7.1. Core Strategy (2009)

- Policy 2: Development in Earl Shilton
- Policy 5: Transport Infrastructure in the Sub-Regional Centre
- Policy 7: Key Rural Centres
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. Earl Shilton and Barwell Area Action Plan DPD (2014)

- Policy 22 Development and Design

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5. Other relevant guidance

- Good Design Guide (2020)

8. Appraisal

8.1. Key Issues

- Principle of development
- Housing Land Supply
- Housing Mix
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flood risk and drainage
- Ecology and biodiversity
- Planning Obligations
- Planning balance

Principle of development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS), the Site Allocations and Development Management Policies DPD (2016) (SADMP) and Earl Shilton and Barwell Area Action Plan DPD (AAP) (2014).
- 8.4. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy and this identifies housing allocations in a hierarchy of settlements within the Borough. Earl Shilton is identified as playing an important supporting role for Hinckley as the sub regional centre (Policy 2 of the Core Strategy). Policy 2 of the Core Strategy identifies land will be allocated for the development of a minimum of 1120 new residential dwellings for Earl Shilton.
- 8.5. The application site currently falls outside of the settlement boundary of Earl Shilton as defined by the SADMP (2016) and Area Action Plan. However, the site falls within the red line boundary for the permitted development at Shelstone Village which is currently under construction and will deliver 350 dwellings (19/01442/REM).
- 8.6. Under permission 14/01279/OUT, the application site is designated as an employment site for starter units, expansion of existing community facilities, access, open space and indicative landscaping". Condition 1 of the aforementioned consent requires applications for the approval of reserved matters to be made by 6 July 2020.
- 8.7. The LPA has sought clarity from the applicant regarding the justification for the loss of employment land. The applicant's response states that the site is not allocated as an employment site in the adopted Local Plan, and crucially that there is no intention of the landowner (Avant Homes) to make the site available for employment purposes. The LPA is therefore conscious that if there is no realistic prospect of the landowner delivering employment units on this site, the pragmatic approach in planning terms would be to accept the principle of residential development on this site.
- 8.8. Therefore, the principle of residential development would be acceptable in accordance with the development plan and guidance in the NPPF, subject to all other planning matters being satisfactorily addressed.

Housing Land Supply

- 8.9. The Council will soon publish an updated 5-year housing land supply calculation. It is estimated to have up to 3.95 years supply as of April 2025 and therefore the Council cannot demonstrate a 5-year housing land supply.
- 8.10. For decision taking, a 5yr housing land supply is a material consideration in all relevant applications for dwellings in the Borough. In accordance with paragraph 11d) of the NPPF, the Council should grant permission for housing unless any adverse

impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.

- 8.11. Under these circumstances, the NPPF sets out, in paragraph 11d) that, for decision makers:

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

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”*

- 8.12. Footnote 7 of the NPPF confirms that areas and assets of particular importance include habitat sites (and those listed in Paragraph 189 of the NPPF) and/or designated as Sites of Special Scientific Interest (SSSI); land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in Footnote 75 of the NPPF); and areas at risk of flooding or coastal change.

- 8.13. Footnote 9 of the NPPF confirms that these key policies including Paragraphs 66 and 84 of Chapter 5 (Delivering a Sufficiently Supply of Homes), 91 of Chapter 7 (Ensuring the Vitality of Town Centres), 110 and 115 of Chapter 9 (Promoting Sustainable Transport), 129 of Chapter 11 (Making Effective Use of Land), and 135 and 139 of Chapter 12 (Achieving Well-Designed Places).

- 8.14. In this instance, Key Policy Paragraphs 110, 115, 129, 135 and 139 apply in the determination of this planning application.

- 8.15. Paragraph 61 of the NPPF sets out that “it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”.

- 8.16. The ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole

Housing Mix/Affordable Housing

- 8.17. Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data. All developments of 10 or more dwellings are also required to

meet a 'very good' rating against Building for Life, unless unviable. A minimum density of 30 dwellings per hectare is required in rural areas, a lower density may be required where individual site circumstances dictate and are justified.

- 8.18. Policy 15 of the CS sets out that a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026. At least 480 dwellings will be in the rural areas, at a rate of 40%. The rest will be delivered in urban areas at a rate of 20%. The Borough has an unmet affordable housing need, and therefore the provision of affordable housing would be given significant weight in the planning balance (subject to numbers).
- 8.19. The applicant has indicated that they will deliver 4 x two bedroomed 4 person houses for affordable or social rent and this offer is acceptable to deliver a workable on-site affordable housing provision.
- 8.20. The proposed market housing mix 8 dwellings are proposed to be 2-bedroom (57%), 5 3-bedroom (36%), and 1 4-bedroom (7%). This broadly complies with the LPAs recent Housing Needs Survey, with a weighting towards smaller units which is considered acceptable in this context as a smaller windfall site within a large development. Similarly, the proposal for 4 2-bedroom affordable dwellings for affordable or social rent is acceptable and no objections have been received by the LPAs Affordable Housing Officer.

Design and impact upon the character of the area

- 8.21. Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.22. Policy 22 of the Earl Shilton and Barwell states that development will be permitted where the siting and density respects the character and layout of the area, development respects the local distinctiveness of existing buildings and landscape settings. Including design, materials and fenestrations which respect the street scene/local area.
- 8.23. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment.
- 8.24. Paragraph 139 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.25. The proposed site plan, elevations and floor plans, illustrate that the scheme would be a suitable form of development that respects the existing character of the site and neighbouring development, whilst ensuring that the development is appropriate for modern living.
- 8.26. The layout responds to the layout of the wider Shelstone Village, with a perimeter block formation providing the basic structure layout, providing a clear definition between

the public and private realms as well as allowing for active street frontages and adequate surveillance. Dwellings across the scheme are designed to be outward facing ensuring all public realms are overlooked.

- 8.27. Existing vegetation along the boundaries of the site are to be retained and enhanced, providing suitable boundary treatments and attractive soft landscaping, whilst protecting ecological habitats and foraging routes. The proposed dwellings front onto green space incorporating the mature oak trees and new tree planting throughout the site. The proposed dwellings frame the green space, utilising dual fronted properties, creating an arrival point on the entrance to the wider site.
- 8.28. The elevational designs of the dwellings feature brick detailing with header detailing to some windows, as porch entrances which are features synonymous with the local area along Heath Lane, Hinckley Road and throughout the Borough. There is a combination of driveways, with three of the dwellings featuring detached garages. The choices of materials, as illustrated on the plans submitted, would be appropriate for the urban nature of the site, and would match well with the surrounding development.
- 8.29. Overall, the scheme is considered to be acceptable and in compliance with Policy DM10(c), (d) and (e) of the SADMP, Policy 22 of the AAP, the Good Design Guide SPD and the requirements of the NPPF.

Impact upon neighbouring residential amenity

- 8.30. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.31. Policy 22 of the AAP states that development will be permitted where the amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site.
- 8.32. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.33. Paragraph 135 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.34. Paragraph 198 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.35. The scheme will have a suitable relationship with nearby residential units with no issues regarding overlooking, loss of light or overbearing impacts due to the distance between the site and the wider development. The proposals also ensure a suitable

relationship between the dwellings within the site which would protect the amenity of prospective residents, with minimum separation distances according with the Council's Good Design Guide.

- 8.36. Each property provides adequate private amenity space for each proposed dwelling in accordance with Guidance found in the Council's Good Design Guide. Furthermore, all properties meet the Nationally Described Space Standard.
- 8.37. The application is considered to be acceptable in amenity terms and in compliance with Policy DM10 a and b of the SADMP, Policy 22 of the AAP, The Good Design Guide SPD and the requirements of the NPPF.

Impact upon highway safety

- 8.38. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.39. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.40. Paragraph 116 of the NPPF (2024) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible, and convenient locations.
- 8.41. The Highway Authority have no objection to the scheme and have advised that Westfield Avenue is currently awaiting S38 agreement for adoption of the roads.
- 8.42. In terms of trip generation, the LHA are satisfied the proposed projected rates are significantly lower than those approved under 14/01279/OUT for the 5000 m2 employment space.
- 8.43. In terms of the internal layout, the acceptability of an adopted road layout is subject to a Section 38 (S38) agreement in accordance with the Highways Act (1980).
- 8.44. The LHA has reviewed drawing 3187-200 Revision C (Planning Layout) and advise that whilst the road is designed to an adoptable standard, the following point will need to be addressed at the S38 stage:
 - *The general layout proposed by this new development clashes with elements of the Technically Approved drawings, including the alteration to the originally proposed industrial access to the West side of Westfield Avenue, and the location and length of speed control features approved within the design. In turn, alterations to speed tables and junctions would have a knock-on impact to drainage features, such as gullies, which have already been installed on site.*
- 8.45. In addition, the Applicant will need to ensure that the internal road network of the wider development (such as Westfield Avenue) which connects to Heath Lane is also suitable for adoption. The LHA understand it is the intention for the wider development roads to be put forward for adoption by Leicestershire County Council

(LCC). Nevertheless, in the event roads connecting to Heath Lane within the wider development do not become adopted by LCC, the road within this proposed development will not be suitable for adoption in isolation.

- 8.46. The LHA have reviewed drawing 3187-280 Rev B (Parking Plan) and welcome the quantum and dimensions of parking proposed align with guidance in the LHDG.
- 8.47. Overall, subject to the conditions and contributions requested by the LHA, the proposal will satisfy policy DM17 and DM18 and the NPPF.

Flood Risk and Drainage

- 8.48. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.49. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.50. The HBBC Drainage Officer and LCC Drainage both advises that the proposals are acceptable subject to conditions to secure a surface water drainage scheme, along with its long-term maintenance and management, which has been included.
- 8.51. Subject to the suggested conditions being appropriately discharged, the development will therefore satisfy policy DM7 and the NPPF.

Ecology and biodiversity

- 8.52. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.
- 8.53. County Ecology confirmed that there would be no impact on protected species subject to conditions for bat and bird boxes. The proposal is subject to mandatory Biodiversity Net Gain to be provided on and off site through the purchase of credits through a Habitat Bank. This has been secured in the Legal Agreement, along with the management of on and off-site credits through a Habitat Management and Monitoring Plan (HMMP).
- 8.54. In summary, the proposal is therefore considered to comply with DM6 subject to accordance with the recommended conditions and the signed Legal Agreement.

Planning Obligations

- 8.55. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities.
- 8.56. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure

Levy Regulations 2010 (CIL). The CIL Regulations and paragraph 58 of the NPPF state that planning obligations must only be sought where they meet all of the following tests:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

8.57. The following obligations are sought:

- Accessible Natural Green Space contribution: £2,944.80
- Accessible Natural Green Space maintenance contribution: £5,112.00
- Casual/Informal Play Space Contribution: £1,342.66
- Casual/Informal Play Space Maintenance Contribution: £1,632.96
- Equipped Children's Play Space Contribution: £11,789.06
- Equipped Children's Play Space Maintenance Contribution: £5,689.44
- Off-site POS outdoor sports contribution: £6,255.36
- Off-site POS outdoor sports maintenance: £2,972.16
- Biodiversity Net Gain secured for 30 years by a HMMP
- 4 homes for affordable rent
- Travel Packs (one per dwelling) - £52.85 per pack plus £500 administration charge to LCC
- Six-month Bus Passes – two per dwelling - £510 per pass if supplied by LCC.
- Libraries – Earl Shilton Library = £543.56
- Waste - Barwell HWRC -= £891.54

8.58. There is a policy basis for each contribution and the method of calculating each contribution shows that the obligations are directly related, fairly and reasonably related in scale and kind to the development proposed and subsequently meet the skills tests. The obligations set out above, shall form the basis for the Heads of Terms for a legal agreement that the applicant shall enter into to secure the necessary obligations

8.59. Contributions totalling £4,347.65 were sought from the NHS ICB towards extra patient capacity at Heath Lane Surgery.

8.60. During determination of 23/00119/FUL, Heath Lane Surgery (the Applicant for 23/00119/FUL) confirmed that there was sufficient capacity to take on additional patients without further s106 contributions. The LPA therefore considers that this latest request would not meet the planning obligations tests of para 58 of the NPPF and Regulation 122 of the CIL Regulations 2010. It has not been demonstrated that they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. Therefore, at this time, these contributions are not requested.

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion and Planning Balance

10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

10.2. The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. Therefore, the 'tilted' balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

10.3. Whilst the LPA has considered the loss of employment land in accordance with the original outline permission, the site was not allocated for this use and there is no intention of the landowner (Avant Homes) to make the site available for employment purposes nor a planning mechanism to enforce/require this within the original permission.

10.4. Whilst the loss of employment land is a material consideration and weighs against the scheme in the planning balance, the provision of 18 dwellings, including four affordable homes, mitigates the harm identified, is considered to be a significant social benefit, and weighs heavily in favour of the scheme. This is supported by the site being located in a Key Rural Centre, offering the provision of services and infrastructure to support the development.

10.5. In light of the above, and the 'tilted' balance required by Paragraph 11(d) of the

NPPF, it is not considered that the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole. As a result, it is recommended that, in accordance with Paragraph 11(d) of the NPPF that planning permission is granted.

11. Recommendation

11.1 Grant planning permission subject to:

- The completion of a S106 agreement to secure the following obligations:
 - Accessible Natural Green Space contribution: £2,944.80
 - Accessible Natural Green Space maintenance contribution: £5,112.00
 - Casual/Informal Play Space Contribution: £1,342.66
 - Casual/Informal Play Space Maintenance Contribution: £1,632.96
 - Equipped Children's Play Space Contribution: £11,789.06
 - Equipped Children's Play Space Maintenance Contribution: £5,689.44
 - Off-site POS outdoor sports contribution: £6,255.36
 - Off-site POS outdoor sports maintenance: £2,972.16
 - Biodiversity Net Gain secured for 30 years by a HMMP
 - 4 homes for affordable rent
 - Travel Packs (one per dwelling) - £52.85 per pack plus £500 administration charge to LCC
 - Six-month Bus Passes – two per dwelling - £510 per pass if supplied by LCC.
 - Libraries – Earl Shilton Library = £543.56
 - Waste - Barwell HWRC -= £891.54

12. Conditions and Reasons

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

Reason: To comply with the requirements 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 not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Site Location plan – Drawing 3187-100
- Planning Layout – Drawing 3187-200 Rev F
- Street Scenes – Dwg. No. 3187-230 Rev B
- Sections Plan – Dwg. No. 3187-240 Rev B
- Materials Plan – Dwg. No. 3187-250 Rev D
- Enclosures Plan – Dwg. No. 3187-260 Rev D
- Refuse Strategy – Dwg. No. 3187-270 Rev D
- Parking Plan – Dwg. No. 3187-280 Rev D
- Affordable Plan – Dwg. No. 3187-320 Rev D

- Eastbeck - End Elevations – Drwg No. EAS/END/0-002.5 Rev A
- Eastbeck - End Floor Plans – Drwg No. EAS/END/0-001.5 Rev A
- Eastbeck - Mid Elevations – Drwg No. EAS/MID/0-002.5 Rev A
- Eastbeck - Mid Floor Plans – Drwg No. EAS/MID/0-001.5 Rev A
- Cadeby – Floor Plans – Drwg. No. CAD/0-001 Rev A
- Cadeby – Elevations – Drwg. No. CAD/0-002 Rev A
- Horbury- Floor Plans – Drwg. No. HOR/0-001 Rev B
- Horbury – Elevations – Drwg. No. HOR/0-002 Rev B
- Ripley end - Elevations – Drwg. No. RIP/END/0-002.5 Rev D
- Ripley end – Floor plans - Drwg. No. RIP/END/0-001.5 Rev D
- Ripley end (Alt) – Elevations – Drwg. No. RIP/ALT/0-002.5 Rev C
- Ripley end (Alt) – Floor plans - Drwg. No. RIP/ALT/0-001.5 Rev C
- Ripley mid – Elevations - Drwg. No. RIP/MID/0-002.5 Rev C
- Ripley mid – Floor plans - Drwg. No. RIP/MID/0-001.5 Rev C

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy 22 of the AAP.

3. The materials to be used in the construction of the external surfaces and external elevations of the development hereby permitted shall be in accordance with the 'Materials Plan' Drawing No. 3187-250 Rev D.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy 22 of the AAP.

4. No development shall commence on the site until such time as a construction traffic and environmental management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and how the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination, has been submitted to and approved in writing by the Local Planning Authority. The construction of 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 for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on street parking problems in the area in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD 2016.

5. No development shall commence until a 30-year Habitat Monitoring and Management Plan (HMMP), prepared in accordance with an approved Biodiversity Gain Plan, has been submitted to and approved in writing by the local planning authority. The approved HMMP shall be strictly adhered to and implemented in full for its duration and shall contain the following:
 - a. Description and evaluation of the features to be managed;
 - b. Ecological trends and constraints on site that may influence management;
 - c. Aims, objectives and targets for management - links with local and national species and habitat action plans;
 - d. Description of the management operations necessary to achieving aims and objectives;

- e. Preparation of a works schedule, including annual works schedule;
- f. Details and a timetable of the monitoring needed to measure the effectiveness of management;
- g. Details of the persons responsible for the implementation and monitoring;
- h. mechanisms of adaptive management to account for necessary changes in work schedule to achieve the required targets; and
- i. Details of methodology and frequency of monitoring reports to be submitted to the Local Planning Authority to assess biodiversity gain.

Reason: To enhance biodiversity in accordance with the National Planning Policy Framework and Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990.

6. No development above foundation level shall commence until full details of a scheme for the location of bat roosting and bird nesting features to be integrated into buildings and suitable hedgehog gaps in boundary features shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any dwelling hereby permitted features shall be installed on the site in accordance with the approved details. Photographs of the integrated bird and bat boxes and hedgehog gaps within the new dwellings should be provided in order to discharge this condition.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended), and in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies DPD (2016).

7. No development above foundation level shall take place until a scheme of hard and soft landscaping works for the site, including an implementation scheme, has been submitted to and approved in writing by the Local Planning Authority. Thereafter scheme shall be carried out in full accordance with the approved landscaping and implementation scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or are seriously diseased shall be replaced by trees or shrubs of a similar size and species (native) to those originally planted at which time shall be specified by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

8. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Planning Layout drawing number 3187-200 Revision F have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD 2016 and the National Planning Policy Framework (2024).

9. The development hereby permitted shall not be occupied until such time as the parking (and turning facilities) have been implemented in accordance with Parking Plan drawing number 3187-280 Revision D. Thereafter the onsite parking (and turning) provision shall be kept available for such use(s) in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2024) policy DM17 of the adopted Site Allocations and Development Management Policies DPD 2016.

10. Any dwellings that are served by private access drives (and any turning spaces) shall not be occupied until such time as the private access drive that serves those dwellings has been provided in accordance with Table 13 of the Leicestershire Highway Design Guide. The private access drives should be surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety in accordance with the National Planning Policy Framework (2024) and Policy DM17 of the adopted Site Allocations and Development Management Policies DPD 2016.

11. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no 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 the National Planning Policy Framework (2024) and Policy DM17 of the adopted Site Allocations and Development Management Policies DPD 2016.

12. No development shall commence until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority. The development must be carried out in accordance with these approved details and completed prior to first occupation.

Reason: To establish a suitable surface water drainage scheme and maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development and to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with Policy DM7 and DM17 of the adopted Site Allocations and Development Management Policies DPD 2016 and the National Planning Policy Framework (2024).

13. No development shall commence until such time as details in relation to the management of surface water on site during construction of the development has been submitted to and approved in writing by the Local Planning Authority. The construction of the development must be carried out in accordance with these approved details.

Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies DPD 2016.

14. No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.

Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies DPD 2016.

15. Site preparation and construction shall be limited to the following hours;
Monday – Friday 07:30 – 18:00
Saturday 08:00 – 13:00

No working on Sundays and Public Holidays and Bank Holidays.

Reason: To ensure that nearby residents are protected from unacceptable noise and disturbance during the construction phase, in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD 2016.

16. The development hereby permitted shall not be occupied until waste and recycling storage containers has been implemented in accordance with the submitted Proposed Refuse Strategy, Drawing No. 3187-270 Rev D, and thereafter maintained in perpetuity.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

Notes to applicant

1. Your attention is drawn to the Biodiversity Net Gain note within the Decision Notice. The development is subject to the Biodiversity Gain Condition. A Biodiversity Gain Plan needs to be submitted to, and approved in writing by, the Local Planning Authority prior to commencement of development. The application can be made online here:

https://www.hinckley-bosworth.gov.uk/info/200249/view_planning_applications_and_decisions/1476/does_the_property_comply_with_planning_conditions

IMPORTANT: Biodiversity Net Gain Plan Condition

The development is subject to the mandatory "biodiversity gain condition". A Biodiversity Gain Plan must be submitted to and approved in writing by Hinckley and Bosworth Borough Council prior to commencement of this development.

- (a) a Biodiversity Gain Plan has been submitted to the planning authority,
and
(b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply, these are listed below. However, based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

You should submit an application to discharge the Biodiversity Gain Plan condition to Hinckley and Bosworth Borough Council using a discharge of conditions application form. The current application fee is £145.

Further guidance on the submission of the Biodiversity Gain Plan can be found [here](#).

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
 - i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024; or
 - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
 - 4.2 Development below the de minimis threshold, meaning development which:
 - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
 - 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning

permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* "original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
 - ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.
- 5 The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
 - 6 Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
 - 7 If the roads within the proposed development are to be offered for adoption by the Local Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://www.leicestershirehighwaydesignguide.uk/>

If an Agreement is not in place when the development is commenced, the Local Highway Authority will serve Advanced Payment Codes in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please email road.adoptions@leics.gov.uk in the first instance.
 - 8 All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://www.leicestershirehighwaydesignguide.uk/>
 - 9 The scheme shall include the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100-year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations. Full details for the drainage proposal should be supplied including, but not limited to; construction details, cross sections, long sections, headwall details, pipe protection details (e.g. trash screens), and full modelled scenarios for event durations up to the 24 hour (or longer where required) for the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods with results ideally showing critical details only for each return period.

- 10 Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.
- 11 Details of the surface water Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the surface water drainage system that will not be adopted by a third party and will remain outside of individual property ownership. For commercial properties (where relevant), this should also include procedures that must be implemented in the event of pollution incidents.