

PLANNING APPLICATION FOR THE CONSTRUCTION OF FIVE DETACHED DWELLINGS WITH ASSOCIATED GARAGES, PARKING PROVISION, ACCESS AND LANDSCAPING AT LAND OFF CHAPEL LANE WITHERLEY

PLANNING STATEMENT

ON BEHALF OF A R CARTWRIGHT AND MR D WALKER

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004**



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Borough Council**

1.0 INTRODUCTION

- 1.1 Pegasus Group has been instructed on behalf of Cartwright Homes to prepare a Planning Statement in support of the full planning application for the following development:

The construction of five detached dwellings, with associated garages, parking provision, access and landscaping

- 1.2 This Planning Statement will demonstrate:

- A material change in circumstances following dismissal of the historic appeal;
- That the previous harms identified have been overcome;
- That the tilted balance (para 11 (d)) of the NPPF is engaged on two grounds:
 - a) the lack of a five-year supply of deliverable housing sites; and
 - b) the most relevant policies for determining the application being out of date.
- That the site should be allocated within the emerging Neighbourhood Plan.
- That the development will result in a range of benefits that will outweigh any harms identified (planning balance)
- That the development comprises sustainable development and should be approved without delay.

Site and Surrounding Area

- 1.3 The application site comprises a parcel of land with an area of 0.49 ha to the southern side of Chapel Lane, Witherley. The site forms part of a larger pastoral field, which extends further south. To the west of the site is the Parish Hall, with the eastern extent of the site continuing part way along the common boundary shared with the adjacent dwelling. The site is partially host to areas of hard- standing, a block of 13 stables and a barn, with its remainder comprising maintained grassland. The site benefits from an existing access off Chapel Lane, which is a part adopted/part private (further east) road. A public right of way (T28) dissects the wider land parcel from north to south, in relative proximity to the site's western boundary. The sites frontage is relatively open, with native hedgerow and trees enclosing the majority of the remaining field boundary.
- 1.4 The site is immediately adjacent to the settlement boundary of Witherley (to the east). Residential development comprising a mix of property types and age continue in a linear form to the west along Atterton Lane. The wider settlement has developed in an organic form, resulting in a range of development patterns. To its perimeter, farmland defines the settlement boundaries to the north, east and west, with the A5 depicting the southern boundary. Chapel Lane comprises a rural Lane characterized by native hedgerow to its north east and sporadic development comprising of residential, commercial and agricultural uses, with some open frontages to its south west.

The Proposal

- 1.5 The application proposes the construction of five detached dwellings, with associated garages, parking provision, access and landscaping. The properties are sited in a linear arrangement, with amenity space and hedgerow to their frontages and parking provision to their sides. The scale of development ranges from single to two story, with height gradually increasing in an eastern direction. Rear gardens extend to the south, with their perimeters defined by post and rail fencing and native hedgerow. Property design incorporates gabled

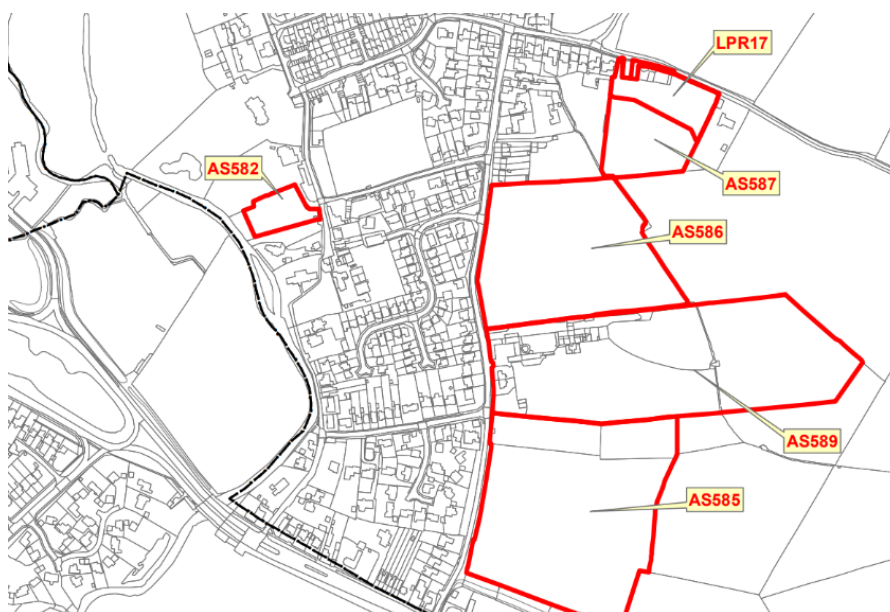
elements, brick details and architectural features common of the locality.

Planning History

- 1.6 Application Ref 15/00441/FUL, dated 14 April 2015 for the 'erection of 10 dwellings and associated access' was refused by notice dated 11 October 2017. This decision was subsequently appealed.
- 1.7 Appeal Ref: APP/K2420/W/18/3197865 Land south of Chapel Fields Livery Stables, Chapel Lane, Witherley. (Appendix 1)
- 1.8 The appeal was dismissed on the following grounds:
- *The proposed development would cause demonstrable harm to the character and appearance of the countryside and landscape. (para.19)*
 - *The amenity of the occupiers of the proposed development would be significantly adversely affected by the use of the Parish Room. (para. 24)*
 - *The development by virtue of its siting within the countryside would be conflict with the spatial strategy of the development plan.*
- 1.9 Notwithstanding the above, the Local Planning Authority and its Environmental Health Service did not consider that the development would harm the living conditions of future occupants, nor did they consider a restriction on the use of the Parish Room (Parish Hall) as necessary. The Inspector disagreed with this position, in the absence of substantive evidence to the contrary.
- 1.10 Application Ref: 88/00813/4 – Retention of 13 Stables – Planning Permission
- 1.11 Application Ref: 97/00027/FUL – General Purpose Agricultural Building –

Planning Permission. Not implemented.

- 1.12 The application site was also submitted as part of the Strategic Housing and Employment Land Availability Assessment (SHELAA) - site ref LPR17.
- 1.13 The site capacity was assessed for 14 dwellings and was concluded as being 'developable' within years 6 – 10 (2023 – 27).
- 1.14 The definition of Developable within the NPPF (Annex 2: Glossary) states; *'to be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged'*. A developable site is suitable, available and achievable and has timeframe for development of 6-10 years or 11+ years.



2.0 Local and National Planning Policies

- 2.1 This section sets out the key local and national planning policies which are material to the determination of this application.
- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 2.3 The Development Plan for the area comprises the Hinckley and Bosworth Borough Council Core Strategy DPD (December 2009) and the Site Allocations and Development Management Policies DPD (July 2016).
- 2.4 A new Local Plan is also underway, along with a Neighbourhood Plan for Witherley.

Core Strategy (adopted December 2009)

- 2.5 The Core Strategy (CS) is the key strategic document which forms part of the Local Development Framework for the borough. The CS provides the overarching strategy and core policies to guide development up to 2026. The CS includes a settlement hierarchy which categorises settlements according to their overall sustainability credentials and allocates development accordingly. The housing numbers set within the CS are derived from the East Midlands Regional Plan.
- 2.6 Within the (CS) Witherley is defined as a 'Rural Village'. At Para 4.4 of the (CS) the following is stated:

*These Rural Villages will be the **focus of limited development** with the aim of **ensuring existing services, particularly primary schools, are supported**. Because these villages have limited services, they are less sustainable than the Key Rural Centres as car travel will be required in most*

*cases to access employment and services. However, some level of **development is considered necessary to ensure existing services and community cohesion is maintained.*** (authors emphasis)

2.7 With specific relevance to Witherley, Policy 12 (Rural Villages) seeks to:

- Support housing development within settlement boundaries that provides a mix of housing types and tenures as detailed in Policies 15 and 16

2.8 Policy 19 – 'Green Space and Place Provision' seeks to ensure good access to a range of facilities and includes the following standards in relation to green space and play provision:

Quantity:

- Equipped Children's Play Space - A minimum of 0.15 ha/1000 population (excluding buffer zones)
- Casual/Informal Play Space - A minimum of 0.7 ha/1000 population
- Outdoor Sports Provision – A minimum of 1.6 ha/1000 population
- Accessible Natural Green Space - A minimum of 2 ha/1000 population

In areas with populations under 1000 people, it suggests a pro-rata approach.

Accessibility:

- District Parks and Green Spaces - All households should be within 5 kilometres of an open space of at least 10 hectares which provides general facilities for recreational activity within a landscaped setting

- Neighbourhood Parks and Green Spaces - All households should be within 600 metres of an open space of between 1 and 10 hectares which provide general facilities for recreational activity within a landscaped setting
- Local Parks and Green Space - All households should be within 400 metres of an open space of between 0.2 - 1.0 hectare which provide facilities for recreation within a localised area, catering for the specific informal needs of the local community
- Incidental/Amenity Green Space - All household should be within 300 metres of a small formal or informal area of open space.

2.9 **Aside from Policies 12 and 19, there are no other relevant policies within the CS.**

Site Allocations and Development Management Policies Document (DPD) 2006-2026 (adopted July 2016)

2.10 The Site Allocations and Development Management Policies DPD identifies sites to accommodate the level of development required by the CS. It also includes development management policies for use in the determination of planning applications.

2.11 The Policies relevant to this application are detailed below.

Section 8 'Rural Villages'

2.12 The Core Strategy's Spatial Vision highlights rural villages as the focus for limited development to ensure existing services are supported and community cohesion is maintained. (para 8.1)

2.13 Rural Villages are identified as being less sustainable than the Hinckley Urban

Area and Key Rural Centres, but still contain essential service provision which should be safeguarded within the Site Allocations and Development Management Policies DPD.

2.14 In relation to site allocations for Witherley, the CS requires:-

- Work with Highways England (formerly the Highways Agency) to address identified problems with the A5/Kennel Lane junction. If these problems can be overcome, land allocation for limited residential development can follow;
- the existing deficiencies in the quality and quantity of green spaces to be addressed; and
- Resist the loss of local shops and facilities.

2.15 During the period following the adoption of the CS, discussion took place with Highways England (formerly the Highways Agency) to determine whether issues with junction capacity on the A5 could be overcome to allow for a low level of residential development in Witherley to meet local housing needs. Although Highways England were supportive towards the principle of residential development within Witherley, they continued to raise concerns relating to site access. Consequently, despite there being an identified local need, no residential development was allocated for the settlement.

Relevant Development Management Policies

2.16 Policy DM1: Presumption in Favour of Sustainable Development seeks to approve applications without delay where they accord with the policies in the Local Plan unless material considerations indicate otherwise. Where there are no policies relevant, or the relevant policies are out of date, permission will be granted unless material considerations indicate otherwise.

2.17 Policy DM4: Safeguarding the Countryside and Settlement Separation

2.18 To protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from **unsustainable** development. Development in the countryside will be considered sustainable where:

- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
- b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
- c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
- d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
- e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation. and:
 - i. It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - ii. It does not undermine the physical and perceived separation and open character between settlements; and
 - iii. It does not create or exacerbate ribbon development;

- iv. If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
- v. If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21

- 2.19 Policy DM6: Enhancement of Biodiversity and Geological Interest requires proposals to demonstrate how they conserve and enhance features of nature conservation and geological value including proposals for their long-term management. On site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term.
- 2.20 Policy DM7: Preventing Pollution and Flooding seeks to prevent adverse impacts from pollution and flooding.
- 2.21 Policy DM10: Development and Design seeks to achieve high quality design in new development proposals.
- 2.22 Policy DM17: Highways and Transportation seeks to ensure that development proposals can be accessed via public and private transport.
- 2.23 Policy DM18: Vehicle Parking Standards requires new development to provide an appropriate level of parking justified by an assessment of the site location, type of housing, other modes of transport available (e.g., public transport and cycle provision) and appropriate design. Any development will be expected to provide disabled parking provision.

New Local Plan

- 2.24 As required by Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012, it is a legal requirement for Local Plans to be reviewed at least every 5 years. Hinckley and Bosworth Borough Council

(HBBC) are at the early stages of developing a new Local Plan. The new Local Plan will set out land allocations and planning policies for the period 2020 to 2039. The Local Development Scheme, which provides a timetable for the development of the new LP was published in July 2020. This sets out the following:

TIMETABLE	
Stage	Target date
Consultation on the Scope and Issues and Options (Regulation 18)	January-February 2018
Public consultation on New Directions for Growth paper	January- February 2019
Public consultation on Draft Plan	March-April 2021
Submission to Secretary of State (Regulation 22)	September 2021
Estimated programmed date for examination	January 2022
Programmed date for adoption	October 2022

- 2.25 The above timetable has however slipped considerably and it is very unlikely that the new Plan will be adopted by 2022. By virtue of its stage of production the New Local Plan can only be afforded very limited weight in the decision-making process.

Witherley Neighborhood Plan

- 2.26 The whole of the Parish of Witherley was designated as a Neighbourhood Area on the 3rd April 2017. Prior to the 'making' of a Neighbourhood Plan there are 7 steps, or stages of production. The Plan is currently at Step 3 – 'pre-submission and consultation'. This means that the pre-submission version of the plan has been publicised, with any comments received, subject of review. The LPA comprises one of the consultees, and in the case of the Witherley Neighbourhood Plan (NP), the Council have provided extensive comments. On the basis of these comments, it is likely that the draft plan will be subject of further amendment.

- 2.27 Whilst the level of weight to be attributed to the NP is currently limited (by virtue of its stage of production and the nature of the unresolved objections), within the pre-submission version there are various policies and evidence which *is* relevant in the context of this application.

Extracts from the Neighbourhood Plan

- 2.28 Under the heading 'Social' the NP states that it is seeking to:- *deliver a mix of housing types so that we can meet the needs of present and future generations and ensure that we support the community's needs and its health, social and cultural wellbeing.*
- 2.29 Under the heading 'meeting future housing need' it is stated:- *Nevertheless, it is accepted and agreed that there are **gaps in the current residential provision** and standing still is not an option. So, to identify the future housing needs of the Parish within the Plan period any **assessment of need must be based upon evidence**.* (authors emphasis)
- 2.30 On pg. 15 the Local Housing Need, derived from the Housing Register is:- for 54 households, made up of 29 requiring 1-bed properties, 16 for 2-bed properties, 6 for 3-bed properties and 3 for 4 or more bed properties. (March 2020) and
- 2.31 On the basis of a local household survey undertaken to support the NP, the following is identified:

The results showed that there was a clear preference for smaller homes while large executive- style housing was generally opposed. Properties specifically for local people, both starting on the property ladder and seeking retirement accommodation was supported (42% 2-3 bed houses; 38% bungalows; 33% smaller retirement housing).

When asked what benefits it was thought that sustainable development would bring to the Parish, 71% supported housing which enables young families to move in, and the elderly to remain in the Parish. The importance

to the future of Witherley C. E. Primary School of having enough young families living within its catchment area (Witherley, Ratcliffe Culey and Atterton) cannot be underestimated.

Currently 65% of pupils live in neighbouring North Warwickshire. If parents there decide to send their children to more local schools, Witherley School's population could fall below the level at which Leicestershire County Council decides it becomes unviable.

- 2.32 The survey also showed some **support** for using sites **outside but adjacent** to current village boundaries (pg .16)
- 2.33 As part of the evidence base to inform the Plan, a specific 'call for sites' exercise was undertaken, with each site subject to a strategic sustainability assessment. This activity resulted in the allocation of a single housing site with the capacity for 15 dwellings.
- 2.34 The site subject of this planning application was assessed as part of this exercise but was not proposed as an allocation. It is relevant to consider this further.
- 2.35 All site assessments are found in 'Witherley Parish Neighbourhood Development Plan Sustainable Site Assessment (SSA)' (Appendix 2)
- 2.36 This document defines the assessment methodology, followed by an overview assessment table. Within this table the application site is referenced as Witherley-7 and is attributed a score of Green 4. Of all sites assessed, two other sites received a 'Green' score of 8. All other sites score 'Red'.
- 2.37 The scoring of Witherley – 7 has been further scrutinised. This has identified that many 'justifications' which produced the 'score' are factually incorrect.
- 2.38 The scoring table found within the document is below:

Site – Sustainability criteria relating to Location, Surroundings & Constraints		RAG Rating
9. Relationship with existing pattern of built development?	The site is adjacent to the current built form and has a poor relationship to it. The land is visible from the parish rooms and many local properties, this negative impact would need to be ameliorated through a high quality design solution.	Amber
10. Local biodiversity score.	A low score of 1-2.	Green
11. Listed Building or important heritage assets and their setting?	None identified.	Green
12. Impact on the conservation area or its setting?	The site is outside of the conservation area and is far enough removed to have no negative impacts upon it.	Green
13. Is there an adopted pavement to and from the site?	No existing provision and it appears impossible to connect the site to the nearby footpaths without the active support of a third party landowner. Appears impossible to ensure pedestrian connectivity with the village centre.	Red
14. Impact on existing vehicular traffic?	A medium scale negative impact on the village centre due to the number of units involved.	Amber
15. Is a vehicular access available to and from the site?	An agricultural access is found off of Chapel Lane and vehicular access is not possible without the active support of a third party landowner, in addition, it appears that the destruction of trees and hedgerow will be required to facilitate this residential standard of access. An adequate visibility splay and access dimensions will need to be agreed with the Highways Authority.	Red
16. Distance to designated village centre (public house).	Approximately 360m from the geographical centre of the site.	Red
17. Current existing informal/formal recreational opportunities on site?	Dog walkers and joggers use the site on an informal basis.	Amber
18. Ancient monuments or archaeological remains?	None identified.	Green
19. Any public rights of ways/bridle paths?	Yes, a long distance footpath is found within the Western edge of the site so any development will need to protect the integrity of its setting, development of the site will cause detriment to the ROW as development will have a negative effect upon the current open countryside feel.	Amber

Site – Sustainability criteria relating to Location, Surroundings & Constraints		RAG Rating
20. Gas, oil, pipelines and networks & electricity transmission network?	None found on site.	Green
21. Any nuisance issues (noise, light, odour)?	Yes, traffic noise can be an issue in the wrong atmospheric conditions but a more important noise nuisance is from the parish rooms – particularly parties and amplified music. This will be an ongoing concern.	Red
22. Any contamination issues?	No issues identified.	Green
23. Any known flooding issues?	The Southern boundary of the site is very close to an area of flood zone 2 although surface water flooding is in the lowest risk category from the Strategic Flood Risk Assessment (SFRA).	Green
24. Any drainage issues?	No issues identified, appears to drain well.	Green
	Red - 6 Amber - 8 Green - 10	A GREEN SCORING SITE of 4.

2.39 A revised scoring exercise has been undertaken, with the result illustrated in the table below:

1. Site Area and Capacity	5 units	This level of development is compliant with the score criteria and will result in a development which is in keeping with the character of the area. This will result in the efficient use of land and should score Green.
2. Current Use	Equestrian buildings and grazing/pasture land.	Green
3. Adjoining Uses	Community hall, agricultural land, residential.	Amber
4. Topography	Flat	Green
5. Greenfield or PDL	PDL – Equestrian Use	Green
6. Site Availability	Single Ownership with a desire to develop	Green
7. LVIA Considerations	The majority of the site is currently undeveloped, so introducing development would result in some harm. This could however be mitigated and reduced through good design and landscaping.	Amber

8. Trees, woodland, hedgerows	The submitted scheme illustrates that the existing trees and hedgerow can successfully be incorporated into the development and enhanced where necessary.	Green
9. Relationships with existing pattern of development	The submitted details illustrate a sympathetic design that would complement the existing linear pattern of development.	Green
10. Biodiversity Score	Low score	Green
11. LB and Heritage	Non identified	Green
12. CA Considerations	Significant distance from CA, so no impacts.	Green
13. Adopted pavement to and from site	The application details illustrate a pavement connecting the site to the wider village of Witherley.	Green
14. Traffic impacts	On the basis of the number of units proposed the submitted TA shows no materially harmful traffic related impacts.	Green
15. Vehicular access?	The site benefits from a lawful vehicle access. The application demonstrates that an access can be achieved to an adoptable standard without having a significant impact on character and appearance.	Green
16. Distance to village center	Approx. 360mtrs	Red
17. informal/ formal recreation facilities on site?	The application site is a private parcel of land. A PROW crosses the wider landholding, but this route would not be impacted on by the proposal. On occasion users stray from the designated route.	Amber
18. Ancient monuments/archaeology?	None	Green
19. PROW	A PROW is found on land within the applicant's ownership, outside of the application site. This will not be impacted on by the development as illustrated	Amber

	by the application documents/plans.	
20. Utilities and services crossing site?	None	Green
21. Nuisance issues?	The site is adjacent to a village hall. Such uses are acceptable within central village locations. The submitted Noise survey illustrates that this facility would not result in any harmful adverse impact on the proposed use and an FOI request relating to the hall has revealed that no complaints or formal Notices have ever been made against it.	Green
22. Contamination Issues?	None	Green
23. Flooding issues?	None on site	Green
24. Drainage issues?	None	Green
Overall Score	Red= 1 Amber=4 Green= 19	Giving an overall Green score of 18

2.40 The above assessment demonstrates that the site is capable of development and that if scored correctly, would have received a very high green score. **On this basis, it is contended that the site should be allocated within the Neighbourhood Plan and that it comprises the most sustainable development option for the village.**

2.41 Other relevant Policies and considerations within the NP:

2.42 *Policy H3: Housing Mix - New housing development proposals should provide a **mixture of housing** types specifically to meet **identified local needs** in the Plan area as evidenced in the Parish Housing Needs Report (2018); Midlands Rural Housing Report (2016) and the 2017 HEDNA or more recent documents updating these reports. Dwellings of **3 bedrooms** or fewer **and single storey accommodation suitable for older people will be supported** where in accordance with other policies. (authors emphasis)*

2.43 *Policy H4: Windfall Sites - **Small residential development proposals of 5 dwellings** or fewer on infill and **redevelopment** sites will be supported subject to proposals being well designed and meeting all relevant requirements set out in other policies in this Plan and Borough-wide planning policies and where such development:*

a) meets a clearly identified housing need for the Parish;

*b) is within the settlement boundary or adjacent to the settlement boundary if the proposed development is on **previously developed land(pdl)***

2.44 The proposed development would be consistent with this policy as it would result in 5 dwellings of varying scale and size, addressing the need for the ageing population as well as families with children, with the development also taking place on PDL.

2.45 The NP also identifies that there is a need for various types of housing provision within the Parish, which is vital to ensure the survival of local facilities including the school.

2.46 *Policy CA2: New or Improved Community Facilities - Proposals that improve the quality and/or range of community facilities, will be supported ...*

2.47 The applicant is willing to gift an area of land adjacent to the Parish Hall for use as additional parking and/or amenity space. This could be secured by way of legal agreement between the parties and would result in the enhancement of a community facility.

2.48 On this basis it is contended: -

a) that the site should be included as a housing allocation within the Neighbourhood Plan; and

- b) that the proposal would be in accordance with the relevant planning policies.

Response of Hinckley and Bosworth Borough Council to the Witherley pre-submission Neighbourhood Plan

- 2.49 Notwithstanding the above, it is also relevant to reference key points raised by the Council as part of their consultation response.

- 2.50 The Council confirm that the HEDNA is out of date and that the housing requirement should be calculated based on the standard method. Using this method, the housing numbers for the borough, and the Parish of Witherley are as follow:

The national standard method for determining housing need gives a housing need for the borough of 452 houses per year or 8,588 over the period 2020-2039. Based on the latest data on population (2017 midyear estimates) Witherley parish accounts for 1.2% of the total borough population. Based on this share Witherley would have a housing requirement of 107 dwellings between 2020 and 2039, as below:

*Witherley Population – 1388 % of Borough Population – 1.2% % share of need – 107 % share of need + 10% buffer for flexibility would result in a **need over the plan period for 118 dwellings**. (pg.2 of LPA comments) (authors emphasis).*

- 2.51 The Site Allocations and Development Management Policies DPD (SADMP) stated clearly that no allocations were to be made in Witherley at that time, due to issues associated with the A5. The LPA have sought further evidence on this matter and on the nature of any other constraints and have requested evidence to underpin such. They have suggested that **constraints may no longer exist and as such, that potential development sites may be unlocked**.

- 2.52 The Council have further commented that the approach to housing need should mimic *their* approach and that further justification would be required to support the allocation, as opposed to an allocation of around 100 (which reflects the up

to date calculation of need).

- 2.53 In terms of the local 'need' the LPA have commented as follows:

*More homes and particularly homes that are affordable/suitable for younger people and families (and also affordable rental property) could address the decline in population and reverse the trend of an ageing population. Otherwise there is a concern services and facilities may become unviable in the parish – such as you have identified with the primary school. It is important that the plan reflects on the evidence that has been gathered and sets policies/allocates land for development to respond to that evidence.**As it stands it appears that insufficient provision for new housing is being made in the plan.** (authors emphasis)*

- 2.54 This clarification is useful in that it provides information on the requirements for Witherley along with detailing the specific type of housing required.

- 2.55 In regards to the adopted Core Strategy and Site Allocations DPD, the Council have clarified why no allocations were made in Witherley:

The Core Strategy set a housing requirement of 10 dwellings for the settlement of Witherley. However the subsequent Site Allocations DPD did not allocate a site to meet this requirement due to Highways England concerns at the time regarding access and junction capacity onto the A5. In addition no housing requirements were set for Fenny Drayton or Ratcliffe Culey. These settlements were classed as rural hamlets in the Core Strategy and these are considered as the least sustainable settlements in the settlement hierarchy set out in the Core Strategy. Atterton has no settlement status in the hierarchy and therefore also had no housing requirement set.

- 2.56 Further detail is also provided in regards to the emerging LP and the calculation of housing need:

The emerging Local Plan is not sufficiently advanced to establish a new housing requirement for Witherley Parish and in the absence of a figure the Borough Council has recommended an alternative approach based on apportioning the overall Borough housing need (based on the latest

*standard method) against existing population distribution of the parishes in the borough. This approach would give a **housing requirement figure for Witherley Parish of 107 dwellings between 2020-2039**. In addition it is recommended flexibility is built into this figure to allow for future changes to this figure once the local plan is adopted. A **minimum of 10% is recommended which would provide an overall figure of 118 dwellings**.*

2.57 In regards to the assessment of sites, the LPA raise criticism in regards to the methodology and scoring criteria used. This concern coincides with those raised earlier on in this statement in regards to the incorrect scoring of the application site, which ultimately resulted in it not being proposed for allocation.

2.58 In specific regard to this application site, the Council has raised the following question. *Has thought been given to allocating the third ranked site (Chapel Lane, Witherley) in the site assessment process for allocation instead? If it has been considered and not taken forward why is this, and what effect does that have on the overall housing requirement and sustainability of the plan overall?*

2.59 From the assessment above there is no clear reason why the application site should not have been allocated.

The Good Design Guide SPD (April 2020)

2.60 This sets out that Witherley developed in the early medieval period as an agricultural village on the banks of the River Anker and that much of the village has been expanded and in-filled with modern domestic housing but retains its historic street pattern. There are no specific design objectives relating to the application site or its immediate vicinity.

Landscape Character Area

2.61 The application site is situated within the Sence Lowlands Landscape Character Area which is characterised by hedged fields in a flat to gently undulating landscape with linear villages and scattered agricultural buildings.

National Planning Policy Framework (the Framework / NPPF) (July 2021)

- 2.62 The Framework was published on the 27th March 2012 and is a material planning consideration. This replaced all previous national planning policy. The revised Framework was subsequently published on 24th July 2018. This implemented reforms announced through the Housing White Paper, the Planning for the Right Homes in the Right Places consultation and the draft Revised Framework consultation. The Framework was again updated in February 2019 and has most recently been updated in July 2021.
- 2.63 There are three dimensions to sustainable development: economic, social and environmental. The presumption in favour of sustainable development is at the 'heart' of the Framework.
- 2.64 Paragraph 11 states that for decision-taking, this 'presumption' means approving development proposals that accord with the development plan without delay.
- 2.65 Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, it is stated that planning permission should be granted, unless the application of Framework policies that protect areas or assets of particular importance provide a clear reason for refusing the development, or any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.
- 2.66 Footnote 7 confirms those policies that protect areas or assets of particular importance – now providing a 'closed' list.
- 2.67 Footnote 8 confirms that 'out-of-date' includes situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing land.
- 2.68 Paragraph 33 sets out that Plans and Policies should be reviewed every 5 years,

and updated as necessary, continuing that Strategic policies will need updating at least once every five years if the housing need figure has changed.

- 2.69 An important feature of the Framework is the culture change it requires from local planning authorities in terms of their approach to decision-taking. Positive and creative methods are encouraged, which utilise the full range of planning tools available, including proactive engagement with applicants to secure developments that will improve the economic, social and environmental conditions of the area. With paragraph 38 advising that decision-makers at every level should seek to approve applications for sustainable development where possible.

- 2.70 Paragraph 47 reaffirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

- 2.71 Paragraph 54 states that Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition; and

- 2.72 Paragraph 55 advise that Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

- 2.73 Paragraph 76 advises that to maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority's housing requirement over the previous three years, the authority should prepare an action plan in line with

national planning guidance, to assess the causes of under-delivery and identify actions to increase delivery in future years.

- 2.74 Section 5 of the Framework deals with housing issues and sets out the key objective for local planning authorities to deliver a sufficient supply of housing. Paragraph 60 confirms that to support the Government's objective of significantly boosting the supply of homes, a sufficient amount and variety of land can come forward where it is needed.
- 2.75 Local planning authorities are required to meet the objectively assessed needs for housing. Paragraph 74 requires authorities to identify and update annually a supply of specific deliverable sites, sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
- 2.76 The supply should include a buffer of 5% to ensure choice and competition in the market for land, 10% where the local planning authority wishes to demonstrate supply through an annual position statement or recently adopted plan, to account for fluctuations in the market, and 20% where there has been significant under delivery over the previous three years, to improve the prospect of achieving the planned supply.
- 2.77 To maintain the supply of housing, where delivery has dropped below 95% of the housing requirement, the LPA should prepare an Action Plan to assess the cause of under-delivery and identify actions to increase delivery. (paragraph 76)
- 2.78 In regards to rural housing paragraph 78 seeks to ensure that developments are reflective of local need and paragraph 79 continues, that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. It is acknowledged that where there are groups

of smaller settlements, development in one village may support services in a village nearby.

2.79 Paragraph 80 states that planning policies and decisions should avoid the development of isolated homes in the countryside unless the proposal adhere to one of the identified exceptions

2.80 The Framework promotes healthy communities (Section 8), advising that planning decisions should aim to achieve places which promote:

- opportunities for meetings between members of the community through mixed-use developments, strong neighbourhood centres and active street frontages; and
- safe and accessible environments with clear and legible pedestrian routes and high-quality public spaces.
- Paragraph 98 of the Framework notes that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.
- Section 9 of the Framework focuses upon the promotion of sustainable transport. It makes clear at paragraph 110 that plans and decisions should take account of whether:
- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost

effectively mitigated to an acceptable degree.

- 2.81 Paragraph 111 of the NPPF sets out that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the highway network were severe.
- 2.82 Section 11 sets out how to make effective use of land, with Paragraph 120 encouraging planning policies and decisions to give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.
- 2.83 Paragraph 123 sets out that local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in development plans, where this would help to meet identified development needs.
- 2.84 Paragraph 124 deals with making efficient use of land, and paragraph 125 advises that Area-based character assessments, design guides and codes can be used to ensure land is used efficiently and states that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that developments make optimal use of the potential of the site.
- 2.85 The requirement to create high quality, beautiful and sustainable buildings is set out in Section 12 of the Framework. Planning decisions should aim to ensure that developments:
- function well and add to the overall quality of the area;
 - are visually attractive, as a result of good architecture, layout and landscaping;

- are sympathetic to local character and history;
- establish a strong sense of place; and
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses and support local facilities and transport networks.

2.86 Paragraph 159 seeks to avoid development in areas at risk of flooding by directing development away from areas at highest risk.

2.87 Paragraph 180 deals with issues relating to biodiversity. In determining applications local planning authorities are advised to apply the following principles:

- if significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; and
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats.

2.88 To prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location. The effects of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to the adverse effects from pollution, should be considered (paragraph 185).

2.89 Planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development (paragraph 185)

2.90 It should be ensured that new development can be integrated effectively with

existing business and community facilities, and that such facilities should not have unreasonable restrictions placed upon them as a result of development permitted after they were established. If such harm was to occur, the Framework advises that suitable mitigation should be provided prior to the applicable development being completed. (paragraph 187)

National Design Guide

2.91 The National Design Guide was published in October 2019 and sets out the characteristics of well-designed places and what good design means in practice. The document sets out the ten characteristics necessary to achieve high quality design:

- Context – enhances the surroundings;
- Identity – attractive and distinctive;
- Built Form – a coherent pattern of development;
- Movement – accessible and easy to move around;
- Nature – enhanced and optimised;
- Public spaces – safe, social and inclusive;
- Uses – mixed and integrated;
- Homes and buildings – functional, healthy and sustainable;
- Resources – efficient and resilient; and
- Lifespan – made to last.

3.0 Assessment of the Proposed Development

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 3.2 Whilst the Framework does not change the statutory status of the development plan as the starting point in decision making, it is an important material consideration. The Framework constitutes the Government's view of what sustainable development means in practice for the planning system. A key message within the Framework is the need for positive planning to significantly boost the supply of housing.
- 3.3 For decision taking, the Framework requires local planning authorities to approve development proposals that accord with the development plan without delay and, where the plan is absent, silent or policies are out of date, approve planning permission unless one of two exceptions apply.
- 3.4 The first exception is not applicable to this application as there are no areas or assets of particular importance affected (such as designated heritage assets).
- 3.5 The second exception states that planning permission should be approved unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, or specific Framework policies indicate that development should be restricted.
- 3.6 The Development Plan for Hinckley and Bosworth Borough consists of the Core Strategy adopted in December 2009 and the Site Allocation and Development Management Policies, adopted in July 2016. There is also an emerging Neighbourhood Plan.
- 3.7 Paragraph 33 of the Framework requires that policies in local plans should be reviewed to assess whether they need updating at least once every 5 years.

The Development Plan for Hinckley and Bosworth is over 5 years old and is therefore out of date. Whilst the Core Strategy Review is underway, and a new Local Plan is being developed, it is not yet at an advanced stage and is not part of the Development Plan.

3.8 In determining which policies are of most relevance and so should be attributed the most weight in the decision-making process, key considerations include:

- Whether the Council can demonstrate a five-year supply of housing sites;
- Whether the policies most important for determining the application are out-of-date; and
- The consistency of Local Plan Policies with the Framework.

3.9 Paragraph 73 of the Framework requires Local Planning Authorities to identify and update annually a supply of specific development sites sufficient to provide a minimum of five-year's worth of housing against their housing requirement, set out in adopted strategic policies or against their local housing requirement where the strategic policies are more than five years old.

3.10 For Hinckley and Bosworth, as their strategic policies are more than five years old, their annual supply has been calculated based on local housing need and the application of the Standard Methodology.

3.11 Using this approach, a requirement for Hinckley and Bosworth Borough of 450 dwellings per annum has been identified (472.5 dwellings per year (based on a 5% buffer). Whilst the figure is the same as the Core Strategy requirement, it is the 'starting point' for the need; the 'end point' has not yet been assessed and the allocations to meet this need and/ or the new settlement boundaries will not be confirmed until the publication of the new Local Plan. (The new Local Plan period will cover 2020-2039)

3.12 In terms of supply, as confirmed within a number of recent appeal decisions, committee reports and by the Council in their written comments on the Witherley Neighbourhood Plan consultation, a five-year supply of deliverable sites cannot currently be demonstrated. In terms of the specific figure however, there is some divergence. This is due to varying assessments of 'deliverability' of certain sites.

- Within appeal decision APP/K2420/W/20/3260227 supply is identified at: 4.23 years
- Within appeal decision APP/K2420/W/20/3262295 supply is identified at 4.6 years; and
- Within (the most recent) appeal decision, APP/K2420/W/20/3265133 (dated 06/07/21) the agreed supply position was 4.39 years.

3.13 Notwithstanding the divergence identified, it is clear and accepted that a five-year supply of sites cannot currently be demonstrated by the Council.

3.14 It is also contended that the most important policies for determining this application are out of date and so should be afforded very limited weight. This position is on account of the time expired nature of the Local Plan (CS and SADMP) which are based on out-of-date housing figures and an out-of-date spatial distribution of growth.

3.15 The most applicable (strategic) Policies for this application are Core Strategy Policy 12 – Rural Villages and SADMP Policy DM4 – Safeguarding the Countryside and Settlement Separation. The nature and weight to be applied to LP Policies has been confirmed in appeal decision (APP/K2420/W/20/3262295). Whilst this related to a different settlement and so Policies, the approach in regards to the appropriation of weight remains the same and is of relevance here. The Inspector stated:

CS Policies 7 and 11 set out the spatial strategy and policies for Key Rural Centres. Amongst other things, CS Policy 7 supports housing development within settlement boundaries. CS Policy 11 sets a housing requirement of a minimum of 60 new homes for Stoke Golding...

The CS housing requirement figures are derived from the now revoked East Midlands Regional Spatial Strategy which set a target of 450dpa. The Council accepts that the two policies are out of date due to more up to date assessment of housing requirement via the government's Standard Methodology (SM).

.....it is also apparent that planning permission has been granted for sites outside of settlement boundaries even where minimum CS housing figures for settlements have been exceeded. This includes the Roseway site in Stoke Golding and two sites in Desford. The reasons for these permissions vary but has included situations where the tilted balance applied such as at Roseway.

There remains a need for development to be sustainable, while settlement boundaries continue to be an important tool to guide development even if they are somewhat dated or under review. Nevertheless, these permissions are an indication that the spatial strategy and settlement boundaries in the borough have been applied in a flexible rather than a rigid way due to specific circumstances. Therefore, this provides an additional reason to state that CS Policies 7 and 11 are out of date. As such, I consider only moderate weight can be afforded to CS Policies 7 and 11 and any conflict with them insofar as they seek housing development within settlement boundaries and set housing targets for Stoke Golding.

3.16 In relation to Policy DM4, the following was set out:-

To the extent that SADMP Policy DM4 seeks to implement the CS through its approach to the countryside and settlement boundaries, it is also out of date. In terms of weight, the emphasis of the policy is to promote sustainable development in the countryside and protect it from unsustainable proposals. In that regard, there is broad compliance with the NPPF including paragraph 170(b) and so the policy can be afforded significant weight. Market housing schemes such as this appeal are automatically in conflict with the policy as they do not fall within the exceptions in (a) to (e). Nevertheless, it is for the decision maker to consider how much weight to give to the conflict based on the effect of the development on the countryside. In this instance, I have found that the

negative effects would be no greater than moderate. Therefore, I attribute no more than moderate weight to the conflict with Policy DM4.

3.17 In regards to these points the Inspector concluded as follows:

Taken as a whole, the policies most important for this decision can be regarded as being out of date for a number of reasons. This finding, along with my assessment of the weight to be attributed to each policy and any conflict with it, can be taken forward into the application of the tilted balance.

3.18 On the basis of the above it is clear that paragraph 11 (d) of the Framework would be triggered on two points.

- 1) the inability of Hinckley and Bosworth Council to demonstrate a five-year supply of deliverable housing sites against their identified housing requirement.
- 2) the outdated nature of their strategic policies and settlement boundaries.

3.19 Paragraph 11 (d) is quoted in full below.

Framework Paragraph 11 (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.

3.20 Having established that paragraph 11(d) of the Framework is engaged, the key planning issues are as follows:

Planning Appraisal

- Principle of development;
- Character, Appearance and Design;
- Residential Amenity;
- Highways and Transportation;
- Ecology and Biodiversity;
- Drainage and Floodrisk

Principle of Development

- 3.21 The application site is situated adjacent to the settlement boundary of Witherley and so, on the basis of the Local Plan is categorised as being within the countryside where there is a presumption against new residential development (subject to specified exceptions). This said, as confirmed above, the Local Plan is out of date, and on two counts paragraphs 11 (d) of the NPPF are triggered.
- 3.22 Whilst the LP is considered out-of-date it is relevant to consider the weight to be attributed to the relevant policies on account of their consistency with the Framework, as legislation is clear that the LP is the starting point for decision making.
- 3.23 CS policy 12 – Rural Villages is supportive in principle of residential development within the settlement boundary of Witherley; however the application site would be adjacent. Given that the settlement boundaries are based on outdated evidence the weight to be attributed to the policy is

significantly reduced. The weight is also reduced on account of the flexible way in which settlement boundaries have been applied in other cases across the Borough. These points are reiterated in appeal decision (APP/K2420/W/20/3262295):

Nevertheless, these permissions are an indication that the spatial strategy and settlement boundaries in the borough have been applied in a flexible rather than a rigid way due to specific circumstances. Therefore, this provides an additional reason to state that CS Policies 7 and 11 are out of date. As such, I consider only moderate weight can be afforded to CS Policies 7 and 11 and any conflict with them insofar as they seek housing development within settlement boundaries and set housing targets for Stoke Golding.

3.24 The proposal would also be contrary to Policy DM4 by virtue of its countryside location and its failure to meet any of the identified exceptions. In terms of applicable weight, as the emphasis of the policy is to promote sustainable development in the countryside, which is similar to that included in paragraph 170 (b) of the Framework, weight can be attributed; the level of conflict with this policy will however be dependent upon the proposals specific impacts on the countryside, which will be considered in further detail below.

3.25 In regards to housing in rural areas, the Framework at para 77 states:

‘In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs’

3.26 and... Para 78 states:

‘To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby’.

3.27 Para 79 continues:

'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply...

- 3.28 It has been acknowledged earlier in this Statement that there is a locally specific need for additional housing in Witherley and that housing within is also desperately needed to support and safeguard existing services, such as the school. It is further contended that the application site does not occupy an 'isolated' location.
- 3.29 The meaning of the phrase 'isolated', for the purpose of its interpretation within the NPPF is subject of recent caselaw (28.03.18) (albeit that it relates to the former para 55 of the NPPF which para 79 has since replaced).
- 3.30 The referenced case is: Braintree DC v SSCLG [2018] EWCA Civ. 610. (Court of Appeal)
- 3.31 The adjective "isolated", which was the focus of argument before the Court, is itself generally used to describe a location. It is not an unfamiliar word. It is commonly used in everyday English. It carries the ordinary sense of something that is "... [placed] or standing apart or alone; detached or separate from other things or persons; unconnected with anything else; solitary" (see Oxford English Dictionary, second edition).
- 3.32 In Lindblom LJ's view, in its particular context in paragraph 55 of the NPPF, the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, "isolated" in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand. What constitutes a settlement for these purposes is left undefined in the NPPF. The NPPF contains no definitions of a "community", a "settlement", or a "village". There is no specified minimum number of dwellings, or population. It is not said that a settlement or development boundary must have been fixed in an adopted or emerging local

plan, or that only the land and buildings within that settlement or development boundary will constitute the settlement.

- 3.33 In Lindblom LJ's view, a settlement would not necessarily exclude a hamlet or a cluster of dwellings, without, for example, a shop or post office of its own, or a school or community hall or a public house nearby, or public transport within easy reach. Whether, in a particular case, a group of dwellings constitutes a settlement, or a "village", for the purposes of the policy will again be a matter of fact and planning judgement for the decision-maker.
- 3.34 In the second sentence of paragraph 55 the policy acknowledges that development in one village may "support services" in another. It does not stipulate that, to be a "village", a settlement must have any "services" of its own, let alone "services" of any specified kind. In this case, by virtue of the proximity of nearby dwellings and facilities, the site is not considered to be isolated and therefore would be consistent with the approach applied in the referenced case law.
- 3.35 As will be further detailed within the Character and Appearance section of this report, the application site cannot be defined as Isolated by virtue of the proximity of existing dwellings, services and facilities and would therefore be consistent with the approach applied in the referenced case law and policies within the Framework.
- 3.36 Overall, whilst there would be some conflict with Policy DM4, this will be weighed in the overall planning balance, however on the basis of the NPPF, the principle of development would be acceptable.

Character, Appearance and Design

- 3.37 Policy DM10 seeks to protect the intrinsic value, beauty, open character and landscape character from unsustainable development. To secure this, criterion c) seeks to ensure that developments consider scale, layout, density, mass, design and materials. Criterion d) advises on the use of acceptable materials,

to achieve quality design, and criterion e) advises that development should incorporate a high standard of landscaping.

- 3.38 In addition, the application is supported by a Landscape Impact and Visual Character Assessment (LIVA), an Arboricultural Assessment and a Landscape and Ecological Strategy.
- 3.39 The application site comprises the northern part of a parcel of pastoral land to the east of the settlement of Witherley. The site has an area of 0.49 ha and is relatively flat. The site is enclosed by the boundaries of residential properties to its east and west, by fields to the south, with Chapel Lane running parallel to its northern boundary. The Parish Rooms (a community building) also forms part of the site's northern boundary. The site is enclosed by a mix of native and non-native specimens, including a row of mature conifers along the common boundary shared with the dwelling further east. Along Chapel Lane the site frontage is partially open, partially enclosed by post and wire fencing and partially enclosed by a maintained native hedgerow. Internally the site is subdivided into two distinct sections. The area of land fronting Chapel Lane is host to a hard surfaced yard, a block of 13 stables and a barn. Further to the south and east of the site is paddock land. The site benefits from three existing accesses off Chapel Lane, situated at irregular intervals along the boundary. Public Right of Way (T28) dissects the wider field from north to south, in proximity to the western boundary.
- 3.40 In terms of built development, immediately adjacent to the sites eastern boundary is a substantial, extended, detached two and a half story property, set in extensive grounds. This plot is also host to a range of outbuildings situated along its eastern and western boundaries. Part way along the sites front boundary is the Parish Rooms. This is a gable fronted, single story brick and tile building. It has front and rear extensions and a small parcel of amenity space to its eastern side. The building dates back to the? . Further to the east are properties along Chapel Lane. These comprise of bungalows and two-story properties of varying design and age. To the west of the site are properties served off Kennel Lane, these have little consistency in terms of their siting age and design, with some development at depth. South of the site and on the

opposite side of Church Lane are arable and pastoral fields.

- 3.41 As mentioned, the site abuts the settlement boundary of Witherley to the west, which is host to a variety of services and facilities. In terms of strategic highway infrastructure, the A5 confines the settlement to the south, and the town of Atherstone is a short distance to the west.
- 3.42 Overall, within the sites immediate vicinity there are various forms of operational development and uses, and on this basis, the immediate setting of the site could not be described as 'open' and undeveloped. It is however accepted that the wider landscape to the north and south is predominantly rural in nature and subject to limited forms of development.
- 3.43 Policy DM10 'Development and Design' is relevant in this regard, specifically criterion c), d) and e).
- 3.44 As illustrated on the accompanying elevations and plans, the existing characteristics of the area have been taken into account in developing the proposed design solution. The development has been designed to be sensitive to the single storey nature of the existing buildings to the west, seeking to replicate the height of these before stepping up towards the 2.5 storey property to the east. Furthermore, the dwellings would be sited on a similar building line and would accommodate similar plots sizes, commensurate with the property footprint. Materials and architectural features have also been incorporated to reflect the local vernacular where relevant. A sensitive landscaping solution has been developed. Where feasible hedgerow has been retained to the site frontage, with landscaped areas beyond, mimicking the approach found in properties further west. Site boundaries have been supplemented by additional soft landscaping, and a three-metre-wide native landscape buffer is proposed to define the rear boundary, along with clusters of trees. The use of artificial boundary features, including close board fencing have been kept to a minimum, to preserve views and retain a sense of openness.
- 3.45 In terms of detailed design, the dwellings are well proportioned and have a

symmetrical, balanced appearance. Architectural detail including, arched headers and brick cills, chimneys, decorative brickwork and eaves detail are incorporated, ensuing an attractive and appealing development.

- 3.46 A Landscape and Visual Impact Assessment (LIVA) has been provided to assess in further detail the wider impacts of the proposal. The conclusions of this report are separated into landscape, visual and policy considerations. In terms of the localised landscape setting, it is considered that the proposals would not give rise to any significant long term adverse effects upon the key characteristics of the Landscape Character Area. Whilst the report acknowledges that the proposals would change the character of the site, it is concluded that no important landscape features would be lost as a consequence. Furthermore, the proposal is considered characteristic of the localised landscape setting. Overall, a range of benefits are considered to follow in terms of landscape, visual amenity and biodiversity. On this basis, it is concluded that the development can be integrated without significant adverse effects upon the localised or wider landscape setting, and with a number of benefits arising.
- 3.47 In regards to visual impacts, the site is considered to benefit from a good degree of visual enclosure resulting in only close views, with the main viewing points being the PRoW or Chapel Lane. Through the introduction of new landscape typologies and new habitats, the report concludes that visual amenity will both be maintained but enhanced, and that any new development will benefit from softening to fit with existing built form.
- 3.48 Finally, in terms of Policy impacts, the LVIA has considered that landscape and visual matters have been appropriately addressed.
- 3.49 The supporting arboricultural report acknowledges that some trees will be lost to accommodate the proposal, but that the retained trees can be adequately accommodated within the development, subject to specific foundation design (where necessary) and that these will be safeguarded through the installation of various tree protection measures. Mitigation for the losses is further detailed

within the accompanying landscape strategy and plans and the arboricultural report confirms that the level/ type of re-planting is acceptable.

3.50 It is notable to mention that whilst the Inspector previously identified landscape harm, this was primarily on account of the specific characteristics of the proposal in terms of the number of dwellings and their siting, the loss of vegetation and the proposed landscaping solution. These matters have been carefully considered in developing the current submission. The quantum of development has been reduced to minimise the land-take and so, urbanising impact, the layout has adopted a linear form, akin to the pattern and characteristics of existing development and a more sensitive landscaping solution has been developed including the provision of native hedgerow continuing along the site frontage. These measure all serve to mitigate the previously identified landscape impact.

3.51 On the basis of the above, whilst the landscape character would be changed through the introduction of built form into a predominantly undeveloped parcel of land, and whilst some harm would follow as a result of the losses of vegetation; the development has been carefully designed to reduce as far as possible these negative impacts and to enhance the local landscape setting and biodiversity through various landscape proposals. Through its re-development the existing, unmaintained buildings would be cleared, along with the extensive areas of hard standing and the sprawling vegetation, and would be replaced with a high-quality development, reflective of the existing form, supplemented by extensive landscaping that would result in numerous benefits to the area. As such, any identified harm is considered to have been overcome and the development in this regard would be compliant Policy DM10 of the Local Plan and the overall intentions of the NPPF.

Residential Amenity

3.52 Local Plan Policy DM10 requires that development would not:

- a) have a significant adverse effect on the privacy and amenity of nearby

residents and occupiers of adjacent buildings, including matters of lighting, air quality (including odour), noise, vibration and visual intrusion;

- b) The amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site; and
- c) Paragraph 174 (e) of the NPPF seeks to prevent new development from contributing to, being but at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability, continuing that development should, wherever possible help to improve local environmental conditions.

- 3.53 In terms of impacts on existing properties, it is considered, based on the intervening separation distances and the alignment of the proposed development, that there would be no material harm caused in terms of privacy, overshadowing and noise and disturbance. Nor would the proposal result in any overbearing impacts.
- 3.54 In terms of potential impacts on the proposed occupants, concerns were raised by the Inspector in the previous appeal on grounds of noise and disturbance generated by the adjacent Parish Hall. At the time of the appeal, there was no available evidence to substantiate this concern, however based on their function and operational nature, harm in this regard was not raised as an issue by the Council's Environmental Health Department.
- 3.55 To further assess and address this matter, this submission is supported by a Noise Assessment and the Council's response to a Freedom of Information Request (Appendix 3) in respect of noise complains within the site's vicinity.
- 3.56 The Noise Assessment undertook continuous sound level measurements from various positions around the Parish Hall between Thursday 24th and Monday 28th June 2021, to determine the typical diurnal noise climate affecting the site.

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- 3.57 The results of the measurement survey, including observations made whilst on site indicate that the noise climate at the site and surrounding area, predominantly, is determined by traffic on the A5, to the south, with intermittent traffic noise from other smaller roads in the local vicinity.
- 3.58 The report concludes that the relevant requirements for internal spaces can be achieved with appropriate acoustic rated glazing and acoustic rated vents, and that the requirements relating to sound within private gardens is currently achieved with no further mitigation required. To guard against occasional music events at the Parish Hall, the report suggests all habitable rooms which directly overlook the Hall utilise an appropriate acoustic rated glazing system and alternative means of ventilation to control external noise break-in during these times.
- 3.59 Finally, the calculated internal noise levels from the Parish Hall car park at the nearest dwellings was found to be significantly below the relevant criteria relating to night time noise with open windows and therefore, no specific mitigation is required.
- 3.60 The FOI request confirmed that no noise related complaints have ever been received in relation to activities being undertaken from the Parish Hall.
- 3.61 The proposed layout illustrates a considerable separation, along with enhanced boundary landscaping between the Parish Hall and plot 1 and confirms that no habitable rooms will face in this direction, which would further alleviate any impacts. It is further noted that the submitted scheme differs considerably from the appeal scheme, in the number of properties have been halved, therefore allowing them to be sited a much greater distance away from the Hall. In the former scheme, the Hall was immediately adjoined by the boundaries of two properties, with a further three properties orientated toward to the Hall.
- 3.62 In light of these findings, it is contended that the future occupants would not be subject to any harm as a result of the nearby Parish Hall on grounds of noise
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and disturbance and no further impacts would be raised on grounds of residential amenity. The development is therefore considered policy compliant in this regard.

Highways and Transportation

- 3.63 Policy DM17 seeks to ensure that development proposals can be accessed via public and private transport and Policy DM18 requires development to provide an appropriate level of parking.
- 3.64 The Framework is supportive of development that will provide a safe and suitable access for all and at paragraph 11, confirms that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.
- 3.65 As identified on the layout plan, various highway improvements are proposed; including the widening/upgrading of Chapel Lane, to ease traffic flow and avoid potential conflicts between agricultural vehicles and cars, as well as to facilitate the provision of a footpath along the site frontage to enhance connectivity. The development itself will be served by four individual accesses, leading to off road parking provision and garages, and each dwelling will be provided with adequate parking provision in terms of quantum and functionality.
- 3.66 During the previous appeal, neither the County Highways Authority nor the Inspector raised harm on grounds of highway issues. Given that this submission is for a reduced scheme, it therefore follows that no such harm should be raised in regards to this proposal.
- 3.67 The application has been accompanied by a Transport Statement (TS). Due to the minor nature of the application, there is no formal requirement for such, however this document sets out a proportionate assessment of the proposal and its transport implications, to demonstrate that the aims of the NPPF are satisfied and that planning consent should not be prevented on transport

grounds.

- 3.68 In terms of opportunities for sustainable travel, there are footpaths and footways running within the pedestrian catchment area. There are facilities in the vicinity of the site, including primary schools as well as a post office and convenience store. Pedestrians can access the site via the existing footway on the southern side of Chapel Lane and Atterton Lane as well as footways along Kennel Lane and the A5. National Cycle route 52 runs to the east of the site and the local roads in the vicinity of the site are suitable for cycle travel. The nearest bus stops are on Hall Lane, approximately 420 metres from the site and provides a service from Measham to Atherstone.
- 3.69 Regarding access, as part of the previous application for the site, a highway widening scheme was proposed along Chapel Lane. The proposals include widening the site frontage to 4.8m to enable two-way traffic movements whilst widening the section of carriageway at the front of the Parish Hall to 3.7m. As mentioned, LCC did not object to the proposed highway works along Chapel Lane as part of their highway's observations for the previous scheme. Along with the highway works on Chapel Lane, the proposed development would be accessed via four private driveways, all of which are sufficient for the development and provide suitable visibility, for both pedestrians and vehicles.
- 3.70 In terms of vehicle movements, the development would generate up to four two-way vehicle movements in a peak hour. On this basis there would be no material increase in traffic to the highway network. There are also no recorded accidents within the vicinity to the site.
- 3.71 The TA concludes that as conditions would not materially alter, and so no adverse impacts would follow. Safe and suitable access can be achieved by all modes of transport and the proposed development would not result in a severe impact on the road network.
- 3.72 On the basis of the detailed information contained within the TA, the development is considered to be acceptable and in accordance with the

relevant local and national planning policies in this regard.

Ecology and Biodiversity

- 3.73 Policy DM6 requires proposals to demonstrate how they conserve and enhance features of nature conservation and geological value including for their long-term management. The Policy continues that on site features should be retained, buffered and managed, to maintain their ecological value, connectivity and functionality in the long-term.
- 3.74 The NPPF at paragraph 180 states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 3.75 This application has been supported by a Preliminary Ecological Appraisal (PEA) and a Biodiversity Net Gain Assessment.
- 3.76 In regard to bats, it is suggested that the building on site (B1) should be subject to a single emergence survey. This building was found to be of low suitability to support roosting bats, with gaps present behind the flashing.
- 3.77 The flashing referred to comprise a strip of wood along the eaves of the building. From the photographic evidence contained within both the historic and updated PEA's it is clear that this 'flashing' has been present, in its current form for some time; however alternative conclusions have been drawn by each ecological assessment in terms of its suitability to support roosting bats.
- 3.78 On account of this, the current submission has been made on the basis that if further surveys are considered necessary by the statutory consultee, they will be undertaken during the relevant season. This approach will prevent delays in terms of the consideration of 'other' planning issues. The same approach has been adopted in regards to GCN. The applicable pond does not fall within land under control of the applicant, and consequently the applicant has not

been able to obtain access for surveying purposes. The applicant will continue to liaise with the landowner in this regard and will endeavour to undertake the surveys at the earliest date possible, should they be necessary.

- 3.79 The historic application was supported by a Preliminary Ecological Appraisal (2013), an Ecological Appraisal (2016) and a Reptile Survey (2016). Whilst these Ecological Surveys contained various recommendations to ensure good management and best practice of ecological features, aside from requiring further reptile surveys, no further survey recommendations were made in relation to any other protected species. In regard to Reptiles, further survey work was undertaken. This concluded that reptiles are likely to be absent from the site and so the impacts to reptiles as a result of any development are therefore considered to be negligible. On this basis, no further surveys for reptiles were recommended.
- 3.80 Whilst the potential for some biodiversity gains on the site were acknowledged by the Inspector during the previous appeal, no harm was raised on these grounds either by the Council (and its consultees) or the Inspector during the determination process.
- 3.81 To assess biodiversity impacts, a BNG assessment has been provided with the application. This sets out that pre-development the site comprises largely of low value habitats, including improved and species-poor grassland fields, ruderal vegetation and scrub, with a number of higher quality habitats also present, including plantation woodland. The post-development plans for the site include the enhancement of the flood plain with a species-rich, wet meadow grassland mix, which accounts for the majority of the post-development score. Based on the above, the overall score for the site is a net gain of 10.38 % of the pre-development score. To secure the long-term biodiversity benefits, the assessment recommends that a Landscape and Ecological Management Plan (LEMP) be conditioned as part of the planning application.
- 3.82 Overall, the supporting surveys and assessments have demonstrated that

there will be no ecological harm, that can't be mitigated for should this be considered necessary and that the site, post development will result in a biodiversity net gain in excess of 10%, which exceeds both the local and national policy requirements. On this basis the application is considered acceptable and in accordance with the relevant local and national planning policy.

Drainage and Floodrisk

- 3.83 Local Plan policies DM7 and DM12 and paragraph 159 of the NPPF make clear that through following the sequential approach, development in areas at risk of flooding should be avoided through directing development to areas of lower flood risk.
- 3.84 The application has been supported by a Flood Risk Assessment (FRA) and a Drainage Strategy and SuDS report.
- 3.85 Within the FRA The site is shown to be located predominantly within Flood Zone 1, with the tip of the visibility splay to the far north west being partially located in Flood Zones 2 and 3. (as illustrated in the extract below) The area where development is proposed is entirely within Flood Zone 1.



Figure 2.1: Flood Map for Planning

- 3.86 This FRA demonstrates that the proposed development will not be exposed to a significant risk of flooding, subject to the recommended mitigation being implemented. The assessment has identified that the main flood risk source to the wider site is fluvial, from an unnamed southern tributary of the Witherley Brook. The FRA has further investigated this source, and the development has been sequentially arranged so that it is located entirely outside of the design event floodplain. The FRA explains that this arrangement will ensure that the development will be safe for its lifetime, taking into account the impacts of climate change and as a further precaution, finished floor levels will be raised to a minimum level of 71.40mAOD, to avoid impacts associated with a freak flood event, should one occur.
- 3.87 Subject to the mitigation proposed, it is concluded that the development can proceed without being subject to significant flood risk. Moreover, the development will not increase flood risk to the wider catchment area subject

to suitable management of surface water runoff discharging from the site.

- 3.88 The Drainage Strategy and SuDS report considers the uses of sustainable drainage techniques wherever possible. SuDS are designed to replicate the natural course of drainage as closely as possible, with a view to reducing the impact of flooding, removing pollutants at source, and combining water management with green space. Due to the ground conditions, the report has identified that infiltration would not be possible here. This said, the report has identified various techniques which have resulted in a surface water strategy that will restrict the surface water runoff to 3.5l/s. This solution will result in an improved situation over and above the existing.
- 3.89 The supporting reports have demonstrated that the development will not result in any harmful impacts from either flood risk or drainage. The proposal is therefore in accordance with Policy DM7 of the Local Plan and the wider intentions of the Framework in this regard.

4.0 Planning Balance and Conclusions

4.1 Asset out within s38 of the Planning and Compulsory Purchase Act, applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The NPPF is a material consideration.

4.2 For this proposal, the most important Development Plan Policies are:

- Core Strategy policies: - 12 – (Rural Villages)
- Site Allocations and Development Management Policies Document policies:- DM4 (Rural Villages), DM6 (Enhancement of Biodiversity and Geological Interest), DM7 (Preventing Pollution and Flooding), DM10 (Development and Design) DM17(Transportation and Highways) and DM18 (Vehicle Parking Standards)

4.3 As illustrated within the previous sections of this report, the spatial policies (CS12 and DM4) have been confirmed as out of date on grounds of both a lack of five-year housing land supply and being based on out-of-date evidence. Accordingly, the tilted balanced as set at paragraph 11 (d) is engaged.

4.4 In terms of the detailed policies, on the whole, their content is broadly consistent with the aims and intentions of the Framework and so, they can be attributed weight in the decision-making process.

4.5 For the determination of this proposal, paragraph 11 (d) ii is engaged:

planning permission should be granted unless:

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.

- 4.6 When considering the in-principle acceptability of the proposal, as stated, the Council are not able to provide an adequate supply of houses to meet its identified need. This is the case Borough wide and for specific settlements, such as Witherley. Furthermore, in the case of Witherley, there are no sites identified within the settlement boundary that could meet the identified need. This means that out of settlement sites must be considered.
- 4.7 The application site is outside of, but adjacent to the settlement boundary of Witherley and benefits from a partial brownfield classification. Moreover, as per the sites revised scoring against the within the Witherley Neighbourhood Plan sustainability criteria, of all the sites considered, it is clear that the site is the most sustainable and suitable for residential development within the settlement, and on this basis should be allocated or progressed for residential development.
- 4.8 Whilst it is noted that there would be an element of 'policy' harm by virtue of the sites 'Countryside' designation, this would be very limited and would be outweighed by the various, social, economic, and environmental benefits brought about by the development.
- 4.9 In regard to the detailed/technical issues, it has been demonstrated through the supporting documents and the character assessment, that whilst the development *would* result in a change to the local landscape character through the introduction of built form, this would not necessarily be harmful and that as a consequence of sites re-development, various enhancements would follow. In terms of appearance, most views would be short distance, gained from the public footpath or Chapel Lane. The character and design of the development would however be reflective of existing development and views would be softened through the provision of additional soft landscaping. The existing unmaintained buildings would be removed, and the site would be cleared. Biodiversity enhancements would follow, and through these measures, the very limited harm associated with the change in appearance would be

overridden by the identified benefits.

- 4.10 In terms of residential amenity, no harms would arise as a result of the development on existing nearby properties. In terms of impacts on the proposed development from the Parish Hall, the application has been supported by various forms of evidence and along with this, design solutions have also been suggested. On the basis of the suggestions being incorporated (which they have been) it is not considered that there would be any harm remaining in this regard.
- 4.11 Various highway design improvements have been suggested within the Transport Assessment, including the provision of an extended footpath along the site frontage, and the site accesses have been designed to conform with the necessary standards. Furthermore, it has been demonstrated the site can be accessed via various, sustainable modes of transport and that it would be within close walking and cycling distances to a wide range of services and facilities.
- 4.12 In terms of drainage and flood risk, the site layout has been influenced by the sequential approach, safeguarding the proposed development from any potential flooding impacts and measures have been implemented to reduce flood risk elsewhere. Sustainable drainage systems have been developed to serve the site and the sites drainage rate will be well below greenfield run-off rates. As such, subject to techniques identified being incorporated, the development will not result in any harm in this regard.
- 4.13 Finally, the application has been supported by numerous ecological surveys a BNG assessment and an arboricultural report. Where it has been possible to undertake surveys, these have demonstrated that there would be no impact to any protected species. Where additional survey work has been suggested, if considered necessary, this will be undertaken within the next available survey season. If any harm is identified at the point of these surveys, mitigation can be secured by way of condition. In terms of BNG, a comprehensive scheme of BNG enhancements have been proposed, resulting in a net gain of over 10%.

This is well in excess of local and national planning policy and is a significant benefit in favour of the scheme.

- 4.14 This development would result in a range social, economic and environmental benefits. The provision of further housing in an under-delivering Authority will provide much needed homes. These homes would in turn assist in sustaining rural services and facilities, such as shops and schools, thus enhancing the vibrancy of the settlements. Through developing an edge of settlement, part brownfield site, greenfield land within the countryside would be safeguarded from fulfilling the identified housing need, which would result in land use efficiencies. The local economy would benefit through short term construction related jobs and through the longer-term spending powers of the new residents. A range of environmental enhancements would be secured; the land is currently underutilised, through its development, as a result of the additional landscaping, the species mix would be improved, thus attracting a wider range of wildlife and new habitats would be created. The existing dilapidated buildings and hard surfacing would be removed, and the site would be maintained.
- 4.15 Through the developments compliancy with the relevant local and national planning policies, it is classed as inherently sustainable and, on this basis, in accordance with policy, should be approved without delay.