

Planning and Design and Access Statement

**Lyndale, Lindridge Lane, Desford,
Leicestershire, LE9 9GN**

**Erection of 4 dwellinghouses with
associated garages (reserved matters
application including details in
respect of layout, scale, appearance
and landscaping)**

Client Name: XL Designs (Midlands) Ltd

Date of Issue: May 2024

Local Authority: Hinckley and Bosworth Borough Council

Prepared by: J J M Planning Ltd



J J M Planning

Independent Planning Consultancy Services

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Appendices

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1.0 INTRODUCTION AND SITE DESCRIPTION

- 1.1 This Planning Statement has been prepared on behalf of XL Designs (Midlands) Ltd in support of a reserved matters planning application for the erection of 4 dwellinghouses with associated garages at Lyndale, Lindridge Lane, Desford.
- 1.2 This statement should be read in conjunction with the accompanying documents which include:
- Plans from R3Design Developments Ltd; and
 - Application form.
- 1.3 This statement describes the application site, the locality and comments on the relevant Development Plan and national policy framework policies. It goes onto provide an assessment of the proposal in relation to the relevant policies.
- 1.4 The application site measures 0.47 hectares and is generally rectangular in shape. The site is located to the North of Desford and is accessed via Lindridge Lane. It is located approximately 700m north of Desford Village Centre. Directly opposite the application site is Tropical Birdland, with dwellings occupying the land on both sides of Lindridge Lane to the southwest. To the north is Lyndale, farm buildings and a redundant sewerage works.
- 1.5 The site currently occupies a dense line of trees across the boundary with Lindridge Lane and the southern boundary of the site, along with groups of mature trees and bushes dispersed around the site. Along the eastern boundary there is an existing ditch, barbwire fence and hedgerows overlooking open fields with the existing outbuildings of the Cattery. The Lyndale Boarding Cattery was trading for numerous years but has now ceased operation. The site and its surroundings are shown in more detail on the image below:



- 1.6 The site lies within the countryside and outside of the settlement boundary of Desford. The application site is not located in a Conservation Area and is not located in close proximity to any Listed Buildings. There are no trees on the application site that are protected by tree preservation orders.
- 1.7 In August 2023, outline planning permission 23/00445/OUT was granted for 4 dwellinghouses with associated garages on the site.

2.0 PLANNING HISTORY

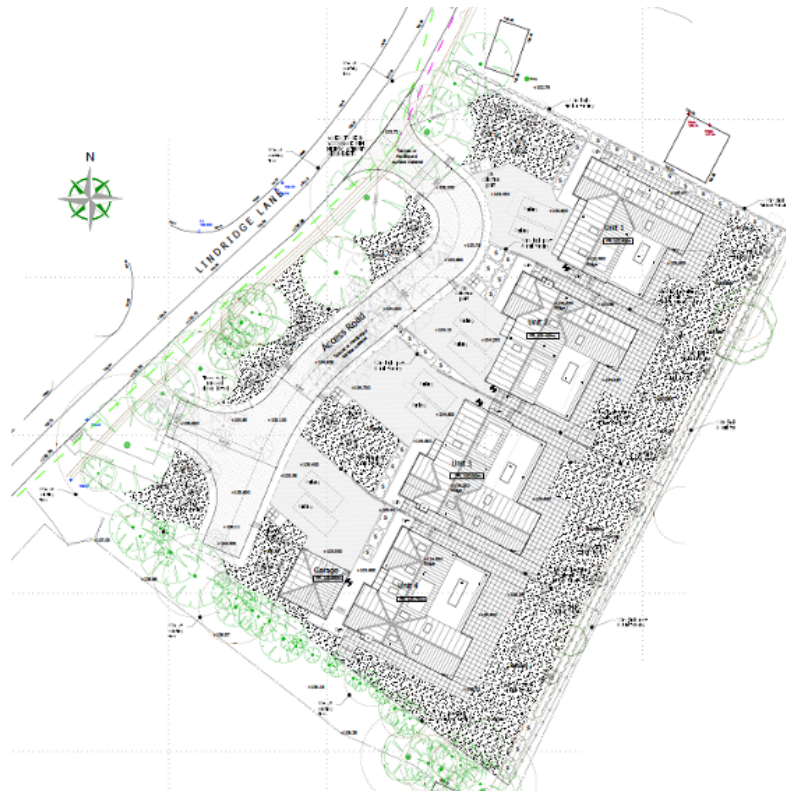
2.1 The application site has been subject to the following planning applications:

22/00569/OUT - Outline application for proposed erection of up to 4 no. dwellinghouses with associated garages (all matters reserved except for access) – withdrawn 05.01.2023

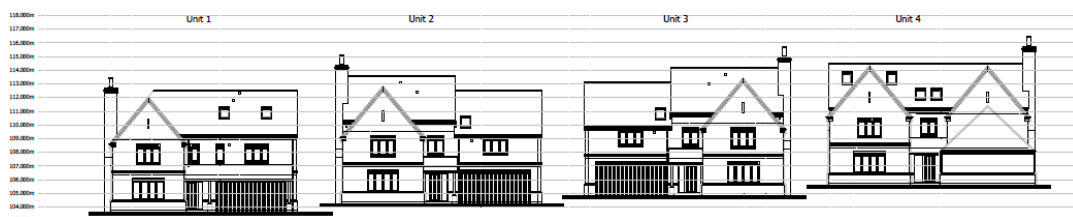
23/00445/OUT - Outline application for proposed erection of up to 4 no. dwellinghouses with associated garages (all matters reserved except for access) – permitted 01.08.2023

3.0 PROPOSED DEVELOPMENT

- 3.1 The proposal comprises the erection of 4 dwellinghouses with associated garages at Lyndale, Lindridge Lane, Desford. This reserved matters application provides specific details in respect of the layout, scale, appearance and landscaping of the proposed development. Details of the access into the site have already been approved as part of the original outline planning permission.
- 3.2 In terms of the proposed layout, the four dwellings would be sited towards the rear of the site away from existing trees and vegetation. Areas of car parking would be provided forward of the proposed dwellings and areas of private amenity space would be located to the rear. The proposed layout details are shown below:



- 3.3 With regards to scale, the proposed dwellings would be two storeys in height (with second floor accommodation provided within the roof) and with single storey rear extensions proposed for each of the 4 units. The scale of the proposed dwellings are shown below:



- 3.4 Plots 1-3 would each have 4 bedrooms and an integral garage and Plot 4 would have 5 bedrooms and would benefit from a detached garage.
- 3.5 The appearance details show dwellings that would appear as traditional dwellings and would consist of feature gables to break up the mass of the dwelling and for brick built chimneys. The materials palette would include for heritage blend brickwork, natural stone plinth, brick corbelling at the eaves and verges and painted timber joinery. The appearance of the Unit 1 is shown below:



- 3.6 With regards to landscaping, the proposal includes for new native hedgerow planting, the retention of existing trees and hedgerows on the site and the erection of new timber fencing on the site boundaries.
- 3.7 Access into the site has already been approved as part of the original outline planning permission. Some minor changes are proposed to the turning head of the access and to off-site highway works and these are the subject to a separate variation of condition application in respect of application 23/00445/OUT.
- 3.8 The submitted plans show for two external car parking spaces along with dedicated garaging space for each dwelling.

4.0 MAIN ISSUES

- 4.1 Section 70 (2) of the Town and Country Planning Act 1990 requires that when dealing with an application for planning permission, Local Planning Authorities must have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section S38 (6) of the Planning and Compensation Act 2004 requires that decisions on planning applications should be made in accordance with the policies of the development plan unless material considerations indicate otherwise.
- 4.2 Having regard to the above, it is considered that the main issues raised by the application are:
1. Principle of the development
 2. Design and visual amenity
 3. Access and parking
 4. Living conditions of neighbouring properties
 5. Other matters
- 4.3 The main planning policies that are relevant to these main issues are included in Section 5.0 below.

5.0 PLANNING POLICIES

- 5.1 The (revised) National Planning Policy Framework (2023) (NPPF) confirms that it does not change the statutory status of the development plan as the starting point for decision making. It also confirms its status as a material consideration in determining planning applications. The NPPF continues to advise that proposed development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF also advises that due weight should be given to development plan policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).
- 5.2 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, an application for planning permission should be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 5.3 The policy context for this application is provided by the development plan and national planning policy in the NPPF as well as Planning Practice Guidance issued in April 2014 (as subsequently amended) (PPG). The development plan includes the Core Strategy (adopted 2009) (CS), the Site Allocations and Development Management Policies DPD (adopted 2016) (SADMP) and the Desford Neighbourhood Plan (adopted 2020) (DNP).
- 5.4 Those policies which are the most important for determining this planning application are set out below:

Core Strategy (2009)

- 5.5 *Policy 7: Key Rural Centres* sets out a series of criteria to support the Key Rural Centres and ensure they can provide key services to their rural hinterland.
- 5.6 *Policy 16: Housing Density, Mix and Design* requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings.

Site Allocations and Development Management Policies DPD (2016)

- 5.7 *Policy DM1 – Presumption in Favour of Sustainable Development* repeats the presumption in favour as found in the Framework.
- 5.8 *Policy DM4 – Safeguarding the Countryside and Settlement Separation* seeks to protect the intrinsic value, beauty, open character and landscape character from unsustainable development and lists suitable sustainable development, subject to satisfying certain criteria.

- 5.9 *Policy DM6 – Enhancement of Biodiversity and Geological Interest* sets out that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including proposals for their long term future management.
- 5.10 *Policy DM7 – Preventing Pollution and Flooding* provides a range of criteria which must be taken into account to ensure that adverse impacts from pollution and flooding will be prevented.
- 5.11 *Policy DM10 – Development and Design* provides a series of design-based criteria to which new development is required to meet.
- 5.12 *Policy DM13 – Preserving the Borough's Archaeology* states that where a proposal has the potential to impact a site of archaeological interest, developers should set out in their application an appropriate desk-based assessment and, where applicable, the results of a field evaluation detailing the significance of any affected asset.
- 5.13 *Policy DM17 – Highways and Transportation* confirms that development proposals should be in accordance with highways design standards as set out in the most up to date guidance adopted by the relevant Highway Authority.
- 5.14 *Policy DM18 – Vehicle Parking Standards* confirms that new development proposals will be required to provide an appropriate level of parking provision justified by assessment.
- 5.15 *Policy DM25: Community Facilities* sets out the Council's planning policy position in respect of the provision of new facilities, retention of existing community facilities and the loss of existing facilities.

Desford Neighbourhood Plan (2020)

- 5.16 *Policy H1: Settlement Boundary* states that development proposals within the plan area on sites within the settlement boundary will be supported where they respect the character of Desford.
- 5.17 *Policy H5: Housing Mix* proposals should provide a mixture of housing specifically to meet identified local needs as evidenced by Parish Housing Needs Report or more recent documents updating this report.
- 5.18 *Policy H6: Windfall Site Development* states that small residential development proposals on infill and redevelopment sites will be supported, subject to proposals being well designed and meeting the relevant requirements set out in other policies in this Plan and Borough wide planning policies and where such development meets with a number of criteria.

- 5.19 *Policy H7: Housing Design* states that new dwellings will need to enhance and reinforce local distinctiveness, provide adequate off road parking, reflect the character and historic context of existing developments, enhance biodiversity, enclose plots with suitable materials, use sustainable design and construction techniques, have appropriate lighting, incorporate SUDS and be of an appropriate density.
- 5.20 *Policy ENV 3: Biodiversity General* states that development proposals that conserve or enhance biodiversity, and incorporate biodiversity in and around them, will be supported.
- 5.21 *Policy T1: Traffic Management* states that all housing development must:
- a) Be designed to minimise additional traffic generation and movement through the villages.
 - b) Incorporate sufficient off-road parking in line with housing policy H6;
 - c) Not remove or compromise the use of any existing off-road parking areas unless a suitable equivalent alternative is provided.
 - d) Provide any necessary improvements to site access, communal parking and the highway network either directly or by financial contributions.
 - e) Consider, where appropriate, the improvement and where possible the creation of footpaths and cycleways to key village services.
- 5.22 *Policy T3: Electric Vehicles* states that housing and commercial developments will be required, where appropriate, to provide 7KW cabling to the most practical points to facilitate subsequent installation of electric vehicle charging points.

The National Planning Policy Framework 2023 (NPPF)

- 5.23 At the heart of the NPPF is a presumption in favour of sustainable development. There are three overarching objectives which are interdependent and need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives. These are an economic objective, a social objective, and an environmental objective. The economic objective seeks to ensure sufficient land of the right types is available in the right places at the right time to support growth. The social objective seeks to support strong, vibrant, and healthy communities by ensuring a sufficient number and range of homes can be provided to meet the needs of the present and future generations and by fostering a well-designed and safe built environment. The environmental objective seeks to contribute to protecting and enhancing our natural, built, and historic environment, including making effective use of land.
- 5.24 Amongst other things, paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development and that for decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay.

- 5.25 Paragraph 47 of the NPPF indicates that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.
- 5.26 Paragraphs 55-57 set out that Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must only be sought where they are a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.
- 5.27 Paragraphs 60 and 62 of the NPPF are concerned with delivering a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes. The size, type and tenure of housing needed for different groups should be reflected in planning policies.
- 5.28 Paragraph 115 of the NPPF states 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.
- 5.29 Paragraphs 123 and 124 of the NPPF seeks to make the effective use of land. It states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. It goes on to say that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.
- 5.30 Paragraphs 131-135 of the NPPF seeks to achieve well-designed places. It states the creation of high-quality buildings is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development and creates better places in which to live. Planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place using streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit. It also states permission should be refused for development of poor design

that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

- 5.31 Paragraph 165 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 167 states that Local Planning Authorities should ensure that flood risk is not increased elsewhere when determining planning applications.
- 5.32 Paragraphs 180 of the NPPF states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils. It also requires a contribution towards remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
- 5.33 Paragraphs 185-186 is concerned with habitats and biodiversity and seeks to protect and enhance. It advises that development which results in significant harm to biodiversity should be refused unless it can be adequately mitigated, or, as a last resort, compensated for. Development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted.
- 5.34 Paragraphs 183-185 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Other Policy and Guidance

- 5.35 Although not having the formal status and weight of adopted planning policy there are a number of other pieces of guidance relevant to decision-making within Hinckley and Bosworth including:
- National Planning Practice Guidance - March 2014 (as amended)
 - Good Design Guide SPD – 2019
 - The Conservation of Habitats and Species Regulations 2017
 - Circular 06/05 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System)
 - National Forest Strategy 2014-2024
 - National Design Guide – October 2019

- Leicestershire Highways Design Guide (Leicestershire County Council)

6.0 PLANNING ASSESSMENT

The principle of development

- 6.1 The principle of residential development on this site has already been established by the granting of outline planning permission 23/00445/OUT (see Appendix 1), which was subject to various planning conditions. This outline planning permission included details of the access into the site.
- 6.2 Accordingly, the sole issue in the respect of this application relates to issues regarding layout, scale, appearance and landscaping. There is no scope to reconsider matters which were dealt with (or should have been dealt with) at the outline stage.
- 6.3 It is also necessary to consider compliance against any planning conditions included on the outline planning permission which need to be submitted with the first reserved matters submission.

Design and Visual Amenity

- 6.4 The need for good design in new residential development is outlined not only in Policy DM10 of the SADMP and H7 of the DNP, as well as the Council's adopted Design SPD, but also Section 12 of the NPPF.
- 6.5 In terms of layout, as indicated at the outline stage, the Council's planning committee report stated that: *The indicative layout suggests that a modern cul-de-sac type of development would be inevitable, which would not reflect the character and appearance of the area and would appear incongruous in this context.* The application was recommended for refusal on this basis. However, the application was approved by members of the planning committee. On this basis it is clear that the general layout of a cul-de-sac type of development has already been deemed to be acceptable especially as the access road has been approved as part of the outline planning permission.
- 6.6 The four dwellings would be sited towards the rear of the site away from existing trees and vegetation. Areas of car parking would be provided forward of the proposed dwellings and areas of private amenity space would be located to the rear. It is clear that the proposals accommodate all of the necessary requirements (private garden, parking/turning space and landscaping) without being too cramped or resulting in over-development. The layout details supplied successfully demonstrate that the proposed dwellings sit comfortably within the plot and would be appropriate in relation to the site surroundings.
- 6.7 With regards to scale, the proposed dwellings would be two storeys in height (with second floor accommodation provided within the roof) and with single storey rear

extensions proposed for each of the 4 units. The approximate height to the eaves and ridge of the plots is included below:

Plot 1 – eaves height would be 5.6 metres and ridge height would be 8.9 metres;
Plot 2 – eaves height would be 6.0 metres and ridge height would be 9.3 metres;
Plot 3 – eaves height would be 6.0 metres and ridge height would be 9.3 metres;
Plot 4 – eaves height would be 5.6 metres and ridge height would be 8.9 metres;

- 6.8 As can be seen from the submitted drawings the scale of the dwellings would be broken up by differing ridge lines, the use of projecting gable features, stone plinths and projecting brick string courses.
- 6.9 The appearance of the dwellings are traditional in nature and include for traditional features such as stone plinths, brick headers, wet bedded verges, brick verge detailing and brick built chimneys. These architectural features would combine to enhance the appearance of the dwellings. It is clear that the appearance of the dwellings would be suitable in relation to the character and appearance of the surrounding area and of surrounding built development.
- 6.10 It is noted that the Council have granted planning permission for two new dwellings further to the south along Lindridge Lane as part of application 16/00049/FUL. Those applications proposed large detached dwellings, set back from Lindridge Lane and with landscaping sited forward of the dwelling. The Council concluded the following when assessing the design of 16/00049/FUL:

The development of the site for residential purposes and the additional built form would clearly change the current undeveloped character of the site. Notwithstanding this, subject to the site being developed for only two detached dwellings set back from the highway but with no development at depth, the scheme would complement the low density/large plot pattern and grain of development along this part of Lindridge Lane. Neighbouring properties vary in scale, design and appearance. The scale of the proposed dwellings would be somewhat greater than that of the neighbouring dwellings either side. However, notwithstanding this, by virtue of the substantial plots that they would occupy, the high quality design of the dwellings with extensive architectural detailing and subject to the use of appropriate external materials to secure a high quality appearance, the scheme would enhance the built environment along this part of Lindridge Lane and would not result in over development the site.

- 6.11 It is considered that this application shares some comparisons with the submitted scheme. The previous findings reached regarding scale and design and equally applicable to the current proposals put forward.
- 6.12 With regards to existing landscaping, all of the proposed dwellings would be sited outside of the RPA of existing trees as demonstrated by the submitted plans and the submitted Arboricultural Implications Assessment (AIA). Condition 8 of the outline planning permission requires the submission of a tree protection plan, a

tree survey of the existing protected trees and an Arboricultural implications assessment. This matter is being dealt with by a separate discharge of condition application.

- 6.13 In terms of proposed landscaping, it is noted that the site is located within the National Forest boundary. The proposal includes for new native hedgerow planting to the eastern and northern boundaries of the site, shrub planting to the site frontage, provision of new trees and areas of turf that would form front and rear gardens for each of the proposed dwellings. The scheme also includes for details of suitable boundary treatments both at the site frontage and to the rear of the site. The Local Planning Authority can use planning conditions to control these aspects of the development.
- 6.14 The Council has declared a climate emergency and adopted a zero carbon roadmap. Policy T3 of the NP requires new housing development to provide 7KW cabling to facilitate subsequent installation of electric vehicle charging points. This application goes further than that as it provides the electric charging points up front. In addition, the plots include for solar/PV panels on the rear elevation.
- 6.15 The proposal is therefore considered to avoid increased vulnerability to the range of impacts arising from climate change and also help to reduce greenhouse gas emissions given the proposals location, orientation and design. The proposal would accord with the advice Policy T3 of the NP and in paragraph 157 of the NPPF and, therefore, these are considered to be significant positive material planning benefits that should be weighed up in the overall planning balance.
- 6.16 Overall, it is considered that the proposed layout, appearance, scale and landscaping details supplied would result in good design and would be consistent with the aims of Policy DM10 of the SADMP, H7 and T3 of the DNP, the Good Design Guide SPD and Section 12 of the NPPF.

Access and Parking

- 6.17 Paragraph 115 of the NPPF states 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.
- 6.18 The access details were included for consideration at the outline stage and have been found to be acceptable. Some minor changes are proposed to the turning head of the access and to off-site highway works and these are the subject to a separate variation of condition application in respect of application 23/00445/OUT. All other access details including widths and splays remain as per those previously approved.

- 6.19 The only relevant highway matter to be considered at this reserved matters stage is the level of car parking for each of the residential dwellings. The SADMP refers to guidance in the Leicestershire Highways Design Guide (LHDG) regarding car parking which outlines that a minimum of two off-street parking spaces would be required for properties of three bedrooms or less. Properties which have higher number of bedrooms should be served by three off-street car parking spaces. Similar guidance is contained in Policy H7 of the DNP.
- 6.20 Given that the proposal seeks to provide four and five bedroom dwellings it is necessary for each dwelling to benefit from at least three car parking spaces. The submitted plans show for two external car parking spaces along with dedicated garaging space for each dwelling.
- 6.21 A sufficient level of car parking would be provided for each dwelling. Overall, therefore, the highway safety aspects of this reserved matters scheme are considered acceptable and in accordance with INF2 of the adopted LP, H7 of the DNP, the advice in paragraph 115 of the NPPF and the LHDG.

Living conditions of neighbouring properties

- 6.22 There are no neighbouring dwellings close to the site which are considered to be adversely impacted by the proposed development based on the submitted planning layout. Additionally, the layout details supplied demonstrates that 4 dwellings can be accommodated on the site and that the minimum standards set out in the Council's SPD can be achieved.
- 6.23 The Council noted in the committee report for the outline planning application that the site is located opposite Tropical Birdland, a popular visitor attraction within the Borough. The report concluded that car journeys and general activity in the vicinity of the site would be greater than what would be expected of a residential area and that some degree of noise and disturbance may arise due to the relationship between the site and this visitor attraction. Nevertheless, the Council's Environmental Health officer raised no objection to the proposal, and the LPA considered that there would be a sufficient separation and buffer between the two sites to mitigate any harmful noise or disturbance impacts upon the proposed dwellings. There are no planning grounds for a different conclusion to be reached based on these previous findings.
- 6.24 Having regard to the above, the proposals would not have a significant impact on the living conditions of occupiers of nearby dwellings. The impact on the living conditions of existing residents close to the proposals would be minimised and their amenity would be safeguarded in accordance with Policy DM10 of the SADMP. The proposals also comply with the general thrust of the NPPF so far as it seeks to ensure acceptable living standards.

Other Matters

- 6.25 All other technical matters such as land contamination, flooding, drainage, ecology and archaeology have already been dealt with at the outline planning permission stage and are not relevant to this reserved matters submission.

Compliance with Conditions on Outline Approval

- 6.26 Condition 3 of planning permission 23/00445/OUT requires the reserved matter application to provide details of existing and proposed levels. The submission is accompanied by a topographical survey which provides details of the existing land levels, a block plan which contains spot levels across the site and section drawings which show the ground floor and first floor level of the proposed dwellings.

7.0 CONCLUSIONS

- 7.1 At the heart of the NPPF is a presumption in favour of sustainable development such that development proposals that are in accordance with the development plan should be approved. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Section S38(6) of the Planning and Compensation Act 2004 requires that any decision on a planning application should be made in accordance with the policies of the development plan unless material considerations indicate otherwise.
- 7.2 The principle of this development has already been found to be acceptable under the original outline planning permission. There is no scope to reconsider matters which were dealt with (or should have been dealt with) at the outline stage. Therefore, this application can only consider the acceptability of the reserved matters which have been submitted and these relate to layout, scale, appearance and landscaping.
- 7.3 It is considered that acceptable layout, scale, appearance and landscaping details have been supplied in relation to the proposed dwellings. These would combine to ensure that the proposed dwellings are in keeping with the character and appearance of the surrounding area and would not result in any highway safety issues. The proposal would be in accordance with policies in the development plan and the guidance in the NPPF.
- 7.4 In conclusion, the submitted reserved matters details are in accordance with the relevant policies of the development plan, in accordance with the NPPF taken as a whole and the presumption in favour of sustainable development. There are no adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal and any outstanding concerns that the Council might have are capable of being addressed by negotiation and/or the imposition of conditions.
- 7.5 It is therefore, respectfully requested that, the reserved matters application be granted in accordance with the terms of the application.

8.0 APPENDICES

Appendix 1 - 23/00445/OUT – decision notice

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

Planning Permission

Name and Address of Applicant

Mr and Mrs Kelly
Lyndale
Lindridge Lane
Desford
Leicestershire
LE9 9GN

Name and Address of Agent (if any)

Mr Mark Payne
Architectural Vistadesigns Ltd
118 Paddock Way
Hinckley
LE10 0BZ

Part I - Particulars of Application**Date of Application**

4 May 2023

Application No.

23/00445/OUT

Particulars and location of development :

Outline Application for proposed erection of 4 dwellinghouses with associated garages (All matters reserved except for access)

Lyndale Lindridge Lane Desford Leicester Leicestershire

Part II - Particulars of decision

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application and this has resulted in the approval of the application. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council grants permission for the carrying out of the development referred to in Part I hereof in accordance with the application form and plans submitted, subject to the following conditions :-

1. Application for the approval of reserved matters shall be made within three 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 shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the:-
 - a) Appearance of the development including proposed materials and finishes
 - b) Landscaping of the site including hard boundary treatments and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges
 - c) Layout of the site including the location of electric vehicle charging points, the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development.

IMPORTANT - PLEASE READ THE NOTES AT THE END OF THIS DOCUMENT

d) Scale of each building proposed in relation to its surroundings

have been 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) and Policy H7 of the Desford Neighbourhood Plan (2021).

3. Details of the existing and proposed ground levels of the site shall be submitted with the reserved matters application. The development shall then be implemented in accordance with these details.

Reason: To ensure that the development has a satisfactory appearance and in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy H7 of the Desford Neighbourhood Plan (2021).

4. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Ardent Consulting Engineers drawing number 2202690-001 have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2021).

5. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 84 metres by 2.4 metres to the north and 75 metres by 2.4 metres to the south have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with the National Planning Policy Framework (2021).

6. No part of the development shall be occupied until such time as the offsite footway works shown on Ardent Consulting Engineers drawing number 2202690-001 have been implemented in full.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with the National Planning Policy Framework (2021).

7. No development (including vegetation clearance) shall take place until an ecological mitigation, compensation and enhancement strategy has been submitted to and approved in writing by the LPA. Any mitigation, compensation or enhancement measures need to be clearly shown on all relevant submitted plans/elevations. All works are to proceed strictly in accordance with the approved scheme.

Reason: In order to provide a net gain in biodiversity in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy ENV3 of the Desford Neighbourhood Plan (2021), and the requirements of the NPPF (2021).

8. No development (including vegetation clearance) shall commence until a detailed scheme of landscaping and measures for the protection of trees to be retained during the course of development has been submitted to and approved in writing by the Local Planning Authority. This shall include the following items;

- i) A site specific tree protection plan;
- iii) A tree survey of the existing protected trees;
- iv) An arboricultural implications assessment

Thereafter, 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 maybe specified in writing by the Local Planning Authority.

Reason: To ensure that adequate measures are taken to preserve trees and hedges and their root

systems whilst construction work is progressing on site and that the existing trees on the site are retained and protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy ENV3, H6 and H7 of the Desford Neighbourhood Plan (2021), and paragraph 170 of the National Planning Policy Framework (2021).

9. No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: To protect the amenity of neighbours and the character of the area in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

10. Development shall not begin until surface water drainage details, incorporating sustainable drainage principles (SuDS) have been submitted to and approved by the Local Planning Authority (LPA), and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraph 110 and 112 of the National Planning Policy Framework (2021).

11. No demolition/development shall take place/commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed mitigation WSI, which shall include the statement of significance and research objectives, and

o The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

o 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 satisfactory archaeological investigation, recording, dissemination and archiving in accordance with Policies DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document (2016).

12. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A to E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

NOTES TO APPLICANT :-

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with

Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>.

3. Nesting birds are protected from disturbance under the Wildlife & Countryside Act 1981 (as amended); therefore all vegetation removal should take place outside the breeding season (March - August inclusive) unless carefully checked beforehand by a suitably qualified person.
4. The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

C. Brown.

Christopher Brown MRTPI
Planning Manager (Development Management)

Date : 01 August 2023

Appendix 2 - 23/00445/OUT – officer report

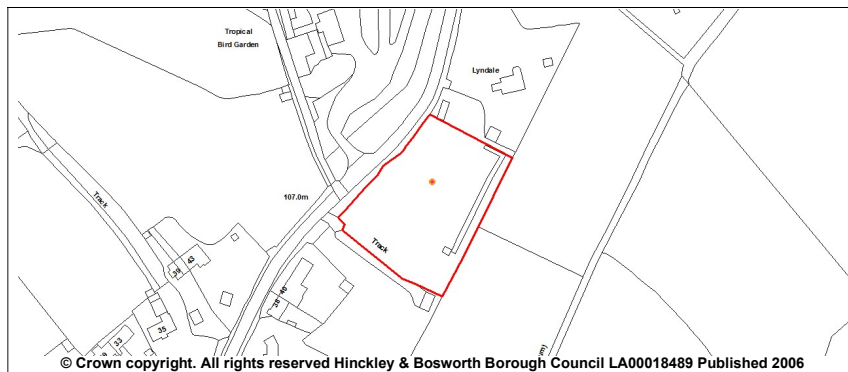
Planning Committee 25th July 2023
Report of the Head of Planning (Development Management)

Planning Ref: 23/00445/OUT
Applicant: Mr and Mrs Kelly
Ward: Newbold Verdon with Desford and Peckleton

Site: Lyndale, Lindridge Lane, Desford, Leicester



Proposal: Outline Application for proposed erection of 4 dwellinghouses with associated garages (all matters reserved except for access)



1. Recommendations

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

2. Planning application description

- 2.1. The application seeks outline planning permission for the erection of four detached dwellings and detached garages on land at Lyndale, Lindridge lane, Desford. The only matter for detailed consideration at this stage is access. All other details are reserved.
- 2.2. A new vehicular access is proposed from Lindridge Lane, and the indicative layout suggests that a pedestrian footpath would be extended to link the site to the existing network.
- 2.3. The application is accompanied by the following reports and documents:
- Transport Assessment
 - Tree Survey, Tree Report and Constraints Plan
 - Biodiversity Net Gain Assessment
 - Design and Access Statement

3. Description of the site and surrounding area

- 3.1. The site is located to the North of Desford and is accessed via Lindridge Lane. It has an area of approximately 1.16 Acres and is broadly rectangular in shape, lying approximately 700m north of Desford Village Centre. Directly opposite the site is

Tropical Birdland, with dwellings occupying the land on both sides of Lindridge Lane to the southwest. To the north is Lyndale, farm buildings and a redundant sewerage works. The site lies within the countryside and outside of the settlement boundary of Desford.

- 3.2. The site currently occupies a dense line of trees across the boundary with Lindridge Lane and the southern boundary of the site, along with groups of mature trees and bushes dispersed around the site. Along the eastern boundary there is an existing ditch, barbed wire fence and hedgerows overlooking open fields with the existing outbuildings of the Cattery. The Lyndale Boarding Cattery was trading for numerous years but has now ceased operation.

4. Relevant planning history

- 4.1. The application site has the following relevant planning history:

22/00569/OUT

- Outline application for proposed erection of up to 4 no. dwellinghouses with associated garages (all matters reserved except for access)
- Withdrawn
- 05.01.2023

5. Publicity

- 5.1. Neighbours of four neighbouring properties have been notified of the application. In addition, the application has been advertised by means of a site notice.
- 5.2. One objection has been received making the following comments:
- Outside the settlement boundary
 - Exacerbates ribbon development along Lindridge Lane
 - No footpath to the proposed development
 - Poor visibility on access

6. Consultation

- 6.1. Desford Parish Council – supports the application: If this had been submitted for the call for sites, we would have carried out an Strategic Site Analysis and extended the settlement boundary to accommodate this plot as it aligns with our desire for small developments. The neighbouring plot is already included as an allocated site in the draft review of the Neighbourhood Plan.
- 6.2. LCC Highway Authority – No objection subject to conditions: The applicant proposed the formation of a new access onto Lindridge Lane which is an adopted 'C' classified road subject to a 60-mph speed limit. Approximately 50 metres to the south of the proposed access Lindridge Lane becomes subject to a 30-mph speed limit as the lane enters the village of Desford. The new access is proposed to be approximately 20 metres south of the existing access and approximately 17 metres north of the access for the Tropical Birdland centre on the opposite side of the carriageway.

The Applicant has advised of the intention to retain the existing access which will serve the existing dwelling only as the cattery business is to cease trading. Ardent Consulting Engineers drawing No. 2202690-001 shows a 15-metre-wide access where it meets the public highway which then reduces to five metres in width upon

entering the site and a six metre junction radii. Within the site the private drive widens to 6.2 metres as it turns to head south in order to accommodate refuse vehicles which the Applicant proposes will enter the site to serve the dwellings. The LHA confirm that the proposed access accords with Part 3, Paragraph 3.192 of the Leicestershire Highways Design Guide (LHDG) and is suitable to serve four dwellings.

Also shown on the aforementioned drawing is a vehicular visibility splay of 75 metres from a setback distance of 2.4 metres to the south and 84 metres from a setback distance of 2.4 metres to the north. The above visibility splays have been informed by a speed survey undertaken 19 May 2022 by Ardent Consulting Engineers which recorded a northbound 85th percentile speed of 37.7mph and a southbound 85th percentile speed of 40.7mph. The LHA accept the proposed vehicular visibility splays. Approximately 40 metres south of the new access the Applicant proposes the formation of a pedestrian access into the site. Also proposed is the creation of nine metres of public footway with dropped kerbs and tactile paving on either side of the carriageway to enable pedestrians to cross Lindridge Lane and join the existing footway into Desford. The LHA request that the footway is designed and constructed in accordance with Leicestershire County standard drawings.

- 6.3. LCC Ecology – No objection subject to condition requiring an ecological mitigation, compensation and enhancement strategy. The proposals do not achieve the 10% net gain but are close (especially when combining hedgerow and area habitats). Whilst in the future it will become mandatory to achieve a 10% net gain, in this circumstance given the small scale of the development (and the relatively low value habitats present), suitable attempts have been made to achieve net gain and 10% net gain is not enforced. Enhancements for protected and priority species should be incorporated within the development in addition to the habitat enhancements to maximise biodiversity.
- 6.4. LCC Archaeology – A condition requiring a programme of archaeological work is required prior to any development, including demolition, taking place.
- 6.5. HBBC Waste – No objections subject to a condition regarding waste and recycling storage and collection.
- 6.6. HBBC Drainage – No objection subject to pre-commencement condition regarding surface water drainage.
- 6.7. HBBC Environmental Services – no objection
- 6.8. LCC Arboricultural Officer – The proposed development does not impact on any LCC Tree Preservation Orders, as such no comments are made in support or opposition to the proposal.

7. Policy

- 7.1. Core Strategy (2009)
 - Policy 7: Key Rural Centres
 - Policy 16: Housing Density, Mix and Design
- 7.2. Site Allocations and Development Management Policies DPD (SADMP) (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
 - Policy DM25: Community Facilities
- 7.3. Desford Neighbourhood Plan (Made May 2021)
- Policy H1: Settlement Boundary
 - Policy H5: Housing Mix
 - Policy H6: Windfall Site Development
 - Policy H7: Housing Design
 - Policy ENV3: Biodiversity General
 - Policy ENV7: Renewable Energy Infrastructure
 - Policy T1: Traffic Management
 - Policy T3: Electric Vehicles
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2021)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.5. Other relevant guidance
- Good Design Guide (2020)
 - Highway Design Guide
 - Landscape Character Assessment (2017)

8. Appraisal

- 8.1. It is considered that the key issues in the determination of this application are:
- Principle of Development
 - Design and Impact upon the Character of the Area
 - Residential Amenity
 - Highway Safety
 - Flood Risk and Drainage
 - Ecology, Biodiversity and Trees

Principle of Development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development,

and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS), the Site Allocations and Development Management Policies DPD (2016) (SADMP) and the Desford Neighbourhood Plan.

- 8.4. According to paragraph 14 of the NPPF, in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided that a number of criteria apply. One of these criteria is that the Neighbourhood Plan became part of the development plan two years or less before the date on which the decision is made. In this case, as the neighbourhood plan was made in May 2021, it is now more than two years old and therefore paragraph 14 does not apply.
- 8.5. Following two recent planning inquiries in November/December 2022 (Land at Sketchley Lane, Burbage) and February 2023 (Land east of The Common, Barwell) the Council has agreed through a statement of common ground a revised position on its 5-year housing land supply. The current figure is 4.76-year supply as of 31 March 2022. This is below the current published figure of 4.89-years as of 31 March 2022, with it being demonstrated that a single site of 61 dwellings is not currently considered to be deliverable within the 5-year period. This revised figure of 4.76 years was agreed through the Inquiries and accepted by the Inspectors.
- 8.6. Desford is defined as a Key Rural Centre within the Borough of Hinckley. The Core Strategy sets out that Key Rural Centres are villages with populations over 1,500 and have a primary school, local shop, post office, GP, community facilities, employment opportunities, and a 6 day/week bus service.
- 8.7. As set out above the site lies adjacent to but outside of the settlement boundary for the village. Therefore, the site lies within the countryside and Policy DM4 of the SADMP is applicable. Policy DM4 states that that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- It is for outdoor sport or recreation purposes, and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - It relates to the provision of stand-alone renewable energy developments; or
 - It relates to the provision of accommodation for a rural worker;
- And
- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - It does not undermine the physical and perceived separation and open character between settlements; and
 - It does not create or exacerbate ribbon development

- 8.8. Policy H1 of the Desford Neighbourhood Plan states that land outside of the defined settlement boundary will be treated as open countryside, where development will be carefully controlled in line with local and national strategic planning policy.
- 8.9. The proposed development does not fall within any category of sustainable development that is considered acceptable in the countryside. The proposal is not supported by either Policy DM4 of the SADMP or Policy H1 of the DNP. The purpose of these policies is to protect the intrinsic beauty, open character, and landscape character of the countryside, and therefore the proposal is in direct conflict with these policies.
- 8.10. Furthermore, although this proposal is in outline, the shape of the site and submitted indicative layout plan suggest that the dwellings would form a linear development which would exacerbate ribbon development along Lindridge Lane to the north/north east. This is directly in conflict with Policy DM4 of the SADMP.
- 8.11. Although there is clear conflict with the spatial policies of the development plan paragraph 11(d) of the NPPF is engaged and therefore a 'tilted balance' assessment must be made. This must take into account all materials considerations and any harm arising from the conflict with Policies DM4 and H1 must therefore be weighed in the planning balance along with the detailed assessment of the other relevant planning considerations in this case. Other material considerations are set out within the next sections of the report.

Design and Impact upon the Character of the Area

- 8.12. 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.
- 8.13. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment.
- 8.14. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.15. The site lies beyond the northern edge of the village and is part of the countryside surrounding the settlement of Desford. The proposal would extend the built form into the countryside beyond the settlement boundary in a form of linear/ribbon development which would not follow the existing pattern or grain of development in the village. Whilst, the LCC Tree Officer has no objection as none of the trees on the site are protected and although there are some hedges and trees to be retained, there would be a notable change to the character of the site due to the removal of trees and introduction of residential dwellings. The indicative layout suggests that a modern cul-de-sac type of development would be inevitable, which would not reflect the character and appearance of the area and would appear incongruous in this context.

- 8.16. The proposed development would therefore have a significantly harmful effect on the character of the site and surrounding area contrary to the requirements of Policy DM10 of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.

Residential Amenity

- 8.17. 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.
- 8.18. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.19. Policy H6 (e) of the DNP states that development should not adversely impact the amenity of neighbours and the existing and future occupiers of the dwelling(s).
- 8.20. Paragraph 130 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.
- 8.21. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.22. Paragraph 186 of the NPPF states that: "Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. [...] Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan".
- 8.23. There are no neighbouring dwellings close to the site which are considered to be adversely impacted by the proposed development judging by the indicative layout. Additionally, the illustrative layout demonstrates that 4 dwellings can be accommodated on the site and that the minimum standards in the SPD can be achieved.
- 8.24. The site is located opposite Tropical Birdland, a popular visitor attraction within the Borough. It is acknowledged that car journeys and general activity in the vicinity of the site would be greater than what would be expected of a residential area, therefore some degree of noise and disturbance may arise due to the relationship between the site and this visitor attraction. Nevertheless, the Council's Environmental Health officer raises no objection to the proposal, and the LPA

consider that there would be a sufficient separation and buffer between the two sites to mitigate any harmful noise or disturbance impacts upon the proposed dwellings.

- 8.25. With the imposition of conditions, the proposal is considered to meet policies DM10(a) and (b) of the SADMP, the BNP, the Good Design Guide SPD and national policy in the NPPF.

Impact upon highway safety

- 8.26. 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)).
- 8.27. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.28. 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. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.29. The Local Highway Authority have confirmed that the proposed new site access accords with the LHDG and would achieve adequate vehicular visibility splays for the proposal. The internal layout is also acceptable as shown in the indicative plans, and would be suitable for a development of 4 dwellings whilst accommodating refuse/emergency vehicles.
- 8.30. The applicant also proposes the formation of a pedestrian access into the site and the creation of nine metres of public footway with dropped kerbs and tactile paving on either side of the carriageway to enable pedestrians to cross Lindridge Lane and join the existing footway into Desford. The LHA request that the footway is designed and constructed in accordance with Leicestershire County standard drawings.
- 8.31. It is considered that the proposal will not have any negative impact on the highway network and the proposal satisfies Policy DM17 and DM10(g) of the SADMP and the NPPF in this regard.

Flood Risk and Drainage

- 8.32. 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.
- 8.33. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate

proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.

- 8.34. The site lies within Flood Zone 1 of the Environment Agency Flood Maps. Part of the site is shown to be at low risk of surface water flooding. HBBC Drainage raises no objection, and it is considered that given the circumstances surface water drainage can be adequately dealt with via the suggested condition should permission be granted. Subject to this condition 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.

Ecology, Biodiversity and Trees

- 8.35. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value. The policy states that on-site features should be retained, buffered and managed favourably.
- 8.36. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services which includes trees. Paragraph 180 states that development resulting in the loss of veteran trees should be refused unless there are wholly exceptional reasons.
- 8.37. Despite the quantity of trees that would need to be removed to enable development, the LCC Tree officer has no objection as none of the trees on the site are protected. Any prospective reserved matters scheme would be expected to provide compensatory planting and a full landscaping scheme which could mitigate this loss.
- 8.38. County Ecology consider that although there is a shortfall in terms of policy compliant Biodiversity Net Gain, this would not be disputed due to the size of the site and the margin of the shortfall.
- 8.39. In summary, subject to conditions, the proposed development would not adversely impact upon the habitat of protected species and subject to provision of biodiversity net gain complies with Policy DM6 of the SADMP.

Other Issues

- 8.40. Archaeology – the County considers that the interests of the archaeology of the site can be secured via condition.

Planning Balance

- 8.41. 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.
- 8.42. This application relates to the erection of four dwellings on a site within the countryside where just a very small part of the site can be considered previously developed land. The most recent housing land monitoring statement for the period indicates that the Council cannot demonstrate a 5-year housing land supply. This is

also a key material consideration and under these circumstances, the NPPF 2021 sets out, in paragraph 11d) that, for decision makers:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

- 8.43. Footnote 8 in the NPPF states that the application of this approach “includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”.
- 8.44. Therefore, currently 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. The degree to which the proposed development conflicts with Policy DM4 of the SADMP and H1 of the Desford Neighbourhood Plan is significant, and it is considered that the impact on the character and appearance of the area would be severe given the nature of the site currently and the proposed development which would result in the loss of a significant number of existing trees on the site.
- 8.45. Furthermore, the submitted indicative layout suggests that the proposed development would exacerbate ribbon development along Lindridge Lane which is an additional criterion set out in Policy DM4 of the SADMP. Additionally, due to the nature of the site, a modern cul-de-sac type of development would be inevitable, which would not reflect the character and appearance of the area and would appear incongruous in this context.
- 8.46. 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.
- 8.47. The scheme 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. Socially, the scheme would provide a modest contribution towards housing supply within the Borough. Environmentally, as the site lies within the countryside and is not allocated, there would be conflict with the spatial strategy of the development plan and the NPPF which is clear that the planning system should be genuinely plan led with plans acting as a platform for local people to shape their surroundings. There would be some harm caused to character and appearance of the countryside and the proposal would exacerbate ribbon development along Lindridge Lane.
- 8.48. In terms of locational sustainability, it is acknowledged that although the site is located within a rural area, it is within walking and cycling distance to a range of services within Desford and is located less than 1km from the centre of the village.

The indicative layout also indicates that the current public footpath would be extended to be linked to the site, which would enable less of a reliance on the use of private cars for trips to and from the site.

- 8.49. Having assessed the application it is considered that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the development plan and the NPPF as a whole. Consequently, the presumption in favour of sustainable development set out within policy DM1 and the NPPF does not apply, the proposal is not judged to be sustainable, and material considerations do not indicate that planning permission should be granted for a scheme that is not in accordance with the development plan. As such the application is recommended for refusal.

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 reason set out below.**

1. By virtue of the location of the application site within the open countryside, the proposed scheme would represent unsustainable and unjustified ribbon development of new dwellings in the designated countryside beyond the settlement boundary of Desford. Additionally, the proposed development would have a significantly harmful effect on the character of the site and surrounding area. In the absence of a five-year housing land supply, paragraph 11 of the NPPF is engaged. However, the adverse impacts would significantly and demonstrably outweigh the benefits. The proposal would therefore be contrary to Policies DM1, DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan

Document (2016), Policies H1 of the Desford Neighbourhood Plan, and the overarching principles of the National Planning Policy Framework (2021).