

Planning Appeal: Land South of Burbage

Statement of Common/Uncommon Ground V4

**In relation to Planning Application Reference:
24/00083/HYB**

Prepared on behalf of BDW Trading Ltd (Redrow Homes Midlands)
and Mr Peter Andrew Farmer

20 July 2026

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THIS STATEMENT OF COMMON AND UNCOMMON GROUND V4 HAS BEEN AGREED BY:

[REDACTED]

[REDACTED]

[REDACTED]

Name...Edward Stacey.....

Dated 20th July 2026

&

BDW [REDACTED]

[REDACTED]

[REDACTED]

Name Jennifer Towers

Dated 20th July 2026

1.0 Introduction

- 1.1 This Statement of Common and Uncommon Ground [SoCUG] has been prepared by Lichfields on behalf of BDW Trading Ltd (Redrow Homes Midlands) and Mr Peter Andrew Farm (“the Appellants”). It has been prepared in respect of an Appeal against the decision of Hinckley & Bosworth Borough Council (“the Council”) to refuse planning permission for 422 residential dwellings, 11 self-build homes and land for a care home, on Land South of Burbage (“the Site”) (Application Reference: 24/00083/HYB) (the “Application”).
- 1.2 The SoCUG has been prepared in accordance with the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 (as amended) and guidance set out in Annex J of the Planning Inspectorate’s ‘Procedural Guide: Planning Appeals – England’ (March 2026)’.

Scope of the Document

- 1.3 This SoCUG is agreed upon by the Appellants and the Council. Its purpose is to set out agreed factual background information to assist in the Inquiry and to avoid duplication. This SoCG sets out those planning matters that are agreed upon between the principal parties to the Inquiry, comprising:
- **Section 2.0:** A description of the appeal proposals;
 - **Section 3.0:** A description of the site and surroundings, including relevant planning history;
 - **Section 4.0:** A list of relevant planning policies in the Development Plan and other policy and guidance documents;
 - **Section 5.0:** The Council’s reasons for refusal;
 - **Section 6.0:** Areas of agreement;
 - **Section 7.0:** Areas of disagreement; and,
 - **Section 8.0:** Planning obligation and suggested conditions.

2.0 Appeal Proposal

- 2.1 The Application was made in hybrid form, with part of the application seeking full planning permission for 422 residential dwellings (Class C3), access, public open space, and the other was seeking outline planning permission for a care home with an indicative capacity of 66 bedspaces (Class C2), and 11 self-build housing plots. The description of development was as follows:
- 2.2 *“Hybrid planning application for 422 dwellings, public open space, associated infrastructure and the demolition of 65 and 65a Coventry Road, and Burbage Fields Farm and outline planning application for a residential care home and up to 11no. self-build plots (all matters reserved except for access).”*
- 2.3 The Application would deliver 422 residential (Class C3) dwellings, of which 20% would be affordable (c.85 dwellings) and 219 would be M4(2) compliant. The average density would equate to c.32.46 dwellings per hectare (dph), based on a net developable area of c.13.13 ha excluding open space. The net developable area for the whole Site including the self-build plots and the care home is 14.01 ha. In addition to 422 residential dwellings (Class C3), the proposed development would make provision for a care home with an indicative capacity of 66 bedspaces (Class C2), and 11 self-build housing plots.
- 2.4 The Site Layout Plan (CD B137) also shows how a mix of housing types and tenures could be accommodated on the Site, including 7 bungalows and M4(2) dwellings. The Design and Access Statement (CD B23) and Design and Access Addendum (CD B60) demonstrate how the scale and density of development would be appropriate in the context of the surrounding area. The existing PRow is retained and incorporated into the proposed open space.
- 2.5 The Landscape Masterplan (CD B138.1-138.2) demonstrates how the Site could deliver a total of 11.25 hectares of open space comprising a mix of public open space, including formal and informal green space, a Sustainable Urban Drainage System [SuDs], planting and children’s play provision. The Site Layout envisage public open space being created along the eastern and southern boundaries, with SuDs acting as a focal feature. Additional open spaces will be provided in between the residential parcels, enhancing the landscape-led nature of the proposals with LEAP positioned towards the centre of the Site. The southern boundary of the Site would comprise a linear strip of open space and a MUGA, further enhancing the area and providing a natural barrier to the M69.
- 2.6 Existing trees and hedgerows along the boundaries of the Site would be protected and form an integral part of the scheme, enhancing the character and sense of place. The submitted Biodiversity Net Gain Report (CD 128) and Biodiversity Metric Calculation (CD 129), based on the illustrative layout, demonstrates how potential habitat creation could be incorporated into the proposed development to ensure a biodiversity net gain [BNG], and confirms that the proposed development could deliver a c.46% net % change to Hedgerow Units and a c.10% change to Habitat Units.
- 2.7 The eastern area of the Site would be accessed via an extension of Flanders Close, which provides access to Lutterworth Road, and would serve c.55 dwellings. This would enable the development to incorporate a shared pedestrian/cycle route link to the phase one development and access to the wider Burbage area. Another primary point of access will be

achieved via an extension of Coventry Road and the provision of a primary street through the existing residential area comprised of two dwellings. This will serve the majority of the Site, including the proposed care home and self-build. There will be no through traffic between Coventry Road and Flanders Close, however, provision will be made for pedestrians, cyclists and emergency vehicles. A further pedestrian/cycle link will lead from Bullfurlong Lane, which runs adjacent to the western boundary of the Site. Detailed site access drawings are set out in the Transport Assessment (CD B46.1-B46.5).

3.0 Site and Surroundings

The Site

- 3.1 The Site comprises c.26.498 ha of land mainly used for agricultural pastureland (See the Site Location Plan at CD B119). The Site slopes towards the southeast from the highest part in the north at approximately 126mAOD to the lowest part in the south at approximately 107mAOD.
- 3.2 The Site itself is comprised of nine irregular parcels of greenfield land that are currently used for pasture grazing of agricultural livestock. In addition, the Site is occupied by the Burbage Fields Farmhouse and associated outbuildings, located to the south west of the Site.
- 3.3 The majority of the eastern boundary of the Site is bound by trees and hedgerows, with greenfield land beyond. A small section of the Site to the east is bound by a hedgerow with Workhouse Lane directly adjoining the boundary. The northern boundary of the Site is bound by hedgerow, with the most northern point of the Site adjoining the built-up boundary of Burbage. Part of the western Site boundary is bound by the existing built-up boundary of Burbage. The remainder of the western boundary is bordered by Bullfurlong Lane and open countryside. The southern Site boundary comprises a fence line, trees and hedgerows, beyond which lies the M69 and associated barrier planting. A small section of the Site to the east extends across Workhouse Lane, to the east, which is bound by Flanders Close at the easternmost boundary.

Surroundings

- 3.4 The Site abuts the Burbage settlement boundary, immediately adjacent to the Ambion Way residential development to the east, and further residential development along Bullfurlong Lane and Coventry Road to the west and north. The Site is located c.600m from the centre of Burbage, c.2.7km to the south of the centre of Hinckley, and c.20km to the south-west of the centre of Leicester.
- 3.5 The Site is sustainably located on the edge of Burbage, which is one of the four main urban areas of the Borough. The Site therefore would provide future residents with access to a range of facilities, providing a mix of shops, restaurants and pubs, a library, a medical centre and pharmacy, and a post office.
- 3.6 The nearest primary school to the Site is the Burbage Church of England Infant School, which is located approximately 500 metres to the north and is accessible within a c.10-minute walk. In terms of secondary schools, the nearest secondary school to the Site is Hastings High School, which is located c.1.2km to the north of the Site. The Site is also well-served by public transport, with the bus stops on Lutterworth Road within 5-minute walk, providing access to Burbage and Hinckley town centres.
- 3.7 In terms of accessibility to public transport, the Site is located 2.3km (9 minutes via car) from Hinckley train station, offering connections to larger settlements such as Nuneaton and Leicester. This offers suitable access to further employment opportunities, services and facilities in addition to Burbage's existing provision of amenities. The Site is in close proximity to a number of bus stops; Crossways bus stop is 110m (1-minute walk) from the

Site, whilst Robinson Way bus stop and Pyeharps Road bus stop are located 250m (3-minute walk) and 400m (5-minute walk) away from the Site, offering regular service to Nuneaton.

Designation and Allocations

- 3.8 The Environment Agency's [EAs] Map identifies the Site as being located within Flood Zone 1 and being at low risk of flooding; however, there are areas of 'moderate' to 'high' surface water flooding located within the centre of the site. There are no heritage assets on or within close proximity to the Site, nor are there any Tree Preservation Orders within the Site, and there is no evidence of protected species within or in close proximity to the Site. The Burbage Round Public Right of Way [PRoW] crosses the Site.
- 3.9 The Site is not subject to any statutory or non-statutory planning and land-use designations, nor is it allocated within the Development Plan. However, the Site is located adjacent to the Settlement Boundary of Burbage, as defined in the recently made Burbage Neighbourhood Plan 2015-2026 (2021) [BNP]. Therefore, in principle, the residential development of the Site adjacent to the Settlement Boundary is in accordance with the Development Plan.

Planning History

- 3.10 Based on the Council's online records, the following planning history is identified for the Site:
- 1 Application Reference: 04/00934/COU – Change of use from agriculture to recreational land – Withdrawn 17/02/2005;
 - 2 Application Reference: 04/01455/COU – Change of use from agriculture to recreational land – **Approved** 23/02/2005;
 - 3 Application Reference: 21/00502/OUT - Outline planning application for the erection of up to 80 residential dwellings (Use Class C3), open space provision and associated infrastructure, with all matters reserved except access – Refused 16/08/2022 – **Appeal Allowed** 30/10/2023;
 - 4 Application Reference: 25/00971/REM – Approval of reserved matters (appearance, layout, scale and landscaping) of outline planning permission 21/00502/OUT for the construction of 77 residential dwellings – Pending Determination.
- 3.11 Based on the Council's online records, the following planning history is identified on land near the Site which is relevant to this application:
- 1 **Land To The South West Of Lutterworth Road**
 - a Application Reference: 14/01205/OUT – Residential development for up to 80 dwellings, open space and associated works (outline - access only) – Refused 02/04/2015;
 - b Application Reference: 15/01292/OUT – Residential development for up to 80 dwellings, open space and associated works (outline - access only) (resubmission) – Approved 27/01/2016;
 - c Application Reference: 17/00795/REM – Approval of reserved matters (appearance, layout, scale and landscaping) of outline planning permission

15/01292/OUT for residential development of 72 dwellings) – Approved
10/11/2017;

- d Application Reference: 18/00918/CONDIT – Variation of Condition 4 of planning permission reference 15/01292/OUT to enable the extension of construction working hours to 8:00-18:00 hours Monday to Friday and 8:00-13:00 hours on Saturdays with no working on Sundays or Bank Holidays. construction for up to 80 dwellings, open space and associated works (15/01292/OUT) – Withdrawn 13/12/2018; and
- e Application Reference: 20/01085/DISCON – Application to fully discharge condition 13 (noise) attached to planning permission 15/01292/OUT – Discharged 23/12/2020.

4.0 Relevant Planning Policy

- 4.1 This section outlines the agreed position between the Appellants and the Council regarding the principal planning policy considerations relevant for determining the Appeal. Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that decisions should be made in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework (2024) [NPPF] does not alter this statutory obligation.
- 4.2 The NPPF sets out the Government's planning policies for England and how these are expected to be applied, and is an important material consideration in this Appeal. It sets out the Government's requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so. The revised NPPF was updated in December 2025 and sets out the Government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous NPPF published in March 2012, revised in July 2018 and updated in February 2019, July 2021, September 2023 and December 2023.
- 4.3 The National Planning Practice Guidance [PPG] also provides guidance on how the policies of the Framework are to be applied. The PPG is also an important material consideration in this Appeal.

Development Plan

- 4.4 The Development Plan for this area comprises:
- The Local Plan 2006-2026:
 - Core Strategy (2009) [CS]; and
 - Site Allocations and Development Management Policies DPD (2016) [SADMP DPD].
 - BNP 2015-2026 (2021).
- 4.5 The reasons for refusal identified relate to the following policies (and documents):
- Policy DM17 (Highways and Transportation) of the SADMP DPD.
- 4.6 It is agreed between the parties that the following policies are also of relevance to the determination of the Appeal:
- CS:
 - Policy 4 (Development in Burbage);
 - Policy 15 (Affordable Housing); and
 - Policy 19 (Green Space and Play Provision).
 - SADMP DPD:
 - Policy DM1 (Presumption in favour of Sustainable Development);
 - Policy DM4 (Safeguarding the Countryside and Settlement Separation);
 - Policy DM3 (Infrastructure and Delivery);
 - Policy DM6 (Enhancement of Biodiversity and Geological Interest);

- Policy DM7 (Preventing Pollution and Flooding);
 - Policy DM10 (Development and Design);
 - Policy DM11 (Protecting and Enhancing the Historic Environment);
 - Policy DM12 (Heritage Assets);
 - Policy DM13 (Preserving the Borough's Archaeology); and
 - Policy DM18 (Vehicle Parking Standards).
- BNP:
 - Policy 1 (Settlement Boundary);
 - Policy 3 (Design and Layout);
 - Policy 4 (Parking);
 - Policy 5 (Footpaths and Cycleways);
 - Policy 7 (Protection of other Important Green Spaces);
 - Policy 8 (Ridge and Furrow Fields);
 - Policy 9 (Wildlife and Green Corridors); and
 - Policy 13 (Important Trees and Hedges).

Other Material Considerations

- 4.7 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, it is agreed between the parties that the following material considerations are relevant to the Appeal.

Supplementary Planning Documents

- 4.8 The following Supplementary Planning Documents [SPD] are also of relevance to this appeal:
- Affordable Housing SPD (2011); and
 - The Good Design SPD (2020).

National Policy

- 4.9 In addition to the above, the following are material considerations in the determination of this appeal:
- NPPF (2024); and
 - PPG.

Evidence Base

- 4.10 The following evidence-based documents are also of relevance to this appeal:
- Open Space Assessment (2025);
 - Five Year Housing Land Supply (5YHLS) Statement 1 April 2024 – 31 March 2029.
- 4.11 Copies of these documents are enclosed in CD F10-FF14.

5.0 Reason for Refusal

5.1 The Application (Application Reference: 24/00083/HYB) was refused by the Council on 22nd January 2026 for the following reason (“RfR”). A copy of the Decision Notice is appended to the Appellant’s Statement of Case [SoC] (CD D1).

5.2 The RfR reads as:

“The applicant has failed to demonstrate that safe and suitable access for all users would be provided to the development from Coventry Road. The proposal, if permitted, could consequently result in an unacceptable form of development and could lead to dangers for highway users. The residual cumulative highway and access impacts of the development are considered to be severe and significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the National Planning Policy Framework (2024) taken as a whole, contrary to Policy DM17 of the Site Allocations and Development Management Policies DPD (2016) and paragraphs 115 and 116 of the National Planning Policy Framework (2024).”

6.0 Areas of Agreement

- 6.1 This section sets out the matters that are agreed upon between the parties. Importantly, neither the Appellants, nor Council, raise any new issues outwith the Council's RfR.

General

- The description of the Development in Section 2.0;
- The description of the Site and its surroundings in Section 3.0;
- The description of the Planning History of the Site in Section 3.0; and
- The identification of relevant planning policies in Section 4.0.

Environmental Impact Assessment

- 6.2 An Environmental Impact Assessment [EIA] Screening Request was submitted to the Council on 27 July 2021 for up to 600 dwellings, made under Regulation 6 of the Town and Country Planning (EIA) Regulations 2017 (as updated) ("the EIA Regulations"). Consequently, the Council confirmed on 16 August 2021 that an EIA is not required for this development. It is agreed that the proposals do not constitute Environmental Impact Assessment development and that an Environmental Statement is not required.

Application Supporting Material

- 6.3 It is agreed that the table below contains all the material that was the subject of the Planning Application at the point of determination and forms the material against which this Appeal will be considered:
- Design and Access Statement (CD B23) and Addendum (CD B60);
 - Planning and Affordable Housing Statement (CD A2);
 - Older Persons Need Assessment (CD A6);
 - Flood Risk Assessment (CD B103), Sequential Test (CD B97) and Supplementary Planning Statement (CD B96);
 - Noise Impact Assessment (CD B91);
 - Landscape and Visual Impact Assessment (CD B56-B57) and Revised Briefing Note (CD B94);
 - Transport Assessment (CD B46.1-B46.5);
 - Residential Travel Plan (CD B47);
 - Employee Travel Plan (CD A37);
 - Ecological Mitigation and Enhancement Strategy (CD B95);
 - Bird Survey (CD A42);
 - Species Survey (CD A43);
 - Biodiversity Net Gain Report CD B128);

- Biodiversity Net Gain Calculations (CD B129);
- Arboricultural Assessment (CD B87);
- Archaeological Desk-Based Assessment (CD B93);
- Air Quality Assessment (CD B48);
- Statement of Community Engagement (CD A3);
- Utilities Statement (CD A49);
- Phase 1 Risk Assessment (CD A45);
- Sequential Test (CD B97);
- Supplementary Planning Statement (CD B96);
- Planning Drawings, including:
 - i) Road Hierarchy Plan (CD B149);
 - ii) Highway Adoption Plan (CD B141);
 - iii) Parking Strategy Plan CD B148);
 - iv) Landscape Masterplan (CD B138.1-138.2);
 - v) Bat Boxes, Bird Bricks and Hedgehog Highways Plan (CD B150);
 - vi) Engineering Layout Plans (CD B99.1-99.5);
 - vii) Drainage Strategy (CD B100.1-100.3);
 - viii) Fire Distance Plan (CD B142);
 - ix) Bin Refuse Plan (CD B147);
 - x) Affordable Housing Plan (CD B144);
 - xi) Materials Layout Plan (CD B136);
 - xii) Surface Materials Plan (CD B145);
 - xiii) Enclosures Plan (CD B140);
 - xiv) Street Scenes (CD B132);
 - xv) Location Plan (CD B139);
 - xvi) Site Layout (CD B137);
 - xvii) Topographical Survey (CD B143);
 - xviii) Character Area Layout (CD B151);
 - xix) House Types and Garages Packs (CD B80-B82); and
 - xx) Open Space Typologies Plan (CD B134).

Statutory Consultation Responses

- 6.4 It is agreed that there were no objections, subject to conditions where applicable, from the following Statutory Consultees at the time the Application was determined:

- Leicestershire County Council [LCC] Drainage;
- National Highways;
- Ecology;
- LCC Trees officer;
- LCC Archaeology;
- Hinckley and Bosworth Borough Council [HBBC] Environmental Services;
- Environment Agency;
- HBBC Drainage;
- Active Travel England;
- NHS England;
- Red Kite;
- LCC Minerals;
- Leicestershire Police; and
- HBBC Waste.

6.5 It is agreed that there were objections from the following Statutory Consultees at the time the Application was determined:

- LCC Highways.

Sustainable Location

6.6 The Site is, in principle, in a sustainable location adjacent to Burbage with access to a wide range of existing services and amenities, and accessible to existing public transport provision, including bus services.

NPPF Paragraph 14

6.7 It is agreed that the BNP does not meet the tests set out in paragraph 14 of the NPPF. Namely, the PPG¹ is clear that, in order for a neighbourhood plan to meet the criteria set in paragraph 14b, the ‘policies and allocations’ in the plan should meet the identified housing requirement in full. It goes on to state that a policy on a windfall allowance alone would not be sufficient. As such, given that Policy 1 of the BNP is in essence a ‘windfall policy’, it is agreed that the protections afforded by paragraph 14 of the NPPF would not apply for the purpose of this Appeal.

Five Year Housing Land Supply

6.8 It is agreed that the Council is unable to demonstrate a five year housing land supply (“5YHLS”) in accordance with paragraph 78 of the NPPF, and the ‘*tilted balance*’ set out in paragraph 11d of the NPPF is engaged. It is also agreed that there is a demonstrable and persistent unmet need for residential development in the Borough. Moreover, the Council is unlikely to be able to demonstrate a five year housing land supply (5YHLS). The Council is

¹ PPG ID: 41-097

still calculating it's most up to date 5YHLS figure and will work with the Appellant to submit a further SoCUG on the topic prior to the Inquiry.

The Weight afforded to the Principle of Development Policies

- 6.9 It is agreed between the parties that, in accordance with the policy provisions of NPPF paragraph 11d and footnote 8, the relevant policies for the supply of housing within the Development Plan, the Council's lack of a 5YHLS reduces the weight that can be ascribed to the relevant policies for the supply of housing within the Development Plan.

Landscape and Visual Impacts

- 6.10 A Landscape and Visual Impact Assessment [LVIA] (CD A34.1-A34.10) was submitted in support of the Application. A Revised LVIA (CD B56-B57) and Briefing Note (CD B94) were also submitted in support of the Application in response to Red Kite's consultation response (CD E46). As confirmed in the Officer's Report (CD C1):

"Overall therefore, in the opinion of the LPA, the landscape in this area is considered to have a low to medium sensitivity to residential development due to the strong influences of the existing settlement edge of Burbage, the location of pylons and the proximity of the M69. With the mitigation proposed, the resultant impact is considered to be low to medium in landscape terms. With the inclusion of conditions as recommended by the landscape consultant, it is considered that on balance, the landscape harm identified could be mitigated for and is therefore given limited weight in the overall planning balance."

- 6.11 The Officer's Report (CD C1) goes on to confirm that the development proposals would, subject to conditions, not have a significant adverse impact in terms of landscape. As such, it is agreed that the development proposals are considered to be in accordance with Policy DM4 (Safeguarding the Countryside and Settlement Separation) of the SADMP DPD and paragraphs 135 and 187 of the NPPF, subject to conditions.

Impact on Residential Amenity

- 6.12 A Noise Assessment [NA] (CD A39) was submitted in support of the Application, and a revised NA was submitted subsequently (CD B91). Proposed noise bund details were also submitted (CD B13-B14 and B15.1-15.2). In addition, an Air Quality Assessment [AQA] (CD A38) was submitted in support of the Application, and a revised AQA was submitted subsequently (CD B48). The Council's Environmental Services Officer (CD E72) raised no objections to the development proposals, subject to conditions. As confirmed within the Officer's Report (CD C1):

"Objections from third parties/local residents have been received in relation to noise and air pollution concerns. Assessments have been submitted by the applicant and assessed by the Council. It is considered that the proposed conditions to be placed on the scheme (particularly those relating to noise, air quality and construction management), will ensure sufficient scrutiny and control and ensure that local concerns are appropriately mitigated."

- 6.13 As such, it is agreed that the development proposals are considered to be in accordance with Policies DM7 (Preventing Pollution and Flooding) and DM10 (Development and Design) of the SADMP DPD and paragraphs 187, 198 and 199 of the NPPF, subject to conditions.

Flood risk and drainage

- 6.14 A Flood Risk Assessment [FRA] (CD A40.1-A40.3) was submitted in support of the Application, and subsequently, a revised FRA (CD B103) was submitted. As a result of the Mead Judgment, a Sequential Test (CD B97) and Supplementary Planning Statement (CD B96) were submitted in support of the Application. Neither LCC Drainage (i.e., the Lead Local Flood Authority) (CD E82), nor Council's Drainage Officer (CD 68) raised any objections, subject to conditions. As such, following updates to the PPG in September 2025, it was considered that a Sequential Test was no longer required in respect of surface water flooding. As confirmed in the Officer's Report (CD C1), the development proposals would, subject to conditions, not have an adverse impact in terms of drainage and flood risk. It is therefore agreed that the development proposals are considered to be in accordance with Policy DM7 (Preventing Pollution and Flooding) of the SADMP DPD and paragraphs 170 and 173 of the NPPF, subject to conditions.

Ecology and biodiversity

- 6.15 The Application was submitted in December 2023 and validated 26th January 2024. It is therefore agreed that the Application was submitted prior to the implementation of the Environment Act 2021 for 'major developments' (i.e. 12th February 2024), and therefore, the delivery of a 10% BNG is not a statutory requirement for this Appeal.
- 6.16 An Ecological Appraisal [EA] (CD A41), Biodiversity Net Gain Report (CD A50), and Ecological Mitigation Strategy [EMS] (CD B1), and Biodiversity Metric Calculation [BMC] (CD A44) were submitted in support of the Application. Subsequently, revised versions of the BMC (CD B129), EMS (CD B95) and the Biodiversity Net Gain Report (CD 128) were submitted. LCC Ecology (CD E85) raised no objections, subject to conditions. As confirmed in the Officer's Report (CD C1), the development proposals would, subject to conditions, conserve and enhance features of nature conservation. It is therefore agreed that the development proposals are considered to be in accordance with Policy DM6 (Enhancement of Biodiversity and Geological Interest) of the SADMP DPD, Policy 9 (Wildlife and Green Corridors) of BNP, and paragraph 187 of the NPPF, subject to conditions.

Trees and hedgerows

- 6.17 An Arboricultural Assessment [AA] (CD A46) was submitted in support of the Application. A revised AA was submitted subsequently (CD B54). The Council's Tree Officer (CD E76) raised no objections to the development, subject to conditions. As confirmed in the Officer's Report (CD C1), the Council considered that the development proposals would not have an adverse impact on trees and hedgerows, subject to conditions. It is therefore agreed that the development proposals are considered to be in accordance with Policy DM6 (Enhancement of Biodiversity and Geological Interest) of the SADMP DPD, Policy 13 (Important Trees and Hedges) of the NP and paragraphs 193 of the NPPF, subject to conditions.

Heritage and archaeology

- 6.18 An Archaeological Desk-Based Assessment [ADBA] (CD A48) was submitted in support of the Application. A revised ADBA was subsequently submitted (CD B93), alongside Geophysical Survey Report [GSR] (CD B6), and subsequently a Trial Trenching Evaluation Report (CD B58). LCC Archaeology (CD E73) and the Council's Conservation Officer (see CD 1) raised no objections, subject to conditions. As confirmed in the Officer's Report (CD C1), the Council considered that the development proposals would not have an unacceptable impact on below-ground archaeology or non-designated heritage assets – when weighing the public benefits against the harms associated with the loss of a non-designated heritage asset – subject to conditions. It is therefore agreed that the development proposals are considered to be in accordance with Policies DM11 (Protecting and Enhancing the Historic Environment), DM12 (Heritage Assets) (and DM13 (Preserving the Borough's Archaeology) of the SADMP DPD, Policy 8 (Ridge and Furrow Fields) of the NP and paragraph 207, 208, 210, 212, 216, and 218 of the NPPF.

Noise

- 6.19 A Noise Assessment [NA] (CD A39) was submitted in support of the Application, and a revised NA was submitted subsequently (CD B91). Proposed noise bund details were also submitted (CD B13-B14 and B15.1-15.2). Although not explicitly addressed within the Officer's Report (CD C1) as a heading, paragraph 8.84 confirms that, subject to conditions in relation to appropriate mitigation, noise from the proposal will not lead to significant adverse effects. Similarly, the Council's Environmental Services Officer (CD E72) raised no objections to the development proposals, subject to conditions. As such, it is agreed that the development proposals are considered to be in accordance with Policy DM7 (Preventing Pollution and Flooding) of the SADMP DPD and paragraphs 187 and 198 of the NPPF, subject to conditions.

Air Quality

- 6.20 An Air Quality Assessment [AQA] (CD A38) was submitted in support of the Application, and a revised AQA was submitted subsequently (CD B48). Although not explicitly addressed within the Officer's Report (CD C1) as a heading, paragraph 8.84 confirms that, subject to conditions in relation to appropriate mitigation, air quality from the proposal will not lead to significant adverse effects. Similarly, the Council's Environmental Services Officer (CD E71) raised no objections to the development proposals, subject to conditions. As such, it is agreed that the development proposals are considered to be in accordance with Policy DM7 (Preventing Pollution and Flooding) of the SADMP DPD and paragraph 199 of the NPPF, subject to conditions.

Ground Contamination and Stability

- 6.21 A Phase I Geo-Environmental Desk Study [GEDS] (CD A45) was submitted in support of the Application. Although not explicitly addressed within the Officer's Report (CD C1), neither the Council nor the Council's Environmental Services Officer (CD E72) raised any objections to the development proposals in respect of Ground Contamination and Stability. As such, it is agreed that the development proposals are considered to be in accordance

with Policy DM7 (Preventing Pollution and Flooding) of the SADMP DPD and paragraph 187 of the NPPF, subject to conditions.

Minerals

- 6.22 A Minerals Assessment [MA] (CD B8) was submitted in support of the Application. It concluded that it would not be practicable or viable to extract the underlying sand and gravel resource prior to the proposed development taking place. LCC Minerals and Waste (CD E20) raised no objections to the development. As confirmed in the Officer's Report (CD C1), the Council considered that the development proposals are acceptable. It is therefore agreed that the development proposals are considered to be in accordance with paragraph 223 of the NPPF.

Benefits of Development

- 6.23 It is agreed between the parties that the Appeal provides a number of benefits, all of which weigh in favour of the proposed development, although the weight to be attached to those benefits may differ between parties. Those benefits comprise:

1 Social

- a The delivery of 422 much-needed 1-4 bed family homes, the site is available and capable of beginning delivery within the next 5 years, at a time when the Council have a significant and persistent shortfall in demonstrating a deliverable housing supply. The appeal proposals will make an important contribution to meeting the significant shortfall of housing within Hinckley and Bosworth.
- b The delivery of 85 affordable homes across a mix of types/tenure to address local affordable housing needs, which will make an important contribution to meeting affordable housing needs within Hinckley and Bosworth.
- c The delivery of a 66-bed care home (C2) will expand local capacity for specialist accommodation for older people and those requiring varying levels of care. It will help meet rising demographic needs, provide high-quality care environments, reduce pressure on local health and social care services, and enable older residents to remain within their community.
- d The delivery of 7 bungalows and 219 M4(2) compliant homes (accessible and adaptable) in order to meet the needs of the elderly population within Hinckley and Bosworth and to help address the ageing population and allow future residents to stay in their homes for longer.
- e The delivery of 11 self-build plots to meet local needs and allow families to deliver housing specifically to meet their needs.
- f The development will deliver 11.25 hectares of high-quality open space, including green space, Sustainable Urban Drainage Systems (SuDs), new planting, and children's play facilities comprising a MUGA/LEAP/LAP and Trim Trail. These will be used for the enjoyment of future residents (and others) together with an appropriate landscaping scheme. The Public Open Space will help achieve the NPPF's aims of encouraging healthy communities and facilitating access for all.

- g The proposed financial contributions toward improvements at Britannia Fields support the upgrade and long-term sustainability of this local recreational and community asset.
- h Burbage offers a number of local facilities and amenities within walking and cycling distance of the Site.

2 Environment

- a The development will deliver a sustainable development, with 11.25 ha of green infrastructure within the site, equating to c.50% of the Site. Further environmental benefits include the provision of SuDs and biodiversity enhancements.
- b The development will deliver habitat enhancement and improved biodiversity across the site. It will deliver a net gain to biodiversity of 6.01 habitat units, equating to a net gain to biodiversity of 10.35%. It will also deliver a net gain to biodiversity of 38.08 hedgerow units, equating to a net gain to biodiversity of 46.87% and a minor loss to biodiversity of 0.12 watercourse units, equating to a minor loss of -3.28%.
- c Deliver significant tree planting and other landscaping across the Site, the majority of which is intended to comprise native species that are conducive to enhancing biodiversity, alongside the retention of trees and hedgerows within the Site.

3 Economic

- a During the construction period, the development would support 100 direct FTE jobs and a further 115 indirect FTE jobs. The Care Home would also create 65 direct FTE jobs and 30 FTE indirect jobs.
- b During the construction phase, the development would result in £77.8 million of private capital investment, and the Care Home would deliver a £2.2m per annum GVA.
- c Additionally, the development would generate £2.4m in 'first occupation spend' (money spent by homeowners to make their house 'feel like home'). This money is normally spent on furnishing and decorating a property, generating a range of economic benefits for the local economy, including supporting indirect and induced jobs within local businesses, services, and helping to support and grow local businesses.
- d It is also estimated that the total net additional expenditure generated by households within the proposed development could equate £6.7m per annum, which will support around 90 FTE jobs in local service sectors.
- e The delivery of 422 new dwellings would increase the Council's Council Tax Revenues by approximately £815,000 p.a, and a New Homes Bonus payment of £3.1m.

Harms and Benefits

- 6.24 The Appellant and Council's conclusions on the weights to be afforded to the benefits and harms are set out below:

Table 7 Benefits & Harms Weights

	Council	Appellant
Benefits		
Meeting Housing Needs	Substantial Weight	Substantial Weight
Delivery of Affordable Housing	Substantial Weight	Substantial Weight
Delivery of Specialist Older Persons Care	Substantial Weight	Substantial Weight
Delivery of Accessible Housing	Moderate Weight	Substantial Weight
Delivery of Self-Build Homes	Moderate Weight	Substantial Weight
Delivery of Public Open Space	Moderate Weight	Moderate Weight
Enhancements to Public Open Space	Moderate Weight	Moderate Weight
Access to services/ amenities	Neutral Weight	Moderate Weight
Creation of Jobs	Moderate Weight	Moderate Weight
Boost the Local Economy	Moderate Weight	Moderate Weight
Boost Local Authority Revenues	Neutral Weight	Moderate Weight
Sustainable development	Neutral Weight	Moderate Weight
Enhancement of biodiversity and habitats	Limited Weight	Moderate Weight
Retention of Trees and New Planting	Limited Weight	Moderate Weight
Harms		
Highways Safety	Significant Adverse Weight	No Weight
Loss of Non-Designated Heritage Asset	Moderate Weight	Moderate Weight

7.0 Areas of Disagreement

- 7.1 This section sets out the areas of disagreement between the parties. In this regard, the principal matter that is not yet agreed upon between the parties is whether the development would deliver a safe and suitable primary access from Coventry Road.

Highway Safety

- 7.2 The parties are not in agreement that the proposed Coventry Road access is safe and suitable. The Council's position is underpinned by the view of LCC Highways that:
- 1 Junction form: a priority T-junction is considered unacceptable, and LCC Highways requests that a ghost island right turn arrangement be presented;
 - 2 Insufficient visibility (to the left and right of the site access arm): LCC Highways cites the presence of on-street parking in the vicinity of the proposed access as a constraint on the provision of appropriate visibility splays in perpetuity; and
 - 3 LCC Highways objects to the quantum of development served via the proposed form of a single point of access: despite accepting the principle of 6.75m wide Primary Major Residential Access Road in correspondence.
- 7.3 However, the Appellant strongly contends that the Coventry Road site access proposal reflects appropriate design standards, following the most up-to-date guidance available. The veracity of the junction form and scale has been subject to rigorous testing and has been subject to a road safety audit and a risk assessment. The analysis and evidence considered lead to the conclusion that there is no unacceptable impact on highway safety, nor is there a severe cumulative impact on highway operation arising from the site access.

Scale of 5YHLS Shortfall

- 7.4 Whilst agreed between both parties that the Council have less than 5 years of housing land supply, the exact amount of supply is disputed.
- 7.5 The Council's 'Five Year Housing Land Supply (5YHLS) Statement 1 April 2024 – 31 March 2029' (CD F14) states that the Council is able to demonstrate a 5.26-year supply of land for the 1 April 2024 – 31 March 2029 five year period, with a surplus of 395 dwellings. However, the Officer's Report (CD C1) is clear that the:
- "Council can no longer demonstrate a 5-year housing land supply and the latest figures are expected to show up to 3.95 years of supply as of April 2025."* (Para 8.12) (**Emphasis Added**)
- 7.6 However, the Appellant contends that the changes resulting from the revised NPPF and SM would result in the Council's position being lower still, without reviewing the 'deliverability' of any of the Sites in the Council's supply.

Harms and Benefits

- 7.7 The Appellant and Council's conclusions on the weights to be afforded to the benefits and harms are set out above. In some instances, the Appellant and Council disagree on the weights afforded to some benefits and harms – as shown in Table 7.

Planning Balance

- 7.8 The parties are not in agreement that, on balance, whether planning permission should be granted.

8.0 Planning Conditions and Section 106 Obligations

Planning Conditions

8.1 The following planning conditions had been proposed by the Council prior to the refusal of the Application, which reflect the Council's standard planning conditions, and those requested by Statutory Consultees as a part of their consultation responses. In general, the Appellant is satisfied that most of the below-suggested conditions are acceptable.

8.2 It should be noted that, in the interest of benefitting the Council's 5YHLS in the short term, and in light of the proposed direction of travel set out in the draft NPPF – namely, draft NPPF Policy HO13(2) – the parties agree to the imposition of a shorter implementation condition in respect of the full element of the proposed development (i.e. Condition 7).

Outline Planning Conditions

- 1 *Application for the approval of reserved matters relating to the residential care home and up to 11x self-build plots shall be made within 3 years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.*

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2 *No development in respect of the care home or self-build plots shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the:*
 - *Appearance of the development including proposed materials and finishes*
 - *Landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges*
 - *Layout of the site including the location of electric vehicle charging points and the way in which buildings, routes and open spaces are provided.*
 - *Scale of each building proposed in relation to its surroundings have been submitted to and approved, in writing, by the Local Planning Authority.*
 - *Details of external lighting shall be submitted to and approved in writing by the Local Planning Authority.*

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

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).

- 3 *The development hereby permitted shall not be carried out otherwise than general accordance with the submitted application details, as follows:*
 - *Site Location Plan Drg No 1693-08-02-120 received 7 March 2025*

- *Coloured Site Layout Plan Drg No 1693-08-02-100-Rev A received 7 March 2025*
- *Landscape and Visual Briefing Note dated 31 March 2025*
- *Landscape and Visual Impact Assessment*
- *Arboricultural Assessment*
- *Biodiversity Net Gain Report*
- *Noise Impact Assessment*
- *Flood Risk Assessment*
- *Archaeological Desk-Based Assessment*
- *Trial Trenching Evaluation Report*
- *Design and Access Statement*
- *Transport Assessment*
- *Transport Assessment Appendices*
- *Residential Travel Plan*
- *Air Quality Assessment*

Where the above plans and documents include proposed mitigation measures, these shall be implemented in accordance with the approved details, unless otherwise dealt with by conditions to follow.

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).

- 4 *Any reserved matters application relating to scale or layout of the care home and self-build plots shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings in relation to existing ground levels. The details shall be provided in the form of site plans showing sections across the site at regular intervals with the finished floor levels of all proposed buildings and adjoining buildings. The development shall be carried out in accordance with the approved levels.*

Reason: To ensure that a satisfactory relationship is achieved between buildings in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 5 *No development of the care home shall take place until a scheme for ventilation of the premises, which shall include installation method, maintenance and management has been submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details before the premises are first brought into use for the development hereby approved and maintained in use thereafter. The rating level of the noise emitted from fixed plant and equipment (mechanical and electrical) at the care home shall not exceed the existing background level at any premises used for residential purposes surrounding the site when assessed in accordance with BS 4142:2014+A1(2019).*

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 6 *Development shall not begin until a scheme for protecting the proposed care home from noise has been submitted to and approved by the Local Planning Authority in accordance with criteria as presented in Noise Impact Assessment report 2061522-RSK-RP-001-(07). All works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.*

Reason: To protect the amenity of future occupiers of the care home in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 7 *Prior to commencement of development of the care home, a Construction Environmental Management Plan shall be submitted to and agreed in writing by the LPA. The plan shall detail how, during the site preparation and construction phase of the development, 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. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development.*
- 8 *No development of the care home and self-build plots shall take place until a mitigation and enhancement strategy has been submitted to and approved in writing by the LPA. As a minimum, this should detail the reasonable avoidance measures for bats as well as enhancement measures such as integrated bird and bat boxes and native planting. Any enhancement measures need to be shown on all relevant submitted plans/elevations. All works are to proceed strictly in accordance with the approved scheme.*

Full Application Conditions

- 9 *The development for 422 dwellings, public open space, associated infrastructure and the demolition of 65 and 65a Coventry Road and Burbage Fields Farm shall be begun before the expiration of two 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.

- 10 *The development hereby permitted shall not be carried out other than in accordance with the submitted application details as follows:*
 - *Site Location Plan, Drg No. 1693-08-02-120 Rev A*
 - *Site Layout Plan, Drg No. 1693-08-02-100 Rev G*
 - *Materials Layout Plan, Drg No. 1693-08-02-111 Rev C*
 - *Coloured Site Plan, Drg No. 1693-08-02-110 Rev C*
 - *Types of POS, Drg No. 1693-08-02-104 Rev E*
 - *Landscape Masterplan, Sheet 1 of 2, Drg No. c-2109-01 Rev K*
 - *Landscape Masterplan, Sheet 2 of 2, Drg No. c-2109-02 Rev K*

- *Road Hierarchy Plan, Drg No. 1693-08-02-148 Rev C*
- *Topographical Survey Plan, Drg No. 1693-08-02-128*
- *Site Sections, Drg No. 1693-08-02-116 Rev C*
- *Street Scenes, Drg No. 1693-08-02-112 Rev C*
- *Fire Distance Plan, Drg No. 1693-08-02-127 Rev C*
- *Highway Adoption Plan, Drg No. 1693-08-02-122 Rev C*
- *Existing, Proposed PROW, Drg No. 1693-08-02-115 Rev A*
- *Bin Refuse Plan, Drg No. 1693-08-02-145 Rev C*
- *Enclosures Plan, Drg No. 1693-08-02-121 Rev C*
- *Management Company Plan, Drg No. 1693-08-02-144 Rev C*
- *Surface Materials Plan, Drg No. 1693-08-02-140 Rev C*
- *Affordable Housing Plan, Drg No. 1693-08-02-132 Rev C*
- *Parking Strategy Plan, Drg No. 1693-08-02-147 Rev C*
- *Character Area Layout, Drg No.1693-08-02-164 - Rev C*
- *Bat Boxes, Bird Bricks and Hedgehog Highways, Drg No.1693-08-02-100 Rev C*
- *Buxton G Series EG BUXT DM1 – Floorplans and Elevations*
- *Richmond G Series M4 (2) EG RICH DM1 – Floorplans and Elevations*
- *Henley G Series M4 (2) EG HENL DM2 – Floorplans and Elevations*
- *Hampstead G Series M4 (2) EG HAMP DM2 – Floorplans and Elevations*
- *Calverton G Series M4 (2) EG CALV DM1 – Floorplans and Elevations*
- *Baslow G Series M4 (2) EG BASL DM1 – Floorplans and Elevations*
- *Oxhill G Series M4 (2) EG OXHL DM1 – Floorplans and Elevations*
- *Lancaster G Series M4 (2) EG LANC DM1 – Floorplans and Elevations*
- *Brighton G Series M4 (2) EG PEMB DM1 – Floorplans and Elevations*
- *Fairford G Series NDSS Compliant EG FAIR BM2 – Floorplans and Elevations*
- *Newbury G Series NDSS M4 (2) EG LEDB DM2 – Floorplans and Elevations*
- *Preston G Series M4 (2) NDSS EG PRES DM1 – Floorplans and Elevations*
- *Pembroke G Series M4 (2) NDSS EG PEMB DM1 – Floorplans and Elevations*
- *Bembridge G Series M4 (2) – Floorplans and Elevations*
- *Warwick G Series EG WARW DM2 – Floorplans and Elevations*
- *Overton G Series EG OVER DM2 Rev A – Floorplans and Elevations*
- *Sherborne G Series EG SHER DM2 – Floorplans and Elevations*
- *Milden M4 (2) EG MILD DMO – Floorplans and Elevations*

- *Severn G Series EG SEVE DM1 (Ground Floor and First Floor Flats) – Floorplans and Elevations*
- *Bungalow G Series – Floorplans and Elevations*
- *Tavy Semi G Series M4 (2) EG TAVY EM1 – Floorplans and Elevations*
- *Tavy 3 block G Series EG TAVY EM1 AND EG TAVY MM1 – Floorplans and Elevations*
- *Severn/Tavy 2 block G Series EG SEVE DM1 and EG TAVY DM1 – Floorplans and Elevations*
- *Severn/Tavy 3 block G Series EG SEVE DM1 and EG TAVY DM1 – Floorplans and Elevations*
- *Severn/Tavy 4 block G Series EG SEVE DM1 and EG TAVY DM1 – Floorplans and Elevations*
- *Dart Semi G Series EG DART EM1 and MM1 – Floorplans and Elevations*
- *Dart 4 block G Series EG DART EM1 and MM1 – Floorplans and Elevations*
- *Dart/Severn 3 block G Series EG DART EM2, EMG DART MM2, EG SEVE DM1, EG SEVE DM – Floorplans and Elevations*
- *Tweed Semi G Series M4 (2) EG TWEE EM1 – Floorplans and Elevations*

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)

- 11 *The land on which the care home is to be constructed will be fully serviced, meaning that all highways, services, drainage and other requirements to ensure that the care home is capable of being fully serviced is delivered.*
- 12 *No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.*

Reason: To ensure that the development has a satisfactory external appearance to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document 2016.

- 13 *Development shall not be occupied until a scheme for protecting the proposed dwellings from noise from the M69 and the access road has been submitted to and approved by the Local Planning Authority in accordance with criteria as presented in the Noise Impact Assessment report 2061522-RSK-RP-001-(07). All works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.*

Reason: To ensure that the dwellings are protected from noise pollution in accordance with Policy DM10 of the Site Allocations and Development Management DPD 2016 and the requirements of the NPPF.

- 14 *Development shall not begin until a scheme for protecting dwellings on Coventry Road from noise from the road and from the proposed development has been submitted to and approved by the Local Planning Authority in accordance with criteria as presented in Noise Impact Assessment report 2061522-RSK-RP-001-(07). All works which form part of the scheme shall be completed before the permitted development first comes into use.*

Reason: To ensure that the dwellings are protected from noise pollution in accordance with Policy DM10 of the Site Allocations and Development Management DPD 2016 and the requirements of the NPPF.

- 15 *If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination and implementation is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out in accordance with the agreed implementation period.*

Reason: To ensure that risks from land contamination to future users of the site are minimised thus ensuring that the land is fit for purpose and to accord with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 16 *No development approved by this permission shall be commenced until a scheme for the monitoring of landfill gas on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any landfill gas shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.*

Reason: In order to demonstrate that the site does not have ground gas egress, in order to safeguard human health and to ensure that the necessary measures are taken to avoid any risk to public safety in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 17 *Prior to commencement of development a Construction Environmental Management Plan shall be submitted to and agreed in writing by the LPA. The plan shall detail how, during the site preparation and construction phase of the development, 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. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development.*

- 18 *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 Bank Holidays*

Reason: To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users, and lead to on-street parking problems in the area in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 19 *During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.*

Reason: To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD (2016) and the requirements of the NPPF.

- 20 *Any section of existing hedgerow required to be removed to facilitate the new accesses shall not be removed between March and August inclusive unless preceded by a thorough survey for nesting birds undertaken by an appropriately qualified ecologist the recommendations of which should be carried out to comply with this condition.*

Reason: To ensure the development does not have a detrimental impact upon nesting birds in accordance with DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 21 *No development shall take place (including ground works or vegetation clearance) until a Construction Environment Management Plan for biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the LPA. The CEMP shall include the following details:*

- Identification of potentially damaging construction activities*
- Identification of biodiversity protection zones*
- Practical measures and sensitive working practices to avoid or reduce impacts during construction*
- Timing of works to avoid harm to nesting birds*
- Responsible persons for overseeing sensitive works*
- Use of protective fencing where required*

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the LPA.

Reason: In order to protect the wildlife species and their habitats that exist on site in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 22 *No development shall take place (including ground works or vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the LPA. The LEMP should inform management in order*

to achieve the desired conditions to achieve measurable biodiversity net gain. The LEMP shall include the following details:

- Description and evaluation of the features to be created/managed*
- Aims and objectives of management*
- Appropriate management options for achieving aims and objectives*
- Prescriptions for management actions*
- Work schedule*
- Species/seed mixes to be planted/sown*
- Ongoing monitoring and remedial measures*

The approved plan will be implemented in accordance with the approved details.

Reason: In order to protect the wildlife species and their habitats that exist on site in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 23 *No development shall take place until a mitigation and enhancement strategy has been submitted to and approved in writing by the LPA. As a minimum, this should detail the reasonable avoidance measures for bats as well as enhancement measures such as integrated bird and bat boxes and native planting. Any enhancement measures need to be shown on all relevant submitted plans/elevations. All works are to proceed strictly in accordance with the approved scheme.*

Reason: In order to protect the wildlife species and their habitats that exist on site in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 24 *Prior to the commencement of development details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details.*

Reason: To protect the appearance of the area, the environment and local residents from nuisance from artificial light in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD (2016) and the requirements of the NPPF.

- 25 *Prior to the occupation of any of the dwellings on site, full fibre broadband connection shall be made available and ready for use.*

Reason: To ensure the provision of a high quality and reliable communications infrastructure network to serve the development to accord with the requirements of the NPPF.

- 26 *No development approved by this planning permission shall take place 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 prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 27 *No development approved by this planning permission shall take place 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 though the entire development construction phase in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 28 *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 strategy in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 29 *No development approved by this planning permission shall take place until such time as infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, has been submitted to and approved in writing by the Local Planning Authority.*

Reason: To demonstrate that the site is suitable (or otherwise) for the use of infiltration techniques as part of the drainage strategy in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 30 *The development hereby permitted shall not be commenced until such time as a scheme to treat and remove suspended solids from surface water run-off during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.*

Reason: To ensure that the proposed development does not harm the water environment in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

- 31 *No demolition of the Burbage Fields Farm structures shall take place until a written scheme of investigation and a programme of historic building recording has been submitted to and approved in writing by the local planning authority. For the land and structures that are included within the WSI no demolition/development shall take*

place other than in accordance with the agreed WSI which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works*
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.*

Reason: To ensure a satisfactory historic building survey and to record and advance understanding of the significance of the affected resource prior to its loss in accordance with Policies DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document (2016) and the requirements of the NPPF.

- 32 No development shall commence on site until a scheme that makes provision for the secure storage of cycles for each dwelling has been submitted in writing to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details.*

Reason: In the interests of promoting a modal shift in transport movements and in accordance with the National Planning Policy Framework.

- 33 Prior to the commencement of any excavation works and landscaping works within 100m of the M69 Motorway, geotechnical submissions shall be submitted to and agreed in writing by the Local Planning Authority (in consultation with the Highway Authority for the M69 Motorway).*

Reason: To mitigate any adverse impact from the development on the M69 Motorway in accordance with DfT Circular 01/2022.

- 34 Prior to occupation of any dwelling within 100m of the M69 Motorway an external lighting plan shall be produced and agreed with the Planning Authority in consultation with National Highways. The plan shall include details of lighting source locations and performance. Vegetation shall not be used as a means of shielding road users from lighting sources. The proposed external lighting shall be constructed and remain in a downwards facing position at all times and maintained for the lifetime of the development accordingly. A post installation inspection should be provided to ensure lighting performance is within agreed parameters.*

Reason: To mitigate any adverse impact from the development on the M69 Motorway and to satisfy the reasonable requirements of road safety.

- 35 Prior to first occupation of the development hereby permitted, full details of the proposed acoustic fence, including future maintenance and its location shall be submitted to and approved in writing to the Local Planning Authority (in consultation with the Highway Authority for the M69 Motorway. Construction of the acoustic fence shall be prior to first occupation of the development; in accordance with the details and location agreed; and remain in for the lifetime of the development.*

Reason: For reasons of safety, liability and maintenance in accordance with paragraph 57 DfT Circular 01/2022.

- 36 *Prior to the commencement of any development hereby permitted within 100m of the M69 Motorway, a drainage survey in line with DMRB CS 551 Drainage Surveys shall be undertaken and a detailed surface water drainage design shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the M69 Motorway and subsequently implemented as approved. The SUDS is to be installed according to the approved SUDS plan and maintained for the lifetime of the development. The design shall give due regard to the requirements of DfT Circular 01/2022 and shall include a maintenance Method Statement and schedule. Surface water drainage shall be implemented prior to first occupation in accordance with the agreed design and shall be maintained as such thereafter.*

Reason: In the interest of the safe and efficient operation of the Strategic Road Network, and to protect the integrity of the Trunk Road drainage asset in accordance with DfT Circular 01/2022.

- 37 *Prior to any planting being undertaken in proximity to the M69 Motorway boundary a Landscape Plan and Planting Schedule which shall include future maintenance shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the M69 Motorway. Planting shall be undertaken and maintained in for the lifetime of the development in accordance with the agreed plan and schedule.*

Reason: In the interest of the safe and efficient operation of the Strategic Road Network and to protect the highways soft estate.

- 38 *Prior to the commencement of the development hereby permitted a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the A46 trunk road. The plan shall include as a minimum:*
- Construction phasing*
 - An HGV routing plan to include likely origin/destination information, potential construction vehicle numbers, construction traffic arrival and departure times, and construction delivery times (to avoid peak hours).*
 - Clear and detailed measures to prevent debris, mud and detritus being distributed onto the Local highway and SRN.*
 - Mitigation measures in respect of noise and disturbance during the construction phase including vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes.*
 - A scheme to minimise dust emissions arising from demolition/construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development.*
 - Waste management.*

- *Wheel washing measures.*
- *Protection measures for hedgerows and grasslands.*

Thereafter all construction activity in respect of the development shall be undertaken in full accordance with such approved details unless otherwise approved in writing by the Local Planning Authority in consultation with the Highways Authority.

Reason: To mitigate any adverse impact from the development on the A46 trunk road and to satisfy the reasonable requirements of road safety.

Informatives

- *This development will require a European Protected Species licence to make it lawful. You must be aware that to proceed with the development without first obtaining an EPS Licence could result in prosecution.*
- *The dewatering, treatment and subsequent discharge of any construction runoff will require an application to be made for the relevant Permits:*
- *Temporary dewatering from excavations to surface water: RPS 261 - GOV.UK (www.gov.uk).*
- *Discharges to surface water and groundwater: environmental permits - GOV.UK (www.gov.uk).*
- *The Environment Agency accept the proposal to connect all houses to the mains sewers (foul) so long as there is an agreement, in writing, which outlines who will be responsible for the future maintenance and repair of the private pumping station on Flanders Close.*
- *Materials and chemicals likely to cause pollution should be stored in appropriate containers and adhere to guidance for the storage of drums and intermediate bulk containers. We advise that polluting materials and chemicals are stored in an area with sealed drainage.*
- *Maintenance and upkeep of private sewage pumping stations needs to be formalized as these can a source of pollution when in disrepair.*
- *The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year 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.*
- *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.

- *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.*

- 8.3 *The results of infiltration testing should conform to BRE Digest 365 Soakaway Design. The LLFA would accept the proposal of an alternative drainage strategy that could be used should infiltration results support an alternative approach. Where infiltration is deemed viable, proposed infiltration structures must be designed in accordance with CIRIA C753 “The SuDS Manual” or any superseding guidance.*

Planning Obligations

- 8.4 Having regard to relevant planning policy requirements, the findings presented in the technical reports which supported the Application, requests made by Statutory Consultees, and in accordance with the Planning Inspectorate’s Guidance,² a draft S106 Agreement (CD G5) has been provided with the Appeal form. Importantly, both the Appellant and the Council are satisfied that the proposed obligations satisfy the statutory tests that are set out in the Community Infrastructure Regulations 2010 (as amended) and Paragraph 58 of the NPPF. However, in summary, a list of Draft S106 planning obligations is set out below:

- 1 Affordable Housing – 20% (85 units)
 - 21 homes for First Homes
 - 43 homes for affordable rent
 - 21 homes for shared ownership
- 2 Library Services (Burbage Library) – £12,849.12
- 3 LCC Waste Management (Barwell HWRC) – £21,446.49
- 4 Healthcare – £351,436.80.
- 5 Early years education (Burbage Church of England Infant School) – £617,862.96
- 6 Primary Education (Burbage Church of England Infant School & Burbage Junior School) - £1,772,468.76
- 7 Secondary Education – No contribution required
- 8 Post 16 Education – No contribution required
- 9 Primary SEND Education (The Dorothy Goodman School Hinckley) – £95,856.60
- 10 Secondary SEND Education (The Dorothy Goodman School Hinckley) – £131,232.30
- 11 On-Site Open Space provision

² Making your appeal: How to complete your planning appeal form (27th January 2025)

- Equipped Children's Play Space – £377,604.48
 - MUGA – £331,369.50
 - On-Site Open Space Area Maintenance Contribution – £1,476,155.60
- 12 Off-Site Open Space provision
- Off-site allotment open space provision – £26,951.65 plus £10,184.20 for maintenance
 - Off-Site Sports contribution – £740,193.00
- 13 PRoW Surfacing to Footpath U66 and PRoW Enhancements (Inc. improving footbridges, waymark posts, and stiles, or replacing stiles with pedestrian gates or kissing gate) to Footpaths U57 to Coventry Road, on Footpath U59 to the A5 Watling Street, and on Footpath U65 to Britannia Road, and Footpath U81 to Lutterworth Road – £40,000
- 14 One Travel Pack per employee to inform new residents and employees of what sustainable travel choices are in the surrounding area. These can be provided through Leicestershire County Council (LCC) at a cost of £52.85 per pack. However, if they were not supplied by LCC, a sample Travel Pack can be submitted by the appellant to and approved in writing by LCC which will involve an administration charge of £500.00
- 15 The LHA would require one six-month bus pass per employee and two per dwelling from first use of the development to encourage new employees / residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £632.50 per pass
- 16 The Framework TP fee would be £11,337.50 and would enable LCC to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated planning enforcement
- 17 A Construction Traffic Routing Agreement to be submitted to and approved in writing by the Local Highway Authority. During the period of construction, all traffic to and from the site shall use the agreed route at all times;
- 18 A Local Employment and Training Strategy
- 19 Council's Monitoring Fees
- 20 Ecology BNG Monitoring Fees (£10,150), comprising:
- Monitoring Plan Review at start of scheme – £460;
 - Site Visit – £9,120;
 - Enforcement – £370;
 - Administrative Charge – £200.
- 21 Council's Legal Fees

