

Delegated Report

Planning Ref: 24/00270/FUL
Applicant: Mrs Pauline Rosa Taylor
Ward: Twycross, Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: Land North Of Pipe Lane Orton On The Hill

Proposal: Erection of detached dwelling, formation of access from Pipe Lane and associated works.

1. Recommendations

1.1. Refuse planning permission subject to:

- Planning reasons outlined at the end of this report.

2. Planning Application Description

- 2.1. This planning application seeks full planning permission for the provision of a new detached, three-bedroom dwelling and associated access at land north of Pipe Lane, Orton on the Hill.
- 2.2. The scheme creates a new access on to Pipe Lane from the southwest corner of the site. To facilitate the new access and the new development, the site is excavated to a depth between 0.8m and 2.2m, which results in the removal of a section of grass verge and existing trees along Pipe Lane that are outside of the site's identified red line boundary.
- 2.3. The development is designed in an 'L' shape and is located within the south-eastern corner of the application site. The scheme is two-storey in massing along its southern element and single storey in massing as the structure extends north. The proposal externally measures 14.8m in width by 11.8m in depth, with a total footprint of 107sqm.
- 2.4. The dwelling follows the design concept of a converted agricultural building with a limited number of small, proportioned openings for windows on the street-facing southern and western elevations. The proposal is constructed with red brick facing walls, a dual pitched clay tile roof, and timber-framed casement windows set under brick arches and over brick cills.
- 2.5. The development features two main pitched roofs and a mono-pitched roof to the north of the southern aspect of the scheme. The pitched roof parallel to Pipe Lane has a ridge height of 5.8m, and an eaves height of 3.8m, whereas the pitched roof parallel to the eastern boundary of the site has a ridge height of 4.7m, and an eaves height of 2.4m.

- 2.6. Following concerns raised by the Conservation Officer, the ground levels of the development were reduced, and the height of the development was reduced by 1.5m to reduce the impact of the proposal on the character of the area and the Orton on the Hill Conservation Area. This reduces the overall height of the scheme to 4.9m from the ground level on Pipe Lane.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is within the identified settlement boundary of the rural hamlet, Orton on the Hill, and its associated Conservation Area. Pipe Lane is an adopted, but unclassified, public highway that is subject to a 30mph speed limit.
- 3.2. The Orton on the Hill Conservation Area Appraisal (OHCAA) (2009) describes Orton on the Hill as being divided into two distinct character areas, one of which is the area around The Green and Pipe Lane. There is a Protected View that faces west along Pipe Lane, including views of the site's southern boundary, from in front of 4 Pipe Lane. The Green and Pipe Lane are characterised by relatively unplanned organic pattern of buildings, which are separated from each other by distance, green spaces, and continuous hedges.
- 3.3. The application site is an irregular shaped paddock that provides an area of green space between the built forms within Orton on the Hill. The site features a Category 'A' Horse Chestnut Tree that is classified within the OHCAA as an Important Tree. The tree is located towards the northern boundary of the site and is protected by Tree Preservation Order, 99/00019/TPORD. A further Protected View is identified within the OHCAA that faces towards the application site and the Important Tree.
- 3.4. The application site is located on an elevated area of land to the north of Pipe Lane. The site is separated from the public highway by a steep and highly vegetated grass verge. The establishment of this vegetation, including sections of hedgerow and two trees, and the provision of timber post and railing fencing in this area provides a great sense of enclosure to the southern boundary of the site. This reinforces the rural character of this section of the Conservation Area, its Protected View, and the street scene of Pipe Lane.
- 3.5. At its lowest, there is a significant level difference between the Pipe Lane (97.5m AOD) and the application site (99m AOD) by approximately 1.5m. The site then rises by a further metre to 100.3m AOD at the northern boundary of the site. Currently, the site can currently only be accessed via a gated field access to the north of the site, which is via the rear garden of Lancaster House, 30 The Green, Orton on the Hill.
- 3.6. The OHCAA identifies the application site and Lancaster House within a larger Potential Development Area (PDA). The OHCAA states that the PDA:

"Would accommodate some development, if closely related to the existing group of historic buildings. The area could include the existing bungalow to the east utilising the existing vehicular access."

- 3.7. Since the publication of the OHCAA, two dwellings (Lancaster House and York House) have been constructed to the north of the application site following planning permissions 14/00515/OUT, 15/00633/FUL, 18/00221/FUL, and 18/00680/FUL.
- 3.8. The application site is located close to a mixed group of traditional and modern development within the southern section of the Conservation Area. The western section of the former schoolmaster's house, the former school building (which are identified as Important Local Buildings within the OHCAA), and Lower Farmhouse (a subdivided Grade II Listed Building) are buildings that sit comfortably within the wider context of the application site and contribute positively to the character of the street scene of Pipe Lane.
- 3.9. The OHCAA also identifies that modern buildings are generally sited away from public spaces at the rear of their respective plots, with some exceptions, which reduces their impact on the Conservation Area.

4. Relevant Planning History

4.1 13/00135/TPO

- Removal of tree
- Refused
- 15.04.2013

This application was refused for the following reason:

1. In the opinion of the Borough Council, the removal of this protected and important tree would result in a detrimental impact on the visual amenity of the surrounding area and that sufficient justification for its removal has not been demonstrated.

4.2 12/01089/TPO

- Removal of tree
- Refused
- 11.02.2013

4.3 12/00003/PP

- Demolition of Existing Dwelling and the Erection of 6 Dwellings with Associated Access
- Appeal Dismissed
- 22.08.2012

4.4 11/00603/CON

- Demolition of Existing Dwelling and the Erection of 6 Dwellings with Associated Access
- Refused Conservation Area Consent
- 23.11.2011

4.5 11/00602/FUL

- Demolition of Existing Dwelling and the Erection of 6 Dwellings with Associated Access
- Refused
- 23.11.2011

This application was refused for the following reasons:

1. In the opinion of the Local Planning Authority, the massing of the proposed dwellings would result in a scheme which dominates the surrounding area, which is considered to be harmful to the character and appearance of the surrounding area, and to the detriment of the character and appearance of the Conservation Area.
2. In the opinion of the Local Planning Authority, the proposal results in a scheme which occupies a site which acts as a visual break between buildings, which contributes to the special character of the area.
3. In the opinion of the Local Planning Authority, the scheme fails to provide any definitive pedestrian improvements along Pipe Lane, which would lead to increased danger for pedestrians.
4. In the opinion of the Local Planning Authority, the site is located in an unsustainable location, remote from key services, and public transport, whereby journeys would be reliant upon private car journeys.
5. In the opinion of the Local Planning Authority, the Applicant has failed to demonstrate that sufficient suitable affordable housing would be provided.

5. Publicity:

- 5.1 The application has been publicised by sending out letters to local residents and a site notice was also posted within the vicinity of the site. An additional round of public consultation was undertaken following the submission of revised plans.
- 5.2 14 representations were received from members of the public from 11 separate addresses. All have objected to the proposal and the following matters have been raised:

- Absence of foul and surface water drainage details.
 - The Arboricultural Implications Assessment Plan is based on superseded plans.
 - Concerns with the quality of the Arboricultural Impact Assessment.
 - Drainage concerns.
 - Ecological concerns.
 - Ground levels exacerbate the visual prominence of the development to the detriment of the character of the area.
 - Highway safety concerns.
 - Incongruous development.
 - Insufficient highway capacity of Pipe Lane.
 - Insufficient off-street parking.
 - Light pollution concerns.
 - On-street parking concerns.
 - Overbearing and dominating form of development.
 - Overlooking and loss of privacy to neighbouring dwellings.
 - Significant harm to the character of the area.
 - Significant harm to the character and significance of the Orton on the Hill Conservation Area.
 - Significant harm to or loss of the Protected Tree within the site.
 - Significant harm to a Protected Vista within the Orton on the Hill Conservation Area.
 - Significant harm to important views of the Grade I Listed Church.
 - Unsustainable location for development.
- 5.3 One member of the public has referred to the Committee Report for planning permission 15/00633/FUL that clarifies that the site to the north had permeability testing confirmed low levels of infiltration across the site. Consequently, 15/00633/FUL required a dedicated bio-disc sewer treatment package unit and an extensive underground soakaway system.
- 5.4 Another member of the public highlighted that Page 13 of the Applicant's own Preliminary Ecological Appraisal states that the Protected Tree, "*Would be likely to meet the requirements for classification as veteran.*"
- 5.5 A further member of the public noted that access via Pipe Lane for the development of the site was previously refused.
- The Case Officer notes that planning application 11/00602/FUL for six dwellings, which sought for an access via Pipe Lane, was only refused on highways grounds due to the lack of provision of pedestrian improvements along Pipe Lane and not for highway safety reasons regarding a safe and suitable access.*
- 5.6 A member of the public has highlighted that the Applicant cannot remove trees T4 (Norway Spruce) and T5 (Ash) that are within the grass verge because they are within the County Council's land and ownership.

5.7 No further responses have been received.

6. Consultation:

6.1 Twycross Parish Council have objected to the development for the following reasons:

- Absence of foul and surface water drainage details.
- Drainage concerns.
- Highway safety concerns.
- Significant harm to the character of the area.
- Significant harm to the character and significance of the Orton on the Hill Conservation Area.
- Significant harm to, or the loss of, the Protected Tree within the site.

6.2 The Council's Conservation Officer identified that the development was likely to have an adverse impact upon the character and appearance, and thus significance, of the Orton on the Hill Conservation Area. Therefore, the Conservation Officer advised that the Decision Taker needs to apply the relevant tests within Local and National Planning Policy when determining the planning application.

6.3 There have been no objections from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer
- HBBC's Waste Management Officer (subject to conditions)
- Leicestershire County Council (LCC)'s Archaeology Department (subject to conditions)
- LCC's Ecology Department (subject to conditions)

Archaeology:

6.4 The Leicestershire and Rutland Historic Environment Record (HER) indicates that the site has significant archaeological interest within the medieval and post-medieval settlement core of Orton on the Hill because the site lies close to the recorded location of the medieval manor house and to earthwork platforms relating to the medieval village. Leicestershire County Council have reviewed the available historic mapping and aerial photography, which demonstrates that the site was formerly occupied by a dwelling and several outhouses. Notwithstanding this, there is limited indication that the site has seen substantial disturbance.

6.5 Given the above, there is a high potential for the presence of well-preserved archaeological remains relating to the medieval and post-medieval settlement within the site. Furthermore, as the villages of Leicestershire appear to have evolved alongside their open field systems during the later 1st millennium AD, there is a likelihood that buried archaeological remains will be affected by the development.

- 6.6 As a result, Leicestershire County Council (LCC)'s Archaeology Department requested that the determination of the application was deferred until the Applicant provides an Archaeological Impact Assessment of the proposals including a field evaluation.
- 6.7 An Archaeological Impact Assessment was submitted on 07 June 2024. However, the Applicant advised that they could not undertake pre-determination trial trenching because there is currently no formal vehicular access to the site without crossing third party land within the ownership of Lancaster House.
- 6.8 The circumstances of the site were discussed with the County Council who acknowledged it would be unreasonable to pursue pre-determination trial trenching evaluation. Therefore, the County Council confirmed that two pre-commencement planning conditions consisting of a staged programme of archaeological investigation including trial trenching, should be secured. Whilst the proposed ground excavations were unlikely to alter their recommendations, the Archaeology Department welcomed any further information of these works to support their understanding of the wider implications of the development.
- 6.9 Alongside this, the County Council emphasised that the site possessed a potential for significant archaeological buried remains and reiterated the need for further trial trenching investigation to inform an appropriate mitigation strategy.

Drainage:

- 6.10 In light of the number of concerns raised by members of the public, the Case Officer requested further clarification on the assessment of drainage to accommodate the development by the Council's Drainage Officer.
- 6.11 The Drainage Officer confirmed that, given the scale and nature of the proposed development, it would be unreasonable to apply a drainage condition to any planning consent. The Drainage Officer also highlighted that planning permission does not allow the Applicant to discharge surface water, which would be subject to a separate application to the relevant authority such as Severn Trent Water in the case of discharge to a public sewer.

Ecology:

- 6.12 The County Council's Ecology Department have confirmed that the Applicant's Preliminary Ecological Appraisal (PRA) is acceptable, and therefore no further surveys are required.
- 6.13 However, in order to demonstrate net gain in biodiversity, the Ecology Department requested a Biodiversity Enhancement Scheme to be secured via planning condition. This Enhancement Scheme should include a native planting scheme, at least one bat box, and at least one bird box. The Applicant agreed to a planning condition on 29 April 2024.

Highways:

- 6.14 The Local Highway Authority (LHA) referred to standing advice and stated that the access geometry, gradient, and surfacing should be in accordance with Figure DG17 of Part 3 of the Leicestershire Highway Design Guide (LHDG).

Waste:

- 6.15 The Council's Waste Management Officer requested a planning condition that secures the adequate provision of storage and collection of refuse and recycling containers.
- 6.16 This was agreed by the Applicant on 29 April 2024.
- 6.17 Cadent Gas and Severn Trent Water did not respond to the planning application.
- 6.18 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 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 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (December 2023)
- National Design Guide (2019)
- Planning Practice Guidance (PPG)
- Self-Build and Custom Housebuilding Act (2015)
- Levelling-Up and Regeneration Act (LURA) (2023)

7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)
- Orton on the Hill Conservation Area Appraisal (OHCA) (2009)
- Technical Housing Standards – Nationally Described Space Standards (2015)

8. **Appraisal:**

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

- Principle of development
- Housing land supply
- Self-build and custom housebuilding 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.

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8.3 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP). In accordance with Paragraph 225 of the NPPF, due weight should be given to existing policies according to their degree of consistency with the NPPF.

8.4 The adopted Core Strategy states that because of the limited services in rural hamlets, development shall be confined to infill housing development, local choice schemes, and conversion of agricultural buildings to employment uses. Policy 13 of the adopted Core Strategy states that the Council shall support housing development within the settlement boundary of rural hamlets that provides a mix of housing types and tenures as detailed in Policies 15 and 16 of the adopted Core Strategy.

8.5 The application site is within the settlement boundary of Orton on the Hill in an area that is identified by the OHCAA as having potential for development. However, the OHCA confirms that this site can only accommodate some development if it is closely related to the existing group of historic buildings.

- 8.6 Two dwellings have recently been developed in the northern section of this Potential Development Area and 4 Pipe Lane remains in situ. As the area has not been comprehensively redeveloped as a whole, any development within the application site, as a remnant of this area, is now subjected to the constraints of these dwellings as well as the existing group of historic buildings.
- 8.7 Given the above, it is considered that the proposal is acceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Housing Land Supply:

- 8.8 Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), Hinckley and Bosworth Borough Council are able to demonstrate 5.6 years of deliverable housing on 29 July 2024. However, due to the age of relevant housing policies within the adopted Core Strategy, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered in accordance with Footnote 8 and Paragraph 11 of the NPPF.
- 8.9 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.
- 8.10 The development is for one residential property within a rural area, and therefore Policy 15 (Affordable Housing) and Policy 16 (Housing Density, Mix and Design) of the adopted Core Strategy are not applicable for this scheme.
- 8.11 In light of the above, the benefit of providing one dwelling within this application site towards the Borough's housing land supply is considered to attract very limited weight in the planning balance.

Custom and Self-Build Housing (CSB):

- 8.12 Section 1 of the Self-Build and Custom Housebuilding Act defines self-build and custom housebuilding as the building or completion of houses by individuals, associations of individuals, or persons working with or for individuals or associations of individuals to be occupied by as homes by those individuals.
- 8.13 The Applicant has submitted a signed declaration form that states the application site is in line with the definition of a self-build and custom-build development provided within the Self-Build and Custom Housebuilding Act 2015, which is a material consideration within this planning application.
- 8.14 However, it is noted that the Applicant has attempted to achieve several housing developments within this site via 08/00569/FUL and 11/00602/FUL. None of which were identified as self-build or custom housebuilding developments.

- 8.15 Moreover, this signed declaration was also submitted by the same Applicant within refused outline planning application 24/00284/OUT. Within this declaration, the Applicant has not stated that they will occupy the premises as their sole or main residence from completion of the property.
- 8.16 In addition, there is no other reference to this proposal being a self-build or custom house building scheme within the submitted documents of this application, nor any demonstration how the design of the scheme meets the definition of a self-build and custom housebuilding development as described at Section 1 of the Self-Build and Custom Housebuilding Act 2015.
- 8.17 Ultimately, Section 4 of the Self-Build and Custom Housebuilding Regulations 2016 deals with eligibility for entry on to the self-build register that local authorities are required to keep under Section 1(1) of the Self-Build and Custom Housebuilding Act 2015. Section 4(3) lists the requirement for an individual being eligible and point (e) is that the individual is seeking to acquire a serviced plot of land for their own self-build and custom housebuilding.
- 8.18 Therefore, at very least, the development is not considered to be eligible to be a self-build and custom housebuilding development because the Applicant already owns the land and Section 4(3)(e) requires individuals to be seeking to acquire a plot of land.
- 8.19 Given the above, the Applicant has failed to demonstrate that the development within this full planning application is in line with the definition of a self-build and custom-build development provided within the Self-Build and Custom Housebuilding Act 2015.
- 8.20 Notwithstanding this, Hinckley and Bosworth Borough Council supplied more suitable permissions than demand required at the end of Base Period 8 (31 October 2022 to 30 October 2023). In this circumstance, no additional positive weight would be generally attributed to the provision of custom and self-building housing at this time.
- 8.21 However, the Council needed to grant 19 suitable cumulative custom and self-build housing developments by 30 October 2024. As of 01 May 2024, the Council granted 12 permissions and so only seven further permissions needed to be granted prior to this date. Given this deadline has passed and the Council's position on its custom and self-build supply is still being updated, the provision of a single custom and self-build dwelling should be afforded moderate weight in the planning balance.
- 8.22 Nevertheless, the Applicant has failed to demonstrate that their development is in line with the definition of a self-build and custom-build development provided within the Self-Build and Custom Housebuilding Act 2015 and therefore, the benefit of the proposal's contribution towards the Council's supply of Self-Build and Custom Housebuilding is given no weight in the planning balance.

Design and Impact upon the Character and Significance of the Area and the Historic Environment:

- 8.23 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the Local Planning Authority when determining applications for development which affects a Listed Building or its setting to have special regard to the desirability of preserving the Listed Building or its setting or any features of special architectural and historic interest which it possesses.
- 8.24 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.25 Section 16 of the National Planning Policy Framework provides the National Policy on conserving and enhancing the historic environment. Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 8.26 Nevertheless, Paragraph 212 of the NPPF confirms that local planning authorities should look for opportunities for new development within Conservation Areas, and within the setting of heritage assets, to enhance or better reveal their significance.
- 8.27 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.
- 8.28 Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment and heritage assets. All proposals affecting the setting of Listed Buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.29 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.

Impact upon the Setting of Listed Buildings:

- 8.30 The scheme excavates the site in order to lower the ground floor level of the development. This reduces the roof ridge and eaves levels of the development to below that of a standard two-storey dwelling, and to a level below that of the traditionally scaled Listed Building, Lower Farmhouse.

- 8.31 Consequently, it is not considered that the scheme would have an overbearing impact upon the street scene or diminish the presence of Lower Farmhouse as the predominant historic building within this section of the Conservation Area. Therefore, the scale of the development is considered to have a neutral presence within the setting of this Listed Building.

Impact upon the Protected Tree:

- 8.32 Paragraph 136 of the NPPF states that existing trees should be retained wherever possible. The OHCAA highlights that the Protected Horse Chestnut Tree within the site is an Important Tree. The submitted Arboricultural Impact Assessment (AIA) acknowledges that, *"The visual amenity of the tree is considered high,"* and is categorised as a Category A tree.
- 8.33 In accordance with Paragraph 4.6.1 of the British Standard (BS) 5837: *Trees in Relation to Design, Demolition, and Construction* (2012), the calculated Root Protection Area (RPA) for each tree should be capped to 707sqm. Paragraph 7.4.2.3 of this British Standard also confirms that new permanent hard surfacing should not exceed 20% of any existing unsurfaced ground within an RPA.
- 8.34 Given the importance of the Tree, the Tree Protection Plan demonstrates a 15m RPA with an area of 707sqm, which is protected by protective fencing. The proposed dwelling is not located within the Protected Tree's RPA and therefore it is not considered to result in any significant harm to the Protected Tree. To support this, the protective fencing around the Horse Chestnut Tree as detailed within the Proposed Site Plan and the Tree Protection Plan can be secured via condition.
- 8.35 However, Paragraph 7.2.1 of BS:5837 states that intrusion into soil (other than for piling) within an RPA is generally not acceptable and Paragraph 7.4.2.1 of BS:5837 highlights that the design should not require excavation into the soil. Ultimately, Paragraph 7.6.1 of BS:5837 confirms that it is essential to avoid excavating down through rootable soil if trees are to be retained.
- 8.36 The development features excavation works for the off-street parking and turning facilities within the site that are located in the Protected Tree's RPA. This is contrary to the requirements of British Standard 5837.
- 8.37 Notwithstanding this, these excavation works intrude into the RPA by 2.7sqm. This represents an incursion into the RPA of less than 0.4%. In light of this, whilst excavation works should be avoided within RPAs, this degree of works is not considered to result in any significant adverse impacts to the Protected Tree.
- 8.38 As a result, it is not considered that the development results in any significant harm to the Protected Tree.

Impact upon the Orton on the Hill Conservation Area:

- 8.39 Policy 13 of the adopted Core Strategy states that the Council will require new development to respect the character and appearance of the relevant Conservation Area by incorporating locally distinctive features of the Conservation Area into the development.
- 8.40 Ultimately, the OHCAA states that new development should contribute positively to the character or appearance of the Conservation Area in terms of siting, scale, design, and materials.
- 8.41 The converted farm building design concept for the dwelling loosely results in the appearance of a simple vernacular building, which is one of the general categories of building style identified within the OHCAA. The scheme also features a basic level of architectural detailing including appropriate construction materials that are prevalent in the area including red brick and clay roof tiles.
- 8.42 However, to ensure good design quality that follows the local vernacular, further detailing such as brick detailing to the eaves, rise and fall rainwater goods brackets, cast iron effect rainwater goods, and a traditional brick bonding pattern to the southern and western elevations is required, which can be secured via planning condition.
- 8.43 Notwithstanding this, the OHCAA confirms that the large green spaces between the groups of buildings along Pipe Lane and around the village green are important to the character of the Conservation Area and should be retained.
- 8.44 The application site is now one of few such green spaces between buildings and is bounded by sections of hedging, including along the site frontage and the Pipe Lane street scene. As a result, the application site shares some key spatial and visual characteristics within defined key spaces elsewhere within the Conservation Area and these characteristics, along with the rural character of the site, are considered to make a positive contribution to its significance.
- 8.45 In recent times, following the loss of the former Orton Hall, the spaces between farms, particularly along Main Street, have been infilled with new dwellings to the detriment of the traditional character of the settlement. An example of this is 4 Pipe Lane, to the east of the site, which is considered to be a building of poor visual quality.
- 8.46 Ultimately, the development is considered to represent the infilling of a large green space between buildings within a site that makes a positive contribution to the significance of the Conservation Area. Therefore, the provision of a dwelling within this site is considered to result in harm to the character and thus significance of the character of the Conservation Area. The proposed excavation works are considered to further the detrimental urbanising effects of the scheme.
- 8.47 The Proposed Site Plan suggests a reduction in the ground levels within the site between 0.8m and 2.2m for the property and its associated parking area, access, path, and patio areas.

- 8.48 These significant level changes, alongside the provision of high retaining walls, are considered to be wholly incongruous with the character of the area and do not relate to the group of historic buildings in close proximity to the site. Therefore, the development results in harm to the character and thus significance of the character of the Conservation Area.
- 8.49 In comparison to the existing ground levels within the wider garden and the southern boundary verge adjacent to Pipe Lane, the proposed ground levels reduce the ridge height of the property to 3.6m and the eaves height to 1.4m.
- 8.50 Consequently, the subsequent height of the development is not considered to be in keeping with the character of the area and does not relate to the group of historic buildings in close proximity to the site. This is considered to cause harm to the character and thus significance of the character of the Conservation Area.
- 8.51 It is clear that these level changes and extensive engineering works are required in order to reduce the impact of the scheme on the setting of the adjacent Listed Buildings and the prominence of the development within the street scene of Pipe Lane. However, the requirement of such extensive works to achieve an *'appropriate'* design for the scheme emphasises that development in this location is contrived and does not represent good design.
- 8.52 This is also apparent due to the constraints of the Root Protection Area of the important Protected Tree. These constraints force the location of the proposal to the back edge of the site adjacent to the verge on the southern boundary next to Pipe Lane. This is not considered to follow the building line of the adjacent properties 4 and 10 Pipe Lane.
- 8.53 Whilst the siting of traditional development within their respective plots in the Conservation Area does vary, the position of the dwelling and its associated access along the southern boundary of the site increase its visual prominence within the street scene of Pipe Lane and within the Conservation Area. This prominence is considered to exacerbate the harm that is caused by the development to the character of the street scene of Pipe Lane and the wider Conservation Area.
- 8.54 The extensive 14.8m width of the development along the southern boundary of the site is also considered to significantly reduce views of the Protected Tree. This is considered to reduce the Protected Tree's contribution to the visual amenity of the area and therefore results in an additional degree of harm to the character of the site, the street scene of Pipe Lane, and the wider Conservation Area.
- 8.55 Furthermore, to facilitate the new access, the development also results in the loss of the existing hedgerow and Category C trees along the southern boundary of the site, which currently contribute to amenity and rural character of the Conservation Area. This permanent loss to provide the new access is considered to have a detrimental impact upon the street scene of Pipe Lane by eroding its rural character.

- 8.56 Whilst details of a hard and soft landscaping scheme can be secured via planning condition, this is not considered to overcome the harmful urbanising effects of the new access upon this section of the site and the Conservation Area. In addition, hard surfacing is required for the access onto Pipe Lane in accordance with the Leicestershire Highway Design Guide, which the Council's Conservation Officer has highlighted as one of the greatest urbanising impacts of the new access.

Summary:

- 8.57 To summarise, the construction materials and detailing of the development can be secured via planning condition and the excavation works can ensure that the height of the dwelling does not result in any overbearing impacts on the character of the setting of the adjacent Listed Building, Lower Farmhouse.
- 8.58 However, by virtue of its size, scale, layout, siting, design, and significant ground level differences, the development is considered to appear contrived, and wholly incongruous with the surrounding area. Ultimately, the provision of a dwelling within this site detrimentally impacts the site's positive contributions to the rural character and visual amenity of the character and significance of the site, the street scene of Pipe Lane, and the Orton on the Hill Conservation Area.
- 8.59 This harm is heightened by the urbanising impacts caused by the provision of the new site access, the significant engineering works required to address the ground level disparities within the site, and the constraints of the site that force the development into the most visually prominent location within the site.
- 8.60 In light of all these factors, the development is considered to result in a significant adverse impact upon the character and appearance of the Orton on the Hill Conservation Area, which is a designated heritage asset. Therefore, the development is considered to be contrary to, and in conflict with, Policies DM10, DM11, and DM12 of the SADMP, Policy 13 of the adopted Core Strategy, and the guidance within the Orton on the Hill Conservation Area Appraisal and the Good Design Guide. This harm to the designated heritage asset is considered to represent less than substantial harm in terms of the NPPF. Therefore, in accordance with Paragraph 208 of the NPPF and Policies DM11 and DM12 of the SADMP, the less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal.

Impact upon Residential Amenity:

- 8.61 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.
- 8.62 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.

- 8.63 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.
- 8.64 Based on the approved plans for Plot 1 of 20/01077/CONDIT, Lancaster House, the property to the north of the site, has three principal windows to the habitable rooms for the kitchen/ living room and the lounge/ snug on the ground floor and the Master Bedroom on the first floor that face into the application site.
- 8.65 The approved plans for York House (Plot 2 of 20/01077/CONDIT) to the northwest of the site also indicate that the principal habitable windows of the kitchen/ living space on the ground floor and the master bedroom on the first-floor face towards the application site.
- 8.66 The proposal is set down within the site and exceeds the separation distance requirements for both single storey and two-storey properties from the dwellings to the north and west of the site.
- 8.67 The scheme is separated from 4 Pipe Lane by existing mature vegetation and sited in front of the existing property.
- 8.68 As a result, given its size, scale, and location, the development is unlikely to result in any significant adverse impacts to neighbouring residential amenity.
- 8.69 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 Nationally Described Space Standards (NDSS) (2015) wherever possible.
- 8.70 The proposal meets the floor space and built-in storage requirements of the NDSS.
- 8.71 However, the principal window of the kitchen area faces onto a 4.5m deep patio area that is bordered by a 2.2m high retaining wall. This is not considered to provide a high level of visual amenity, nor a sufficient level of light for the future occupants of the scheme. The impact of these level differences is evident within the Proposed West Elevation.
- 8.72 The window on the opposite side of the development for the Living Room faces directly into existing mature vegetation, which is also not considered to provide a high level of visual amenity, nor a sufficient amount of light for the future occupants of the scheme.

- 8.73 Therefore, the development results in harm to the residential amenity of the future occupiers of the scheme, which is contrary to Policy DM10 of the SADMP and Paragraph 135 of the NPPF.
- 8.74 In accordance with Paragraph 10(c) of the NDSS, to provide one bed space, a single bedroom should have a floor area of at least 7.5sqm, and a width of at least 2.15m. In order to provide two bed spaces, a double or twin bedroom should have a floor area of at least 11.5m, and a width of 2.75m for the master bedroom, and a width of 2.55m for every other bedroom in accordance with Paragraphs 10(d) and (e) of the NDSS. All bedrooms are considered to comply with the minimum single-bedroom standards of the NDSS.
- 8.75 To comply with the Good Design Guide, three-bedroom houses must also provide a minimum of 80sqm of private outdoor amenity space with a minimum length of 7m. The proposal complies with these requirements.
- 8.76 By virtue of these factors, the proposal does not provide a high level of amenity for the future occupants of the scheme and therefore causes harm to the residential amenity of the future occupants of the scheme, which is contrary to, and in conflict with Policy DM10 of the SADMP, Paragraph 135 of the NPPF, and the Good Design Guide.

Impact upon Parking Provision and Highway Safety:

- 8.77 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.
- 8.78 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)).
- 8.79 The provision of new access onto Pipe Lane to serve one dwelling is not considered to result in any significant intensification of the use of the road to the extent that is detrimental to highway safety in principle.
- 8.80 Although the proposal includes vehicular visibility splays, the Proposed Site Plan does not suggest the new vehicular access accommodates the revised ground levels of the development. Nevertheless, these verges appear to be within the highway boundary and there is a good prospect that the Local Highway Authority as the third-party landowner would allow works to be undertaken to remove any obstructions to vehicular visibility above a height of 0.6m. Therefore, it is therefore reasonable and necessary in the interests of highway safety to secure these visibility splays by condition.

- 8.81 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision. 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.
- 8.82 The development provides two off-street parking spaces for a three-bedroom dwelling, which accords with Paragraph 3.151 of Part 3 of the LHDG. The development also provides sufficient and appropriately dimensioned off-street vehicle parking and turning facilities in accordance with Paragraph 3.165 of Part 3 of the LHDG.
- 8.83 However, both parking spaces fail to meet the requirements of Paragraph 3.165 of Part 3 of the LHDG because they are only 5m in length and are both bounded on one side and therefore they should both be 0.5m wider. Based on the dimensions of the turning area, the angle from the northern-most parking space, and the distance from the highway, the development is also not considered to provide sufficient private drive turning facilities in accordance with Figure DG19 of Part 3 of the LHDG. As a result, the scheme is contrary to, and in conflict with Policy DM18 of the SADMP and the LHDG.
- 8.84 Given the above, the proposal provides sufficient off-street vehicle parking and turning facilities and does not create an unacceptable impact on highway safety or the road network. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG.

Planning Balance:

- 8.85 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.
- 8.86 The proposal is considered to result in significant adverse impacts to the character of the site, the street scene of Pipe Lane and the Orton on the Hill Conservation Area. This harm to the designated heritage asset is considered to represent less than substantial harm in terms of the NPPF.
- 8.87 Paragraph 205 of the NPPF requires great weight to be given to the conservation of designated assets and the more important the asset, the greater the weight should be.
- 8.88 Paragraph 206 of the NPPF also states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. The need for clear and convincing justification is re-iterated in Policy DM12 of the SADMP.

- 8.89 No justification has been provided by the Applicant for the harm caused by the proposal as the submitted Heritage Statement reaches a differing conclusion on the impacts of the proposal upon affected heritage assets. However, the Applicant has made some amendments through the determination of the planning application to try and reduce the harmful effects of the scheme.
- 8.90 Nevertheless, where a development proposal leads to less than substantial harm to the significance of a designated heritage asset, Paragraph 208 of the NPPF and Policies DM11 and DM12 of the SADMP require this harm to be weighed against the public benefits of the proposal.
- 8.91 Public benefits may follow from many developments and could be anything that delivers economic, social, or environmental progress as described in Paragraph 8 of the NPPF.
- 8.92 Public benefits may also include heritage benefits as specified in Paragraph 20 of the Planning Practice Guidance (Conserving and Enhancing the Historic Environment), such as:
- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting.
 - Reducing or removing risks to a heritage asset.
 - Securing the optimum viable use of a heritage asset in support of its long-term conservation.
- 8.93 The scheme in its totality is not considered to sustain, nor enhance the significance of the heritage or the contribution of its setting. Therefore, the proposal is not considered to demonstrate any heritage benefits.
- 8.94 Furthermore, the development fails to provide a high level of residential for its occupants and is therefore likely to result in significant harm to the residential amenity of the future occupants of the scheme. This is contrary to Policy DM10 of the SADMP, Paragraph 135 of the NPPF, and the Good Design Guide, and thus attracts significant weight in the planning balance.
- 8.95 In spite of this, it is acknowledged that there are potential social benefits from the scheme such as providing housing for a range of occupants including people wishing to commission or build their own homes. Whilst the benefit of providing one new custom and self-build dwelling in these current circumstances might have attracted moderate weight, the Applicant has failed to demonstrate that their scheme is a self-build and custom housebuilding development in line with the definition at Section 1 of the Self-Build and Custom Housebuilding Act 2015. Therefore, as the proposal does not contribute towards the Council's supply of Self-Build and Custom Housebuilding, no weight can be afforded to this matter in the planning balance.

- 8.96 There are also economic benefits associated with the construction of the dwelling and the future occupant's opportunity to act as new customers and employees for local businesses and services. Nevertheless, these benefits when associated with one dwelling are limited and are not considered to maintain or enhance the local community. In addition, there are no planning benefits such as affordable housing or essential infrastructure provision as identified within Paragraph 12.13 of the SADMP.
- 8.97 Whilst the application site is within the identified settlement boundary of Orton on the Hill, this rural hamlet only benefits from a church and a public house and does not feature any bus routes or pedestrian footpaths out of the hamlet. Therefore, the future occupiers of the scheme would be reliant on private motorised travel to meet their day-to-day needs, which is likely to result in environmental harm in principle that is contrary to the overarching environmental aim of sustainable development as defined within the NPPF.
- 8.98 In conclusion, the adverse impacts of the development are considered to significantly and demonstrably outweigh any potential benefits of the scheme in these site-specific circumstances. Therefore, the development is contrary to, and in conflict with, Policies DM10, 11, and 12 of the SADMP, Policy 13 of the adopted Core Strategy, the Good Design Guide, as well as Sections 12, and 16 and the overarching ambitions of the NPPF.

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 national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be refused.

11. Recommendation

- 11.1 **Refuse planning permission** subject to:

- Planning reasons outlined at the end of this report

11.2 Reasons

1. By reason of the proposals siting, scale, degree of excavation and contrived design the proposed dwelling results in an incongruous development that has permanent and significant adverse impacts to the rural character of the application site, to the character of the street scene of Pipe Lane, and to the character and significance of the Orton on the Hill Conservation Area. This harm significantly and demonstrably outweighs the potential benefits associated with the provision of one dwelling in these site-specific circumstances. Therefore, the development is contrary to, and in conflict with, Policies DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy 13 of the adopted Core Strategy (2009), and Sections 12 and 16 and the overarching ambitions of the National Planning Policy Framework (December 2023).
2. The proposal fails provide a high level of amenity for the future occupants of the scheme and therefore causes harm to the residential amenity of the future occupants of the scheme, which is contrary to, and in conflict with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Paragraph 135 of the National Planning Policy Framework (December 2023), and the Good Design Guide (2020).

a. Notes to Applicant

1. The application has been determined in accordance with the following submitted details:
 - Arboricultural Assessment (October '24) (submitted: 09.10.2024)
 - Arboricultural Impact Assessment Plan (Rev B) (submitted: 09.10.2024)
 - Archaeological Impact Assessment R16259 (submitted: 07.06.2024)
 - Application Form (submitted: 22.03.2024)
 - CIL (submitted: 22.03.2024)

- Design and Access Statement (submitted: 22.03.2024)
- Heritage Impact Assessment (submitted: 22.03.2024)
- Illustrative Example of Permeable Paving (submitted: 23.09.2024)
- Preliminary Ecological Appraisal & Biodiversity Feasibility Study (submitted: 22.03.2024)
- Proposed Plan and Elevations 0503-08 (submitted: 09.10.2024)
- Proposed Site Plan & Parking Plan 0504-09 (submitted: 09.10.2024)
- Protected Species Assessment Report (submitted: 22.03.2024)
- Signed Self and Custom Build Evidence Form (submitted: 06.06.2024)
- Site Location Plan 0202 (submitted: 22.03.2024)
- Topographical Survey (submitted: 22.03.2024)
- Tree Protection Plan (Rev A) (submitted: 09.10.2024)
- Written Scheme of Investigation (submitted: 07.06.2024)
- 3D Birds Eye Visual (submitted: 09.10.2024)
- 3D Visual Street View (submitted: 09.10.2024)
- 3D Visual Street View 2 (submitted: 09.10.2024)