

Planning Committee 21 January 2025
Report of the Head of Planning

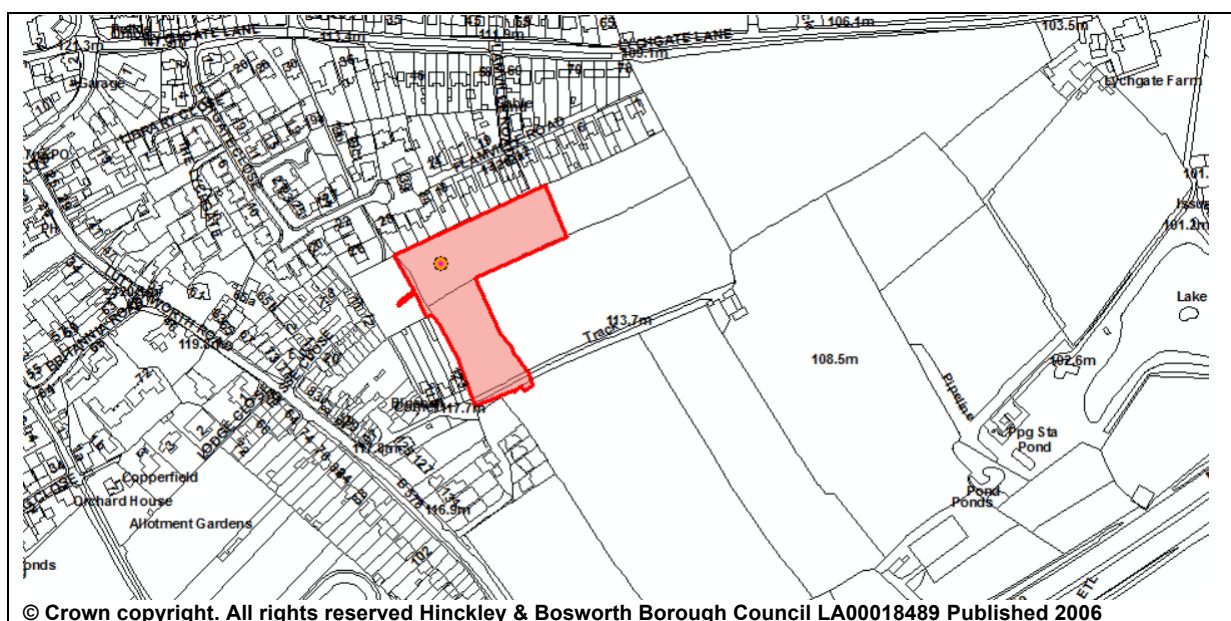
Planning Ref: 24/00139/FUL
Applicant: Mr Paul Waterfield
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: Land North Of Deepdale Farm, Lutterworth Road, Burbage

Proposal: Full planning application for the provision of additional 23 Residential Dwellings Including Vehicular Access, Landscaping, Drainage and all other Associated Works.



1. Recommendations

1.1. Grant planning permission subject to

- The completion of a S106 agreement relating to affordable housing, open space provision, biodiversity net gain and the financial contributions detailed above.
- Planning conditions outlined at the end of this report

1.2. That the Head of Planning be given powers to determine the final detail of planning conditions.

1.3. That the Head of Planning be given delegated powers to determine the terms of the S106 agreement including trigger points.

2. Planning application description

2.1. This planning application seeks full planning permission for the provision of 23 dwellings and associated infrastructure at Land North of Deepdale Farm, Lutterworth Road, Burbage. The site is part of the approved Lutterworth Road, Burbage development site which is currently under construction and will provide 135 dwellings. This proposal seeks approval for 23 dwellings (with associated infrastructure) on part of the site that is currently proposed to be retained as grassland/open space.

- 2.2. The development consists of 18 market dwellings and 5 affordable dwellings. Access is proposed to be taken from the adjacent development which is currently under construction. The development is proposed as an L-shaped extension to the north of the existing development, with a pedestrian access link proposed to Lychgate Close via the existing PRow to the north west of the site.
- 2.3. No additional open space is proposed as part of the development, the development seeks to utilise existing open space approved as part of the wider development which can be found to the east and south of the application site itself.
- 2.4. The dwellings are proposed to be traditional in design, with a range of 2-2.5 storey dwellings. The predominant material would be red brick with all properties proposed to have pitched tiled roofs.

3. Description of the site and surrounding area

- 3.1. The Site, is located to the east of Lutterworth Road, on the south-easterly edge of Burbage. As detailed above the site is part of the approved Lutterworth Road, Burbage site which is currently under construction and is providing 135 dwellings. The adjacent development is referred to as the 'wider development' within this report. A more detailed summary of the application history is included in paragraphs 4.3 and 4.4 of this report.
- 3.2. The site is approximately 0.91 ha in size and lies to the north of the wider development. The site comprises two adjoining field meadows separated by a hedgerow with trees which runs east to west through the centre of the site. The site is bound by fencing and scrub along the northern and western boundaries, which back onto existing gardens and residential housing to the north (Flamville Road and Lychgate Close) and to the west (Lutterworth Road). Further residential development has been permitted to the north east of the site off Lychgate Lane, this is separated from the site by intervening open space/BNG areas.
- 3.3. A PROW runs north to south adjacent to the north western corner of the site and links Lychgate Close to Lutterworth Road.
- 3.4. The M69 lies approximately 330m to the south of the site.
- 3.5. There are no designated or non-designated heritage assets within the site or within the vicinity of the site.

4. Relevant planning history

19/01405/OUT

- Residential development of up to 135 dwellings (Outline- access only)
- Allowed at appeal
- 06.10.2021

22/00636/REM

- Approval of reserved matters (appearance, landscaping, layout and scale) for the erection of 135 dwellings pursuant to Outline Planning Permission 19/01405/OUT. (Appeal ref APP/KR420/W/20/3265143)
- Approved
- 06.07.2023

23/00160/NMA

- Non material amendment to planning permission 19/01405/OUT. Amendment to the wording to condition 20 to reflect the latest biodiversity metric
- Approved
- 20.04.2023

23/00977/NMA

- Non material amendment to planning application 22/00636/REM. Amendments to House types, Parking spaces, Garages, driveways, affordable housing plots, materials.
- PERNMA
- 25.10.2023

24/00388/NMA

- Non material amendment to 22/00636/REM. Amendment substitution of house type on plots 93 & 112-119.
- PER
- 29.05.2024

- 4.1 Various other applications to discharge conditions relating to applications 22/00636/REM and 19/01405/OUT have been received and approved.
- 4.2 The planning history for the site is pertinent in this case and is explained in further detail below. The scheme seeks permission for an additional 23 dwellings beyond those approved and currently being developed at Lutterworth Road, Burbage.
- 4.3 Application 19/01405/OUT was an outline application which was initially submitted for up to 165 dwellings before being amended to seek permission for up to 135 dwellings. This application was allowed at Appeal in 2021. The application site for the application being considered was included within the red line application boundary for application 19/01405/OUT. The indicative masterplan assessed as part application 19/01405/OUT also included dwellings positioned on the parcel of land now considered for development under this application. The development of 135 dwellings across the site (including this application site) was accepted in principle, with conditions and a legal agreement securing the provision of open space, ecological enhancements and the provision of biodiversity net gain including through off site credits.
- 4.4 At reserved matters stage (22/00636/REM), where approval of the detail of the layout, scale etc of the dwellings was sought, the placement of the 135 dwellings was amended from the illustrative layout considered at Outline stage and the dwellings were instead approved on the southern parcels of the wider application site. The parcel of land where the additional 23 dwellings are now proposed was to be retained as open space and for ecology/biodiversity net gain purposes. Subsequent minor amendments to the layout have been approved under the aforementioned non-material amendment applications but no development with the exception of a portion of road is included in the area now proposed to be developed for 23 houses.

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.

5.2. 18 objections have been received from 11 households, these are summarised below:

Principle of development:

- Burbage is being ruined by constant unrequired housing developments.
- The development is not infill development
- The site is in the countryside and outside of the settlement boundary

Infrastructure:

- The area is already over populated, lack of facilities, schools, dentists and transport in/out routes make the area congested.
- Local health services are constrained, putting health of local residents at risk through negligence of increasing the population in an already overly populated village

Roads/Highways:

- Traffic already builds up in the area and on the A5
- The application will increase traffic and congestion issues in the local area
- Concerns about public rights of way and their retention from the approved plans under 22/00636/REM

Flooding/Drainage:

- Concerns about flooding given that existing properties on Flamville Road sit lower than the site

Ecology:

- The site was considered as part of a biodiversity protection zone
- The application was received after the Biodiversity Net Gain (BNG) requirements came into force and should be rejected given it does not offer a calculation. *Officer Note: The application was received immediately prior to the date for mandatory 10% BNG.*
- The development site contains species rich habitats of principal importance
- The application goes against the council's targets to maintain BAP habitat and Local Wildlife Sites.
- Concerns about false statements in the application stating that there are no priority species or important habitats or other biodiversity features on the proposed development location.
- The field is a wildlife corridor and home to a variety of wildlife including pheasants and bats.

Character/Design:

- Harm to the character of the surrounding area, countryside and landscape
- Harm to the character and history of Burbage
- Concerns that the layout is not in keeping with existing houses

Residential Amenity

- Harm to the mental wellbeing of residents
- Loss of privacy and light and a sense of enclosure to No 34 Lychate Close and Flamville Road properties
- Concerns that the back gardens will completely overlook existing dwellings

Archaeology and Heritage

- Harm to ridge and furrow

Other matters:

- "The developer promised to keep these fields free of development as part of the appeal/approval, they are untrustworthy and should be held to previously agreed promises".
- Concerns that the development would be in breach of the previous planning permissions

6. Consultation

- 6.1. Consultee responses are summarised below. With the exception of Burbage Parish Council no objections have been received.

Burbage Parish Council

- 6.2. "Burbage Parish Council objects to this application for the following reasons:
- Existing public services in the parish, including GP and dental practices, are already straining to cope with current demand.
 - Schools within the parish are already over-subscribed and no further provision is proposed. The Council is aware of a recently approved application to expand facilities at Hastings High School but would point out that this has been planned to meet only current requirements and not future growth.
 - The development would generate further traffic, adding to existing issues across the parish. Existing infrastructure is already unable to cope at peak times and no improvements are proposed".

Lead Local Flood Authority

- 6.3. "The site is located within Flood Zone 1 being at low risk of fluvial flooding and a low to medium risk of surface water flooding.
- 6.4. The application is for additional residential units and related infrastructure to a 135 dwelling development approved in application reference 19/01405/OUT with surface water drainage conditions subsequently discharged.
- 6.5. The proposed surface water drainage seeks to discharge to the existing drainage sewer in the wider development. This proposes to discharge into the earlier phase at an unlimited rate. Subsequent to the previous LLFA response the applicant has submitted a new revision of drainage network calculations for Phase 1. Within this the applicant has included the contributing area to surface water drainage of the Phase 2 development proposed in this application. The modelled results of this contribution in critical storm events are deemed acceptable".
- 6.6. Conditions recommended

HBBC Drainage

- 6.7. "Whilst a drainage strategy has been provided for the proposed development, an assessment of the impact on the approved drainage network of Phase 1 has not been submitted as previously requested".
- 6.8. Officer Note- The above is addressed in the Lead Local Flood Authorities comments above.

HBBC Waste Services

- 6.9. "The collection point for domestic recycling, garden waste and refuse is from the adopted highway boundary."

- 6.10. "A bin collection point needs to be installed for plots 15 and 16 due to the shared driveway. This will then meet with the Councils requirements."

LCC Highways

- 6.11. "The Local Highway Authority advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 115 of the National Planning Policy Framework (December 2023), subject to the conditions and/or planning obligations outlined in this report".
- 6.12. Detailed comments from LCC highways are included within the relevant highways section of the report.

LCC Archaeology

- 6.13. "Having reviewed the application against the Leicestershire and Rutland Historic Environment Record (HER), we can confirm that previous trial trench evaluation undertaken within the application area has indicated a low archaeological potential. Whilst we would regret the partial loss of ridge & furrow earthworks as a result of the proposals, the impact of this has been offset through a satisfactory programme of archaeological recording (topographic survey) in response to the previous planning application. As such we would therefore advise that the application warrants no further archaeological action (NPPF Section 16, para. 200-201)".

LCC Waste and Minerals

- 6.14. "The application site is located entirely within a Mineral Safeguarding Area for sand & gravel as identified on Map (relevant map number) of the Leicestershire Minerals and Waste Local Plan (2019-31) (MWLP) and Policy M11 outlines that mineral, including sand & gravel, will be protected from permanent sterilisation by other development. Planning applications for non-mineral development within a Mineral Safeguarding Area should be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to it.
- 6.15. It is the case however that whilst Biodiversity offset is different in its effects on mineral safeguarding than the construction of housing, as the site is very close to extant housing it is unlikely that mineral resources could be worked. It is also acknowledged that this area forms part of the approved planning layout for 22/00636/REM and therefore the wider site already has outline permission for housing as part of this application. As such the County Council has no objections to the proposal".

LCC Planning Obligations Team

Summary of Infrastructure Requirements

Infrastructure Category	Location / Description	Amount
Libraries	Burbage Library	£664.35
Waste	Barwell HWRC	£1,139.19
Primary Education (Infant)	Burbage Church of England Infant School - No requirement	£0.00
Primary Education	Burbage Junior School	£65,916.40
Secondary Education (11-16)	Hastings High School	£62,691.13
Post 16 Education	The Hinckley School	£13,393.61
Total		£143,804.68

National Highways

- 6.16. "The traffic generated by the proposed development is not expected to have an adverse impact on the operation of the SRN. National Highways therefore has no objection to this application."

NHS England

- 6.17. A contribution request of £17, 811.20 for the use at Station View Health Centre and/or Burbage Surgery and or to develop alternative Primary/Community healthcare infrastructure that will be directly impacted due to the increase in population linked to this housing development.

HBBC Affordable Housing Officer

- 6.18. "The applicant is offering 2 x 1 bed 2 person houses, 2 x 2 bed 4 person houses and 1 x 3 bedroom 5 person house as the affordable housing offer. This is an acceptable mix and the properties are of an acceptable size. Although the number of dwellings is small, it is part of a larger development and therefore it is expected it may attract RP interest as part of the total number of dwellings.

- 6.19. As this site is in the urban area, the section 106 agreement should contain a requirement for applicants for rented properties to have a local connection to the Borough of Hinckley and Bosworth. First Homes applicants will also be required to have a local connection. The Borough Council is following national guidance with respect to First Homes properties, therefore the local connection will be set as people who have current residency, employment requirements, family connections or special circumstances, such as caring responsibilities. The level of discount for the First Homes properties will be at 30% discount from open market values".

HBBC Compliance and Monitoring Officer

- 6.20. "I can see that an additional 23 dwellings has been proposed on the existing grassland which is included in application 19/01405/OUT & 22/00636/REM. This will result in a significant loss of existing open space to be retained for biodiversity enhancements."
- 6.21. "Should the development be found to be acceptable I would be asking for additional equipped and casual informal plus accessible natural green space on site and an off site for outdoor sports."

HBBC Environment Team

- 6.22. Conditions are requested relating to contaminated land surveys, a Construction Environmental Management Plan and Construction Hours.

LCC Ecology

- 6.23 "With regard to the BNG part of the phase 2 development, I am satisfied with the rationale for the approach towards the ecological baseline taken in the RammSanderson letter dated 12th November, given the time lapsed since the initial survey was undertaken in 2019 by Focus Environmental Consultants. This new baseline should inform the current planning application for phase 2. I am also satisfied with the information that has been put forward in this letter, regarding the habitat type and condition with respect to the definition of "modified grassland" against the criteria in UK Hab. I would therefore expect the difference between the pre- and post-development habitat value to use the RammSanderson new baseline.
- 6.24 However, I would recommend that the determining authority seeks clarification with respect to the separate, prior approved application being referred to as "surrounding development" in the letter. My concern is that if this current planning application is on the BNG area in relation to this new planning application, then the BNG in relation to the original application must be revised. The original agreed baseline (ie.

that supplied by Focus Environmental Consultants) should continue to be applied for this separate planning application. New BNG information needs to be submitted for post-development habitat value, which addresses the BNG required at an alternative location. I would recommend that this is dealt with either before or at the same time as the current planning application if possible, or the BNG issues may not be addressed and will remain outstanding. This can be submitted on two separate metrics or combined (ie to show remaining BNG value on the area now being built out plus the new BNG location)".

7. Policy

7.1. Core Strategy (2009)

- Policy 4: Development in Burbage
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure

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 DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. Burbage Neighbourhood Plan 2015-2026 (2021)

- Policy 1: Settlement Boundary
- Policy 2: Design and Layout
- Policy 4: Parking
- Policy 5: Footpaths and Cycleways
- Policy 11: Area of Landscape Sensitivity
- Policy 12: Important Trees

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)
- National Design Guide (2019)
- Leicestershire Highway Design Guide
- Landscape Character Assessment (2017)
- Landscape Sensitivity Study (2017)

- The Green Infrastructure Strategy (2020)
- Open Space and Recreation Study (2016)
- Affordable Housing SPD (2011)
- Housing Needs Study (2024)

8. Appraisal

8.1. The key issues in respect of this application are:

- Principle of development
- Housing mix and supply
- Design, layout and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Archaeology
- Impact upon highway safety
- Flooding/Drainage
- Open Space
- Ecology
- Infrastructure and development contributions
- Planning balance

Principle of Development

- 8.2. 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. Paragraph 2 of the National Planning Policy Framework (NPPF) repeats this and states 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.
- 8.2 Paragraph 11 of the NPPF and Policy DM1 of the Site Allocations and Development Management Policies (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 current Development Plan consists of the adopted Core Strategy (CS), the adopted SADMP and the Burbage Neighbourhood Plan (BNP).
- 8.3 The Emerging Local Plan for 2020-41 has been consulted upon at Regulation 18 draft stage, with the consultation period ending in September 2024. The latest Local Development Scheme (LDS) outlines further public consultation on the submission Draft Plan (Regulation 19) in 2025. At this stage given its early stage of preparation the Emerging Local Plan is attributed no weight when determining this application.
- 8.4 The CS sets out the settlement hierarchy for the Borough. Burbage is identified as a sub-regional centre, Policy 4 allocates land in Burbage for development of a minimum of 295 residential dwellings, seeking to diversify existing housing stock in accordance with policies Policy 15 and 16. Burbage is generally a sustainable location for housing with reasonable services and facilities.
- 8.5 However, the site lies outside, albeit adjacent to the settlement boundary of Burbage as identified on the Borough Wide Policies Map and BNP. The site is therefore located within the designated open countryside. Policy DM4 of the SADMP is therefore relevant, the policy states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside

from unsustainable development. The policy only considers development in the countryside sustainable where:

- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
- (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
- (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
- (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
- (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.

In summary, the application site is within the designated open countryside, and it does not relate to, or comply with, any of the criteria in Policy

- 8.6 The development does not relate to, or comply with, any of the above criteria in Policy DM4 of the SADMP. However, this does not mean that the development is not sustainable. Importantly, Policy DM4 of the SADMP also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.
- 8.7 Policy 1 of the BNP is more up to date than Policy DM4 of the SADMP. Policy 1 is more flexible in that it is supportive of residential development on land within or adjacent to the settlement boundary, subject to the development complying with other development plan policy. The development is adjacent to the settlement boundary and therefore accords with Policy 1 of the BNP.
- 8.8 Policy DM17(b) of the SADMP requires development proposals to be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. The site is located within walking distance to the centre of Burbage which contains shops, eateries and services alongside the primary school. The site is within 500-800m of a bus stop which provides reasonable access to higher order services within Hinckley and Nuneaton. A pedestrian link previously included in the wider development linking the site to the PRoW between Lychgate Close and Lutterworth Road is retained in the proposal, this provides a more direct link to the village centre. Overall, the site is in a sustainable location whereby future occupants would not be reliant on private cars and would have a choice of sustainable transport modes. The proposal complies with Policy DM17(b) in that regard.
- 8.9 The planning history is a material consideration for this application. The application site was included in the original outline application for 135 dwellings, the Inspector when approving the application did not raise issue with the locational sustainability of the site. The principle of housing on this parcel was previously accepted. As with the original development, there is policy conflict with Policy DM4, this must be weighed in the planning balance. The proposal does however comply with Policy 1 of the BNP and Policy DM17(b) of the SADMP.

Housing Mix and Supply

- 8.10 The NPPF was updated on 12 December 2024 and the National Planning Practice Guidance (NPPG) 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).

- 8.11 In any event, due to the age of relevant housing policies within the adopted CS, the 'tilted' balance in Paragraph 11(d) of the NPPF (2024) is already triggered in accordance with Footnote 8 and Paragraph 11.
- 8.12 The revised NPPF states that when the 'titled' balance is engaged, decision making must have 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. Overall, the new NPPF means that the Council can no longer demonstrate a five-year supply of land for housing and that further weight should be given to housing applications. In light of this the provision of 23 dwellings to the Borough's supply of land for housing is considered to attract moderate weight within the planning balance.
- 8.13 Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data.
- 8.14 Policy 15 of the CS sets out that a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026. At least 480 dwellings will be in the rural areas, at a rate of 40%. The rest will be delivered in urban areas such as this site at a rate of 20%. For all sites, Policy 15 of the adopted Core Strategy requires a tenure split of 75% social rented units and 25% intermediate housing units.
- 8.15 Paragraph 66 of the NPPF states that where major development involving the provision of housing is proposed, planning policies and decisions should expect that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures.
- 8.16 The Borough has an unmet affordable housing need, and this is given significant weight in the planning balance. The Housing Needs Study (2024) identifies a Borough net need of 430 affordable homes per annum, the study identifies a specific net need of 39 units in Burbage Sketchley and Stretton Ward per annum.
- 8.17 HBBC's affordable housing officer considers that the proposed provision of 2 x 1 bed 2 person houses, 2 x 2 bed 4 person houses and 1 x 3 bedroom 5 person house (5 affordable units in total) as the affordable housing offer is an acceptable mix and the properties are of an acceptable size. Although the number of dwellings is small, it is part of a larger development and therefore it was hoped that it may attract Register Provider (RP) interest as part of the total number of dwellings. However, the Developer has found difficulty in finding a RP for the wider site and is seeking permission to instead provide a Commuted Sum for the previously approved affordable units. For this development the applicant has expressed they still wish to find a RP, however, it is recommended that the S106 includes fall-back position allowing the applicant to provide a commuted sum to HBBC in the event an RP cannot be secured. The proposal complies with Policy 15 of the CS and whilst a small number of affordable units are proposed, given the shortage of affordable units within the Borough and that this proposal would add 5 units to the specific net need of 39 units in its Ward, the provision of affordable units is attributed significant weight in the planning balance.
- 8.18 The market mix of dwellings in comparison to the suggested mix in the HEDNA is included in the table below. There is a slight overprovision of larger units, however, considering this equates to a small number of market dwellings this is not judged to significantly vary from the suggested mix within the Housing Needs Study. The

proposal is in general conformity with the latest housing needs data and therefore Policy 16 of the CS.

Dwelling size (Bedrooms)	HEDNA Suggested market percentage equivalent (right)	Mix for dwellings (left) dwelling numbers	Mix for by and numbers	Proposed market dwellings (left) and dwelling numbers	Mix of percentage numbers
1 bed	5%	1		0%	0
2 beds	35%	6		22%	4
3 beds	40%	7		44%	8
4+ bed	20%	4		33%	6

Design, layout and impact upon the character of the area

- 8.19 Section 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed places.
- 8.20 Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.21 Outside the defined settlement boundaries, the countryside is not regarded as a sustainable location for new development. Section 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment.
- 8.22 Paragraph 187(b) specifically highlights that this should be achieved by, "Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services..."
- 8.23 This is supported by Policy DM4 of the SADMP, which states that development in the countryside will be considered sustainable where:
- i.) It does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside; and
 - ii.) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii.) It does not create or exacerbate ribbon development.
 - iv.) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
 - v.) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21.
- 8.24 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.

- 8.25 Policy 2 of the BNP requires future residential development to respect its surroundings and, where appropriate, to follow the existing pattern of development and retain existing important natural features on sites, such as trees, hedgerows and streams.
- 8.26 Policy 10 of the BNP identifies a Key Viewpoint to the north of the application site. Any development that has a significant impact on this Key Viewpoint which cannot be sufficiently mitigated, will not be supported.
- 8.27 Policy 11 of the BNP outlines an area of open countryside which is designated as an area of landscape sensitivity. The site, alongside the wider development, is included within this area. Any new development within this area should:
- a) Seek to avoid development on the higher ridge top area adjacent to the cemetery which forms the immediate rural setting to the historic core of Burbage – and maintain this area as a rural green wedge.
 - b) Plan for successful integration of development in the landscape through sensitive design and siting, including use of appropriate materials and landscape mitigation to enhance sense of place.
 - c) Seek to retain historic field patterns where distinctive s-shaped or dog-leg boundaries remain.
 - d) Retain pattern of hedgerows and hedgerow trees and incorporate further buffer planting to major transport corridors and new development.
 - e) Promote opportunities to maintain and enhance the network of rights of way and consider opportunities to create and promote an integrated green infrastructure network around Burbage, Hinckley, Barwell and Earl Shilton urban edge.
 - f) Protect localised areas that retain a natural character, notably the small areas of seminatural woodland, plus streams and small waterbodies.
- 8.28 Policy 12 of the BNP resists the loss of trees protected by a TPO or trees of significant amenity value. Where any trees are felled as part of a development, there is a presumption that they should be replaced on at least a one to one basis.

Landscape Impacts

- 8.29 The Hinckley and Bosworth Borough Landscape Character Assessment 2017 (LCA) categorises the site as being within Landscape Character Area F: Burbage Common Rolling Farmland. The LCA identifies key characteristics of the area as gently rolling arable and pasture farmland with medium to large scale rectilinear field pattern bounded by low hedgerows.
- 8.30 The LCA also identifies key sensitivities and values and records that the area east and south of Burbage provides a rural setting to the settlement. The HBBC Landscape Sensitivity Assessment (LSA) identifies the site as being within Sensitivity Area 08: Burbage South and East (Area 08). The LSA also identifies low hedgerows to field boundaries and the semi-rural character of the area. The LSA notes that the settlement of Burbage is situated on higher ground with strong visual connections to the area. In some places linear development has extended out from Burbage along roads and small residential closes and more recent residential development has also crossed the established settlement edge. The landscape is considered to have overall low-medium sensitivity to residential development due to the strong influences of the existing settlement edge and the M69 on the rural agricultural character. In allowing the appeal for the wider site (application reference 19/01405/OUT), the Inspector agreed with the findings of the LCA and the sensitivity of the wider site for development. The LCA goes on to provide guidance to ensure that new development avoids the higher ridge top area adjacent to Burbage cemetery which forms the immediate rural setting to the core of Burbage.

Opportunities should ensure that the pattern of hedgerows and historic field patterns, where distinctive s-shaped or dog leg boundaries remain, are retained.

- 8.31 As outlined above, the current application site was within the application site of the Outline application allowed at appeal, with the masterplan assessed at the time including residential development in a similar location as to the current proposal. At the time of the appeal the Inspector judged that whilst the wider site covered quite a large area, the site is separated into smaller fields as a result of existing hedging which lends the site a degree of containment. Although the LSA recognises that the M69 is a distracting feature in the landscape which interrupts the flow of pasture fields, the Inspector judged that the wider site retained a measure of beauty and its size, relative openness and undeveloped nature forms part of the countryside that contributed towards the rural setting that surrounds Burbage.
- 8.32 The majority of the appeal site was found not to be readily visible from public views, save for those areas which back onto existing housing such as dwellings on Lychgate Close and Flamville Road or from footpath U79 that crosses a small portion of the site. It is this part of the site which is under consideration here. However, the Inspector noted that these properties, and indeed others on Lutterworth Road, are readily apparent from within the site and have a suburbanising impact upon its margins.
- 8.33 Ultimately the Inspector was not persuaded that the development would lead to a total loss of key features and elements that contribute towards the rural setting of Burbage. The Inspector recognised that the wider development was not a field sized development, and clearly hedgerows would need to be removed and the historic field pattern altered or lost. However, a large amount of the existing hedging would be retained and complemented through additional planting. The Inspector concluded that the wider site was not remote, there is no public access to the vast majority of the site and it is also heavily influenced by the presence of suburban features such as the M69, electricity pylons, existing housing on its fringes and its position adjacent to Lutterworth Road and indeed the built-up area of Burbage.
- 8.34 With regards to the layout, whilst the Inspector noted the layout of the proposal was reserved for future consideration, from the illustrative layout they noted that large areas of the appeal site could remain undeveloped. The Inspector commented that the intervisibility between the built up area of Burbage and the nucleus of the appeal site would be limited and development on the periphery would adjoin the existing built up area of Burbage.
- 8.35 Ultimately under the reserved matters approval, development was removed from the current application site and the site was to be undeveloped open space. However, it is clear from the Inspectors decision that they judged development in this location to be acceptable owing to it adjoining the built up area of Burbage. Considering the approved development to the south of the site, the application site would be surrounding on three sides by housing. Whilst views of the site will be possible from surrounding housing and the PRoW it would not appear out of keeping with the immediate built edge of Burbage.
- 8.36 The loss of open space is regrettable from a landscape perspective and does diminish the quality of the approved scheme, however, the open space to be lost is judged to be in a less sensitive location than areas to the east of the site adjacent to the open countryside. A sufficient degree of open land in more sensitive locations is still judged to be retained to ensure that, to a degree, the rural setting of Burbage is preserved.
- 8.37 The Key Viewpoint identified within Figure 27 of the BNP will not be affected by the development and the church spire would remain a dominant feature within the

landscape. Additionally, given its location to the northeast, its distance and intervening landscaping, the development is unlikely to be visible from Burbage cemetery.

- 8.38 Returning to the Inspectors decision for the outline scheme, they noted that, whilst the development would be well related to the existing edge of Burbage in terms of proximity and access off Lutterworth Road, it would result in a built form that would inevitably result in a fundamental change to the character of the landscape, from open countryside to a suburban form. Although this harm could be tempered by additional landscaping, the contained layout and amount of development, the change to the character of the land would nonetheless result in some moderate harm to the character and appearance of the area. The Inspector therefore found conflict with Policy DM4 of the SADMP and Policy 11 of the BNP which seek, amongst other things, to protect the intrinsic value, beauty, open character and landscape character of the countryside from unsustainable development and retain historic field patterns.
- 8.39 Whilst much smaller in scale than the comparable wider development, the present application would continue to cause fundamental change to the character of the landscape from open countryside to suburban form and therefore a degree of conflict with Policy DM4 of the SADMP and Policy 11 of the BNP remains. However, considering the wider development which is now occurring to the south of the site, the proposed housing would be viewed against the backdrop of existing housing on three sides. This alongside the scale of development is judged to temper the harm of the current application to minor harm to the character and appearance of the countryside.

Design and Layout

- 8.40 The layout of the proposed development differs from the pattern of development approved on the wider side in that it is an L shaped spur of development continuing the main spine road of the development to the south east. Plots 136-140 are positioned to visually continue the linear development of 115-123 Lutterworth Road although no access is proposed at this point.
- 8.41 The L shaped layout of the development is not wholly in keeping with the existing approved pattern of the development. However, the proposed layout is a variation to the illustrative layout considered at outline stage which the Inspector judged to be acceptable. The proposed housing backs on to existing development on each side with the front elevations facing over the open space/BNG areas which provides some context and a focal point for the proposed layout. Furthermore the layout as proposed largely retains and responds to the existing field boundary hedge which runs north east-south west within and adjacent to the site.
- 8.42 Twelve different housetypes are proposed which is a good degree of variation for a development of 23 dwellings. The housetypes match those used on the adjacent development and are in keeping with the surrounding built form. A good degree of architectural detailing is proposed including a mixture of brick course detailing, chimneys, stone window arches, feature bay windows and some limited mock tudor detailing to dormer windows. The predominant facing material is proposed to be brick with a range of four facing brick types proposed, roofing materials are a mixture of slate, red and russet tiles. The materials are similar to those used on the wider development and again are in keeping with the prevailing character of the area.
- 8.43 Boundary treatments would include 1.8m close boarded fencing to private amenity areas, publicly visible boundaries are proposed to be 1.8m high brick screen walls. Plots 153 and 158 are proposed to have front gardens enclosed by 0.8m high black

ball top railings. The boundary treatments are judged to present good quality design.

- 8.44 Soft landscaping includes shrub and hedgerow planting to plot frontages and along screen walls. Frontage tree planting is proposed along the access road including a mixture of Hornbeam, Magnolia and Birch trees. The existing field boundary hedgerows are largely to be retained and existing trees within the hedgerow and site boundaries are retained.
- 8.45 The Good Design Guide encourages the provision of parking in a range of ways to suit the context, character and density of a site. Parking is generally on plot to the side of houses in driveways, around half of the plots also have garages. An acceptable level of frontage parking is proposed, where there are rows of frontage parking it is broken up by sufficient landscaping areas.
- 8.46 Acceptable waste bin storage and collection points have been provided and shall be conditioned with the exception of plots 150 and 151 which require an additional bin collection point to be provided adjacent to the highway. A condition requiring details of a bin collection point for plots 150 and 151 is therefore recommended.
- 8.47 The design and layout of the development is therefore considered to comply with Policy DM10 of the SAMDP and Policy 2 of the Burbage NP. However, as outlined above by virtue of the fundamental change to the character of the landscape from open countryside to suburban form a degree of conflict with Policy DM4 of the SADMP and Policy 11 of the BNP remains. However, the harm is considered to be minor considering the presence of the wider development and the scale/location of this proposal. This will be weighed in the planning balance.

Impact upon neighbouring residential amenity

- 8.48 Paragraph 135(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, which promote health and well-being, and a high standard of amenity for existing and future users.
- 8.49 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.
- 8.50 The Good Design Guide requires the way buildings to relate to each other, and their orientation and separation distances, to provide and protect acceptable levels of amenity.
- 8.51 The internal plot relationships are acceptable with separation distances that exceed the guidance within the Good Design Guide. All plots have gardens and all are afforded with garden sizes which again comply with the depth and area requirements contained within the Good Design Guide. On most plots the garden sizes noticeably exceed the requirements.
- 8.52 To support the residential amenity of future occupiers of the scheme, one of the aims of Section 4 (New Residential Development) within the Good Design Guide is to ensure that new residential development exceeds the internal space standards set by the Technical Housing Standards (THS) (2015) wherever possible. It is considered that the dwellings comply with the internal floor space standards of required by the THS.

- 8.53 There are a number of existing residential properties which adjoin the site, this includes properties to the north of the site off Lychgate Close and Flamville Road and properties to the west/south west of the site off Lutterworth Road. The development will permanently alter the outlook of these properties who currently have reasonably open views of countryside, albeit with some views of the wider development. Loss of or change to a view is not however a material planning consideration. Separation distances between neighbouring dwellings and the proposed units exceed the separation distance of 21m outlined within the Good Design Guide. The distance is judged to mitigate adverse amenity impacts such as loss of light, overdominance and loss of privacy sufficiently.
- 8.54 Some existing residents will experience additional overlooking into private garden areas. For those to the north of the site the separation distances will mitigate this sufficiently. 123 Lutterworth Road is located to the west of the site and the rear elevations of Plots 141-147 would overlook the side boundary of this properties garden. It is likely that despite a separation distance being in excess of 16m to the boundary owing to the extent of properties and associated habitable room windows some loss of privacy would occur to the garden of this property. Additional mitigation has therefore been secured through additional tree planting along this shared boundary. It is acknowledged that this will take time to mature and for the full benefit to be experienced, however, ultimately the additional overlooking to this property is not considered to be of a degree which would warrant refusal of the application.
- 8.55 The application is therefore considered to comply with policy DM10 of the SADMP with regards to residential amenity.

Archaeology

- 8.56 Policy DM13 of the SADMP states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate desk based assessment and where applicable a field evaluation. Paragraph 194 of the NPPF also reiterates this advice.
- 8.57 Previous trial trench evaluation undertaken within the application area has indicated a low archaeological potential. The partial loss of ridge & furrow earthworks on the wider site as a result of the proposals has previously been considered and the impact of this has been offset through a satisfactory programme of archaeological recording (topographic survey) in response to the previous planning application.
- 8.58 The proposal therefore complies with policy DM13 of the SADMP and no further conditions relating to archaeology are required.

Impact upon highway safety

- 8.59 Section 9 of the NPPF promotes sustainable transport. Paragraph 115 of the NPPF states that in assessing specific applications for development it should be ensured that sustainable transport modes are prioritised, safe and suitable access to the site can be achieved for all users, the design of streets, parking areas and other transport elements reflect national guidance. Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 8.60 Ultimately, 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, following mitigation, would be severe, taking into account all reasonable future scenarios in accordance with Paragraph 116 of the NPPF.

- 8.61 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)).
- 8.62 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.63 Policy 4 of the BNP requires at least two off-street parking spaces within the curtilage for each new 2 bed or larger dwelling unless it is unachievable, for example in an infill plot in a row of terraces.
- 8.64 Policy 5 of the BNP states that the protection of footpaths and cycleways will be supported.
- 8.65 Leicestershire County Council (LCC) as the Local Highway Authority (LHA) commented that they were aware of application reference 19/01405/OUT, which was originally for 165 dwellings. The LHA advised no objection subject to conditions and contributions to that proposal on 5th March 2020. The Applicant did however subsequently reduce the scale of the proposals to 135 dwellings and the LHA then again advised no objection subject to conditions and contributions on 28th August 2020. No objections are raised to this current application and the addition of 23 dwellings.

Site Access

- 8.66 The site would be accessed via a continuation of Road 01 of the adjacent development which was granted planning permission as part of application reference 22/00636/REM. The site connects to the adopted highway at Lutterworth Road, a B classified road (B578) subject to a 30mph speed limit. The access arrangements on to the adopted highway were approved as part of application 19/01405/OUT. The LHA advise it does not foresee any highway safety concerns in respect of extending Road 01 in to the site given the LHA advised no objection to the overall development access on to Lutterworth Road for up to 165 dwellings and the proposals would result in 158 dwellings being built at the site, it also has no concerns with the intensification in use which the additional 23 dwellings could generate.

Highway Safety

- 8.67 Based on available records to the LHA, there has been one Personal Injury Collision (PIC) recorded within 500m either side of the site access with Lutterworth Road within the last five years up to the end of December 2023. This was recorded as slight and involved a single vehicle and wildlife in the road.

Trip Generation

- 8.68 As detailed above, the LHA has previously advised no objection to a development of 165 dwellings at the site. Whilst that assessment would now be considered out of date, based on the scale of development proposed a detailed new assessment in to the level of traffic that could be generated has not required by the LHA.

Internal Layout

- 8.69 The acceptability of an adopted road layout is subject to a Section 38 (S38) agreement in accordance with the Highways Act (1980). In order for the site to be suitable for adoption, the internal layout must be designed fully in accordance with

the Leicestershire Highway Design Guide (LHDG). The LHA has reviewed the plans and advise that whilst the road is designed to an adoptable standard, some additional points such as speed control measures will need to be included in the scheme for it to achieve adoptable standards. The additional measures are minor and would be incorporated as part of the Section 38 process.

Parking Provision

- 8.70 On the whole the parking arrangements are in accordance with the LHDG. Some of the garage dimensions are below the dimensions stated within the LHDG and therefore cannot be counted towards usable parking spaces. Whilst this means Plot 19 is short of one parking space, the LHA do not consider this could lead to inappropriate parking within the highway to the detriment of highway safety. All other plots are considered to have an appropriate level of parking without the garage provision. The LHA also advises that the dimensions of the parking spaces are in accordance with the LHDG.

Transport Sustainability

- 8.71 Given the proposals would represent an additional 23 dwellings over and above those permitted at the wider site, the LHA advises that the Applicant should provide one travel pack (currently £52.85 per pack if supplied through LCC) and two x six month bus passes (currently £510 each for an Arriva service) per dwelling in the interests of encouraging sustainable travel to and from the site. Whilst the proposals are not of a scale which requires a Travel Plan (TP), the LHA has also strongly advised and encouraged the Applicant to include the additional 23 dwellings within the TP for the wider site, this has been added as a note to applicant.

Construction Management Plan

- 8.72 A construction management plan and route and traffic management plan have already been agreed for the wider development. A condition requiring construction is carried out in compliance with these plans is therefore included.

Public Rights of Way

- 8.73 Public Footpaths No. U79 is located within the north west corner of the site but would not be affected by the proposals. However, a link from the footpath into the wider site is to be provided. This is welcomed and improves pedestrian connectivity to/from the site.

Conclusion

- 8.74 In conclusion the highway arrangements are considered to be acceptable and to comply with policies DM17 and DM18 of the SADMP, policies 4 and 5 of the Burbage NP and the LHDG.

Flooding and Drainage

- 8.75 Policy DM7 of the SADMP outlines that adverse impacts from flooding will be prevented. Developments should not create or exacerbate flooding by being located away from area of flood risk unless adequately mitigated in line with National Policy. Policy DM10 outlines the requirement for an appropriate Sustainable Drainage Scheme.
- 8.76 Paragraph 181 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 182 states applications which could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff, and which are proportionate to the nature and scale of the proposal. These should provide multifunctional benefits wherever possible, through

facilitating improvements in water quality and biodiversity, as well as benefits for amenity. Sustainable drainage systems provided as part of proposals for major development should: a) take account of advice from the Lead Local Flood Authority; b) have appropriate proposed minimum operational standards; and c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.

- 8.77 The site is located within Flood Zone 1 being at low risk of fluvial flooding and a low to medium risk of surface water flooding.
- 8.78 The proposed surface water drainage seeks to discharge to the existing drainage sewer in the wider development. This proposes to discharge into the earlier phase at an unlimited rate. The applicant has submitted a new revision of drainage network calculations for the approved development, within this the applicant has included the contributing area to surface water drainage of the development proposed in this application. The modelled results of this contribution in critical storm events are deemed acceptable to the Lead Local Flood Authority. Further conditions have been included requiring the submission of a surface water drainage scheme and management plan. Subject to these conditions, the development complies with Policy DM7 of the SADMP.

Open Space

- 8.79 Policy 19 of the Core Strategy sets out standards to be used in relation to green space and play provision in the Borough to ensure all residents have access to sufficient, high quality, accessible green spaces and play areas.
- 8.80 No open space is proposed as part of this development and this proposal seeks to construct housing on land which was to be open space as part of the wider development. As a result, were the development to proceed, the development as a whole would include more housing with less open space than originally approved under applications 19/0105/OUT and 22/00636/REM. Paragraph 140 of the NPPF is clear that Local Planning Authorities (LPAs) should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme. It could be argued that the quality of the resultant development would be diminished should this application be approved, as future residents would have access to less open space and there would be a knock on impact on the on-site BNG provided. Therefore ensuring adequate public open space for not only the additional 23 units proposed within this application but the adjacent development of 135 dwellings has been a key issue during the determination of this application.
- 8.81 The applicants have demonstrated that even with the loss of the open space for the housing and associated infrastructure, the development as a whole would still result in the over-provision of all typologies of open space. In total a development of 158 dwellings (calculated on the basis of the wider development and the additional 23 units) would require a total of 9543.2 m² of open space split across equipped children's play space, casual/informal play space and accessible natural green space. The development would provide 22,682 m². In addition to this additional 10,602m² of BNG area is also proposed, however, this would be inaccessible. A contribution towards outdoor sports provision would be secured through the S106 agreement.
- 8.82 Therefore overall whilst the development would lead to a loss of open space when considering the originally approved development, the development continues to significantly overprovide open space for a development of the total scale. Thus the quality of the development would not be diminished to an unacceptable level and future residents would benefit from adequate open space.

Ecology

- 8.83 Policy DM6 of the SADMP states that major development must include measures to deliver biodiversity gains through opportunities to restore, enhance, and create valuable habitats, ecological networks, and ecosystem services. On-site features should be retained, buffered, and managed favourably to maintain their ecological value, connectivity, and functionality.
- 8.84 Policy 8 of the BNP seeks to protect local wildlife sites within the Parish (with none on site) and Policy 9 of the BNP seeks to maintain wildlife and green corridors, including species rich hedgerows, with the nearest important hedge located off the site to the north east along Lychgate Lane.
- 8.85 The application was submitted prior to the introduction of mandatory Biodiversity Net Gain (BNG), there is therefore no mandatory requirement to achieve a 10% gain in biodiversity. However, Policy DM6 of the SADMP does require major development to deliver biodiversity gain.
- 8.86 The application has been supported by a suite of ecological information include a Preliminary Ecological Appraisal Report and Biodiversity Impact Assessment Rationale Letter. The site history is also of relevance here with the original outline consent including conditions and clauses within the S106 agreement securing BNG and ecological mitigation/enhancements including grass translocation on/from the site.
- 8.87 Further ecology surveys of the current site have been undertaken utilising an up-to-date BNG metric. The methodology of the updated baseline for the application site has been accepted by LCC Ecology.
- 8.88 Grassland areas on the application site will be lost to the development. The Local Wildlife Site (LWS) criteria for Leicester, Leicestershire and Rutland (Leicestershire County Council, 2011) has been reviewed, it has been deemed that the site no longer meets LWS criteria. This is due to the grassland species diversity (in particular, herb abundance and diversity) having decreased since 2020. Less than 20m of hedgerow would be affected by the scheme. All trees with potential for bat roosting within the site are to be retained. And overall subject to working practice recommendations the development is unlikely to harm species such as badger, bats and great crested newts. A condition is required requiring compliance with the recommendations of the Preliminary Ecological Appraisal Report in that regard.
- 8.89 Turning to BNG the Biodiversity Impact Assessment (BIA) based on the current application alone concludes that post development the Scheme would result in the loss of 5.35 area-based habitat units (a 86.56% loss) and a loss of 0.91 hedgerow units (a 30.07% loss). Whilst the development is not subject to mandatory BNG, the biodiversity gain hierarchy (UK Government, 2024) states that habitat offsetting for BNG should be focused on-site as a priority. However, due to the small scale of the site, there are only limited opportunities for habitat compensation/enhancement measures which means that achieving 10% BNG within the site boundary itself is unlikely. As such, off-site compensation will be required to offset the BNG losses a result of the scheme.
- 8.90 A draft enhancement scheme has been submitted with the application which includes enhancing grassland on the wider site (areas which would not be developed) to a good condition. Other measures include the creation of scrubland. If these measures are achieved the development would achieve a gain of 22.13% for area-based habitat. For hedgerow habitats it is recommended that a minimum of 0.12km of species-rich hedgerow with trees is created either on-site or off-site (potentially around the field boundaries). This would achieve a gain of 10.15% for hedgerow habitats.

- 8.91 Other enhancements are recommended such as bird and bat boxes which would not contribute to the BNG figure but would lead to ecological enhancement on site more generally. The application has therefore demonstrated to a sufficient level that biodiversity gains can be achieved on/offsite to comply with Policy DM6. However further detail is required ensuring the submission and approval of full BNG mitigation and enhancement measures, these measures should broadly accord with the recommendations of the submitted BIA. This will address biodiversity gain for the 23 dwellings proposed under this application.
- 8.92 However, the LPA must also consider the loss of/amendments to the BNG strategy for the wider development. The application site currently contributes to the wider site's BNG strategy, grassland which would have been retained as part of this strategy would be built on to provide the 23 dwellings. Therefore if the application were approved the site and grassland would no longer contribute towards the BNG enhancement strategy for the wider site. Similarly to the open space assessment, this development would diminish the quality of the wider development through the loss of on-site BNG. Were the previous development or the current application subject to mandatory BNG the biodiversity gain hierarchy would provide a more robust argument to resist the loss of on-site BNG as the hierarchy states that habitat offsetting for BNG should be focused on-site as a priority. However, in this case, both applications pre-date mandatory BNG and the BNG hierarchy. Furthermore, the wider site was approved in the knowledge of and subject to some off-site habitat offsetting as solely on-site BNG mitigation was not sufficient.
- 8.93 The principle of off-site BNG enhancement has therefore already been accepted and were the current application accepted the applicant proposes to offset the BNG through the use of further BNG credits ("offsetting the offset"). This will require amendments to the approved BNG related conditions and the S106 agreement for the original application (19/01405/OUT). The applicant is committed to submitting an application for these amendments as soon as possible should this application be granted an approval resolution by Planning Committee. Should this application be approved, the applicant will be required to amend the original application for the development to be lawful. Ultimately, through the amendment to the original application the same level of BNG can be secured, however, the level of off-site BNG would need to be increased to compensate for the loss of on-site BNG.
- 8.94 In conclusion, the development of 23 dwellings is acceptable subject to the submission of further detailed BNG enhancements. Subject to the final detail, 10% BNG can be achieved for the current application. However, the development would lead to the loss of on-site BNG for the original development which is clearly regrettable and does diminish the quality of the previously approved scheme. Notwithstanding this, a mitigation strategy has been proposed which would provide compensatory BNG off-site credits. This would ensure that BNG is provided for the 23 dwellings in addition to the BNG enhancements required for the original development, however, more would be provided off-site. Overall, subject to conditions and a legal agreement, the application is therefore considered to comply with Policy DM6 of the SADMP.

Infrastructure and developer contributions

- 8.95 Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities.

Affordable Housing

8.96 See paragraphs 8.14-8.17. It is considered that the development can provide a policy compliant provision of affordable housing in accordance with Policy 15 of the adopted Core Strategy and National Planning Policy

8.97 *Infrastructure Contributions*

8.98 The following infrastructure contributions totalling £229,858.95 have been requested by Leicestershire County Council, the Council's Section 106 and Monitoring and Compliance Officer and NHS England.

• Healthcare (NHS)	£17, 811.2
• Libraries (Burbage Library)	£664.35
• Waste (Barwell HWRC)	£1,139.19
• Primary Education (Burbage Junior School)	£65, 916.40
• Secondary Education (11-16) (Hastings High School)	£62, 691.13
• Post 16 Education (The Hinckley School)	£13, 393.61
• Off-site Outdoor Sports Provision Contribution	£7, 992.96
• Off-site Outdoor Sports Maintenance Contribution	£3, 797.76
• On-site Open Space Maintenance	£31, 776.80
• Six month bus passes (two per dwelling) (£510 each for an Arriva service)	£23,460
• Travel Packs (one per dwelling) (£52.85 per pack)	£1215.55

8.99 LCC have confirmed that the development is not required to provide financial contributions to infant primary education, this is separate to the contribution required for general primary education at Burbage Junior School.

8.100 Monitoring fees will also be required for HBBC and LCC.

8.101 All of the above contributions are considered to meet the tests for planning obligations and should therefore form part of the Section 106 legal agreement to be formulated should the application be approved. Therefore, subject to the above contributions, the development is considered to comply with Policy DM3 of the SADMP, and Policy 19 of the Core Strategy.

Planning Balance

8.102 The NPPF was updated on 12 December 2024 and the NPPG has revised the standard method for calculating the local housing need assessment. As a result, the Council must re-visit its 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).

8.103 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.

8.104 Paragraph 11(d)(ii) of the NPPF requires planning permission to be granted unless 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.

8.105 Paragraph 14 of the NPPF does not apply to this case as whilst the BNP became part of the Development Plan less than five years ago, the neighbourhood plan does not contain allocations to meet its identified housing requirement.

8.106 The development is considered to result in an adverse impact to the rural character of the site. However, given the context of the site, the scale of the development and the adjacent development, it is considered that the scheme is only likely to result in

limited harm. As a result, it is considered that the harm to the rural character of the site attracts only limited weight in the planning balance.

- 8.107 It is acknowledged that the development would diminish the approved wider development in terms of the level of on-site open space and BNG mitigation. However, as outlined in the report, this can be mitigated and therefore the conflict with paragraph 140 of the NPPF and the negative impact on the amount of open space and on-site BNG and the quality of the resultant development is therefore attributed limited weight.
- 8.108 On the other hand, there are social benefits from the scheme. Firstly, the development provides 23 dwellings to the Borough's housing land supply in a sustainable location adjacent to the Burbage's' settlement boundary. In the absence of a five-year housing land supply this is attributed moderate weight in the planning balance.
- 8.109 The development would provide a policy-compliant level of affordable housing which in light of the need for affordable units is considered to attract significant weight in the planning balance. Furthermore, the proposal's social benefits include providing housing for a range of occupants including families. There are also economic benefits associated with the construction of the development, as well the opportunity for future occupants to act as new customers and employees for local businesses and services. These benefits when associated with 23 dwellings are considered to attract moderate weight in the planning balance.
- 8.110 By virtue of these factors, it is considered that, whilst the scheme is likely to cause some harm to the rural character of the application site and would diminish the quality of the wider development, this limited harm is not considered to significantly nor demonstrably outweigh the benefits of the scheme in these site-specific circumstances in accordance with Paragraph 11(d) of the NPPF.

Equality implications

- 8.111 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.
- 8.112 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 8.113 There are no known equality implications arising directly from this development.

9. Conclusion

- 9.1 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

10. Recommendation

10.1 Grant planning permission subject to:

- The completion of a S106 agreement relating to affordable housing, open space provision, biodiversity net gain and the financial contributions detailed above.
- Planning conditions outlined at the end of this report

10.2 That the Head of Planning be given powers to determine the final detail of planning conditions.

10.3 That the Planning Manager be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

10.4 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:

Location Plan dwg. no. BURB_400

Planning Layout dwg. no. BURB_101 Rev P04

Materials and Boundary Treatment Plan BURB_201 Rev P04

Garage Type SG1-4 Single Garage Front Gable Elevations and Floor Plans Rev A

Garage Type SG3-4 Twin Single Garage Hipped Elevations and Floor Plans Rev B

Garage Type SG10-4 Double Hipped Garage Elevations and Floor Plans Rev A
Housetype Elevations and Floorplans DH200VE-5, DH301GE-5, DH302VE-5, DH313B-5, DH318B-5, DH409GH-5, DH425GG-5, DH430B-5, DH501G-5, AH16GE-5, AH21GE-5, AH31GE-5

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No development approved by this planning permission shall take place until a full scheme of soft landscaping works for the site, including an implementation and management scheme, has been submitted to and approved in writing by the Local Planning Authority. The soft landscaping scheme shall be in general accordance with the submitted Soft Landscape Proposals plan dwg.no. GL119901 and in full accordance with any subsequently approved Biodiversity Enhancements and Mitigation Plan. Thereafter the scheme shall be carried out in

full accordance with the approved landscaping, implementation and management scheme.

The soft landscaping scheme shall be retained and maintained for a minimum period of five years from the date of planting with the exception of the trees planted within Plots 141-149 which shall be retained and maintained for a minimum of ten 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 and to minimise overlooking to adjacent residential properties in accordance with Policies DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No development approved by this planning permission shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The development must be carried out in accordance with these approved details and completed prior to first occupation of any dwelling. Thereafter surface water shall not drain into the Public Highway.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site and to reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with and in accordance with Policy DM7 and Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. No development approved by this planning permission shall take place until details in relation to the management of surface water on site during construction of the development has been submitted to and approved in writing by the Local Planning Authority. The construction of the development must be carried out in accordance with these approved details.

Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems though the entire development construction phase and in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted in writing to and approved in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. Notwithstanding Planning Layout dwg. No BURB_101 Rev P04, no development approved by this permission shall be commenced until details of a bin collection point for plots 150 and 151, which should be adjacent to the adopted highway boundary, have been submitted to and agreed in writing by the Local Planning Authority. The bin collection points (BCPs) shall be implemented in accordance with these approved details for plots 150 and 151 and approved plan 'Planning Layout dwg. No BURB_101 Rev P04' for the remainder of the site prior to first occupation of the development and maintained as such in perpetuity.

Reason: To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

9. No development approved by this permission shall be commenced until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the Local Planning Authority. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored. The CEMP will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development.

Reason: To protect the amenities of the occupiers of neighbouring residential properties throughout the course of the development in accordance with Policy

DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. The construction of the development hereby approved shall be in accordance with the Construction Management Plan details submitted to and approved by the Local Planning Authority to discharge condition 11 of application 19/01405/OUT namely:
- Davidsons Homes, 'Construction Environmental Management Plan - Lutterworth Road, Burbage ', dated August 2023; and
 - Davidsons Homes drawing number: BURB_600, 'Build Route & Traffic Management Plan', dated August 2023.

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 Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2024).

11. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Davidsons drawing number BURB_101 Rev P04 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 Policy DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2024).

12. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Davidsons drawing number BURB_101 Rev P04. Thereafter the onsite parking and turning provision shall be kept available for such uses 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 and to enable vehicles to enter and leave the site in a forward direction, in the interests of highway safety and in accordance with Policy DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2024).

13. No part of the development hereby permitted shall be occupied until such time as 1.0 metre by 2.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of the access to each dwelling/ shared private drive 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2024).

14. Any dwellings that are served by private access drives (and 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 Figure DG17 of the Leicestershire Highway Design Guide. The private access drives should be surfaced with tarmacadam, or similar 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 reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2024).

15. The development hereby permitted shall not be occupied until details of bird boxes, bat boxes and hedgehog holes in fencing and associated signage to be installed on the site have been submitted to, and approved in writing by, the Local Planning Authority. Details should include the type of boxes, hedgehog fencing, associated signage and their positioning. Any boxes need to be shown on all relevant submitted plans and elevations. Thereafter the bird and bat boxes, hedgehog holes and signage shall be installed in accordance with the approved details prior to first occupation of any dwelling that these measures relate to.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site and to enhance biodiversity on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2024).

16. 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 gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

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 adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2023).

17. The development shall be carried out in accordance with the recommendations contained within Section 2 of the "Additional Plots at Lutterworth Road, Burbage, Preliminary Ecological Appraisal Report (PEAR)" by RammSanderson.

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

18. During the construction period, none of the trees or hedges indicated to be retained on the Soft Landscape Proposals plan dwg.no. GL119901 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.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

Notes to applicant

1. Whilst the proposals are not of a scale which requires a Travel Plan (TP), the Local Planning Authority and Local Highway Authority strongly advise and encouraged the Applicant to include the additional 23 dwellings within the TP for the wider site.
2. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations.

Full details for the drainage proposal should be supplied including, but not limited to; construction details, cross sections, long sections, headwall details, pipe protection details (e.g. trash screens), and full modelled scenarios for event durations up to the 24 hour (or longer where required) for the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods with results ideally showing critical details only for each return period.

3. Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.
4. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.

5. 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 in the first instance.

6. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
7. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>.
8. A Public Right of Way must not be re-routed, encroached upon or obstructed in any without authorisation. To do so may constitute an offence under the Highways Act 1980.