

## Delegated Report

**Planning Ref: 24/00645/CONDIT**  
**Applicant: Mr D Walgate**  
**Ward: Ratby Bagworth and Thornton**



Hinckley & Bosworth  
Borough Council

**Site: Land South Of Markfield Road Ratby**

**Proposal: Application to vary condition 2 (approved plans) to permission 22/00884/CONDIT (90 dwellings). Addition of single garage to plots 89 and 90.**

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### **1. Recommendations**

#### **1.1. Grant planning permission subject to:**

- The completion of a Deed of Variation to the existing S106 agreement ensuring the contributions remain as an obligation
- Planning conditions outlined at the end of this report

### **2. Planning application description**

2.1. The application proposes a Section 73 amendment to an existing planning permission for 90 dwellings 20/00462/FUL, with the latest approval being an earlier Section 73 Amendment 22/00884/CONDIT. All pre-commencement conditions have been discharged and works commenced on site in 2022.

2.2. The amendments are as follows:

- Addition of two detached single garages to plots 89 and 90.

2.3. The original planning permission was granted subject to a Section 106 Legal Agreement securing 40% affordable housing and financial contributions towards library facilities, secondary school education, health care provision, open space and maintenance, outdoor sports provision and maintenance (off site), off site tree planting, travel packs and bus passes, raised kerb provision at two bus stops, Sustainable Travel monitoring fee, improvements to the R50 public footpath linking with Stamford Street.

2.4. The proposed garages relate to the market housing and the 36 affordable units are unaffected.

### **3. Description of the site and surrounding area**

3.1. The site is former agricultural land located to the south of Markfield Road Ratby, with existing dwellings to the east. To the west and south is open countryside. The majority of the site is in the National Forest. The site has hedgerows on three sides and is mostly flat and level, although the land does fall away gradually from north to south. The centre of Ratby village with its associated services lies some 550m to the southeast. Construction works commenced on site in 2022.

### **4. Relevant planning history**

#### **20/00462/FUL**

- Proposed residential development for 90 dwelling units, new access off Markfield Road, locally equipped children's play area, cycleway and footpaths and SUDS measures

Permission

04.05.2021

**21/00659/DISCON**

- Application to for approval of details reserved by condition (condition 11 (Archaeology) Stage 1 Trial Trenching WSI attached to planning permission 20/00462/FUL

Partial Discharge of condition

06.07.2021

**21/01082/DISCON**

- Application to Discharge Conditions 3 (CEMP), 4 (Construction Traffic Management Plan), 7 (Pedestrian Links) 8 (Surface Water Drainage) 9, (Surface Water Drainage (Construction Stage), 10 (SuDS Maintenance Plan), 12 (Biodiversity Management Plan), 13 (Levels), 14 (Badger Survey), 15 (Fibre Broadband), 20 (Play Equipment) ), 22 (External Materials samples), 25 (Wildflower and Tree Planting) attached to planning permission 20/00462/FUL

Discharged

04.03.2022

**21/01234/DISCON**

- Application to discharge condition 11 (Written Scheme of Investigation) attached to planning permission 20/00462/FUL

Discharged

19.10.2021

**21/01378/DISCON**

- Application to discharge Condition 5 (Land Contamination) attached to planning permission 20/00462/FUL

Discharged

19.01.2022

**22/00550/DISCON**

- Application to re-discharge condition 22 (Materials) attached to planning permission 20/00462/FUL

Discharged

20.09.2022

**22/00593/DISCON**

- Application to re-discharge condition 4 (Construction Traffic Management Plan) attached to planning permission 20/00462/FUL

Discharged

02.08.2022

**22/00884/CONDIT**

- Variation of Condition 2 (approved plans) for permission 20/00462/FUL (90 dwellings). Variation to include changes to the approved planning drawings following technical design development.

Permission

19.01.2023

**23/00171/CONDIT**

- Application to discharge condition 26 (Waste Minimisation and Recycling Pack) attached to planning permission 20/00462/FUL.

Discharged

01.06.2023

**5. Publicity**

- 5.1. The application has been publicised by posting A site notice was also posted within the vicinity of the site. No representations have been received.

**6. Consultation**

- 6.1. No response from Ratby Parish Council
- 6.2. No objections from LCC Highways and HBBC Drainage.

**7. Policy**

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres relating to Leicester
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 17: Rural Needs
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 21: National Forest
- Policy 22: Charnwood Forest

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

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

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

7.4. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

## **8. Appraisal**

### **Key Issues**

- 8.1. The principle of residential development on the site is already established by the previous permissions granted in 2021 and 2023, and so there are no objections to the current proposal in principle, subject to consideration of the changes. Therefore, the application considers the impact of the proposed minor material amendments on:

- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety

#### *Design and impact upon the character of the area*

- 8.2 Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.
- 8.3 Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.4 The Council's Good Design Guide SPD sets out the process to be followed to ensure good quality design for new residential development.
- 8.5 The proposed addition of two detached single garages in the central part of the site are minimal as described above and would result in no adverse visual impact on the immediate setting, or the wider area compared to the approved scheme. The proposal does not raise issues not previously considered in terms of Policy DM4 of the SADMP.
- 8.6 The proposed design of the garages are in keeping with the general character of the area and the remainder of the approved development, and the layout and parking arrangements are largely unchanged.
- 8.7 In terms of the design and visual impact of the proposed development the amendments comply with Policy DM10 of the SADMP and the Good Design Guide.

#### *Impact upon neighbouring residential amenity*

- 8.8 Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings and the amenity of occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.9 The proposed garages allow acceptable separation distances and amenity space for the approved dwellings and do not have implications on the nearby existing dwellings in terms of loss of light or privacy. The proposal complies with Policy DM10 of the SADMP in this respect.

#### *Impact upon highway safety*

- 8.10 Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision to serve the development proposed. Policy 115 of the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.
- 8.11 The access and layout remain the same and the level of parking provision is unchanged. The LHA have no objections to the proposed garages which are in line with the LHDG.
- 8.12 Therefore, the proposed amendments would not have adverse implications on highway safety or parking provision and comply with Policies DM17 and DM18 of the SADMP.

*Previously imposed conditions*

- 8.13 As a Section 73 amendment, any permission is a stand-alone approval and so it is necessary to consider whether or not it is appropriate to re-impose the conditions attached to the original permission granted under 20/00462/FUL and previous variation of conditions application 22/00884/CONDIT. The original permission was subject to 26 conditions, and the subsequent Section 73 amendment 25 conditions as the development has started condition 1 (commence development within three years) is no longer relevant.
- 8.14 Subsequently, condition 26 (waste minimisation and recycling pack) has been discharged via permission 23/00171/DISCON.
- 8.15 The remaining 25 conditions continue to be relevant, although with wording to reflect the proposed changes and to reflect where pre commencement conditions have been discharged in accordance with approved details (as appropriate).

**9. Equality implications**

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) 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, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.

## **10. Conclusion**

- 8.2. The proposed development is an amendment to a previously approved proposal and as such is acceptable in principle. The proposed amendments are minor and raise no significant issues, ensuring that the development on the whole remains in keeping with the character and appearance of the approved development and the locality. There would be no adverse impact on residential amenity or highway safety. The application complies with Policies DM1, DM3, DM4, DM6, DM7, DM10, DM13, DM17 and DM18 of the Site Allocations and Development Management Policies DPD (2016).

## **11. Recommendation**

### **11.1 Grant planning permission subject to:**

- The completion of a Deed of Variation to the existing S106 agreement ensuring the contributions remain as an obligation
- Planning conditions outlined at the end of this report

### **11.2 Conditions and Reasons**

1. The development hereby permitted shall not be carried out otherwise in complete accordance with the submitted application details as follows:

Site Plan Drawing: C170 0150-P01 and Garage Single: C170 0280-P04 both received 01/07/24.

Drg Nos: C170 0200-P03, 0220-P03, 0221-P03, 0210-P04, 0222-P03, 0223-P03, 0224-P01, 0225-P01, 0226-P01, 0227-P01, 0228-P01, 0229-P01, 231-P03, 0232-P04, 0233-P03, 0234-P03, 0235-P03, 0236-P04, 0237-P01, 0238-P01, 0239-P01, 0240-P03, 0241-P03, 0242-P03, 0250-P03, 0251-P03, 0252-P03, 0253-P01, 0260-P03, 0261-P03, 0262-P05, 0263-P03, 0270-P05, 0271-P05, 0272-P01, 0273-P01, 0280-P04, 0281-P03, 0282-P05, 0290-P01, 0300-P01, 0301-P01, 0302-P01 and C170 Schedule of Amendments all received 15th September 2022

Site Location Plan C170 0199-P04 received 18/07/24.

Proposed Drainage Strategy Drg No: MRRD-BSP-ZZ-XX-DR-C-240 Rev P03 received on 3 August 2020, Proposed Site Access Drg No: MRRL-D-0001-P05 and Green Infrastructure Area Drg No: C170-01030-P06 received on 31 August 2020 and Soft Landscaping Plan Drg No: DNS 01.3E, Proposed Refuse Strategy Drg No: C170-0105-P05, Proposed Tenure Plan Drg No: C170-0104-P07, Boundary Treatment Plan Drg No: C170-0106-P05 and Proposed Tree Planting Drg No: C170-0107-P04 all received on 21 October 2020 as part of permission 20/00462/FUL.

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. The development shall be carried out in accordance with the Construction Environmental Management Plan approved through the discharge of condition 21/01082/DISCON.

Reason: To ensure that the proposed use does not become a course of annoyance to nearby residents in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development shall be carried out in accordance with the Construction Traffic Management Plan approved through the discharge of condition 22/00593/DISCON.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area in accordance with Policies DM17 and DM18 of the SADMP (2016).

4. The development shall be carried out in accordance with the contaminated land strategy as approved through the discharge of condition 21/01378/DISCON and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

5. 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 is submitted in writing 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 prior to the first dwelling being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. The development shall be carried out in accordance with the details relating to the provision of pedestrian links to public footpath R50 prior to the occupation of the 50th dwelling as approved through the discharge of condition 21/01082/DISCON.

Reason: To improve connectivity of the site to the surrounding area in accordance with Policy DM1 of the SADMP (2016).

7. Prior to the development first being brought into use the surface water disposal scheme shall be completed in accordance with the details as approved through the discharge of condition 21/01082/DISCON.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

8. The development shall be carried out in accordance with the details relating to the management of surface water during construction as approved through the discharge of condition 21/01082/DISCON.

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

9. The development shall be carried out in accordance with the details relating to the long-term maintenance of the sustainable surface water drainage system as approved through the discharge of condition 21/01082/DISCON.

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 sustainable drainage system within the proposed development in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD.

10. The development shall be carried out in accordance with the approved archaeological Written Scheme of Investigation (WSI) submitted to and approved in writing by the local planning authority through discharge of condition applications 21/00659/DISCON and 21/01234/DISCON.

Reason: To allow proper investigation and recording of the site, which is potentially of archaeological and historic significance in accordance with Policies DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document (2016).

11. The development shall be carried out in accordance with the details relating to the Biodiversity Management Plan as approved through the discharge of condition 21/01082/DISCON.

Reason: To enhance the ecological value of the proposed development in accordance with Policy DM6 of the SADMP.

12. The development shall be carried out in accordance with the finished floor levels as approved through the discharge of condition 21/01082/DISCON.

Reason: To ensure that the development has a satisfactory appearance in accordance with Policies DM4 and DM10 of the SADMP (2016).

13. The development shall be carried out in accordance with the approved Badger Report received through the discharge of condition 21/01082/DISCON.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016).

14. The development shall be carried out in accordance with the details relating to the provision of full fibre broadband through the discharge of condition 21/01082/DISCON.

Reason: To ensure the provision of a high quality and reliable communications infrastructure network to serve the development to accord with paragraph 118 of the NPPF (2023).

15. None of the dwellings hereby approved shall be occupied until such time as the access arrangements shown on approved Drg No: MRRL-DR-D-0001 Rev P05 along with any approved amendments to increase the turning length on Markfield Road as approved at the Detailed Design Stage have been implemented in full. For the avoidance of doubt this shall include the installation of the footpath along Markfield Road.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and to ensure pedestrian safety in accordance with Policy DM17 of the SADMP (2016).

16. None of the dwellings hereby approved shall be occupied until such time as vehicular visibility splays of 2.4 metres by 160 metres to the east and 2.4 x 120 metres to the west of the access 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 accordance with Policy DM17 of the SADMP (2016).

17. No dwelling hereby permitted shall be occupied until such time as the parking and turning facilities for each dwelling have been implemented in accordance with the approved plans. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally in the interests of highway safety and in accordance with Policy DM17 of the SADMP (2016).

18. Any dwellings that are served by private access drives including any turning spaces shall not be occupied until such time as the private access drive that serves those dwellings has been provided in accordance with the approved plans. The private access drives shall be surfaced with hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and once provided shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally in the interests of highway safety and in accordance with Policy DM17 of the SADMP (2016).

19. The development shall be carried out in accordance with the details relating to the provision of play equipment, street furniture and boundary treatment within the locally equipped play area prior to the occupation of the 70th dwelling on the site as approved through the discharge of condition 21/01082/DISCON.

Reason: To ensure that the development has a satisfactory level of equipment provided which respects the National Forest in accordance with Policies DM4 and DM10 of the SADMP (2016).

20. The approved hard and soft landscaping scheme on Drg Nos: DNS 01.3E and C170-0106-P05 shall be completed prior to the occupation of the plot to which it relates. The non-residential landscaping areas shall be completed upon occupation of the 70th dwelling. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016).

21. The development shall be carried out in accordance with the external materials as approved through the discharge of condition 22/00550/DISCON and in accordance with the details approved by this application.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 of the SADMP (2016).

22. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres of the highway boundary.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with Policy DM17 of the SADMP (2016).

23. Each dwelling with a private vehicular access hereby permitted shall not be occupied until such time as 1.0 metre by 1.0 metre pedestrian visibility splays has been provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway, and once provided, shall be so maintained in perpetuity.

Reason: In the interests of pedestrian safety and in accordance with Policy DM17 of the SADMP (2016).

24. The development shall be carried out in accordance with the details relating to the provision of wildflower and tree planting as recommended in the Ecological Appraisal and Protected Species Survey prior to the occupation of the 50th dwelling on the site as approved through the discharge of condition 21/01082/DISCON.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site and to enhance these habitats to accord with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016).

25. The bin storage areas as approved on Drg No: C170-0105-P05 Rev 05 shall be completed prior to the occupation of the plot to which they relate, and all residents shall be provided with a 'Waste Minimisation and Recycling Pack' as detailed in the Waste Minimisation and Recycling document (Lagan Homes)

received by the LPA on 24/05/23 as approved through the discharge of condition 23/00171/CONDIT.

Reason: In accordance with the National Planning Policy for Waste (2014).

### 11.3 Notes to applicant

1. 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.
2. If the roads within the proposed development are to be offered for adoption by the Local Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>  
If an Agreement is not in place when the development is commenced, the Local Highway Authority will serve Advanced Payment Codes in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please email [road.adoptions@leics.gov.uk](mailto:road.adoptions@leics.gov.uk) in the first instance.
3. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
4. Prior to construction, measures should be taken to ensure that users of the Public Right(s) of Way are not exposed to any elements of danger associated with the construction works. Public Rights of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highway Act 1980.
5. If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to [networkmanagement@leics.gov.uk](mailto:networkmanagement@leics.gov.uk) at least 12 weeks before the temporary diversion is required.
6. This decision is also conditional upon the terms of the planning agreement which has been entered into by the developer and the Council under Section 106 of the Town and Country Planning Act 1990 (as amended). The Agreement runs with the land and not to any particular person having an interest therein.