

Delegated Report

Planning Ref: 23/01020/OUT

Applicant: Mr and Mrs Vesty

Ward: Newbold Verdon with Desford and Peckleton



Hinckley & Bosworth
Borough Council

Site: Field Maple House, 34 Lindridge Lane, Desford, Leicester

Proposal: Outline application for the construction of 5 dwellinghouses (some 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 five detached dwellings and garages on land to the rear of 34 Lindridge Lane, Desford. The only matter for detailed consideration at this stage is access. All other details are reserved. A new vehicular access is proposed from Lindridge Lane.

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 acre and is broadly rectangular in shape, lying approximately 700m north of Desford Village Centre. To the north the site is Tropical Birdland, with dwellings occupying the land on both sides of Lindridge Lane to the south. To the north is Lyndale, and a site which has recently received planning permission for four dwellings (23/00445/OUT and 24/00512/REM). To the east is open countryside including footpath R87 which runs parallel to the rear boundary of the site at a distance of approximately 70m. To the south is the garden of 30 Lindridge Lane and a new dwelling permitted via application 19/00616/FUL. To the west lies properties 34, 36, 38, and 40 Lindridge Lane. The site lies within the countryside and outside of the settlement boundary of Desford.

4. Relevant planning history

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

21/01449/FUL

- Erection of one dwelling; demolition of existing garage serving 34 Lindridge Lane and replaced with detached triple garage
- PER
- 12.05.2022

21/00658/FUL

- Erection of one dwelling with detached single garage and associated landscaping. In addition, the demolition of No. 34 Lindridge Lane's attached garage & replace with detached triple garage.
- PER

- 16.11.2021

19/00616/FUL

- Erection of two dwellings
- PER
- 06.09.2019

16/00020/PP (appeal against application 15/01173/OUT)

- Erection of 1 dwelling (outline - access only) (revised scheme)
- DISMISSED
- 26.08.2016

15/01173/OUT

- Erection of 1 dwelling (outline - access only) (revised scheme)
- REF
- 02.02.2016

15/00802/OUT

- Erection of 1 dwelling (outline - access only)
- REF
- 14.09.2015

5. Publicity

5.1. Neighbours of five neighbouring properties have been notified of the application. In addition, the application has been advertised by means of a site notice.

5.2. 11 objections have been received making the following comments:

- 1) Outside the settlement boundary
- 2) Concern over structural integrity of neighbour as a result of development
- 3) Conflict with DM4
- 4) Poor visibility/generally unsafe access
- 5) Overcrowding of roads
- 6) Harm to character of the area / out of keeping with linear arrangement of existing development
- 7) Loss of privacy
- 8) No refuse bin provision
- 9) Light pollution
- 10) Strain on local services
- 11) Overdevelopment of the site
- 12) Harm to neighbouring amenity
- 13) Increased flood risk
- 14) Biodiversity impact

6. Consultation

6.1. Desford Parish Council – no comments received.

6.2. LCC Highway Authority

20.11.23 – further information requested:

- A revised drawing detailing visibility splays based on a speed survey and set 1.0m into the carriageway.
- Details of the highway boundary
- Further information in respect of trip generation should the available visibility at the existing access fall below the requirements of the LHDG and, should the level of trips likely be increased as a result of the proposals.

28.10.24 -

The Local Highway Authority (LHA) advises the following reason for refusal:

- 1. *The Applicant has failed to demonstrate that safe and suitable access for all users would be provided as required by paragraphs 114 and 115 of the National Planning Policy Framework (December 2023).***

The Applicant was asked to demonstrate the achievable vehicular visibility splays in accordance with 85th percentile speeds of passing vehicles in the vicinity of the proposed site access. This needed to be supported by the submission of a speed survey.

In addition, the LHA advised that it believed that the visibility splay shown on Draw My Plans UK drawing number BLL(20) 001 crossed third party land to the southwest of the access.

The Applicant was advised to obtain records of the highway boundary and demonstrate that appropriate visibility could be provided either within land under the Applicant's control or the extents of the public highway.

The LHA also advised that whilst it considered the proposals could intensify the use of the site, information on the level of daily trips the proposals could generate in comparison to the extant use of the site should be provided, especially if visibility splays at the existing access point fell below the requirements detailed in the LHDG.

The LHA understands that no further information will be submitted by the Applicant and the LPA is seeking to determine this application, therefore these final observations have been prepared on this basis.

As per the LHA's previous observations, these final observations have been based upon a review of the following submitted drawing:

- Draw My Plans UK drawing number BLL(20) 001 (Existing and proposed plans).

The LHA previously advised it had no objection to the site access geometry shown on Draw My Plans UK drawing number BLL(20) 001, despite the excess width proposed. The LHA's concerns relate solely to the visibility splay to the southwest of the access, which is shown to cross third party land.

In the absence of a speed survey, the LHA have interrogated their own database to ascertain if any relevant survey data is available, however the LHA is unable to locate any data close to the site access.

Nevertheless, the LHA are aware of nearby application reference 23/00445/OUT for four dwellings, where an access was proposed approximately 70m northeast of the proposed access for this application. A speed survey was undertaken on Lindridge Lane as part of that application to inform visibility splays. 85th percentile speeds of 37.7mph northbound and 40.7mph southbound were recorded. As a guide, should similar speeds be recorded in the vicinity of the access for this application, visibility splays of 2.4 x 65m in each direction would be required. This does not appear to be achievable to the southwest of the access within land under the Applicants control or the extents of the public highway, based on the information available and the LHA's own assessment using the highway boundary extents.

Based on the submitted drawing, the LHA have measured a visibility splay of approximately 2.4 x 36m could be achieved to the southwest of the access within land under the Applicants control and the extents of the public highway. This is with an offset distance of 1.0m into the carriageway. The visibility splay would therefore typically be considered substandard in accordance with Table DG4 of the LHDG, to the detriment of highway safety. This further supports the LHAs request for an appropriate up to date speed survey to ensure that adequate visibility is provided at the site access in the interests of highway safety.

The LHA would also usually expect a Stage one Road Safety Audit to be submitted in support of the site access proposals, along with a Designer's Response to any problems raised, however such a document has not been provided. In addition, in the absence of any consideration of the highway boundary extents by the Applicant, the LHA does not have any evidence to suggest that this is incorrect, or that the proposals could result in a reduction or equal amount of traffic using the site in comparison to the extant use.

The LHA reiterate that, it is understood that the further information required will not be forthcoming prior to determination of this application. Therefore, the Applicant has failed to demonstrate a safe and suitable site access would be supplied with adequate visibility. This is therefore contrary to Paragraphs 115 and 116 of the NPPF (December 2024).

This final advice is provided on the basis that the LPA is seeking to determine the application. The LHA has considered the information and assessment which remains outstanding and finds this level of information both entirely appropriate for the scale of development proposed and necessary to enable a fully informed appraisal to be undertaken and substantive advice to be provided. On this basis the LHA regretfully has no alternative than to advise the LPA of the highway reason for refusal as outlined above.

LCC Ecology –

- 23.11.23 – Objection pending the submission of a Preliminary Ecological Appraisal.
- 08.01.24 – Holding objection - there have been recommendations for further protected species surveys in the form of an internal preliminary roost assessment (PRA) of Building 1 (stable block) which should be completed by an appropriately experienced and licenced ecologist. Tree 1 will also need a further detailed assessment if it is to be lost to the development. It is almost impossible to correctly assess a trees potential roost features (PRF) from ground level, and

therefore should further assessment be required this should include the use of aerial climbing equipment to provide a detailed assessment.

HBBC Waste – No objections subject to a condition regarding waste and recycling storage and collection.

HBBC Drainage – No objection subject to pre-commencement condition regarding surface water drainage.

HBBC Environmental Services – no objection.

7. Policy

7.1 Core Strategy (2009)

- Policy 7: Key Rural Centres

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 DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

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) (2024)
- 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) 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 (2021).
- 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 five years or less before the date on which the decision is made. In this case, as the neighbourhood plan was made in May 2021, and the Neighbourhood Plan contains policies and allocations to meet its identified housing requirement, therefore paragraph 14 applies.
- 8.5. The National Planning Policy Framework (NPPF) was updated on 12 December 2024 and the National Planning Practice Guidance has revised the standard method for calculating the local housing need assessment. As a result, the Council must re-visit its Five-Year Housing Land Supply (5YHLS) position. Whilst further assessment must be made, the Council are now unlikely to be able to demonstrate a 5YHLS, which is one of the circumstances for engaging the 'tilted' balance of Paragraph 11(d).
- 8.6. In any event, due to the age of relevant housing policies within the adopted Core Strategy (2009), the 'tilted' balance in Paragraph 11(d) of the NPPF (2024) is already triggered in accordance with Footnote 8 and Paragraph 11.
- 8.7. 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.
- 8.8. 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

8.9. Policies H1 and H6 of the Desford Neighbourhood Plan state 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. It is acknowledged that the site has been included in a Neighbourhood Plan consultation document as part of an Open Day to begin preparation of an updated Neighbourhood Plan (22/04/2023). The updated NP has not reached Draft stage and the inclusion of the site as an allocation for 5 dwellings holds no weight.

8.10. 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.

8.11. 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 consider all material 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. Policy DM4 aims to ensure that development does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside

8.14. Policy H6 of the DNP supports small residential proposals subject to them being well designed and meeting relevant requirements set out in the NP and Borough wide policies and where such development:

- a) Comprises a restricted gap in the continuity of existing frontage buildings or on other sites within the built-up areas of the Parish or where the site is closely surrounded by existing buildings;
- b) Is within the Settlement Boundary;
- c) Respects the character of each settlement in order to maintain its distinctive character and enhance it where possible;
- d) Retains and enhances, where possible, existing important natural boundaries such as trees, hedges and streams;
- e) Does not reduce garden space to an extent where it adversely impacts on the character of the area, or the amenity of neighbours and the existing and future occupiers of the dwelling(s);
- f) Does not result in an unacceptable loss of amenity for neighbouring occupiers by reason of loss of privacy, loss of daylight, visual intrusion or noise in line with HBBC advice and Planning Guidance.

8.15. Policy H7 of the DNP states that development proposals should satisfy the following design principles:

- a) New development should enhance and reinforce the local distinctiveness and character of the area in which it is situated, particularly within the Conservation Area. Care should be taken to ensure that the development does not disrupt the visual amenities of the street scene and impact negatively on any significant wider landscape views;
- b) Adequate off-road parking should be provided as a minimum of two car parking spaces for dwellings of three bedrooms or less and three spaces for dwellings of four bedrooms or more;
- c) All new housing should continue to reflect the character and historic context of existing developments within the Parish and incorporate a diversity of materials. However, contemporary and innovative design and materials will be supported where positive improvement can be robustly demonstrated without detracting from the historic context. Roof and wall construction that follows technical best practice recommendations for integral bird nest boxes and bat breeding and roosting sites will be supported;
- d) Development should be enhanced by fostering biodiversity and landscaping with existing trees and hedges preserved whenever possible;
- e) Where possible, enclosure of plots should be of native hedging, wooden fencing, or brick/stone wall with ground-level gaps that maintain connectivity of habitat for hedgehogs;
- f) Development should incorporate sustainable design and construction techniques to meet high standards for energy and water efficiency, including the use of renewable and low carbon energy technology, such as high levels of

thermal efficiency, water butts, photovoltaic cells and ground heat source pumps as appropriate; ensuring running costs are manageable;

- g) Security lighting should be operated by intruder switching, not on constantly. Maximum light spillage onto bat foraging corridors should be 1lux;
 - h) Development should incorporate sustainable drainage systems with maintenance regimes to minimise vulnerability to flooding and climate change; ensure appropriate provision for the storage of waste, recyclable materials and rainwater for use in gardens. The Drainage Hierarchy (Planning Practice Guidance Paragraph 80) should be applied to ensure that where possible, surface water is directed towards infiltration or watercourses before considering the use of the sewerage system;
 - i) Development should be of a density that respects the desirability of maintaining an area's prevailing character and setting;
 - j) Properties, where appropriate, should have built-in facilities for wildlife, for example, bee bricks and swift boxes.
- 8.16. 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.
- 8.17. Paragraph 139 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.18. 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, however built development exists to the north and south of the site with further development also approved to the north. This change from countryside to urbanised development would be exacerbated by the proposed layout of development which would be at odds with the existing linear character of development in the vicinity, which is discussed further below. Additionally, footpath R87 runs parallel with the eastern (rear) boundary of the site at a distance of roughly 70m. Whilst intervening hedgerow/foilage may only afford glimpses of any future development, there would still be visual harm from this receptor in what is a predominantly rural setting.
- 8.19. The harm to the countryside would therefore be moderate in this instance, and there is not considered to be conflict with DM4 as the harm would not reach the bar of significant adverse effect on the intrinsic value, beauty open character and landscape character of the countryside.
- 8.20. When considering the proposal against Policy DM10 of the SADMP and policies H6 and H7 of the Desford NP the proposed layout, whilst a reserved matter, would provide five detached dwellings in a layout which would depart from the existing linear pattern of development, and would not respect wider building lines as outlined in the Council's Good Design Guide. Whilst this could be amended as part of a reserved matters submission to some degree, the LPA does not consider that a suitable layout is achievable due to the backland nature of the site and would

therefore fail to complement or enhance the character of the surrounding area with regard to layout. The harm is exacerbated owing to the scale of the development. The proposal therefore conflicts with policy DM10 (c) of the SADMP and policies H6 and H7 of the Desford Neighbourhood Plan, the Good Design Guide SPD and the requirements of the NPPF.

Residential Amenity

- 8.21. 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.
- 8.22. 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.
- 8.23. 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).
- 8.24. Paragraph 135 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.25. Numbers 34 – 40 bound the site to the west and would experience some loss of outlook as a result of the proposed development, however this would not be to an unacceptable degree given the achievable separation distances. Whilst the indicative layout and submitted documents do not include the positioning of windows/habitable rooms, it is considered that a suitable scheme could be designed to ensure that no loss of privacy, loss of light, overbearing or general amenity of the neighbouring dwellings or prospective occupiers of the proposed dwellings.
- 8.26. The proposal is therefore considered to meet policies DM10(a) and (b) of the SADMP, the DNP, the Good Design Guide SPD and national policy in the NPPF.

Impact upon highway safety

- 8.27. 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)).
- 8.28. Policy T1 of the DNP states that all residential 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
- 8.29. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.30. Paragraphs 115 and 116 of the NPPF outline that safe and suitable access to sites must be achieved for all users, and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.31. The Local Highway Authority has been consulted and initially requested further information in the form of revised drawings with visibility splays, trip generation figures, and information regarding the ownership of land within the highway boundary which would form part of the visibility splays.
- 8.32. The LHA response noted nearby application reference 23/00445/OUT for four dwellings, where an access was proposed approximately 70m northeast of the proposed access for this application. A speed survey was undertaken on Lindridge Lane as part of that application to inform visibility splays. 85th percentile speeds of 37.7mph northbound and 40.7mph southbound were recorded. As a guide, should similar speeds be recorded in the vicinity of the access for this application, visibility splays of 2.4 x 65m in each direction would be required. This does not appear to be achievable to the southwest of the access within land under the Applicants control or the extents of the public highway, based on the information available and the LHA's own assessment using the highway boundary extents. The visibility splay is therefore considered substandard in accordance with Table 6 of the LHDG (2024) to the detriment of highway safety.
- 8.33. The LHA also stated that it would expect a Stage One Road Safety Audit to be submitted in support of the site access proposals, along with a Designer's Response to any problems raised, however such a document has not been provided. In addition, in the absence of any consideration of the highway boundary extents by the Applicant, the LHA does not have any evidence to suggest that this is incorrect, or that the proposals could result in a reduction or equal amount of traffic using the site in comparison to the extant use.
- 8.34. In summary, it is considered that the proposal fails to demonstrate that safe and suitable access for all users would be provided as required by paragraphs 115 and 116 of the NPPF and Policy DM17 of the SADMP, and that the application should be refused on this basis.

Flood Risk and Drainage

- 8.35. 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.

- 8.36. Paragraph 170 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere.
- 8.37. 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

- 8.38. 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.
- 8.39. Policy ENV3 of the DNP states that development proposals that cannot avoid, adequately mitigate, or, as a last resort, compensate for, the loss of a locally identified site of biodiversity value will not be supported. Development proposals that conserve or enhance biodiversity, and incorporate biodiversity in and around them, will be supported. Where a development proposal will adversely affect a protected species, an appropriate and suitable survey will be undertaken prior to development, and mitigation measures will be required as a development condition.
- 8.40. Paragraph 187 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.
- 8.41. In their initial response on 23/11/23, County Ecology requested a Preliminary Ecological Appraisal, which was provided on 24/01/24. The assessment identified that the site has limited opportunities for protected and notable species largely due to the current management and limited habitat typologies.
- 8.42. However, the survey recommends further protected species surveys in the form of an internal preliminary roost assessment (PRA) of Building 1 (stable block) which should be completed by an appropriately experienced and licenced ecologist. Tree 1 will also need a further detailed assessment if it is to be lost to the development. The additional surveys have not been provided by the applicant.
- 8.43. In summary, the proposal fails to demonstrate that the development would not adversely impact upon the habitat of protected species, and therefore conflicts with Policy DM6 of the SADMP, Policy ENV3 of the Neighbourhood Plan, and Paragraph 187 of the NPPF.
- 8.44. The application was submitted prior to the requirement for mandatory BNG and is therefore exempt.

Planning Balance

- 8.45. 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.

- 8.46. This application relates to the erection of five dwellings on a site within the countryside. Whilst further assessment must be made, the Council are now unlikely to be able to demonstrate a 5YHLS, therefore the housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure.
- 8.47. 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 8.48. 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.
- 8.49. 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.
- 8.50. 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.
- 8.51. There would be some harm caused to character and appearance of the area as the proposed layout, whilst a reserved matter, would fail to complement or enhance the character of the area. This issue attracts moderate negative weight.
- 8.52. In regard to highway safety, the LHA have confirmed that the proposal fails to demonstrate that safe and suitable access for all users would be provided and should be refused on this basis. This issue attracts significant negative weight.
- 8.53. The proposal has failed to demonstrate that the development would not adversely impact upon the habitat of protected species. This issue attracts significant negative weight.
- 8.54. Lastly, in accordance with paragraph 14 of the NPPF, it is considered that the proposal conflicts with the Neighbourhood Plan and therefore the adverse impact of allowing development is likely to significantly and demonstrably outweigh the benefits. This applies as the neighbourhood plan became part of the development plan five years or less before the date of this decision, and the NP contains policies

and allocations to meet its identified housing requirement and is therefore afforded significant weight.

- 8.55. In conclusion, 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 reasons set out below.**

1. The proposal would fail to complement or enhance the character of the surrounding area, and therefore conflicts with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD (SADMP) (2016) and Policies H6 and H7 of the Desford Neighbourhood Plan (2021).
2. The application has failed to demonstrate that safe and suitable access for all users would be provided as required by paragraphs 115 and 116 of the National Planning Policy Framework (December 2024) and Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (SADMP) (2016).
3. The application has failed to demonstrate that the development would not adversely impact upon the habitat of protected species, and therefore conflicts

with Policy DM6 of the adopted Site Allocations and Development Management Policies DPD (SADMP) (2016), Policy ENV3 of the Desford Neighbourhood Plan, and Paragraph 187 of the National Planning Policy Framework (December 2024).