

Delegated Report

Planning Ref: 23/00328/FUL

Applicant: Mr & Mrs D & C Cordy

Ward: Ambien



Hinckley & Bosworth
Borough Council

**Site: Land North East Of Hill Top Farm, Bosworth Road,
Wellsborough**

**Proposal: Erection of single dwelling, stables and 132 photovoltaic panels
(Resubmission of 21/01219/FUL)**

1. Recommendations

1.1. Refuse planning permission subject to the reasons at the end of this report.

2. Planning application description

- 2.1.** The proposal seeks full planning permission for the erection of a single dwelling, stables and 132 photovoltaic panels. The scheme is described as an off-grid hybrid passiv haus.
- 2.2.** This application is the re-submission of the 21/01219/FUL application which was refused by the Council under delegated powers in September 2022. The only difference between that proposal and this is that this proposal would be a self-build/custom-build development.
- 2.3.** The single dwelling is proposed to be a large building with an area of over 530m². It includes a lower ground floor that would mainly consist of swimming pool, gym, games and entertainment room, guest accommodation, library, plant room and storage. The ground floor would include bedrooms, kitchen, playroom etc. The proposed stable would be sited to the north-west of the new dwelling. The photovoltaic panels are proposed to be located to the east of the new dwelling.
- 2.4.** In addition to the plans, the application is supported by a Planning, Design and Access Statement, a Landscape and Visual Impact Assessment, Archaeology Report and a Renewable Energy and Sustainability Statement
- 2.5.** The applicant has stated that the application is submitted on the basis of paragraph 134 of the National Planning Policy Framework (NPPF) 2021 which states that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area so long as they fit in with the overall form and layout of their surroundings.

3. Description of the site and surrounding area

- 3.1.** The site relates to a field that once was part of Hilltop Farm which has used the land for the grazing of livestock. The land has now been sold and is under separate ownership.
- 3.2.** The site is currently used for equestrian purposes that includes a stable block comprising 3 stables, a tack room and a hay store. This use was approved under application 19/01188/FUL.
- 3.3.** Wellsborough is not identified as a settlement within the Core Strategy. The site is not located within any settlement boundary as defined by the Sheepy Parish Neighbourhood Plan and so lies within the countryside.

4. Relevant planning history

- 4.1. 19/01188/FUL - Planning permission was granted on 31.12.2019 for the change of use of land for equestrian purposes and erection of stables.
- 4.2. 21/01219/FUL - Planning permission was refused on 29.09.2022 for the erection of single dwelling, stables and 132 photovoltaic panels (Off-grid hybrid passiv haus)

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. Three objections have been received; the comments are summarised below:
- Principle of development is unacceptable and contrary to the Core Strategy (Policy 12) the Council's Site Allocations and Development Management Policies Development Plan Document (Policy DM4), the Sheepy Neighbourhood Plan (Policies S4 and S10) and the National Planning Policy Framework.
 - The site lies within the countryside and development would result in significant harm to the landscape character of the area.
 - Occupants would be reliant on the use of a private car.
 - Severe harm on highway and pedestrian safety.
 - Loss of privacy and overlooking.
 - Severe impact on residential amenity as a result of the imposing and obstructive structure.
 - Noise and disturbance as a result of increased traffic.
 - Detrimental impact on right to a private family life and home contrary to Article 8 of the Human Rights Act
 - Unacceptable impact on wildlife and biodiversity.
 - The proposal for PV panels is in direct contradiction to The Neighbourhood Plan as the land is neither brownfield nor non-agricultural.

6. Consultation

- 6.1 Environmental Services (pollution) – No objection subject to conditions related to land contamination.
- 6.2 HBBC Waste Services – Condition recommended to secure a scheme for provision for waste and recycling storage of containers and collection across the site.
- 6.3 LCC Archaeology – No objection subject to condition for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary by intrusive and non-intrusive investigation and recording.
- 6.4 Sheepy Parish Council – Objects to the proposal for the following reasons:
- The design of the development is not truly outstanding
 - The development is not located and designed in a way that is sensitive to the open landscape and its hilltop location
 - The scheme is contrary to the Sheepy Parish Neighbourhood Plan
 - It is doubtful that a development of this scale and design, which includes an indoor swimming pool, is a genuine attempt at zero-carbon or Passivhaus design and without supporting evidence, the application description is misleading.
- 6.5 LCC Ecology – No objection subject to condition related to submission of a Landscape and Ecological Management Plan (LEMP).

6.6 Leicestershire County Highway Authority – 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. A condition regarding parking and turning facilities is requested.

6.7 LCC Drainage – No objection.

7. Policy

7.1. Sheepy Parish Neighbourhood Plan (2018 to 2036)

- Policy S1: Countryside
- Policy S4: Renewable Energy
- Policy S5: Ecology and Biodiversity
- Policy S8: Design
- Policy S10: Housing Development
- Policy S15: Car Parking and New Housing Development

7.2. Core Strategy (2009)

- Policy 12: Rural Villages
- Policy 24: Sustainable design and Technology

7.3. Site Allocations and Development Management Policies DPD (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 DM11: Protecting and Enhancing the Historic Environment
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5. Other relevant guidance

- Good Design Guide (2020)
- Housing Need Study (2019)
- Landscape Character Assessment (2017)
- Leicestershire Highways Design Guide

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Self and custom build dwellings
- Impact upon neighbouring residential amenity
- Impact upon highway safety and parking provision
- Ecology, biodiversity and arboriculture

- Impact on archaeology

Assessment against strategic planning policies

- 8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that the development plan is the starting point for decision making and that the NPPF is a material consideration in determining applications.
- 8.3 The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the Core Strategy. The Strategy identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. Policy 12 of the Core Strategy identifies Sheepy Magna as a Rural Village. The development vision for these settlements is to focus on the aim of ensuring existing services are supported. To do so, the policy supports housing development within settlement boundaries.
- 8.4 Policy DM4 of the SADMP states that the countryside will first and foremost be safeguarded from unsustainable development, to protect its intrinsic value, beauty, open character and landscape character. The policy sets out the circumstances (a to e) where development in the countryside will be considered sustainable and such development needs to also meet certain criteria (i to v). The proposed development does not meet any of the criteria a to e.
- 8.5 The site is not located within any settlement boundary as defined in the Sheepy Parish Neighbourhood Plan. Therefore the site is located within open countryside. Policy S1 of the Neighbourhood Plan identifies that the countryside will be protected for the sake of its intrinsic character, beauty, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all. It states that the following types of development may be considered sustainable in countryside locations:
 - A. The re-use and adaptation of buildings in accordance with the Site Allocations and Development Management Policies DPD Policies DM14 and DM15;
 - B. Dwellings in accordance with Policy S10;
 - C. Development and diversification of agricultural and other land-based rural businesses, which accords with the NPPF;
 - D. Development by statutory undertakers or public utility providers;
 - E. Recreation and tourism provided it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; and
 - F. Renewable energy in accordance with Policy S4.
- 8.6 Policy S10 adds that:

Outside the Sheepy Magna Settlement Boundary, permission for housing development will be limited to:

 - A. Land allocated for residential development at Hornsey Rise Memorial Home in accordance with Policy S13;
 - B. Rural worker accommodation in accordance with Site Allocations and Development Management Policies DPD Policy DM5;
 - C. Replacement dwellings in accordance with Site Allocations and Development Management Policies DPD Policy DM14;

- D. The re-use and/or adaptation of redundant rural buildings in accordance with Site Allocations and Development Management Policies DPD Policy DM15; and
 - E. Exception site affordable housing in accordance with Policy S12.
- 8.7 Policy S4 of the Neighbourhood Plan states that Renewable Energy Ground-mounted solar photovoltaic farms will be supported provided that:
- A. Wherever possible, previously developed (brownfield) or non agricultural land is used;
 - B. Their location in the landscape is selected sensitively;
 - C. Their impact on heritage assets, where applicable, has been fully assessed and addressed;
 - D. Their visual impact, both individually and cumulatively, has been fully addressed and assessed in accordance with the applicable current guidance; and
 - E. The installations are removed when they are no longer in use and the land is fully restored.
- 8.8 The proposal is not compliant with NPPF (2021) paragraph 80 which concerns the development of isolated homes in the countryside. Only criterion e) of paragraph 80 is relevant in this case and this requires a design of exceptional quality. This criterion is not met for the following reasons:
- The design of the development is not 'truly outstanding, reflecting the highest standards in architecture' nor is it considered that it would genuinely 'help to raise standards of design more generally in rural areas'. The Design and Access Statement supporting the application fails to refer to the Sheepy Parish Neighbourhood Plan and fails to explain how the proposed development is a suitable response to the site and its setting. Indeed, it is considered that the proposal fails to appreciate the context, history and the cultural characteristics of this hilltop site. The location, siting, design and proposed materials of the development are poorly related to its surroundings and do not take account of the architecture prevalent in the area, including the local vernacular and other precedents that contribute to local character. To be genuinely of a high standard, the Council would have expected the proposal to be accompanied by a Design and Access Statement that explains the analysis that has underpinned the design of a development proposal and why it is truly outstanding.
- 8.9. Paragraph 134 of the NPPF states that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. It is considered that the proposed development fails to accord with the requirements of this paragraph for a number of reasons. While the design of the proposed dwelling is good it is not considered to fall far short of being considered outstanding. Similarly while the principle of an off-grid Passivhaus, an ultra-low energy building that requires little energy for space heating and cooling, is applauded, it cannot be considered innovative to the level required to meet the requirements of paragraph 134 of the NPPF. Furthermore the location within the countryside where there would be a reliance on private vehicle movements means that the development would not promote a high level of sustainability. Nor would the development fit in with the overall form and layout of its surroundings.
- 8.10 The Council acknowledges that it cannot currently demonstrate a 5 year housing land supply. On 25th March 2021, ONS published the latest median housing price to median gross annual workplace based earnings ratio used in step 2 of the standard method for calculating local housing need as set out in paragraph 2a-004 of the PPG.

The application of the new ratio means that the local housing need for the Borough is now 466 dwellings per annum (using the standard method and affordability ratio and with an additional 5% buffer). The Council can demonstrate a 4.89 year supply of housing land at the current time.

- 8.11 Footnote 8 to paragraph 11 of the 2021 NPPF states that the housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five year supply of deliverable housing sites and therefore paragraph 11(d) of the NPPF is triggered. The NPPF is a material consideration. Paragraph 11(d) states:

“Plans and decisions should apply a presumption in favour of sustainable development.

For decision taking this means:

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

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

- 8.12 Therefore the presumption in favour of sustainable development part (d) ‘the tilted balance’ applies. Paragraph 14 of the NPPF states that when this applies, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided that all parts (a to d) apply. The Neighbourhood Plan was adopted in May 2022 and so is part of the development plan for the district. It contains policies and allocations to meet its identified housing requirement and the Council has at least a three-year supply of deliverable housing sites. The Council’s housing delivery was at least 45% of that required over the previous three years. Therefore points a to d of paragraph 14 apply in this instance.

- 8.13 The proposed development is considered to be unacceptable in principle as the site lies outside of any settlement boundary and within the open countryside. It is therefore contrary to Policy S1 of the Sheepy Neighbourhood Plan which states that the countryside will be protected for the sake of its intrinsic character, beauty, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all.

- 8.14 The proposal would also be contrary to Policy S10 of the Neighbourhood Plan as it does not fall within any category of development that would be supported within the countryside.

- 8.15 The proposal for photovoltaic panels is considered to be contrary to policy S4 of the Sheepy Neighbourhood Plan as it is not going to be installed on previously developed (brownfield) or non-agricultural land.

Design and impact upon the character of the area (including landscape)

- 8.16 Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived

separation and open character between settlements and does not create or exacerbate ribbon development.

- 8.17 Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Policy S8 of the Sheepy Parish Neighbourhood Plan requires that development proposals should respond positively to the character of the area in which it is located.
- 8.18 The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment.
- 8.19 Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.20 The site is currently used for equestrian purposes with grazing being the primary use. The proposed development with a substantial dwelling, ancillary infrastructure together with associated access and parking areas would dominate the area.
- 8.21 The site is located within the Landscape Character Area G - Sence Lowland identified by the Council's Landscape Character Assessment – 2017. The key characteristics of the Landscape Character Area are:
- Flat to gently rolling lowland vale landscape with rounded clay ridges and shallow valleys giving rise to extensive and open views.
 - Presence of surface water in rivers and streams (including the River Sence) and frequent streams, field ponds and ditches as well as the visitor attractions of the Ashby Canal, Bosworth Water Park and Marina.
 - Well-ordered agricultural landscape with a regular pattern of rectilinear fields of typical Parliamentary enclosure lined by low hedgerows with mature hedgerow trees.
 - A network of rural roads and lanes are lined by ditches and wide grass verges, with the main A444 running north south through the area.
 - A rural and tranquil character.
 - Spired and towered churches form prominent landmarks in the open landscape.
 - A rural dispersed settlement pattern of linear villages, scattered farmsteads and barns.
 - Small villages with strong sense of place and local vernacular of red brick.
- 8.22 It is clear that the application site shares many of the key landscape character area key characteristics. The LCA (2017) identifies key sensitivities of this landscape area which include; - Rural character with a lack of significant intrusions or light pollution resulting in a sense of 'remoteness' and tranquillity; Dispersed settlement pattern of small historic villages with a strong sense of local distinctiveness and attractive local vernacular of red brick and historic buildings. Biodiversity value of the grass verges and species-rich grassland which is important in this area which is increasingly dominated by agricultural intensification.

- 8.23 The LCA (2017) sets out strategies for development to consider which seek to protect the key characteristics of this landscape character area. Some of the most relevant strategies to this proposal and application site are;
- Conserve the open rural views including views to church spires and towers in their rural setting.
 - Retain areas of tranquillity and rural character, ensuring that development in such areas respects the rural context.
 - Conserve the areas of semi natural neutral grassland and seek opportunities to extend and link this habitat. Retain the wide grass verges for biodiversity and enhance species diversity within them where possible.
 - Respect and enhance the strong character of the villages, ensuring new development complements existing context with regards to scale, form, materials and boundary features.
- 8.24 The application is supported by a Landscape and Visual Impact Assessment (LVIA). The LVIA acknowledged that the development of the site to provide a new dwelling would result in the loss of 0.98ha of countryside to settlement and would thus have an impact on the sensitive rural landscape. Whilst the applicant claims that the proposals are of a scale and layout that would not result in unacceptable landscape or visual effects within the surrounding area, the baseline character conditions of the site would be altered as a result of the development which would bring about adverse effects and this change would be at odds with the rural character of the area. It is noted that views of the site may be possible from footpath S98 that runs to the south and west as well as in more distant views from footpath S72 that runs east/west to the south of the site.
- 8.25 It is clear from the above sensitivities and landscape strategies that there is a strong focus on maintaining the tranquil rural character. The Parish Council and local residents have raised significant concern about disturbing their tranquillity by the proposed development. The area is a predominantly peaceful and unified countryside landscape, but it would be detrimentally interrupted by the proposed large-scale development. The development is not designed in a way that is sensitive to the open landscape and its hilltop location. This rural location is characterised by a largely open, large-scale landscape that allows for views that extend to the horizon. This large house set in a prominent location would have a significant adverse impact on views and on the wider landscape itself.
- 8.26 The proposed dwelling appears akin to a commercial unit and along with associated infrastructure including the provision of photovoltaic panels would result in a development that will be out of place in its surroundings and unacceptably harmful to the verdant, rural character and appearance of the area. It would appear as an incongruous development, poorly related to the surrounding development that would be highly visible from surrounding public vantage points particularly in the winter months, altering its distinctly rural character and disturbing the tranquil nature of the area. It is considered that the proposed application would significantly adversely impact the character of the area, one that is considered important by nearby residents and the Parish Council.
- 8.27 Development of this site cannot maintain the landscape openness of the site. The proposal will introduce built development into a currently open area of countryside having an adverse impact upon landscape character area.
- 8.28 The proposed development will have significant adverse impacts both on visual and landscape character of the area contrary to Core Strategy 11, Policy DM4 and DM10

of the SADMP (2016). The proposal also causes harm to key characteristics of Charnwood Fringe Settled Forest Hills, which are supported by the Landscape and Character Assessment (2017). Development of this site cannot be adequately mitigated to prevent adverse impacts upon the landscape character of the countryside in this location, contrary to Policy S1 and S8 of the Sheepy Neighbourhood Plan and Policy DM4 of the SADMP.

Self and custom build dwellings

- 8.29 Since April 2016 the Council have had statutory duties to maintain a register of those who want to self or custom build in their area and to grant permissions for enough serviced plots to meet the demand shown by the register on a rolling basis within three years. The Register operates on a yearly basis with each year ending on 30 October. The Council have three years after the end of the registration year to ensure that it has provided sufficient suitable permissioned plots to meet the demand equating to the number on the register for that base period.
- 8.30 In the case of the early base periods (ended 30 October 2019), the statutory period for delivery has now passed and therefore the question arises as to what should happen to those who joined the Register in these earlier base periods. The Right to Build Task Force: Custom and Self-Build Planning Guidance states that the most straightforward approach is to maintain these records on the Register and not require or permit a second application to join a Register. The Register therefore reflects a cumulative number of entries that can then be matched against the cumulative number of relevant permissions. This means that a failure to match numbers on the Registers with cumulative permissions will continue to have consequences after the legislative duty should have been met. At this point the failure to meet the legislative duty should become a material factor in favour of subsequent planning permissions for CSB plots. Therefore, the most important consideration on Council's latest self-build position are the cumulative entries on the register and the cumulative permissions.
- 8.31 It is evident from the Council's self-build register record that there is currently not a shortfall in the current base period 8. There isn't any projected shortfall until at least the end of base period 9 where 19 plots should be permitted by 30th October 2024. Currently 9 plots have been permitted so that leaves 10 more suitable permissions to be granted by 30th Oct 2024, however this future shortfall would only apply consequences in decision-making after the 30th October 2024 and not now. As the Council currently have supplied more suitable cumulative permissions than cumulative demand required at the end of base period 7 (7 surplus supply), and have also already supplied more suitable permissions than the demand for the next base period even without further permissions monitored yet for this year (already 6 surplus supply at the end of base period 8), no weight should be applied to the benefits of contributing to supply with a self-build dwelling permission.
- 8.32 It is therefore clear from the above discussion that the Council is fully meeting their responsibilities in respect of providing self and custom build housing plots. In addition, the harm that has been identified under the first two main issues would be overriding in any event.

Impact upon neighbouring residential amenity

- 8.33 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.

- 8.34 The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. Proposals should demonstrate there will not be a loss of amenity to a habitable room by loss of light or outlook. The SPD states that habitable rooms include living rooms, bedrooms and kitchens. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.35 Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.36 Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 8.37 Paragraph 187 of the NPPF states that decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
- 8.38 An objection has been received with regard to residential amenity by way of additional traffic generated from the development, visual amenity, loss of privacy and overbearingness. The visual impact of the proposal has already been discussed under the previous section of this report and the proposed dwellings is at least 50 metres from the nearest residential property. Whilst there might be some short term noise impact from the construction activities of the development, there have been no matters identified through the consideration of this application that would suggest that the application site would have significant impact on the surrounding residential amenity in terms noise and light pollution, loss of privacy, overlooking or any overbearing effects.
- 8.39 The proposal would provide adequate residential amenity for the future occupiers.
- 8.40 Therefore the proposal is considered to be in accordance with Policy DM10 in this regard as the amenity of neighbouring occupiers of the proposed development would not be adversely affected to warrant refusal of the application.

Impact upon highway safety and parking provision

- 8.41 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 highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)). Policy DM17 also states that development will be supported where it seeks to ensure that there is convenient and safe access for walking and cycling to services and facilities.

- 8.42 Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development. Developments within the town centre should demonstrate that they would not exacerbate existing problems in the vicinity with increased on-street parking. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.43 Paragraph 111 of the NPPF (2021) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.44 Policy S15 of the Sheepy Neighbourhood Plan states that parking provision for new housing will be in accordance with Hinckley & Bosworth Site Allocations and Development Management DPD Policy DM18; developments within Sheepy Magna should demonstrate that they would not exacerbate any existing problems in the vicinity with increased on-street parking.
- 8.45 The application site would be accessed via an existing vehicular access from the main road. Bosworth Road is a classified C Road subject to the national speed limit.
- 8.46 Objections have been raised by the local resident stating that the proposed development would have a severe residual impact on highway and pedestrian safety. The County Highway Authority has been consulted though and has no objections to the proposed development.
- 8.47 The access to this development is off a busy highway (national speed limit) that is poorly aligned, which does not benefit from any lighting, or pavements. No details have been provided as part of this application regarding safe access for pedestrians and cyclists and so as submitted the proposal lies in an unsustainable location where there is no convenient or safe access for walking and cycling to services and facilities contrary to part b) of Policy DM17 of the SADMP. The proposed development is not considered to have adverse impact upon highway safety in terms of vehicular access.

Ecology, Biodiversity and Arboriculture

- 8.48 Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.49 Paragraph 170 of the NPPF states that development should result in a net gain for biodiversity by including ecological enhancement measures within the proposal.
- 8.50 Whilst the plans offer enhancements for biodiversity, there will also be loss of this habitat to solar panels, house and garden. Without a biodiversity net-gain calculation it cannot be confirmed that the amount of created habitat is sufficient to compensate for habitat loss. However, the site is large, and it is considered that a net increase in

biodiversity could be secured via condition had approval been recommended. LCC Ecologist has no objection to the proposal subject to condition.

- 8.51 National and local plan policies require development to be in measurable net-gain, and for gains to be integrated within development proposals. With appropriately worded condition biodiversity net gain of the site could be achieved.

Archaeology

- 8.52 Policy DM13 states that where a proposal has the potential to impact a site of archaeological interest, developers should set out in their application an appropriate desk-based assessment and, where applicable, the results of a field evaluation detailing the significance of any affected asset.
- 8.53 The applicant has submitted a geophysical survey (SUMO Ref.: 10364) and desk based assessment (ULAS Report No.: 2022-152) in support of the application, which is welcomed. The desk-based assessment (DBA) has identified a moderate potential for archaeological remains dating to the medieval period, and an additional potential for prehistoric, Roman and post-medieval remains. Although the geophysical survey has not identified any positive evidence for archaeological activity, it has not established their absence either, as not all types of archaeological deposit (including prehistoric, Anglo Saxon remains and human burials) are sensitive to detection by this method.
- 8.54 In accordance with National Planning Policy Framework (NPPF), Section 16, paragraph 194, the development area is of archaeological interest and also has the potential for further unidentified archaeological deposits. Based upon the available information, it is anticipated that these remains whilst significant and warranting further archaeological mitigation prior to the impact of development, are not of such importance to represent an obstacle to the determination of the application (NPPF paragraph 195).
- 8.55 LCC Archaeologist has commented that while the current results are sufficient to support the planning decision, further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme.
- 8.56 NPPF paragraph 205, states that Local Planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.
- 8.57 In that context LCC Archaeologist has recommended that the proposal is acceptable subject to conditions for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary by intrusive and non-intrusive investigation and recording. This can be secured through condition should planning permission be granted. Therefore the proposal is in accordance with Policy DM13 of the SADMP and Paragraph 194 and 205 of the NPPF.

9. Planning Balance

- 9.1 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.

- 9.2 The housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement (450dpa) than required by the up-to-date figure using the standard methodology of 452 dwellings per annum. Notwithstanding the very limited change in housing requirements per year, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 9.3 The Council can demonstrate a 4.89 year supply of housing land at current time.
- 9.4 The proposal would be in conflict with Core Strategy Policy 12, Policy DM4 and DM10 of the SADMP. These policies are consistent with the Framework and are afforded significant weight. The proposal, whilst involving development within the countryside, has been found to have significant adverse impact on the landscape and visual character of the area, in conflict with Policy DM4 and DM10 of the SADMP, Policies S1, S4 and S10 of the Sheepy Neighbourhood Plan and Paragraph 80 and 134 of the NPPF.
- 9.5 The site is located within the countryside and this is not a sustainable location. It is isolated from any settlements and the Core Strategy does not direct housing growth to isolated countryside locations. This location would be heavily reliant on the use of the private car for trips to shops, services and work/school as the immediate area has no facilities.
- 9.6 Paragraph 11 of the NPPF states that any harm identified should significantly and demonstrably outweigh the benefits of the scheme. It is therefore important to identify any further benefits. Using the three strands of sustainability as defined in the NPPF, the benefits are broken down into economic, social and environmental.
- 9.7 Therefore, weighing against this conflict with the Development Plan is the Government's commitment to significantly boosting the supply of housing through the Framework. The Council is unable to demonstrate a five-year supply of housing and the proposal would result in the delivery of an additional house that would make a modest benefit to housing supply.
- 9.8 As the Council currently have supplied more suitable cumulative permissions than cumulative demand required at the end of base period 7 (7 surplus supply), and have also already supplied more suitable permissions than the demand for the next base period even without further permissions monitored yet for this year (already 6 surplus supply at the end of base period 8), no weight should be applied to the benefits of contributing to supply with a self-build dwelling permission.
- 9.9 The proposal would result in economic benefits through the construction of the scheme through creation of jobs and constructions spend, albeit for a temporary period. Some environmental benefits would be provided such as additional planting through landscaping and via condition a biodiversity net gain could be provided. These benefits are considered though to be relatively modest and do not outweigh the significant and permanent harm to the character and appearance of the area.
- 9.10 The proposal is contrary to the NPPF's approach to recognising the intrinsic character and beauty of the countryside to which significant weight is afforded. It

would also harm the archaeology of the site. It would also give rise too hard to the development strategy, undermining the plan led approach endorsed by the NPPF, a matter that carries significant weight given the remoteness of the site to services and facilities. The conflicts with the development plan significantly and demonstrably outweigh the identified benefits of the scheme when assessed against the Framework as a whole and provide clear reasons for refusing the development proposed.

9.11 The proposal would not be a sustainable form of development.

10. Equality implications

10.1 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.

10.2 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.

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

10.4 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.

10.5 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).

11. Recommendation

Refuse planning permission for the reasons set out below:

Reasons

1. The application proposes residential development in a prominent location outside of any defined settlement boundary and within the countryside on an area of landscape which positively contributes to the important rural character of the area. Built development in this location would detrimentally erode the countryside character identified by Neighbourhood Plan. The proposed development would have a significant adverse impact on the landscape and visual character of the area and fails

to protect the intrinsic value, beauty and open character of this countryside location, contrary to Core Strategy Policy 12 of the Core Strategy, Policies DM1, DM4 and DM10 of the Site Allocations and Development Management Policies DPD 2016, Policies S1, S8 and S10 of the Sheepy Parish Neighbourhood Plan and Section 15 of the National Planning Policy Framework (2021).

2. The site is located within the countryside and this is not a sustainable location. It is isolated from any settlements and the Core Strategy does not direct housing growth to isolated countryside locations. This location would be heavily reliant on the use of the private car for trips to shops, services and work/school as the immediate area has no facilities. Therefore the proposal is contrary to paragraph 79 of the NPPF which states that housing should be located where it will enhance or maintain the vitality of rural communities and is contrary to the requirements of Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document. The harm identified through the unsustainable location of development is not outweighed by the Borough's lack of a 5-year housing land supply or the provision of a self-build dwelling.
3. The proposal for photovoltaic panels is contrary to the requirements of Policy S4 of the Sheepy Neighbourhood Plan as it is not going to be installed on previously developed (brownfield) or non-agricultural land. The panels would therefore have a significant detrimental effect on the character and appearance of the countryside.

12 Notes to applicant

The above Refusal relates to the submitted plans and documents received by the Local planning Authority on 03/04/2023.