

Delegated Report

**Planning Refs: 23/01175/FUL, 23/01177/FUL, 23/01184/FUL,
23/01186/FUL**

**Applicant: Barwell Capitol Ltd
Ward: Barwell**



Hinckley & Bosworth
Borough Council

Site: Land At Crabtree Farm, Hinckley Road, Barwell

Proposal: Four separate full applications for residential development totalling 125 dwellings with associated access, parking, landscaping and open space – see below for the description of development for each application.

1. Recommendations

- 1.1. Refuse planning permission** for the reasons detailed at the end of this report.

2. Planning Application Description

- 2.1.** This report deals with four separate planning applications on the wider Crabtree Farm site as follows:
- 23/01175/FUL – 51 dwellings, a revision of the allowed appeal for 51 dwellings (21/00695/FUL) on the eastern part of the site
 - 23/01177/FUL – 44 dwellings, a revision of the approved application for 45 dwellings (22/01053/FUL) on the western part of the site
 - 23/01184/FUL – 14 additional dwellings on the eastern part of the site
 - 23/01186/FUL – 16 additional dwellings on the western part of the site
- 2.2.** The applications are closely linked, and the four applications are submitted instead of a single revised application for 125 dwellings as this enables the applicant to take advantage of a zero fee for the resubmitted applications for the two permissions that have already been granted. Following initial neighbour notification regarding the individual applications neighbours have been re-notified to make it clear that the combined effect of the applications is to increase the number of dwellings across the site from 96 to 125.
- 2.3.** Main access to the site is provided in two places on Hinkley Road. These two access points are as approved under applications 21/00695/FUL and 22/01053/FUL. There is no vehicular connection between these two spine roads. Consistent with the approved schemes, a buffer strip is provided to the western boundary, and an attenuation pond is located centrally on the Hinckley Road frontage adjacent and to the east of the western access. Four detached dwellings front Hickley Road between the attenuation pond and the eastern access. A 450sq.m LEAP (Local Equipped Area for Play) is located centrally within the site to the west of the eastern spine road. Although the LEAP is surrounded by a margin of casual/informal open space all other open space is located to the front of the site where it either surrounds the required attenuation pond or lies above the required underground attenuation tanks. Furthermore, all the accessible green space is provided in narrow strips of land predominantly on the edges of the site and on land that is not easily incorporated into gardens. The LEAP is connected by a 2m wide footpath link to a shared private drive on the western part of the site that has 1m wide footways between the parking bays and the carriageway. A key difference between the approved schemes and the schemes now proposed, apart from the increased density of development, is the significant reduction in the amount of useable open space that is now provided. An

existing pond on the southern boundary of the site is retained but is surrounded on two sides by the backs of rear gardens, on a third by the side elevation of a dwelling and the back of a double garage and on the fourth by farmland beyond the site.

- 2.4. Six dwellings (four 3-bed and two 1-bed) that share 10 parking spaces are served off Crabtree Road and seven dwellings (three 3-bed and four 1-bed) that share 10 parking spaces are served off Powers Road. This compares with three dwellings sharing six parking spaces for each road under the approved schemes. There is no vehicular connection through to the main site from either Crabtree Road or Powers Road.
- 2.5. All dwellings with two beds or more are provided with two parking spaces. The one-bed maisonettes have a single parking space. In addition to the two parking spaces, most dwellings with three bedrooms or more are provided with a single garage with a few of the larger dwellings having a double garage.
- 2.6. In accordance with Policy 15 of the Core Strategy 20% of the total number of dwellings are required to be provided as affordable homes. In this instance that means 25 dwellings in total across the four applications. A mix of affordable dwellings is provided as follows:
 - 10 one-bed maisonettes
 - 8 two-bed houses
 - 7 three-bed housesOf these, 13 are for affordable rent, 7 for shared ownership and 5 are first homes.
- 2.7. A mix of dwelling sizes and forms is provided from one to four bedrooms. A mix of detached, semi-detached and short terraces of dwellings is also provided. There is also a mix of hipped and gable roofs and a mix of materials with small amounts of render punctuating the main facing material with is brick. There are no bungalows proposed but there is height variation with one house type having a second floor within the roof space. The dwellings are traditional in style with elements of brick detailing to eaves and to window heads and cills, blind windows, bay windows and porches. In all there are fourteen different house types proposed across the site. The mix of dwellings is as follows:
 - 10 one-bed maisonettes
 - 59 two-bed houses
 - 35 three-bed houses
 - 21 four-bed houses
- 2.8. The applications are supported by the following reports and documents:
 - Design and Access Statement
 - Supporting Planning Statement
 - Archaeological Report
 - Transport Statement
 - Arboricultural Report
 - Ground investigation Report
 - Flood Risk and Drainage Assessment Report
 - Construction Environmental
 - Ecology Statement

3. Description of the Site and Surrounding Area

- 3.1. Crabtree Farm as a whole comprises an irregular shaped currently greenfield site that covers approximately 4.8 hectares. It lies on the western edge of Barwell with Hinckley Road and linear ribbon development to the north, Crabtree Road, Tweed River Park and Powers Road to the east, agricultural buildings and farmland to the

west and a single agricultural field to the south beyond which is the A47 approximately 120m to the south of the site at its closest point. The site is bordered by existing residential properties on its northern and eastern boundaries.

- 3.2. The planning history of the wider site covered by all four applications is set out in detail below, but it is the case that the whole site benefits from extant planning permissions, the earliest of which dates from March 2023.
- 3.3. The site is generally flat but has a fall from the highest point on the south west corner to the lowest point on the north-east corner of approximately 5 metres. It lies within Flood Zone 1 on the Environment Agency Flood maps for Planning, this being land that is at least risk of flooding from water courses. The site is also not shown to be at significant risk from surface water flooding.
- 3.4. Given the extant planning permissions, which the Applicant states are due to be implemented shortly having discharged all the pre-commencement conditions, the land is no longer classified as countryside but instead forms part of the settlement of Barwell. Furthermore, as a result of the site history, the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge Review published by the Council in April 2020 recommended, at paragraph 7.47, that the boundary of the green wedge be revised to exclude Crabtree Farm. Given the site history the site has not been actively farmed for several years and following the grant of planning permission and the discharge of pre-commencement planning conditions groundworks have now begun on site.
- 3.5. The site currently forms four distinct parcels of land bisected by two hedgerows running north/south and a short hedgerow running east/west. All boundaries of the site are marked by hedgerows of varying thicknesses with interspersed tree planting. Only trees and hedgerows on the perimeter of the site are retained, with others being replaced with new hedge planting.
- 3.6. The site is not within or adjacent to any conservation area and there are no listed buildings or other above ground heritage assets within the vicinity of the site. There are no Public Rights of Way within, bordering or in close proximity to the site.

4. Relevant Planning History

22/01053/FUL – Proposed construction of 45 dwellinghouses with garages and driveways, open space, landscaping, drainage and LEAP – Approved October 2023 – western part of the wider site. The permission was accompanied by a Unilateral Undertaking signed by the Applicant regarding the following matters:

- Affordable homes
- Waste contribution
- Post 16 Education contribution
- Healthcare contribution
- Library contribution
- Local Employment Strategy
- Off-site outdoor sports contribution plus maintenance contribution
- Off-site casual/informal play space contribution plus maintenance contribution
- Off-site natural green space contribution plus maintenance contribution
- On-site casual/informal play space plus maintenance contribution
- On-site natural green space plus maintenance contribution
- On-site equipped play space plus maintenance contribution
- Public realm improvement contribution

21/00695/FUL – Residential development of 51 dwellings with associated access and parking – Appeal against non-determination allowed March 2023 – eastern part of the

wider site. The permission was accompanied by a Unilateral Undertaken on the same basis as the one above.

21/00581/OUT – Residential development of up to 25 dwellings with associated public open space and infrastructure (access to be considered) – Appeal against non-determination allowed June 2022 – eastern part of wider site.

20/01172/REM – Approval of reserved matters (appearance, landscaping, layout and scale) of outline planning permission 18/00279/OUT for residential development of 25 dwellings – Approved June 2021 – eastern part of the wider site.

19/00393/FUL – Change of use of land to a new burial ground, new access, landscaping and car parking – Approved September 2019 – western part of the wider site.

18/00279/OUT – Erection of up to 25 dwellings, provision of open space and change of use of land for new cemetery and associated shelter (access only) – Appeal allowed August 2018 – cemetery on the western part of the wider site and the houses on the eastern part.

5. Publicity

5.1. The occupiers of neighbouring properties have been notified of the applications. In addition, the applications have been advertised by means of both site and press notices.

5.2. Representations have been received as follows:

- 23/01175/FUL – 13 objections
- 23/01177/FUL – 11 objections
- 23/01184/FUL – 10 objections
- 23/01186/FUL – 10 objections

The following comments have been made:

- The Inspector's conclusions on the appeal scheme are not agreed with and is not consistent with other appeal schemes that relate to the Green Wedge. Maintaining the Green Wedge should carry greater weight than increasing the supply of homes. Barwell is becoming an extension of Hinckley and not a village in its own right
- This will have a detrimental effect on the site and the character of the area
- The increase in house numbers will result in loss of more hedgerows and trees and will have a detrimental effect on wildlife – it is an overdevelopment of the site
- The huge increase in traffic will have a dangerous effect on highway safety on an already busy road where traffic already goes too fast – access should also be provided from Crabtree Road and Powers Road
- Having two new junctions onto the main road is dangerous
- Traffic calming on the main road has been promised and had not been provided
- If this goes ahead a right turn lane into the site should be provided
- There is already a worsening problem with drainage, surface water run-off and flooding and this will exacerbate these problems
- The fields are used by dog walkers
- This will spoil views and will result in a loss of value to existing homes. If this goes ahead people should be compensated

- This will increase traffic on Crabtree Road and Powers Road and they will no longer be safe cul-de-sacs. Parking will increase and emergency vehicles will have difficulty accessing these roads
- This will result in an increase in crime
- There is no need for more dwellings to be developed
- The village does not have the services to cope with the extra residents and schools and doctors are already oversubscribed
- If this goes ahead Tweeds River play park should be improved
- Biodiversity off-setting should take place in the immediate local area and not further afield if this goes ahead
- The proposal doesn't provide sufficient green space
- Barwell is built on sandy deposits and there are springs in the area – has the developer checked that ground conditions are suitable, and that development won't result in problems for neighbours in the future
- It's ridiculous to keep it as two separate developments, it would be better as one

6. Consultation

6.1. **Barwell Parish Council** – objects to the applications on the following grounds:

- Contrary to policies DM3, DM4, DM7, DM10 and DM17
- Barwell does not have sufficient infrastructure
- Detrimental effect on the countryside and on the character and appearance of the area
- Detrimental effect on the Green Wedge
- This would increase flooding
- This is overdevelopment – originally the proposals on the site were for 25 houses and a cemetery
- There is insufficient parking
- Not enough play space is provided
- This would have a detrimental effect on highway safety

6.2. **LCC Highway Authority (LHA)** – The impacts on highway safety would not be unacceptable and the impacts on the road network would not be severe.

The LHA have commented three times on the applications and had previously strongly advised the Applicant to consider and provide a single point of access to the site on Hinckley Road, the design of which should be subject to a Stage 1 Road Safety Audit. The LHA also advised that greater analysis be undertaken, that revisions to the internal layout were provided and that a travel plan was provided.

In response, the applicant submitted a revised site layout and a Construction Environmental Management Plan.

The applicant stated that a single point of access is not to be provided. Whilst this is disappointing, as it does not minimise the number of conflict points on Hinckley Road, it does not amount to a reason to refuse the application given that the two points of access have already been approved as part of the previous individual applications on the site and the minimal increase in traffic which would be using the two access points over and above the level which would have been generated by the approved developments.

There are several pedestrian access issues including: lack of an adoptable and continuous 2 metre wide footway linking the two access points and connecting to the

existing footway to the east; visibility splays of 2.4 by 65 metres are required in both directions from both access points and uncontrolled pedestrian crossing points either side of both access points that are not currently shown are required. The LHA consider though that these requirements can be secured by condition.

One travel pack per dwelling and two six-month bus passes per dwelling should be provided and the LHA understand that the applicant is agreeable to this.

With regard to the internal road layout the LHA advise that the proposed spine roads are not suitable for adoption, (which was their stance on both the scheme on the western half of the site that was approved under delegated powers and the previously allowed appeal scheme on the eastern half of the site), and that amendments set out below would be required at application stage to ensure that plot locations are not affected:

- The current design fails to provide the required bend widening
- Dropped crossing points should be shown
- 25 metre forward visibility through bends should be demonstrated
- Radii at the turning head on the spine road need amending to comply with the Leicestershire Highway Design Guide
- All junction radii need to be detailed
- A tracking plan and swept path analysis details are required

Parking provision is acceptable and 1m by 1m pedestrian visibility splays can be conditioned.

Amendments are required to the Construction Environmental Management Plan and these can be conditioned.

Conditions are also required regarding surfacing, the provision of parking spaces and the removal of permitted development rights regarding gates.

- 6.3. **LCC Ecology** – No objections subject to pre-commencement planning conditions regarding provision of a Landscape Ecological Management Plan, a Biodiversity Enhancement Management Plan, a biodiversity specific Construction Environmental Management Plan, a Reasonable Avoidance Measures Method Statement and bat sensitive lighting and to securing off-site compensation

Officer comment: The applicant has, despite repeated requests, failed to provide evidence that a signed legal agreement securing off-site biodiversity net gain in relation to the Crabtree Farm site exists. It is accepted though that as was previously the case with the allowed appeal the necessary increase in Biodiversity Net Gain could be secured by condition

- 6.4. **LCC Drainage (Lead local Flood Authority)** – No objection subject to conditions regarding surface water drainage.

- 6.5. **LCC Planning Obligations** – Contributions are required as follows:

- Waste - £5,881.93
- Libraries - £3,933.04
- Primary Education – No contribution required
- Secondary Education - £364,293.87
- Post 16 Education - £73,983.76

- 6.6. **LCC Arboricultural Officer** – No comments as the proposals do not impact any Leicestershire County Council Tree Preservation Order.
- 6.7. **LCC Archaeology** – The site has previously been subject to full archaeological investigation so no further works or conditions are required.
- 6.8. **HBBC Environmental Services** – No objections subject to the submission of further information which can be secured via condition.
- 6.9. **HBBC Affordable Housing** – Policy 15 of the Core Strategy requires that 20% of dwellings, 25 in number, should be offered for affordable housing. The scheme would provide thirteen homes for affordable or social rent, five First Homes and seven homes for shared ownership. The greatest need is for one bed properties and the proposed mix of ten one-bed maisonettes, eight two-bed homes and seven three-bed dwellings is acceptable. The properties should where possible meet the Nationally Described Space Standards. A S106 Agreement will be required to secure the affordable housing provision.
- 6.10. **HBBC Waste Services** – Collection points for domestic recycling, garden waste and refuse is from the adopted highway. If all or part of the new road to the new properties is to be private (unadopted) then consideration will need to be given to adequate and safe collection points at the adopted highway boundary for the placement of all containers on collection day (up to two bins per property at one time). It will be the responsibility of the occupiers to ensure that all containers/wheeled bins will be brought to the collection point.

Officer Comment: The applicant has declined to make the changes considered necessary for any of the roads within the development to be considered suitable for adoption. The applications therefore fail to make adequate provision for the proper collection of waste across the site.

- 6.11. **Leicestershire Police** – No objections but provide advice.
- 6.12. **Environment Agency** – No comments to make as the sites lie within flood zone 1 and therefore there are no fluvial flood risk concerns.
- 6.13. **NHS England Integrated Care Board** – The applicant has argued that the standard approach of estimating 2.42 people per dwelling is flawed as it assumes all people that move on to a new development will require the use of local GP services. It is also argued that many, if not most, people who move into a new development will stay registered with their current GP.

In response the Integrated Care Board rejects the applicant's views and considers that the general view reached by Inspectors at appeal is that new developments strain existing health infrastructure and therefore developer contributions are essential to continue the delivery of local healthcare.

In their initial consultation response, the ICB considered that the four applications generated a requirement for a total financial contribution of £97,574.40 towards the Barwell Medical Centre.

7. Policy

- 7.1. Core Strategy (2009)
- Policy 3: Development in Barwell

- Policy 6: Hinckley/Barwell/Earl Shilton/Burbage Green Wedge
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM9: Safeguarding natural and semi-natural open spaces
- Policy DM10: Development and Design
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. Earl Shilton and Barwell Action Area Plan 2014 (the site lies outside of but adjoins the area covered by the Action Plan)

- Policy 2: Provision of Community Facilities
- Policy 3: Primary, Secondary and Upper Education Provision
- Policy 4: Provision of Indoor Sports and Leisure Facilities
- Policy 5 Waste Management Provision
- Policy 19: Regeneration of the District Centres
- Policy 20: Skills Development
- Policy 21: Infrastructure and Delivery
- 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)
- National Model Design Code (2021)

7.5. Other relevant guidance

- HBBC Good Design Guide (2020)
- Building for a Healthy Life (BHL) (2020)
- Landscape Character Assessment (2017)
- Leicestershire Highway Design Guide (2024)
- Hinckley/Barwell/Earl Shilton/Burbage Green Wedge Review (2020)
- Technical Housing Standards – Nationally Described Space Standards (2015)

8. Appraisal

8.1. These are full applications that result in an increase in dwellings on the site from 96 previously approved dwellings to 125 dwellings. It is considered that the key issues in the determination of this application are:

- Principle of Development
- Housing Land Supply
- Design and Impact upon the Character of the Area

- Highway Safety
- Adoption Issues
- Housing Mix and Affordable Housing
- Impact upon Residential Amenity
- Ecology, Biodiversity and Trees
- Flood Risk and Drainage
- Planning Obligations

Principle of Development

- 8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions.
- 8.3. Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.
- 8.4. However 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. The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP). Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF. Paragraph 34 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.
- 8.5. Nevertheless, in accordance with Para 232 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF.
- 8.6. The principle of development of the wider application site has been established through the appeal decision on application 21/00695/FUL on the eastern part of the site and through permission 22/01053/FUL on the western part of the site. Pre-commencement conditions on the eastern part of the site have been discharged and some ground clearance and preparatory works have commenced. A formal commencement of the previous permissions has yet to take place, but all pre-commencement conditions have been discharged and the applicant states that a start is to be made shortly. Both permissions therefore remain extant.
- 8.7. Given the extant planning permissions, the site is not considered to be countryside but instead, as planning permission exists for the development of the site for 96 dwellings, forms part of the built-up area of Barwell.
- 8.8. The principle of residential development across the site having been established it is considered that the key issue is whether the site is capable of satisfactorily

accommodating the additional 29 dwellings that are now proposed bearing mind the material planning considerations that are assessed below.

Housing Land Supply

- 8.9. Chapter 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. The overall aim should be to meet an area's identified housing need, including an appropriate mix of housing types for the local community.
- 8.10. Paragraph 73 of the NPPF states that small and medium sized sites, such as windfall sites, can make an important contribution to meeting the housing requirements of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built out relatively quickly.
- 8.11. Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan Policies, or the policies that are most important for determining the application are out-of-date. Footnote 8 to Paragraph 11 highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.12. The Council's Planning Policy team are currently reviewing the latest revisions to the NPPF and their implications for the Council's housing land supply figure. A revised position is expected to be published once the monitoring for the year 2024/2025 has been completed. It is likely though that with the revised need for 682 dwellings per annum (649dpa plus a 5% buffer as required by Paragraphs 62 and 78(a) of the NPPF), that the Council will be unable to demonstrate a five-year supply of deliverable housing sites once the revised position is published.
- 8.13. In light of this, and due to the age of relevant housing policies within the adopted Core Strategy, the 'tilted' balance in Paragraph 11(d) of the NPPF is engaged.
- 8.14. For decision-taking, Paragraph 11(d) requires that planning permissions are granted unless:
 - i) The application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed; or
 - ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the 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.
- 8.15. Footnote 9 of the NPPF sets out that the key policies referenced above are those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11 and 139 of chapter 12. Of these, paragraphs 66, 115, 129 and 139 are of relevance to these applications.
- 8.16. The Council is currently unlikely to be able to demonstrate a five-year supply of land for housing and therefore the benefit of providing an additional 29 dwellings over and

above the 96 that already have permission and that can be built out is considered to attract between moderate and significant weight in the planning balance.

Design and Impact upon the Character of the Area

- 8.17. Chapter 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development that creates better places in which to live and work.
- 8.18. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places. It requires that decisions should ensure that developments:
- a) will function well and add to the overall quality of the area;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history;
 - d) establish a strong sense of place, using the arrangement of streets and spaces to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development including green and other public space; and
 - f) 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.
- 8.19. Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design (as contained in the National Design Guide and National Model Design Code), taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.20. Core Strategy Policy 16 states that all developments of 10 or more dwellings are required to meet a 'very good' rating against Building for Healthy Life, unless unviable and Policy 19 sets out the requirements for equipped children's play space, casual/informal play space, outdoor sports provision and accessible natural green space across the borough and Policy DM3 of the SADMP sets out that where development creates a need to provide additional or improved infrastructure developers will be expected to make such provision directly or indirectly through an appropriate funding mechanism.
- 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 Action Area Plan sets out similar design requirements including that there is no detriment to the character or appearance of the surrounding area and that the siting and setting of new development respects the character and layout of the 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 sets out on page 6 that the then Building for Life 12 (2015) (now replaced with Building for a Healthy Life) sets out measurable criteria for creating well-designed places that people value. The SPD confirms that a Building for a Healthy Life assessment will be expected as part of any residential scheme. No such assessment has been submitted with the application, neither was it submitted with the two previous applications.
- 8.24. Chapter 4 of the SPD relates to new residential development and begins by stating that it provides specific guidance for what is expected from the design of applications for new residential development on greenfield and brownfield sites. On page 29 the SPD sets out the importance of streets as a key part of the public realm and that streets have a fundamental role to play in contributing to the creation of variety within a development. Page 32 of the SPD sets out that developments with large runs of parking in front of housing does not contribute positively to the streetscene and will not generally be considered acceptable.
- 8.25. Page 31 of the SPD states that open space is a key facet of creating a successful place. It goes on to state that as a starting point, existing features should be retained wherever possible and utilised to define design character and allow new development to assimilate naturally into its context. The section concludes by stating that ensuring variety from formal squares and village greens through to green/blue corridors and overlooked public realm and landscape within the streetscene are all critical components of the overall success of a scheme.
- 8.26. The National Design Guide provides similar advice. Policy C1 states that well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary, enhancing positive qualities and improving negative ones.
- 8.27. Policy I1 of the National Design Guide requires that development responds to existing local character and identity and states that well-designed new development is influenced by the elements of a place that make it distinctive by considering, amongst other things, the composition of street scenes and legibility – how easy it is for people to find their way around and soft landscaping and the landscape setting.
- 8.28. Policy I3 relates to the creation of character and identity and sets out how design decisions at all levels create a coherent identity.
- 8.29. Policy B1 sets out that well-designed new development makes efficient use of land with an amount and mix of development and open space that optimises density.
- 8.30. Policy M1 states that a well-designed and connected network of routes gives people the maximum choice in how to make journeys and that in a well-designed place all modes of transport are positively designed into the built form.
- 8.31. Policy M2 clarifies that with regard to active travel priority is given to pedestrian and cycle movements and sets out that in well-designed places, people should not need to rely on the car for everyday journeys, including getting to shops and open spaces.

- 8.32. Policy M3 states that how parking is arranged has a fundamental effect on the quality of a place or development and that well-designed parking is attractive, well-landscaped and sensitively integrated into the built form so that it does not dominate the development or street scene.
- 8.33. Policy N1 sets out that well-designed places provide usable green spaces taking account of a range of matters that include how spaces are connected and the balance between public and private open spaces. It states that the location and structure of open space needs careful consideration that includes how it can be accessed by all groups of people.
- 8.34. Policy P1 relates to public spaces. It sets out that well-designed public spaces are designed to support an active life for everyone and that their success depends on them being fit for purpose, attractive places that people enjoy using. It states that well-designed places encourage people to walk and cycle rather than depends on their cars, particularly for short, local journeys. It states that they are accessible to all.
- 8.35. Policy P2 states that well-designed public and shared amenity spaces feel safe for people who occupy the buildings around them and also for visitors and passers-by and that careful planning and design creates the right conditions for people to feel safe without the need for additional security measures.
- 8.36. Policy P3 states that well-designed public spaces are social spaces, providing meeting places, and opportunities for comfort, relaxation and stimulation for all. It sets out that a well-designed public space is connected into the movement network.
- 8.37. Policy H1 states that good design promotes quality of life for the occupants and users of buildings. Policy H2 sets out that well-designed buildings are carefully integrated with their surrounding external space.
- 8.38. It is noted that the existing character of built development in the vicinity of the site has no unifying character and is typical of settlements across the country that have grown over the last decades. It must also be recognised that planning permission exists via two separate permissions on the two halves of the site for the development of 96 dwellings. The Applicant though is seeking to increase the number of dwellings and thereby increase the density of development on the site, and this appropriately requires an assessment of the new proposals. Despite the submission of four separate applications, it is considered that the assessment of the proposals can only be properly undertaken by looking at the four applications as a single whole development of the site.
- 8.39. It is considered that there is considerable weight placed by both national and local planning policy on the requirement for developments to be well-designed. This requirement for good design is set out in the NPPF, in national design guidance such as the National Design Guide and Building for a Healthy Life and locally in Policy DM10 of the SADMP and the Council's Good Design Guide SPD.
- 8.40. In this case the increased density has resulted in significantly less useable open space being provided on the site to cater for the needs of future residents, which is one of the Council's greatest concerns regarding the revised proposals. It is noted though that on both of the extant permissions the applicant agreed to contributions regarding offsite casual informal play space and off-site natural green space along with the associated maintenance contributions.
- 8.41. Apart from the locally equipped area of play which is surrounded by narrow areas of casual play space, almost all other areas of casual open play space and accessible green space are pushed to the margins of the site where there are existing hedgerows or are left-over thin strips of grass that are not easily or well accommodated within private rear gardens. The avoidance of unmanaged gaps

between developments being used as privacy buffers to existing residents is highlighted as a red flag at page 43 of Building for a Healthy Life. A further red flag referenced at page 79 of BHL is small pieces of land, typically grassed over, that offer little or no public, private or biodiversity value that over time become neglected and forgotten. There is a significant failure to provide sufficient useable open space to meet the needs of future residents of the proposed development. This represents a major and significant failing of the overall proposals. Given that this is a greenfield site there is no good reason why the Applicant should not be providing casual/informal open space and accessible natural green space, or making appropriate contributions to off-site facilities, such as the adjacent Tweeds River Play Park that borders the site on its eastern boundary, to meet the needs of future residents in accordance with Council policy as described above at paragraph 8.20.

- 8.42. Having submitted the four applications together the site is now treated as a whole and is no longer constrained by having to be treated as two separate sites as has been the case with previous applications which were submitted months apart. In seeking to increase the density of development the Applicant has failed to facilitate connectivity between the two halves of the site or to provide a legible internal road layout that provides convenient and safe access for future residents walking and cycling to services and facilities beyond the site or to access open space and equipped play space within or adjacent to the site.
- 8.43. While it is acknowledged that the layout of the previously approved application 22/01053/FUL on the western half of the site was not particularly well designed, it is considered that the proposed development, when viewed as a whole and taking into account of the fact that all four applications are submitted at the same time, is particularly poorly designed and falls significantly short of the level of design considered necessary to meet the current requirements of local and national planning policy and of local and national guidance which place a particular focus on the need for good design.
- 8.44. There is a lack of pedestrian and cycle connections both within and through the site and often those that do exist are poorly designed. The two main access points on to Hinckley Road fail to optimise highway safety. Hard surfacing predominates in areas of the site where long runs of parking spaces are unrelieved by planting, which directly contradicts the red flag of frontage car parking with little, or no softening landscaping raised at page 73 of Building for a Healthy Life. The existing pond on the site is surrounded by rear gardens and the rear/side elevation of a dwelling while at the same time being indicated as being surrounded by green space. The avoidance of bits of left over land between the blank flank walls of buildings is specifically highlighted as a red flag at page 55 of Building for a Healthy Life. This is reiterated at page 85 of BHL which highlights pieces of left over land between or to the side of dwellings with no clear public or private function. The two halves of the site are no better connected under the current proposals that they were when they were considered as two separate applications. The failure to take the opportunity to provide better connections between the two halves of the site is considered to represent significantly poor design that specifically contradicts the advice set out in Building for a Healthy Life.
- 8.45. These design issues have consequential adoption related highways and waste collection issues that are detailed below.
- 8.46. It is considered that the proposed development fails the requirement set out in Policy DM10 of the SADMP that development is required to complement or enhance the character of the surrounding area with regard to its layout and density. It is also considered that the proposed development fails to meet the necessary standard of good design that is set out in both national and local planning policy and guidance.

- 8.47. When taken together as a whole, the revised layout and increased density of applications 23/01175/FUL, 23/01177/FUL, 23/01184/FUL and 23/01186/FUL results in poor design by virtue of an unadoptable internal road layout and a lack of usable open space. This is contrary to the requirements of Policy DM10 of the SADMP, the Good Design Guide SPD and the requirements of the NPPF and national policy on design matters. Whether this harm is so significant in the planning balance to warrant refusal of the application on these grounds though is assessed in the planning balance below.

Highway Safety

- 8.48. 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 highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)). Dwellings of 3 beds or less require 3 parking spaces and dwellings of 4 beds or more require 3. For a garage to be classed as a parking space, it requires an internal measurement of 6m by 3m for a single and 6m by 6m for a double (minimum door width 2.3m) and a planning condition will be required to restrict its loss/conversion. Parking spaces should be 2.4m by 5.5m minimum (with an extra 0.5m width if bounded by a wall/fence etc).
- 8.49. Policy DM17 also states that proposals will be supported where they seek to ensure convenient and safe access for walking and cycling to services and facilities. This is supported by Building for a Healthy Life which identifies as a red flag at page 18 internal streets and paths that are not well connected or are indirect.
- 8.50. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development. Developments within the town centre should demonstrate that they would not exacerbate existing problems in the vicinity with increased on-street parking.
- 8.51. Paragraph 111 of the NPPF (2019) 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.
- 8.52. The objections to the application also raise concerns about the impacts of the development on highway safety on a busy stretch of road, where traffic travels over the speed limit and where traffic calming has been proposed but not yet provided.
- 8.53. The applications have been the subject of much discussion with the Local Highway Authority. In their final response on the applications the LHA set out that previously they had “strongly advised” the applicant to consider and provide a single point of access to the site on to Hinckley Road, as well as undertaking additional assessments, making alterations to the internal layout and provide a Travel Plan for the site. Of these the applicant only made revisions to the internal road layout.
- 8.54. The LHA has stated that the lack of a single access point to the site is disappointing but does not amount to a reason for refusal of the applications, which would need to pass the test set out at paragraph 116 of the NPPF of being unacceptable in terms of its effect on highway safety.
- 8.55. An incremental approach has been taken to the development sought across the wider site. As set out above in the section on the site history the first relevant application was for 25 dwellings and a cemetery on the wider site. At no point has the

number of dwellings proposed met a threshold where wider assessments of the impact of the proposed generated traffic on the wider road network been assessed. The Leicestershire Highway Design Guide sets out that a transport assessment and a Travel Plan are required for developments of over 80 dwellings. The applicant has stated that as 96 dwellings have already been approved on the site there is no requirement for any further assessment given that the increased proposed by these applications is just 29 dwellings. The LHA accepts the applicant's position and states that it would not be possible to demonstrate that the proposals would have a severe effect on the surrounding highway network in the event of an appeal.

- 8.56. The LHA considers that a financial contribution should be made towards the provision of travel packs and bus passes for the additional 29 dwellings that are proposed under these applications. The applicant has confirmed that they do not agree to any contributions relating to the additional 29 dwellings that are proposed.
- 8.57. With regard to the internal road layout the LHA has stated that the proposed spine roads are not currently suitable for adoption and that a number of issues need addressing that include bend widening, forward visibility and swept path analysis. The LHA points out though that whether or not the internal road layout is suitable for adoption is not a reason for the LHA to resist the proposals on highway safety grounds. It is considered though a significant indicator of poor design. The adoptability of the main highways within the site is a material planning consideration and has consequences for good design, the health and safety of future occupiers of the proposed development, the requirement for active and sustainable travel and for waste collection. Having two points of access on to the main road is less safe than having a single point of access. The failure to connect the two sites is a key failure of good design that is clearly contrary to the advice set out in the National Design Guide and in Building for a Healthy Life. The failure to adopt any of the highways results in significant detrimental consequences on waste collection from the site that the applicant has provided no remedy for. This is further detailed below.
- 8.58. The LHA considers that the parking provision within the overall site is acceptable and that other matters can be secured by planning conditions.
- 8.59. In failing to design the highway layout though in a manner that treats the two halves of the wider site as a whole or provide better connections between the two halves of the site it is considered that the proposals fail to meet the requirement of part b of Policy DM17 that proposals should seek to ensure safe and convenient access for walking and cycling to services and facilities.
- 8.60. Given the advice of the Local Highway Authority it must though be the conclusion that the proposals are not unacceptable in terms of their effect on highway safety and that they accord sufficiently, in terms of highway safety, with the requirements of policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document and the requirements of the NPPF.
- 8.61. It is also considered though as set out above at paragraphs 8.41 to 8.47 that the development is poorly designed in terms of its highway layout. Each of the points referenced above also indicate a failure to design the proposed development well in accordance with the requirements of policies DM10 and DM17 of the Site Allocations and Development Management Policies Development Plan Document and the requirements of the NPPF.
- 8.62. While in terms of highway safety the proposal does not pass the threshold imposed by Paragraph 111 of the NPPF it is considered that the unadoptable internal highway layout fails to provide future occupiers of the development with convenient and safe access for walking and cycling to services and facilities, contrary to Policy DM17 of the Site Allocations and Development Management Policies Development Plan

Document. Whether this harm is so significant in the planning balance to warrant refusal of the application on these grounds though is assessed in the planning balance below.

Adoption issues

- 8.63 The failure to propose an adoptable internal road network, or one built to an adoptable or otherwise suitable standard, has consequential impacts on the collection of household waste and on the future management of these assets. The Council is aware of issues within the Borough deriving from unadopted internal roads of new housing sites. Moreover, the Council's waste team state that they will only collect household waste from the publicly adopted highway which would result in residents dragging their bins an unacceptably long distance to Hinckley Road. This results in concerns relating to excessive service charges for future residents, poorly maintained on-site roads and footpaths, failing private waste collection arrangements and pressure on Leicestershire County Council and Hinckley and Bosworth Borough Council to respectively adopt the internal road network and collect household waste on the site.
- 8.64 Given this, the Council requested that the applicant provide details of the concepts of the future management and maintenance of roads and footways and private waste collection in addition to the anticipated management of on-site open space. The Council stated that it could condition the finer details of this management arrangement prior to the commencement of the development but needed conceptual proof that such an arrangement was feasible prior to determination of the applications.
- 8.65 The applicant was unable to agree the S106 contributions requested and when asked, did not provide this conceptual proof, instead requesting the scheme be refused. The failure to cater adequately for the proper collection of waste is considered to represent poor planning and a failure of design that meets the needs of future residents of the proposed development contrary to the requirements of paragraph 135 a) and b) of the NPPF.

Housing Mix and Affordable Housing

- 8.66. Policy 16 of the Core Strategy 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. Policy 16 states that a minimum density of at least 40 dwellings per hectare is required within and adjoining Hinckley, Burbage, Barwell and Earl Shilton but that a lower density may be acceptable, in exceptional circumstances, where individual site circumstances dictate and are justified.
- 8.67. As set out above a broad mix of housing is provided ranging from one to four bedrooms.
- 8.68. Policy 15 of the Core Strategy 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 this is given significant weight in the planning balance. The Housing Needs Study (2019) identifies a Borough need for 271 affordable dwellings per annum (179 in the urban area and 92 in the rural area) for the period 2018-36. The Study states this is not a target, but that affordable housing delivery should be maximised where opportunities arise.

- 8.69. As required 20% of the dwellings on the site meet the definition of affordable housing and meet the Housing Officer is satisfied that the mix of affordable housing proposed is acceptable. Given that 96 dwellings, of which 20% are affordable, have already been approved the addition number of affordable dwellings provided would be 20% of the additional 29 dwellings which equates to 6 dwellings. This is considered to attract between moderate and significant weight in the planning balance.
- 8.70. The proposal is therefore deemed acceptable with respect to housing mix and affordable housing.

Impact upon Residential Amenity

- 8.71. Paragraph 135(f) 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.
- 8.72. 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.
- 8.73. Paragraph 14.2 of the SADMP states that new development should be located and designed in such a way that the amenity of both existing residents and occupiers is fully considered when assessing planning applications.
- 8.74. Building for a Healthy Life sets out that it works best where it is a 'golden thread' running through the development and planning process and that this involves local authorities embedding BHL considerations into Local Plans and Supplementary Planning Documents and developers adopting BHL and using it as a design tool for new developments from the inception of a scheme rather than after or towards the end of the design process. As set out at paragraph 8.23 of this report it is considered that BHL is embedded into the Council's Good Design Guide SPD.
- 8.75. Building for a Healthy Life sets out on page 15 that integrated neighbourhoods create places that are well integrated into a site and their wider natural and built surroundings and avoid creating isolated and disconnected places that are not easy to move through and around. While the previously secured permissions included financial contributions towards the Tweeds River Play Park which directly borders the site, the current applications make no attempt to facilitate better access to this existing park for future residents or agree contributions in respect of off-site open space that could be used to improve this park.
- 8.76. The Good Design Guide SPD sets out on page 4 that the purpose of the Guide is to provide clarity to all involved in the planning process and ultimately to raise the quality of design in the Borough. It is intended to provide clear guidance about what will be expected by the Borough Council throughout the planning process.
- 8.77. The SPD outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.

- 8.78. As is set out above the SPD highlights the importance of amenity space for residents. It states that ensuring adequate space between and around buildings is recognised as a care component of residential amenity. Page 34 of the Guide sets out that the way buildings relate to each other – their orientation and separation distance – must provide and protect acceptable levels of amenity and that separation distances of 21 metres (habitable room windows to each other), 14 metres (habitable room window to two storey gable), and 8 metres (habitable room window to single storey gable) are the minimum standards that are required, while noting that each application will be assessed on its own merits.
- 8.79. Page 34 of the Good Design Guide highlights the importance of gardens as part of the quality of life afforded by a house. The SPD sets out that a general guideline for garden sizes is a minimum depth of 7 metres and 80 square metres in area for a three-bed house and 60 square metres in area for a two-bed house.
- 8.80. Finally, with regard to residential amenity the SPD states that wherever possible internal space standards for new residential development should aim to exceed those set out in the Government's Technical Housing Standards (2015).
- 8.81. The National Design Guide provides 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.
- 8.82. The applicant has sufficiently addressed officer concerns with regard to garden sizes and with regard to interface distances.
- 8.83. The proposed development is therefore considered contrary to, and in conflict with, Policy DM10 of the SADMP and the requirements of both the NPPF and the Council's Good Design Guide with regard to both the level of amenity provided for all future occupiers of the proposed development. Whether this harm is so significant in the planning balance to warrant refusal of the application on these grounds though is assessed in the planning balance below.

Ecology, Biodiversity and Trees

- 8.84. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.85. Paragraph 1180 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 and by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, which includes trees.
- 8.86. The presence of protected species is a material consideration in any planning decision, it is essential that the presence or otherwise of protected species, and the extent to which they are affected by proposals is established prior to planning permission being granted. Furthermore, where protected species are present and proposals may result in harm to the species or its habitat, steps should be taken to ensure the long-term protection of the species, such as through attaching appropriate planning conditions.

- 8.87. Neighbours have raised concerns regarding the development of greenfield land, the loss of countryside, the impact on habitats and the loss of trees.
- 8.88. The applicant has confirmed that the development of the site results in a loss of habitat that will require off-site compensation to be provided which would be managed for a period of 30 years. The County Ecologist has advised that the overall development has accounted for biodiversity impacts subject to pre-commencement planning conditions and to the off-site compensation. It is agreed, on balance, that the necessary off-site compensation can be secured via condition as opposed to being secured via legal agreement.
- 8.89. As such it is considered that the applications are able to meet the requirements of Policy DM6 of the SADMP and to the requirements of the NPPF.

Flood Risk and Drainage

- 8.90. 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.
- 8.91. Paragraph 181 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 182 states that applications which could affect drainage on or around a site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff and which are proportionate to the nature and scale of the proposal. These should provide multifunctional benefits wherever possible, through facilitating improvements in water quality and biodiversity, as well as benefits for amenity. The systems used should take account of advice from the Lead Local Flood Authority (LLFA), have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.92. The site is located within flood zone 1 indicating a low risk of surface water flooding. There are small areas subject to surface water flooding to the southern boundary of the site and in the north-west corner where the Environment Agency Flood Maps for Planning show that existing houses north of Hinckley Road are subject to surface water flooding. The public comments have raised concerns regarding drainage issues and regarding the development exacerbating these existing issues.
- 8.93. The applicant has submitted a Flood Risk Assessment which has been revised and supplemented as a result of concerns expressed by the LLFA. The LLFA confirms that there is a vein of medium to high surface water flood risk that transects the site and notes that there are some ongoing surface water issues around the development site/in the Hinckley Road area.
- 8.94. The surface water drainage system is to be designed so that flood storage volumes are retained on site for critical storm events up to a 1 in 100-year level with an allowance for the effects of climate change. An attenuation basin is provided to the front of the site south of Hinckley Road with two underground storage attenuation tanks, one under the open space to the west of the attenuation pond and one under the private drive to the east of the pond. Surface water drainage will connect to the existing ditch on the south side of Hinckley Road.
- 8.95. The LLFA and HBBC's drainage officer have no objections. Conditions are imposed to secure a scheme for surface water drainage, management of surface water on site during construction and details of the long term maintenance of the sustainable surface water drainage system.

- 8.96. Subject to the recommended conditions the development is considered to be acceptable with respect to flooding and surface water runoff issues and satisfies Policy DM7 of the SADMP and the NPPF.

Planning Obligations

- 8.97. 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. Policy 19 of the Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible, contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016 updates these standards and also identifies the costs for off-site and on-site contributions.
- 8.98. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirements contained within the Community Infrastructure Levy regulations 2010 (CIL). The CIL Regulations and paragraph 58 of the NPPF states 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
 - c) fairly and reasonably related in scale and kind to the development
- 8.99. The contributions sought for the four combined applications are detailed below:
- Health contribution - £97,574.40
 - Libraries contribution - £3,993.04
 - Waste contribution - £5,881.93
 - Primary Education contribution - zero
 - Secondary Education contribution £364,293.87
 - Post 16 Education contribution - £73,983.76
 - 20% Affordable Housing provision - 25 in number, 13 for affordable or social rent, 5 First Homes and 7 for shared ownership
 - Travel pack provision of £52.85 per dwelling (for the 29 additional dwellings) - £1,532.65
 - Bus Pass provision of £510 per person (maximum of two per dwelling for the 29 additional dwellings) - £29,580
 - Off-site outdoor sports contribution - £43,440
 - Off-site outdoor sports maintenance contribution - £41,280
 - On-site equipped children's play provision to a value of £81,868.50
 - On-site equipped children's play space maintenance - £39,510
 - On-site casual/informal play space provision and a contribution to off-site provision of £3,540
 - On-site casual/informal play space maintenance to a value of £14,072 and contribution to off-site maintenance of £4,304
 - On-site accessible green space provision or a contribution to off-site provision to a maximum of £20,450
 - On-site accessible green space maintenance to a value of £76,680 or a contribution to off-site space maintenance to a maximum of £35,500
 - S106 monitoring and site visit fees

- 8.100. The previously approved extant permissions on the two halves of the site both made contributions to off-site open space for both casual/informal open space and accessible natural green space. Since then the numbers of dwellings proposed on the site has increased by 29 dwellings and the amount of on-site open space has significantly reduced. In addition to this it is considered that large amounts of the open space that is shown by the applicant on their overall POS area plan A951 018 Rev C received by the LPA on 12 December 2024 are not truly or meaningfully accessible or usable as casual/informal open space or as accessible natural green space. The casual informal and natural greenspace calculations above are requested to off-set the lack of functional open space provided on-site. The casual informal open space calculations are based on the required provision (2100sqm) minus that provided on site (2222sqm) with the exception of the casual open space area around the northern SuDS pond which is no longer functional open space of this typology (919sqm) which equals a shortfall of 797sqm.
- 8.101. During the processing of the applications the applicant has challenged the legitimacy of some of the contributions sought, particularly those relating to healthcare. The applicant has latterly confirmed though that they do not agree to contributions for the following items
- Education contributions
 - Healthcare contributions
 - Library contributions
 - Bus pass and travel pack contributions
 - Contributions towards off-site open space provision and maintenance
- 8.102. All the above contributions are considered to meet the tests for planning obligations and should therefore form part of any legal agreement. In the absence of an agreement from the applicant that contributions will be made it is considered that the applications to fail to accord with the requirements of Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document. Whether this harm is so significant in the planning balance to warrant refusal of the application on these grounds though is assessed in the planning balance below.

Planning Balance and Conclusion

- 8.103. 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.
- 8.104. This application relates to the provision of 29 additional dwellings on a site where permission has recently been granted for 96 dwellings.
- 8.105. 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.
- 8.106. Paragraph 8 of the NPPF sets out three overarching objectives for sustainable development which are interdependent and need to be pursued in mutually supportive ways.
- 8.107. The 29 additional dwellings would provide economic benefits through the creation of jobs and demand for services during the construction phases and from the future

occupation of the development supporting the local economy which is considered to carry moderate weight in the planning balance.

- 8.108. Socially, the scheme would provide 29 additional dwellings towards the Borough's housing supply with 6 of these being additional affordable homes, both of which aspects of the proposals are afforded between moderate and significant weight.
- 8.109. The environmental benefits could be secured through the use of conditions and as such are given neutral weight given that the applications were submitted before the requirement to provide a 10% was made mandatory.
- 8.110. Set against these benefits are the considerable harms in terms of the poor design quality of the scheme. The harms posed by this poor design are moderated by the extant historic permissions on the site which themselves constitute poor design. However, there remains three main issues which are insufficient on-site open space, waste collection issues by virtue of refuse vehicles being unable to access the substandard internal roads of the site, and potentially unsustainable management liabilities for future occupiers. The applicant is unwilling to agree S106 contributions for the off-site provision of casual informal open space and off-site natural green space or provide the requested conceptual information to prove the adoption issues can be resolved. Together, the poor design and consequential open space and adoption issues are given significant weight.
- 8.111. In addition, the development fails to make necessary, fair and reasonable contributions towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. This affords significant weight against the proposal.
- 8.112. It is considered that the significant harms deriving from the poor design, open space and adoption issues alongside the failure to agree necessary, fair and reasonable planning contributions significantly and demonstrably outweighs the benefits of the proposals when assessed against the policies of the development plan and the NPPF as a whole.

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. Recommendation

10.1 Refuse planning permission for the reasons set out below.

10.2 Reasons:

1. The applicant is unwilling to agree Section 106 contributions for the delivery of library services, education provision, health services, or travel packs. As such the applications 23/01175/FUL, 23/01177/FUL, 23/01184/FUL and 23/01186/FUL fail to make necessary, fair and reasonable contributions towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities contrary to Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.
2. When taken together as a whole, the revised layout and increased density of applications 23/01175/FUL, 23/01177/FUL, 23/01184/FUL and 23/01186/FUL results in poor design by virtue of an unadoptable internal road layout and a lack of usable open space. This causes three issues, insufficient on-site open space, waste collection issues by virtue of refuse vehicles being unable to access the substandard internal roads of the site, and potentially unsustainable management liabilities for future occupiers. The applicant is unwilling to agree S106 contributions for the off-site provision of casual informal and natural green space; the applicant has also failed to provide conceptual details of the future management of the site's open space, roads and footpath and waste collection. The schemes are therefore contrary to Policies DM10 and DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016), to the Council's Good Design Guide and to key paragraphs 129, 135 and 139 of the National Planning Policy Framework (2024).