

Delegated Report

Planning Ref: 24/00098/FUL

Applicant: Mr G. Dudek

Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: 8 Stapleton Lane Kirkby Mallory Leicester

Proposal: Proposed front porch, rear conservatory, two rear dormers, and alterations to existing dwelling; and conversion of garage to workshop for the private residential use of the dwelling; and provision of new stable block associated with the change of use of existing outbuilding and paddock land into an educational use (Use Class F1(a)).

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning Application Description

2.1. This planning application seeks full planning permission for alterations to an existing dwelling, the conversion of an attached garage into a workshop, the provision of a stable block, and the change of use of an existing outbuilding and the paddock land to the north of the dwelling into an educational use (Use Class F1(a)) at 8 Stapleton Lane, Kirkby Mallory.

2.2. On the ground floor of the existing residential dwelling, the development provides a new porch on the front elevation that is 3.1m in width by 1.3m in depth. The porch has a pitched roof that has a ridge height of 3.9m, and an eaves height of 2.2m to match the existing property. The porch appears to utilise a brick finish and a roof tile material to match the existing dwelling, but this has not been confirmed by the Applicant. The scheme also features a new rear conservatory that is 4.4m in width by 4m in depth, by 4m in height.

2.3. On the first floor of the dwellinghouse, the two new roof lights are provided on the front elevation to match the existing roof lights, and two 3m wide dormer windows are provided on the rear elevation of the property. As a result, one of the existing bedrooms on the ground floor is relocated upstairs above the attached garage. The attached garage is converted into a workshop for the private residential use of the Applicant.

2.4. The new 'L'-shaped stable block features three stables, a wash down bay, and a tack room, and externally measures 14.5m in width by 9.2m in depth, which creates a total footprint of 71.6sqm. The structure utilises a pitched roof that has a ridge height of 3m, and an eaves height of 2.4m. The exact material finishes have not been confirmed but the stable block utilises timber cladding and roof sheeting.

2.5. The new stable block is associated with the change of use of the existing outbuilding and paddock land within the site into an educational use (Use Class F1(a)). The use provides alternative education provision that is recognised and inspected by Leicestershire County Council, for children and young adults between the ages of 11 and 25 with learning difficulties. The use accommodates a maximum of four students a day between 9:30 AM and 2:30 PM in line with Leicestershire school term dates and is facilitated by two members of staff, one of which lives on site. Ducks, chickens, goats, guinea pigs, and a pony will be present within the site.

- 2.6. Following concerns raised by the Planning Officer, the height of the stable block was reduced from 4m.

3. Description of the Site and the Surrounding Area

- 3.1. The 4,000sqm application site consists of a detached rendered bungalow with an attached garage, a detached outbuilding, and a paddock. The 2,905sqm paddock is to the north of the site and features a gated access to Bosworth Road, and a pond.
- 3.2. The residential dwelling element of the scheme is within the identified settlement boundary of Kirkby Mallory, which is classified as a rural hamlet within the adopted Core Strategy, whereas the paddock area to the north of the site is within the open countryside. The application site is located within the impact risk zone of a Site of Special Scientific Interest (SSSI). Residential properties border the application site to the east and west, within Kirkby Mallory, and Mallory Park Racing Circuit is to the south of the site, beyond Stapleton Lane.
- 3.3. 8 Stapleton Lane is a six-bedroom bungalow with accommodation in its roof space. The property has a gable-ended pitched roof that has a ridge height of 6.9m, and an eaves height of 2.2m. This main pitched roof features five 0.6sqm roof lights on its principal elevation. However, the centre of the dwelling features a pitched gable-fronted roof that has a ridge height of 4.5m. Moreover, the rear of the property features a pitched gable-fronted roof that is the same height as the main roof of the dwelling. A 3m wide rear dormer is also present in the centre of the dwelling alongside two roof lights.
- 3.4. To the west of the dwelling is an attached double-bay garage that is set down from the main dwelling by 0.8m. The garage also utilises a gable-ended pitched roof that has a ridge height of 6.9m, and an eaves height of 2.2m.
- 3.5. The detached outbuilding is 3m to the rear of the attached garage and externally measures 3m in width by 12m in depth. The outbuilding utilises a pitched roof that has a ridge height of 3.5m, and an eaves height of 2.2m.
- 3.6. The application site benefits from two site accesses onto Stapleton Lane, and a rear gated access onto Bosworth Road. Stapleton Lane is an adopted, but unclassified road that is accessed from Bosworth Road and Peckleton Road, which are both adopted and classified 'C' roads. All three roads are subject to a 30mph speed limit near the application site. Beyond Bosworth Road are further open fields and Public Right of Way Footpath S23.
- 3.7. Within their Design and Access Statement, the Applicant states that the educational use, Fields and Farms, is already established within another site in Barton on the Beans.
- 3.8. Planning application, 18/01125/FUL, approved change of use of a small area of land from agricultural to an educational use within Use Class D1 (now Use Class F1(a)), alongside the provision of a mobile portable classroom, car parking and a bin storage area. It is noted that Condition 03 of the planning permission requires the removal of the portable building after seven years. Furthermore, it is acknowledged that this planning application was approved in part, due to its compliance with Policy DM4(c) of the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016).

- 3.9. In spite of this, it is noted that Paragraphs 8.5 and 8.6 of the Officer's Report fails to consider if such a development was likely to significantly contribute to the diversification of a rural business.

4. Relevant Planning History

- 4.1 N/A.

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.

- 5.2 No responses have been received.

6. Consultation

- 6.1 There have been no objections from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer (subject to conditions)
- HBBC's Waste Management Officer
- Kirkby Mallory, Peckleton & Stapleton Parish Council
- Leicestershire County Council (LCC)'s Ecology Department
- Local Highway Authority (LHA) (subject to conditions)

Ecology

- 6.2 The County Council's Ecology Department have reviewed images of 8 Stapleton Lane and consider the property to have low potential for roosting bats. Therefore, no bat surveys are required.

- 6.3 In addition, although there is a pond on-site, there is a lack of nearby records for Great Crested Newts, and, although this does not rule out their presence, the small footprint of the proposed stable, and the present use of the site, means that any impacts to potential populations is likely to be negligible.

- 6.4 As the footprint of the stable block is relatively small, and LCC Ecology considered that it will have a minimal impact on biodiversity of the grassland. However, the hedgerow on the northern boundary of the site is species-rich native hedgerow with trees, and the hedgerow opposite is a potential Local Wildlife Site. As such, the trees highlighted on the plan should be pruned rather than removed in order to maintain the condition of the hedgerow.

Highways

- 6.5 Leicestershire County Council (LCC), as the Local Highway Authority (LHA), did not consider the application as originally submitted to fully assess the highway impact of the proposed development. Therefore, on 26 February 2024, the LHA requested additional information regarding the use of the rear gate access onto Bosworth Road, amendments to the western access drive onto Stapleton Lane, and clarification as to whether the maximum four people attending the site is inclusive of staff and students.

- 6.6 The Applicant provided additional information on Friday 15 March and stated that the required amendments to the western access drive were disproportionate to the scale of the development. The Applicant confirmed that the rear gate access was not utilised by the development and is used infrequently as a maintenance access for utility companies to access the neighbouring property's underground water pipe.

6.7 On 18 March 2024, the LHA confirmed that the existing access and off-street vehicle parking arrangements were sufficient to serve the development if the level of activity within the site is low. However, if any further development led to an intensification of the use of the site and its access, it is likely that the western access would need to be widened.

6.8 To ensure that the proposal does not lead to a significant intensification of the use of the site, the LHA were satisfied that a planning condition to limit the capacity of the educational use would address their concerns with this proposal. Such a condition was agreed with the Applicant on 19 March 2024 and is attached at Condition 3 below.

Kirkby Mallory, Peckleton & Stapleton Parish Council

6.9 Whilst Kirkby Mallory, Peckleton & Stapleton Parish Council have not objected to the development they have raised two concerns regarding highway safety and have requested clarity on how many vehicles are expected to attend the site on days when the centre is open and has advised that all traffic to and from the site should be via Stapleton Lane.

Pollution

6.10 The Council's Pollution Officer has requested confirmation on the proposed hours of the use of the business and whether any plant or equipment that is likely to generate noise is utilised.

6.11 The Applicant confirmed the hours of the use and stated that no plant or equipment that is likely to generate noise is utilised.

6.12 In light of the above, the Pollution Officer confirmed that they have no objections to the scheme but recommended that the opening hours of the development were secured via planning condition. This planning condition was agreed by the Applicant on 19 March 2024.

Waste

6.13 The Council's Waste Management Officer highlighted that all businesses have a duty of care to ensure that any waste produced is handled safely and within the law. All waste produced by a business including, but not limited to, paper, cardboard, cans, retail packaging, and food wrappers or waste, is commercial waste. For this reason, it legally must be discarded in a certain way via a trade waste service or transfer station and cannot be disposed of through the residential service.

6.14 Businesses should arrange their own business/ trade waste collection service. If waste is given to someone else, the Applicant must ensure that they are authorised to take it, and can transport, recycle, or dispose of it safely.

6.15 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 13: Rural Hamlets
- Policy 14: Rural Areas: Transport

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development

- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM25: Community Facilities

7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (December 2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)

8. Appraisal

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

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety
- Planning balance

Principle of Development

8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions.

8.3 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.

8.4 However, 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. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.

8.5 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP). The spatial distribution of growth across the Borough during the Plan period 2006-2026 is set out in the Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.

8.6 Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF. Paragraph 33 of the NPPF states that

policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.

8.7 Nevertheless, in accordance with Paragraph 225 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF.

8.8 Ultimately, the closer the policies in the plan are to the policies in the NPPF, the greater weight they may be given. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.

Alterations to the Residential Property

8.9 Extensions to existing domestic properties are generally considered to be sustainable development in principle. The attached garage is also within the identified settlement boundary of Kirkby Mallory and its conversion into a private residential use is considered to be acceptable in principle.

The Provision of a Stable Block and the Educational Use

8.10 Paragraph 20 of the NPPF states that strategic policies should make sufficient provision of community facilities such as health, education, and cultural infrastructure. Paragraph 99 of the NPPF states that it is important a sufficient choice of school places are available to meet the needs of existing and new communities. Local Planning Authorities should take a proactive, positive, and collaborative approach to meeting this requirement, and to development that will widen choice in education. Consequently, planning policies and decisions should:

- (a) Give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- (b) Work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

8.11 Educational facilities are identified as a community facility within Paragraph 17.4 of Policy DM25 of the SADMP. Policy DM25 of the SADMP states that the Council will seek to support the formation of new community facilities across the Borough. However, to reduce reliance on the private car, new facilities should demonstrate that they are accessible to the community which they intend to serve by a range of sustainable transport modes.

8.12 The majority of the educational use of the application site is adjacent to, but outside of the identified settlement boundary of Kirkby Mallory. Kirkby Mallory is identified as a rural hamlet within the adopted Core Strategy, which is the least sustainable type of settlement within the Borough. Moreover, it is noted that there are no local services within the hamlet with the exception of a village hall and a small shop that stocks a limited range of goods. There is no bus route through Kirkby Mallory and Stapleton Lane itself is unlit and does not feature any public footpaths. As a result, it is considered that the development is located within an area of poor transport sustainability and therefore users of the site are likely to be dependent on private motorised transport. This is likely to result in environmental harm in principle, which is contrary to Policy DM25 of the SADMP, and the overarching environmental objective of sustainable development as detailed within the NPPF.

8.13 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. Paragraph 180(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.”*

- 8.14 This is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. Policy DM4 of the SADMP only considers residential 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”.
- 8.15 Therefore, the proposed development does not relate to, or comply with, any of the criteria above in either 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.
- 8.16 Given the above, the Council considers that the provision of a stable block and an educational use in this site-specific location is offered no support by Policy DM4 of the SADMP. As such, the application does not accord with Development Plan Policy and is unacceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Design and Impact upon the Character of the Area

- 8.17 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 and beautiful places.
- 8.18 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.
- 8.19 Policy DM4 of the SADMP 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.

8.20 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

Alterations to the Residential Property

8.21 The rear conservatory is considered to be a common feature of residential properties. In light of its location on the rear elevation of the property, and by virtue of its size and scale, the conservatory is considered to preserve the character of the site and the surrounding area.

8.22 In addition, the relocation of the front door to the centre of the front elevation of the property and the provision of the front porch that utilises a similar roof pitch to the existing front gable is considered to enhance the character of the site. In light of its size, scale, and height, the front porch is considered to be acceptable.

8.23 Furthermore, the conversion of the garage into a workshop ancillary to the residential use of the property and the replacement of the two garage doors with two four-pane windows is considered to preserve the character of the site and the surrounding area.

8.24 The two new roof lights on the front elevation match the existing roof lights on this elevation and are considered to preserve the character of the site and the surrounding area.

8.25 It is noted that the two new dormer windows are on the rear of the property and cannot be seen from the principal elevation of the dwelling. Moreover, the dormers match the existing dormer and do not involve any material amendments to the roof height or pitch of the existing dwelling. As a result, it is considered that the two dormer windows are acceptable.

8.26 In summary, the alterations to the residential property are considered to respect the character of the existing dwelling and the surrounding area in accordance with Policy DM10 of the SADMP, and the Good Design Guide.

The Provision of a Stable Block and the Educational Use

8.27 The new stable block is 103.8m north of Stapleton Lane. The change of use is also to the rear of, and north of, the existing dwelling. Therefore, the structure and the educational use is unlikely to materially impact the character of the site from Stapleton Lane.

8.28 Whilst it is likely that the stable block may be prominent from Bosworth Road and Public Footpath S23, given the reduced and limited height and scale of the structure, its timber construction, and its rural appearance, the development is not considered to result in any significant harm to the character of the surrounding area.

8.29 By virtue of the type and capacity of the proposed use, as well as the stable's scale, size, height, volume, design, and its use of materials, whilst the proposal does not comply with the Development Plan in principle, the development is not considered to result in any significant harm to the character of the site or the intrinsic value, beauty, open character, and landscape character of the wider countryside.

Therefore, the proposal is in accordance with Policies DM4 and DM10 of the SADMP, and the Good Design Guide.

Impact upon Residential Amenity

- 8.30 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.
- 8.31 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.
- 8.32 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.
- 8.33 The Good Design Guide recommends that a principal window to a habitable room should ideally be no less than 8m from the blank side of a single storey neighbouring property, rising to 14m for a two-storey property.
- 8.34 In addition, the separation distance between two principal windows to habitable windows should be a minimum of 21m. However, the Good Design Guide also states that, *"An exception to this rule is in an urban location where it may be acceptable to have a reduced distance where issues of amenity and overlooking are dealt with by good design."*
- 8.35 Notwithstanding this, these separation distances are the minimum standards that are required, and every application will be assessed on its own merits depending on the individual characteristics of the site such as orientation, ground levels, window positions, garden size, and shape.
- 8.36 The neighbouring property to the west, 12 Stapleton Lane, is set back from the rear elevation of 8 Stapleton Lane by 12.4m. In light of the above, the residential extensions within the proposal are not considered to result in any significant harm to the neighbouring property's residential amenity.
- 8.37 The neighbouring properties to the east, 4 and 6 Stapleton Lane, are over 21m in front of 8 Stapleton Lane. Therefore, the residential extensions within the scheme are not considered to result in any significant harm to the neighbouring property's residential amenity.
- 8.38 In addition, the stable block is over 55.2m from the rear site boundary of 12 Stapleton Lane and over 63.8m from the rear site boundaries of 4 and 6 Stapleton Lane. Given the scale and use of the development, it is not considered that the new structure is likely to result in any overlooking or loss of privacy, nor any overbearing or loss of light impacts to neighbouring dwellings.
- 8.39 The educational use of the development is for four students per day between 9:30 AM and 2:30 PM on weekdays in accordance with Leicestershire school term times. In light of the type, capacity, and operating hours of the proposed use, which can be secured via planning condition, the development is not considered to result in any

significant harm to neighbouring residential amenity as a result of noise pollution. This is supported by the Council's Pollution Officer's confirmation that they have no objection to the scheme.

- 8.40 To comply with the Good Design Guide, five-bedroom houses must provide a minimum of 80sqm of private outdoor amenity space with a minimum length of 7m.
- 8.41 It is considered that the development retains an area of private outdoor amenity space for the existing dwelling that exceeds the requirements of the Good Design Guide.
- 8.42 By virtue of these factors and the fact that there have been no objections to the scheme, the proposal does not result in any significant harm to the residential amenity of neighbouring properties and is therefore considered to be in accordance with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.43 Section 9 of the NPPF promotes sustainable transport. Paragraph 114 of the NPPF states that planning decisions should ensure that developments provide appropriate opportunities to promote sustainable transport modes, given the type of development and its location and a safe and suitable access to the site for all users. Any proposal should ensure that 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.
- 8.44 Ultimately, development should not be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, in accordance with Paragraph 115 of the NPPF.
- 8.45 Policy 14 of the adopted Core Strategy requires developments to support accessibility within rural areas by:
- Supporting the delivery of a viable, high quality public transport network between the Key Rural Centres and their nearest urban centre and between the Rural Villages and their nearest Key Rural Centre or urban centre.
 - Supporting the provision of accessible transport services for mobility impaired and rurally isolated residents.
 - Delivering safe cycle paths as detailed in the Hinckley & Bosworth Council's Rural Parishes Cycling Network Plan. This will deliver safe routes to school, to residential and employment areas, Key Rural Centres/urban areas, community, and leisure facilities and into the countryside.
- 8.46 Developers will be required to contribute towards these initiatives through developer contributions and/or land where they meet the tests set out in National Guidance. New development that would prejudice their implementation will not be permitted.
- 8.47 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)).

- 8.48 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.49 Paragraph 3.151 (Quantum) of Part 3 of the LHDG requires three off-street vehicle parking spaces for four-bedroom dwellings. Paragraph 3.165 (Dimensions) of Part 3 of the LHDG requires minimum parking sizes to be 2.4m x 5.5m, and an additional 0.5m in width is required the parking space is bounded by a wall, fence, hedge, line of trees or other similar obstructions on one side. This width increases to 1m if the parking space is bounded on both sides.
- 8.50 As highlighted previously, the development is located in an area that suffers from poor transport sustainability and is therefore contrary to Policy DM17(a, b, and d) of the SADMP and Section 9 of the NPPF.
- 8.51 Based on information provided by the Applicant, the proposal is for the provision of an alternative education provider that accommodates four students between the ages of 11 and 25. The use is facilitated by two members of staff, one of which lives on site, and the use shall take place between 9:30 AM and 2:30 PM in line with Leicestershire school term times. The Applicant predicts each student and member of staff shall attend the site via independent private motorised travel, which amounts to a maximum of five two-way visits per day.
- 8.52 Given the low level of activity proposed within the site, the Local Highway Authority (LHA) have confirmed that the existing access arrangements are sufficient to serve the development. In addition, the LHA have confirmed that there is sufficient off-street vehicle parking to serve the proposal that allows for safe access and egress from the application site. However, the LHA advised that further intensification of the use of the site has the potential to create highway safety issues without amendments to the western access drive. It is therefore noted by the Local Planning Authority that the capacity of the educational use can be limited via planning condition in the interests of highway safety.
- 8.53 The Applicant has confirmed that the field gate access is not utilised by the educational use, which can be secured via planning condition in the interests of highway safety.
- 8.54 By virtue of these factors, and subject to planning applications, it is not considered that it can be demonstrated that this proposal is likely to result in an unacceptable impact on highway safety or the road network in these site-specific circumstances. Therefore, the scheme is regarded as in accordance with Policies DM17(c and e) and DM18 of the SADMP, and the LHDG. Although the scheme is in an area of poor transport sustainability, given the limited capacity of the use, which is secured via planning condition, the proposal is not considered to result in any significant harm that is contrary to Policy DM17 of the SADMP, nor that significantly or demonstrably outweighs the benefits of the scheme.

9. Equality Implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1 Taking all 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.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

11.2 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:

- Existing Plans & Elevations – Drg No. 8SL/2024 2 (submitted: 30.01.2024)
- Location Plan & Site Plan – Drg No. 8SL/2024 1 (submitted: 30.01.2024)
- Proposed Elevations – Drg No. 8SL/2024 3 (submitted: 30.01.2024)
- Proposed First Floor Plan / Sections/ Roof Plan – Drg No. 8SL/2024 5 (submitted: 30.01.2024)
- Proposed Ground Floor Plan – Drg No. 8SL/2024 4 (submitted: 30.01.2024)
- Proposed Site Plan 8SL (submitted: 15.03.2024)
- Proposed Stable Floor Plans and Elevations 8SL 6A (submitted: 19.03.2024)

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

3. The capacity of the educational use hereby permitted shall be limited to four students per day.

Reason: As requested by the Applicant, and in order to protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance, and to ensure that there is adequate off-street parking provision in the interests of highway safety in accordance with Policies DM7, DM10 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The occupation of the existing dwelling, 8 Stapleton Lane, shall be limited to a person solely, or mainly, employed, or last employed, by the educational use hereby permitted within the application site, or a widow or widower of such a person, or any resident dependant until as such time as the educational use ceases.

Reason: To ensure that the occupier of the dwelling hereby permitted is not subject to noise and disturbance, outside of their control, that would have an adverse impact on their amenity in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD (2016).

5. The educational use of the site hereby permitted shall not take place other than between the hours:

Monday to Friday (09:30 to 14:30).

Reason: As requested by the Applicant and in order to protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Proposed Site Plan 8SL (submitted: 15.03.2024). 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 the National Planning Policy Framework (December 2023).

7. The existing gated field access to the north of the site that is accessed via Bosworth Road shall not be used by the educational use hereby permitted within the site.

Reason: In the interests of highway and pedestrian safety in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2021).

a. **Notes to Applicant:**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. The trees highlighted on the plan should be pruned rather than removed in order to maintain the condition of the hedgerow.
3. Nesting birds are protected under the Wildlife & Countryside Act 1981 (as amended); therefore, any vegetation clearance should take place outside the breeding season (March to August inclusive) unless carefully checked beforehand by a suitably qualified person.
4. The trees and property may be suitable for roosting bats, which are protected under the Wildlife & Countryside Act 1981 (as amended). It is the applicant's responsibility to ensure that this legislation is not breached and therefore may need to consult with a licenced ecologist prior to commencement to ensure that bats will not be impacted by the works. Works must cease if bats are found whilst advice from a licenced bat ecologist is obtained. Bats are particularly associated with the roof structure of buildings, including under tiles, flashing, lofts, rafters, beams, gables, eaves, soffits, ridge-tile, chimneys, etc. but may also be present in crevices in stone or brickwork and in cavity walls.
5. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales etc., and the minimisation of paved areas, subject to satisfactory porosity test results, and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
6. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).