

HINCKLEY AND BOSWORTH BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990



Hinckley & Bosworth
Borough Council

STATEMENT OF CASE OF THE LOCAL PLANNING AUTHORITY

PLANNING APPEAL BY MS REDFORD

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE PROPOSED
CONSTRUCTION OF 2 BEDROOM DWELLING ON LAND ADJACENT TO 22
ROOKERY LANE, GROBY, LEICESTER, LEICESTERSHIRE**

HBBC REFERENCE: 23/01173/FUL
PLANNING INSPECTORATE REFERENCE: APP/K2420/W/24/3349885

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1. INTRODUCTION

- 1.1 This Statement should be read in conjunction with the previously submitted appeal questionnaire papers, delegated Officer Report (Appendix 1) and comments of Hinckley and Bosworth Borough Council's (HBBC) Conservation Officer (Appendix 2). This statement is in full support of the decision of HBBC to refuse planning permission for a proposed dwelling on land adjacent to 22 Rookery Lane, Groby, Leicester, Leicestershire.

2. DESCRIPTION OF THE APPEAL SITE, THE SURROUNDING AREA AND PROPOSAL

- 2.1 The application site lies to the south side of Rookery Lane, within the settlement boundary Groby. The site comprises of a small area of land to the east of a private drive serving a recently developed detached dwelling (24 Rookery Lane) which is located to the rear of an older detached cottage (20 Rookery lane) and a modern dwelling (22 Rookery Lane). The site forms part of an area of landscaping for the wider development of the two new dwellings (24 and 22 Rookery Lane) which have been implemented to the north west of the application site (references 14/01084/FUL and 17/01071/CONDIT) (Site plans shown in Appendix 3 and 4).
- 2.2 The application site is situated in an elevated position to the road as land rises to the south and east. The site is enclosed in part by a metre high stone wall with the remainder of the boundary comprising of a retaining timber wall. The two newly constructed dwellings to the north west of the site have white painted rough cast rendered walls with brick detailing.
- 2.3 The proposed dwelling would be accessed from an existing access point which provides access to 24 Rookery Lane and a car parking area for both 22 and 24 Rookery Lane.
- 2.4 Immediately to the east, the site borders 26 Rookery Lane which is a Grade II Listed building. The application site itself is at a relatively lower (elevation) level than No26. Details of the building as identified by Historic England are:
- 'House. Late C18 with C20 additions. Paired rubble walling with brick dressings, Swithland slate roof with 2 brick painted gable stacks 2 storey. 3 bay front with central gabled porch with small casement, flanked by single 3 light casements under segment heads. Above 2, 2-light casements to left a lean-to addition, to right a C20 addition with 2 light casement'.*
- 2.5 The boundary of the application site where it abuts the listed building comprises of a 1.8m close boarded fence. The site and the immediate surrounding properties lie within the Groby Conservation Area which covers the village centre and its environs. In addition, the site forms part of an area identified in the Groby Conservation Area appraisal November 2010 as an area of landscaping, and parking provision. That appraisal however being undertaken prior to its adoption in 2010; pre-dates the development of adjacent site including the erection of new dwellings at No 22 and 24 behind.
- 2.6 In 2017 Planning permission was sought for the development of the site by the erection of a single dwelling Ref: 17/00982/FUL. That application was refused by the Council. A decision subsequently upheld on appeal.

3. SITE HISTORY AND RELEVANT APPEAL/APPLICATION DECISIONS

- 3.1 The relevant planning history of the site is set out in Section 4 of the Council's Delegated Report (Appendix 1).
- 3.2 Planning application 14/01084/FUL is of relevance to the Council's case. These applications relate to the partial demolition of, and extensions and alterations to, an existing dwelling (20 Rookery Lane) and erection of two new dwellings (now 22 and 24 Rookery Lane) including alterations to access and erection of a new boundary wall. The car parking layout was subsequently amended under application 17/01071/CONDIT (an application to vary condition 2 of 14/01084/FUL). The Delegated Officer report for application 17/01071/CONDIT is included in appendix 5, paragraphs 8.5- 8.12 are of particular relevance to the appeal. As can be read within the report unauthorised removal of mature trees within the site occurred prior to the determination of application 17/01071/CONDIT which had a significant adverse impact on the verdant appearance of the site, the visual amenity of the Groby Conservation Area and the setting of the adjacent Listed Building (26 The Rookery). The tree removal was in contravention of a number of conditions on the original planning consent 14/01084/FUL.
- 3.3 An Arboricultural Report was subsequently submitted containing a programme of works to address these issues. A revised replacement tree planting scheme/schedule scheme was submitted, including the planting of heavy standard trees to replace those removed from the Groby Conservation Area without authorisation, to enhance the appearance of the development within the Groby Conservation Area and setting of the adjacent Listed Building (Appendix 6). As can be seen the replacement tree planting included a number of trees on the appeal site. Only by virtue of the proposed replacement tree planting scheme was application 17/01071/CONDIT considered acceptable (Appendix 5). Condition 2 of that approval required that the development was implemented in full accordance with the approved tree schedule (Appendix 7). The proposal would result in the loss of existing trees and replacement trees.
- 3.3 Application 17/00982/FUL was refused by HBBC, a decision upheld on appeal. Section 4 of the Delegated Officer Report (Appendix 1) contains the reasons for refusal and the appellant's agent's response to the differences between the current appeal scheme and that refused previously. A copy of the proposed plans for application 17/00982/FUL and the Appeal Decision are enclosure in appendices 8 and 9. Whilst each application must be considered on its own merits, there are similarities to be drawn between the refused application and appeal scheme. Importantly, the Inspector in dismissing the appeal noted that:
- "Taking all these matters into account, my overall conclusion is that the public benefits of the proposal fall a long way short of outweighing the harm that would be caused to Groby Conservation Area and the setting of the Grade II listed building at 26 Rookery Lane. The proposal would therefore be contrary to a policy of the Framework that provides a clear reason for refusing the development proposed, as well as failing the statutory tests. As such it would not constitute a sustainable development and would be contrary to section 16 of the Framework, in addition to being contrary to policies DM1, DM10, DM11 and DM12 of the SADMPDPD and policy 8 of the Core Strategy. Policy DM1 states the presumption in favour of sustainable development".*

4. RELEVANT PLANNING POLICY/GUIDANCE

- 4.1 National Planning Policy Framework (NPPF) (2023)
- 4.2 Planning (Listed Buildings and Conservation Areas) Act 1990
- 4.3 HBBC Core Strategy (2009)
 - Policy 7: Key Rural Centres
 - Policy 8: Key Rural Centres relating to Leicester
- 4.4 Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM13: Preserving the Boroughs Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 4.5 Other relevant guidance:
 - National Planning Practice Guidance (PPG)
 - Good Design Guide (2020)
 - National Design Guide (2019)
- 4.6 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 provide that planning decisions must be made in accordance with the development plan unless there are material considerations to indicate otherwise.
- 4.7 It is the National Planning Policy Framework December 2023 (NPPF) (the Framework) that is of key relevance to this appeal. Paragraph 2 confirms that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications.
- 4.8 Paragraph 8 of the NPPF sets out that achieving sustainable development means that the planning system has three overarching objectives:
 - a) An economic objective;
 - b) A social objective – to support strong, vibrant and healthy communities... by fostering places with accessible services... that support communities' health, social and cultural well-being; and
 - c) An environmental objective – to protect and enhance our natural, built and historic environment
- 4.9 Paragraph 11 of the Framework sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay or that where there are no relevant development plan policies, or the policies that are the most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

- 4.10 Paragraph 225 of the Framework confirms that existing policies should not be considered out-of-date simply because they were adopted or made, prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
- 4.11 Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 4.12 On 29 July 2024 the City Council published an updated five year housing land supply calculation. This updates the five year housing land supply position from March 2023 to March 2028 and demonstrates a 5.6 year supply of housing, with a surplus supply of 145 dwellings over the five year period.
- 4.13 For decision taking, a five year housing land supply is a material consideration in all relevant applications and appeals for dwellings in the Borough. Despite being able to demonstrate a housing land supply, due to the age of the relevant housing 7 policies in the Core Strategy, in accordance with the requirements of 11d) of the NPPF, the Council should still grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 4.14 Section 12 of the Framework is titled 'Achieving well-designed and beautiful places', and paragraph 131 sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development and creates better places in which to live and work. Paragraph 135 states that decisions should ensure that developments are visually attractive; are sympathetic to local character; and create places that promote health and wellbeing with a high standard of amenity for existing and future users.
- 4.15 Paragraph 180 of the Framework states that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside... and of trees and woodland.
- 4.16 Section 16 of the NPPF provides national guidance on conserving and enhancing the historic environment. Paragraph 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset the greater the weight should be. Paragraph 207 of the NPPF states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or loss identified is necessary to achieve substantial public benefits that outweigh that substantial harm or loss. Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including its optimum viable use. Paragraph 212 of the NPPF states that local planning authorities should look for opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.
- 4.17 The requirements of the Site Allocations and Development Management Policies DPD and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 are set out in the Delegated Officer Report and so shall not be repeated here.

5. THE CASE FOR THE LOCAL PLANNING AUTHORITY

5.1 A recommendation for refusal was made with the Delegated Officer report concluding that:

'Given the very minor benefits arising from the proposal, the level of harm to the significance of the conservation area and the adjacent listed building, the loss of the green space, which contribute positively to the character and appearance of the Conservation Area, the Local Planning Authority do not consider that the benefit of this proposal would outweigh the heritage harm caused. Given that special attention and regard should be paid under statutory provisions, great weight has been given to the conservation of the designated heritage assets. The proposal conflicts with local planning policies on protecting and enhancing the historic environment and heritage assets and overall the design is not judged to complement the character of the surrounding area. Conflict with policies DM10, DM11 and DM12 are therefore identified.

The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. It is necessary therefore to consider the 'tilted' balance in paragraph 11(d) of the NPPF, as the development is judged to harm the special significance of heritage assets officers consider this provides a clear reason for refusing the development in line with paragraph 11(d) i). Nonetheless, were paragraph 11(d) ii) applied whereby planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, the adverse heritage and design impacts would outweigh the benefits of the development. The provision of a single dwelling would contribute positively to the Council's housing land supply, furthermore there would be temporary benefits associated with the construction of the dwelling. However, these benefits are limited owing to the small scale of the development and in therefore are attributed limited positive weight which would not overcome the harm'.

5.2 The specific reasons for refusal were:

- 1. 'The proposed development would result in the unacceptable erosion of the green space within Rookery Lane and the Groby Conservation area. Given the scale, siting and design of the proposed development it would result in a prominent and overbearing feature within the streetscene and would detrimentally impact upon the conservation area and an area of designated green space which is of importance of the historic setting of the Groby Conservation Area. The proposed development is contrary to Policies DM1, DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Paragraph 208 of the National Planning Policy Framework and Section 16 of the National Planning Policy Framework (2023) and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.*
- 2. The proposed development would be situated forward and in close proximity of the adjacent Grade II Listed Building known as 26 Rookery Lane, and would result in the loss of existing green space, existing and future mature trees, which would have an adverse effect upon the setting of the Listed Building. This would not be outweighed by the Public benefits of the scheme. The proposed development is contrary to Policies DM1, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Paragraph 208 of the National Planning Policy Framework and Section 16 of the National Planning Policy Framework (2023) and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990'.*

- 5.3 The LPA considers that its case is made well within the Delegated Report (Appendix 1) and comments from the HBBC Conservation Officer (Appendix 2) which should be read alongside this statement. This statement will seek to minimise repetition of the points that have already been made.
- 5.4 Of key consideration is that since the determination of the application the Council has published an updated 5 year housing land supply calculation on 29th July. This updates the 5yr housing land supply position from March 2023 to March 2028 and demonstrates a 5.6yr supply of housing, with a surplus supply of 145 dwellings over the five year period. This is a material change and demonstrates that the Council can now demonstrate a 5 year housing land supply.
- 5.5 For decision taking, a 5yr housing land supply is a material consideration in all relevant applications for dwellings in the Borough. Despite being able to demonstrate a housing land supply, due to the age of relevant housing policies in the Core Strategy, in accordance with paragraph 11d) of the NPPF, the Council consider that the tilted balance still applies and that permission for housing should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.
- 5.6 It is the appellant's view in their Appeal Statement that the changes that have occurred on the adjacent land following the development of the two new dwellings have significantly changed the appearance and status of the application site as a green space within the Conservation Area. That the importance of the site as part of the street scene within the Conservation Area has been eroded to such an extent that its development would in their opinion not detract from the street scene and indeed the development of a small bespoke designed dwelling with enhanced landscape and feature wall to the front would enhance the appearance of the site and the street scene.
- 5.7 The adjacent development had occurred prior to the determination of the previous appeal (APP/K2420/W/18/3194858) with no material change in the land since then, with the exception of the trees planted in accordance with the approved planting scheme for application 17/00982/FUL being more mature. The Inspectors views at the time are therefore still highly material, they noted that *'The value of the site is recognised by the CAA and plan of the Conservation Area which identifies it as part of larger green space formed by the gardens to 20 and 26 Rookery Lane. The CAA development guidance states such green spaces should be retained. However, since the publication of the CAA permission has been granted for houses within the garden of No 20 which have now been built. This development has served to increase the value and importance of the appeal site as the only remaining green space along the front boundary separating built development at No 20 from the plot of No 26.'*

The proposed house would result in the loss of this gap and urbanise the site to the detriment of the character and appearance of the Conservation Area as a whole. The harm caused would not be compensated by the design of the house which would be sympathetic to the appearance of the existing recently built houses and No 20'.

- 5.8 Given there has been no material change in the character of the area with the exception of the trees becoming more mature at the front of the site, enhancing the character of the area, the view of the Inspector is still relevant.
- 5.9 Turning to the comments on the bespoke design of the dwelling and enhanced landscape character. The Inspector previously noted that the harm caused to the Conservation Area would not be compensated by the design of the sympathetically designed dwelling. The appeal proposal does differ to the previously refused scheme, however, it is the LPA's opinion that the amended scheme is far less sympathetic than previously proposed, reducing the weight to the design even further. The dwelling still occupies a similar width of the plot and is

now proposed to have a gable frontage with staggered heights which appears to exceed the height of the previously proposed dwelling overall. The roof form includes the varying heights and catslide design which is not in keeping with the immediate context.

- 5.10 Furthermore, the proposal would see the removal of various trees which were secured as mitigation planting under application 17/00982/FUL following the unlawful felling of trees on the site. No tree survey, landscaping plan or mitigation planting has been proposed further eroding the character of the site and its contribution to the Conservation Area. The NPPF is clear in paragraph 140 that “Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)”. Thus the comments on landscape enhancements made by the Appellant are strongly refuted.
- 5.11 Overall, from reviewing the Appellants Statement of Case and Rebuttal Statement provided by GHM Planning, the LPA remain of the view that by virtue of its scale, siting and design the proposed development would result in a prominent and overbearing feature within the streetscene and would detrimentally impact upon the conservation area and an area of designated green space which is of importance of the historic setting of the Groby Conservation Area and 26 Rookery Lane (Grade II Listed building).

6. PLANNING BALANCE AND CONCLUSIONS

- 6.1 The most important policies for the determining of this appeal are those set out in the two reasons for refusal.
- 6.2 It is acknowledged that the tilted balance as set out at paragraph 11d) of the NPPF is engaged due to the age of the Core Strategy but the Council is able now to demonstrate a five-year housing land supply. Accordingly, permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 6.3 The proposal fails to complement or enhance the character of the area as required by Policy DM10 of the SADMP.
- 6.4 Furthermore, the development would cause harm to the significance of the Groby Conservation Area and adjacent Grade II Listed 26 Rookery Lane. In this case the harm is considered to be less than substantial. In accordance with the statutory duties outlined in this Statement considerable importance and weight is attributed to this harm.
- 6.5 The LPA considers that there are very limited social benefits arising from the provision of a single dwelling given that the Council is able to demonstrate a five year supply of housing land. In addition, there are no planning benefits such as affordable housing, self-build housing or essential infrastructure. However, the site is in a sustainable location with good access to services and facilities.
- 6.6 Economic benefits would arise from the scheme through jobs and spend during the construction phase and through economic activity of occupiers but are considered to carry negligible weight for a scheme of this scale.
- 6.7 It is not considered that in this particular case there are any environmental benefits arising from the development of an undeveloped piece of land with the loss of trees.
- 6.8 Taking all of the above into account the LPA consider that, as was considered by the Inspector in the earlier scheme, the public benefits of the proposal fall a long way short of outweighing the harm that would be caused to Groby Conservation Area and the setting of the Grade II listed building at 26 Rookery Lane. The proposal would therefore be contrary to a policy of the Framework that provides a clear reason for refusing the development proposed, as well as failing the statutory tests.
- 6.9 Overall, the adverse impacts of the appeal scheme would significantly and demonstrably outweigh its benefits and as such it would not constitute a sustainable development. With regard to the information contained in this statement and that submitted with the appeal questionnaire, delegated officer report and Conservation Officer's comments, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed. However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of the conditions and reasons suggested in Section 7.

7. SUGGESTED CONDITIONS

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

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

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

- i. Site Location Plan Drg. 3119/3 (Received on 05/12/2023)
- ii. Proposed Floorplans and Elevations Drg. No. 319/1 Rev A
- iii. Proposed Site Layout Drg. No. 3119/5
- iv. Site Layout Completed Development Drg. No. 3119/4

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No part of the development hereby permitted shall be occupied until such time as the access and parking arrangements as shown on the proposed site layout plan Drg No. 3119/5 have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2023).

4. No development above foundation level of the dwelling hereby permitted shall take place until representative samples of the types and colours of materials to be used on the external elevations of the dwelling have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity and preservation of heritage assets, to accord with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

- a) Means of enclosure
- b) Hard surfacing materials
- c) Planting plans
- d) Written specifications
- e) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
- f) Implementation programme.
- g) Soft landscaping management plan

Reason: To enhance the appearance of the development, to protect the privacy and amenity of the future occupiers of the dwellings hereby permitted and the occupiers of neighbouring properties and to ensure that the works are carried out in a reasonable period of time to accord with Policy DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided to and approved in writing by the Local Planning Authority. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraph 108 and 110 of the National Planning Policy Framework (2021).

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1; Classes A to E; shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.

Reason: To safeguard the privacy and amenity of the neighbouring residents in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme, in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.

2. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at

<https://resources.leicestershire.gov.uk/lhdg>

3. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).

4. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at

<https://resources.leicestershire.gov.uk/lhdg>

5. Application forms to discharge conditions and further information can be found on the planning portal website www.planningportal.gov.uk

APPENDIX 1- DELEGATED OFFICER REPORT APPLICATION 23/01173/FUL

Delegated Report

Planning Ref: 23/01173/FUL
Applicant: Ms Redford
Ward: Groby



Hinckley & Bosworth
Borough Council

Site: Land Adjacent to 22 Rookery Lane Groby Leicester

Proposal: Construction of two bedroom dwelling

1. Recommendations

1.1. Refuse planning permission:

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

2. Planning Application Description

- 2.1. This application seeks full planning permission for the erection of a two bed dwelling. The proposed dwelling would be a staggered floor plan of two storeys with a dual pitched roof form. A small garden and 1 parking space would be situated to the rear. Access is situated to the north-west, which would also serve No's 22 & 24 Rookery Lane. The proposed dwelling would be situated on an undeveloped area of open space.
- 2.2. The proposed dwelling is of a bespoke design to reflect the characteristics of the site and its immediate surroundings with a roof that slopes away from the neighbouring property No 26 Rookery Lane, a Grade II Listed building.
- 2.3. The proposed lower ground floor would form 2 bedrooms and a bathroom with the upper floor forming an open plan kitchen and living room area. Proposed materials are render walls under a slate roof with timber casement doors and windows. Apart from a window next to the door on the north-west side elevation no windows are proposed for either side elevation. Sliding doors are proposed for the rear elevation.
- 2.4. The proposal would retain the low stone wall and set back from the highway boundary that runs across the front of the site. As part of the development it is proposed to suitably landscape this area to retain some of the characteristics of the former green space.

3. Description of the Site and Surrounding Area

- 3.1. The application site lies to the south side of Rookery Lane within the village of Groby. The site comprises of a small area of private land to the east of a private drive serving a recently developed detached dwelling located to the rear of an older detached cottage No 20 Rookery lane and a modern dwelling No 22 Rookery Lane.
- 3.2. The application site is situated in an elevated position to the road as land rises to the south. The site is enclosed in part by a metre high stone wall with the remainder of the boundary comprising of a retaining timber wall. The two newly constructed dwellings to the north west of the site have white painted rough cast rendered walls with brick detailing.
- 3.3. The proposed access also provides access to a car parking area to the rear which is owned by the applicant. Immediately to the east, the site borders Groby Surgery (26 Rookery Lane) which is a Grade II Listed building. The application site itself is at a relatively lower (elevation) level than No26.
- 3.4. Details of the building as identified by Historic England are:

'House. Late C18 with C20 additions. Paired rubble walling with brick dressings, Swithland slate roof with 2 brick painted gable stacks 2 storey. 3 bay front with central gabled porch with small casement, flanked by single 3 light casements under segment heads. Above 2, 2-light casements to left a lean-to addition, to right a C20 addition with 2 light casement'.

3.5 The boundary of the application site where it abuts the listed surgery building comprises of a 1.8m close boarded fence. The site and the immediate surrounding properties lie within the Groby Conservation Area which covers the village centre and its environs. In addition, the site forms part of an area identified in the Groby Conservation Area appraisal November 2010 as an area of landscaping, and parking provision. That appraisal however being undertaken prior to its adoption in 2010; pre-dates the development of adjacent site including the erection of new dwellings at No 22 and 24 behind.

3.6 In 2017 Planning permission was sought for the development of the site by the erection of a single dwelling Ref: 17/00982/FUL. That application was refused by the Council. A decision subsequently upheld on appeal.

4. Relevant Planning History

14/01084/FUL	Partial demolition of, and extensions and alterations to, an existing dwelling and erection of two new dwellings, alterations to access and erection of a new boundary wall	Approved	03.06.2015
17/01071/CONDIT	Variation of condition 2 of planning permission 14/01084/FUL to amend car parking layout	Approved	01.03.2018
17/00982/FUL	Erection of 1 dwellings	Refused & Dismissed at appeal	30.11.2017

The reasons for the refusal in 2017 were:

- The proposed development would result in the loss of green space within Rookery Lane and the Groby Conservation Area, which is a positive contribution to the area. Given the scale and siting of the proposed development it would result in a prominent and overbearing feature within the streetscene and would have a detrimental impact upon the character and appearance of the conservation area and designated green space which is of importance of the historic setting of the Groby Conservation Area. This would be contrary to Policy DM1, DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Core Strategy Policy 8 of the Core Strategy, and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- The proposed development would be situated forward and in close proximity of the adjacent Grade II Listed Building known as 26 Rookery Lane, and would result in the loss of existing green space, existing and future mature trees, which would have an adverse effect upon the setting of the Listed Building. This would not be outweighed by the Public benefits of the scheme. The proposed development is contrary to Policies DM1, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Paragraph 134 of the National Planning Policy Framework and Section 12 of the National Planning Policy Framework (2012) and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Difference between current and previous proposal from agents perspective

When asked to explain what the differences between the previous and the current proposal were and why it is felt the current proposal overcomes the previous reasons for refusal, the agent replied that:

'It is now 6 years since the last application in 2017 was submitted and as a result we believe there have been changes in the character and appearance of this area, which forms part of the Conservation Area.

The designation of this site as part of an area identified as a 'Green Space' dates back as far as March 2010. This is nearly 14 years ago and well before the development of housing on the adjacent site which has resulted in not only the erection of two new dwellings but also an area of on-site car parking. (see photos in the supporting Planning Statement)

It is however also interesting to note that the housing development opposite and further down Rookery Lane was identified within the appraisal as 'Weak Areas', suggesting that whilst being included within the boundary of the Conservation Area their contribution to it character and appearance is somewhat limited.

We believe that the adjacent development has involved the loss of the 'Green Space' in this part of the Conservation Area to the extent that apart from the curtilage of the adjacent Listed Building, the small area that forms the application site does not now perform the function of a green space as designated.

Also in terms of the development proposed we would refer to the bespoke design of the proposed dwelling, which has specifically been designed with regards to its relationship and impact on the character and appearance generally of the Conservation Area but more specifically the adjacent Listed Building.

The previous building design sought to reflect the design characteristics of the approved adjacent development at 22 and 24 Rookery Lane and as a result proposed a fairly standard two storey dwelling with dormers mirroring the design of the adjacent dwellings. As a result we believe it did not take into account sufficient consideration of its impact on the wider area or indeed the adjacent listed building. Our design is specifically bespoke taking as its starting point consideration of the characteristics and limitations of the site itself but also taking into consideration its relationship and impact on the adjacent Listed Building. As a result the height of the building has been kept deliberately low with split level roof and set well forward within the site. As a result although there is sufficient space to the front of the site to retain the existing stone wall, the dwelling sits forward of the adjacent listed building which is largely screened by its own close boarded boundary fencing.

We believe that the proposed development would have a less than substantial harm to the significance of the Listed Building as a designated heritage Asset but in terms of the of the wider Conservation Area would achieve as required by the National Planning Policy Framework the desirability of sustaining and enhancing the significance of heritage assets and putting the site to viable use consistent with their conservation.

The NPPF guidance requires that any harm to a designated heritage asset should be weighed against the public benefits of the proposals. Our view is that any harm to the Conservation Area or the Listed Building is limited and less than substantial and on balance is far outweighed by the provision of a bespoke well designed residential dwelling which would contribute to the Councils shortfall in housing stock and provide economic benefits in terms of the provision of construction jobs, the social objective of ensuring that sufficient range of homes can be provided and the environmental objective of protecting the built and historic environment; including making effective use of the land.

As such the proposals meet the economic, social and environmental objectives of sustainable development as set out in the NPPF and local plan policies; providing a small

residential property that would meet for smaller dwellings not generally catered for in many larger housing developments in an eminently sustainable location.

Finally we would highlight the Government's objective of significantly boosting the supply of homes and reiterate the Councils current housing land supply issues highlighted by the lack of 5 year housing supply and the need to produce a Housing Action Plan due to the Councils failure to provide enough homes to meet their local housing requirement'.

6. Publicity

6.1 The application has been publicised by sending out letters to local residents.

6.2 There have been 8 letters of representation received from third parties, all objecting to the proposal. The summarised points of objections relate to:

- This is the last bit of green space
- This is a Conservation Area
- Impact on wildlife
- Parking is lacking in the area
- Visibility from the access point isn't good
- Disruption of the road which is too busy already
- Loss of privacy
- Impact on Grade II Listed building
- The site is too small and the proposed will not fit in
- Impact on the character of the area
- Loss of 2 trees that wildlife use
- Parking area is too tight
- Disruption during building
- Overlooking
- Impact on light levels

7 Consultation

7.1 Groby PC make the following comments:

'The Planning & Development Committee of Groby Parish Council wish to strongly object to the above application and propose that the application be refused for the following reasons:

1. The proposed construction of a two-bedroom dwelling is considered an overdevelopment of the site and would have a detrimental and overbearing impact on the street scene which is part of a conservation area. The impact would be exacerbated by the fact that the proposed construction is located on the brow of a hill.

2. The proposed construction would require the felling of trees on a green space. The applicant, under the section Biodiversity and Geological Conservation, has stated that there are no designated sites, important habitats or other biodiversity features on the application site which we believe is an incorrect assessment of the site. Birds, bees, bats, butterflies and urban foxes have been sighted on this green space which creates part of the biodiversity for this conservation area. The green space is therefore not of insignificance, and the proposed felling of trees would have a detrimental effect on this wildlife, habitats and overall biodiversity of the area. Given that Hinckley & Bosworth Borough Council have declared a biodiversity emergency, it is felt that this reason for objection is of even more importance. Due to the significant harm to biodiversity which we believe would arise from this proposed development, this adversely challenges Section 15 (paragraphs 180 to 194)

of the National Planning Policy Framework - Conserving and enhancing the natural environment.

3. The proposed dwelling is immediately adjacent to the doctors' surgery, 26 Rookery Lane, which is a Grade II listed building. Any major earthworks near to the ancient foundations of number 26 could cause damage to this property.

4. It is felt there are highways / parking issues with the proposed construction. The road is already heavily congested with the adjacent doctors surgery and nearby industrial units and double yellow lines on Rookery Lane mean that street parking is not a viable option. The area to the rear of the site has already been block paved (and provides 2 parking spaces for number 22), and the applicant refers to this as the allocated parking space however, the space appears very restricted for 3 cars and if all 3 car parking spaces were to be in use, we envisage that the only option to exit would be to reverse out of the driveway onto Rookery Lane which is not a safe or legal option.

5. Neither the telegraph pole and wires which are situated above the site, nor the streetlight situated directly in front of the site are mentioned in the application which gives cause for concern. The streetlight's position in relation to the proposed plans of the dwelling would be directly in front of the upstairs window.

6. Finally, the applicant acknowledges the historic refusal of planning permission on this site stating that circumstances have since changed. The Committee do not agree with this statement and would argue that there has been no material change to the significant issues which were identified with the previous application, and which led to it being refused, and to the appeal being dismissed. The Committee believe that the reasons on which the refusal was based are all still valid and relevant to this application.

7.2 LCC Highways refers the LPA to current standing advice.

7.3 HBBC Environmental Services (Drainage) have no objection subject to the imposition of a condition.

7.4 HBBC Pollution Officer- No objection

7.5 Conservation Officer- Objection

8 Policy

8.1 Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres relating to Leicester

8.2 Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Boroughs Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

8.3 National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

8.4 Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

9 Appraisal

9.1 Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area and heritage assets
- Impact upon neighbouring residential amenity
- Impact on Archaeology
- Impact upon highway safety
- Drainage

Assessment against strategic planning policies

9.2 Core Strategy Policy 7 is the policy that covers Key Rural Centres. Groby is allocated as a Key Rural Centre in Policy 8 of the Core Strategy. These policies states that housing will be supported within settlement boundaries. As the site is within the settlement boundary the proposal complies with this policy, subject to all other planning considerations.

9.3 Paragraph 2 of the National Planning Policy Framework February 2023 (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with up-to-date development plan permission should not usually be granted unless other material considerations indicate otherwise. The development plan in this instance consists of the Core Strategy (2009) and Site Allocations and Development Management Policies (SADMP).

9.4 The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.

9.5 However, the housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by MHCLG. Therefore, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

9.6 This is weighed in the balance of the merits of any application and considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework.

9.7 Given the above context, the principle of residential development of the site would be acceptable in terms of strategic planning policies subject to all other planning matters being satisfactorily addressed.

Design and impact upon the character of the areas and heritage assets

9.8 The application site is located within Groby Conservation Area and adjacent to a grade II listed building No.26 Rookery Lane, Groby. A Planning Statement (including a Heritage and Design section) and a Design and Access Statement have been submitted to support the application.

9.9 Section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990 places a duty on the local planning authority in respect of conservation areas in the exercise of planning functions

to require special attention to be paid to the desirability of preserving or enhancing the special character or appearance of conservation areas. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses.

- 9.10 Section 16 of the NPPF provides national guidance on conserving and enhancing the historic environment. Paragraph 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset the greater the weight should be. Paragraph 207 of the NPPF states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or loss identified is necessary to achieve substantial public benefits that outweigh that substantial harm or loss. Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including its optimum viable use. Paragraph 212 of the NPPF states that local planning authorities should look for opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.
- 9.11 Policy DM11 of the adopted SADMP seeks to protect, conserve and enhance the historic environment. All development proposals which have the potential to affect a heritage asset or its setting will be required to demonstrate an understanding of the significance of the heritage asset and its setting, the impact of the proposal on the significance of the asset and its setting, how the benefits of the proposal will outweigh any harm caused.
- 9.12 Policy DM12 of the adopted SADMP states that development proposals should ensure the significance of a conservation area is preserved and enhanced through the consideration of important features identified in the relevant Conservation Area Appraisal and Management Plan, including the retention of key spaces, preservation or enhancement of key views and vistas, historic street pattern and plan form where feasible, the use of natural building materials and appropriate boundary treatments. Proposals that affect the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.
- 9.13 Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally. Policy 11 of the adopted Core Strategy requires new development in Stoke Golding to respect the character and appearance of the Stoke Golding Conservation Area by incorporating locally distinctive features into the development.
- 9.14 The Groby Conservation Area Appraisal states that the character of the area is in stark contrast to its generally suburban surroundings with aspects of its character are immediately apparent when entering the conservation area from the northwest, the east or south. Trees and green space are an intrinsic part of the character of the Groby Conservation Area. The Groby Conservation Area Appraisal identifies that trees in this conservation have ensured that the area has retained a rural village feel despite its location on the edge of a large modern suburban areas.
- 9.15 The application site is in close proximity to the adjacent grade II Listed Building, No26 Rookery close, a 18th century property which is currently used as a doctors surgery, which is surrounded by a number of mature trees, the application site forms part of the original garden to

the listed building. The Groby Conservation Area Appraisal does not refer specifically to Rookery Lane or provide any additional information to support the historic importance of the area, however the Groby Conservation Area Appraisal does identify the site as green space along Rookery Lane. Following the redevelopment of the wider site situated to the north west this is the last remaining parcel of green space within Rookery Lane, which contributes positively to the character and appearance of the Conservation Area, and was to be provided as an area of landscaping to the wider development site, and its loss of this remaining green space would cause harm to the Conservation Area.

9.16 The Good Design Guide SPD provides guidance on in-fill sites and requires building plots to be of a similar size and shape to the wider context allowing sufficient space between buildings. Built development should be of a similar footprint, plot position and layout to the wider context, allowing sufficient space between buildings and not adversely impacting upon the prevailing grain of development. Built development should also be of a similar scale, mass and roof form allowing it to sit comfortably within the street scene and where possible respect building lines.

9.17 Due to the rise in levels which increase south east as you travel up Rookery Lane, Groby, the application site is situated upon a higher land level to that of to the highway, with a stone wall to the front, retaining. The scheme proposes a two bed two storey dwelling, which would have a ridge height of approximately 5.8 metres. However notwithstanding the low ridge height given the significant change in levels within Rookery Lane, and the application site, being situated within a prominent and raised location within the street, the proposed dwelling would have a dominant and overbearing impact and presence within the street scene.

9.18 The proposed dwelling would occupy a constrained plot, with an existing driveway serving the wider developed site to the north-west, with parking to serve the surrounding dwellings to the rear. The proposed dwelling would be 5.8m in width at the front and 4m at the rear. The plot is 7.3m in width at the front and 4m at the rear. The proposed would have an approximate depth of 12.1 metres, set back APPROX 4.8m from the edge of the pavement. The depth of the proposed rear garden would have an effective depth of approximately 3 metres in depth and would have a width of approximately 5.7metres. Whilst the urban grain within the area is tighter than what would be expected in more modern developments, due to the historic pattern of development, the proposed development would appear uncharacteristically tight, and would appear contrived, with a very small rear amenity area of 25sqm when 60sqm is required for a 2 bed dwelling.

9.19 The application site, has had a number of trees unlawfully removed which are situated within the conservation area, and were to be retained and protected as part of planning permission 14/01084/FUL, to ensure a positive contribution to the conservation area had been retained and maintained. The remaining trees on site, are limited to those that reside along the south east boundary, between the application site and the neighbouring Grade II Listed building No.26. The proposed south east facing side elevation of the proposed dwelling would be situated to abut this boundary, and forward of the neighbouring Listed Building. Given the close proximity of the proposed development to the remaining trees along the south east boundary of the site. No tree surveys or proposed mitigation measures have accompanied the application; however given the scale of the development, the change of land levels and the lack of distance between the proposed development and the mature trees; it is likely that the development would have a detrimental impact on the health of the existing trees. The development is also likely to have an adverse impact upon the root protection areas of the existing mature trees situated to the front of the Listed Building. Development of this site would result in the loss of the former gardens of the Grade II Listed Building and would result in a wider loss of trees, which would have an adverse impact upon the setting of the Listed Building and would cause a level of harm to its significance.

9.20 Conservation Officer comments on the proposal were *'The application site is located within the settlement boundary of Groby, and within the Groby Conservation Area. It forms part of an*

area of landscaping for the wider development of 3 houses which has been implemented to the north west of the application site (references 14/01084/FUL and 17/01071/CONDIT).

The application site is situated in an elevated position to the Rookery Lane as land rises to the south and east. To the north west of the application site are two dwellings, constructed with white painted rough cast rendered walls with brick detailing. There is a Grade II Listed Building (26 Rookery Lane) that backs on to the south east boundary of the site. There are modern two storey semi-detached dwellings to the north east on Rookery Lane and the rear gardens of modern two storey detached dwellings that front onto Crane Ley Road to the south west.

The application site currently consists of an undeveloped open space to serve the implemented development 14/01084/FUL (as amended by 17/01071/CONDIT) and consists of an area laid to grass with young specimens of silver birch, holly, field maple, hawthorn, a stone boundary wall to the front and retaining timber wall to the access drive to the side. The site forms part of the purposefully implemented landscaping scheme which was secured by the local planning authority to ensure the appearance of the development and the character of the area was enhanced.

This application seeks full planning permission for the erection of one detached two-bedroom dwelling upon the dedicated landscaping area to serve the development 14/01084/FUL. Parking spaces and an amenity area would be situated to the rear. The dwelling would have a dual pitched roof form with front facing gables and a staggered floor plan of two storeys with a partially subterranean lower ground floor housing bedrooms and a bathroom and an upper floor housing a living area. It would have rendered walls, a slate roof and fenestration of varying styles.

A strong material consideration in the determination of this planning application is an earlier proposal for a single detached dwelling on the application site (reference 17/00982/FUL). This application was refused by the local planning authority due to identified less than substantial harm to affected heritage assets not being outweighed by public benefits arising from the development. The application was appealed to the Planning Inspectorate but dismissed, upholding the local planning authority's decision that there was clear less than substantial harm caused by the proposal to designated heritage assets and the public benefits of the proposal fell a long way short of outweighing the harm caused to them in order for the development be considered acceptable. The Inspectors decision clearly remains relevant to this new proposal and their assessment of the significance of affected heritage assets and how they would be impacted by this new proposal is referenced where relevant in these comments.

Relevant Acts, policies and guidance

Policy DM10 of the adopted Site Allocations and Development Management Policies DPD (SADMP) seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and appeal of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.

Policy DM11 of the adopted SADMP seeks to protect, conserve and enhance the historic environment. All development proposals which have the potential to affect a heritage asset or its setting will be required to demonstrate an understanding of the significance of the heritage asset and its setting, the impact of the proposal on the significance of the asset and its setting, how the benefits of the proposal will outweigh any harm caused.

Policy DM12 of the adopted SADMP states that development proposals should ensure the significance of a conservation area is preserved and enhanced through the consideration of important features identified in the relevant Conservation Area Appraisal and Management Plan, including the retention of key spaces, preservation or enhancement of key views and vistas, historic street pattern and plan form where feasible, the use of natural building materials and appropriate boundary treatments. Proposals that affect the setting of listed buildings will only be

permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a conservation area to pay special attention to the desirability of preserving or enhancing the character and appearance of that area.

Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 205-208 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.

Impact of the proposal upon affected heritage assets

The Groby Conservation Area Appraisal (GCAA) (2010) states that the character of the conservation area is in stark contrast to its generally suburban surroundings with aspects of its character being immediately apparent when entering the conservation area from the northwest, the east or south. Trees and green space are an intrinsic part of the character of the Groby Conservation Area. The GCAA identifies that trees in this conservation area have ensured that the area has retained a rural village feel despite its location on the edge of a large modern suburban areas.

The application site is in close proximity to the adjacent Grade II Listed Building, No 26 Rookery Lane. The listing description identifies the building as "House. Late C18 with C20 additions. Paired rubble walling with brick dressings, Swithland slate roof with 2 brick painted gable stacks. 2 storey. 3 bay front with central gabled porch with small casement, flanked by single 3 light casements under segment heads. Above 2, 2-light casements to left a lean-to addition, to right a C20 addition with 2 light casement". The age of the building and its external features provide it with special architectural and historic interest and thus significance. Since the building was statutorily listed in 1977 the building has most recently been used as a doctor's surgery, but the features that provide it with such interest and warranting listing remain.

Historical Ordnance Survey mapping confirms that the No 26 Rookery Lane was originally located within with a large plot and surrounded by trees, which indicates it was a house of reasonable status. The application site forms part of the original garden to the listed building and a number of the surrounding mature trees remain along the site boundary. Due to the proximity of the application site to the listed building it is considered to fall within its immediate setting and the retention of mature trees along the boundary and its verdant character ensures that the site makes a positive contribution to the significance of the building. Indeed the roofscape and upper sections of the side walls of the listed building can be viewed from the Rookery Lane street scene, over the application site, which forms part of a pleasant landscaped foreground in such views.

The GCAA identifies the appeal site as a green space along Rookery Lane reflecting its use as the remnant garden of the adjacent listed building. Following the redevelopment of the wider site situated to the north-west this is the last remaining parcel of green space within Rookery Lane, and due to its positive contribution to the character and appearance of the Conservation Area it was secured as an area of landscaping to the wider development site approved under planning permission 14/01084/FUL. The importance of the space was further increased by the unauthorised removal of a number of trees through the wider redevelopment site during the

implementation of 14/01084/FUL, and the application site being the location for the planting of a number of trees to mitigate their loss, secured via the approval 17/01071/CONDIT. The proposal for a new dwelling on the site would lead to the total loss of this last remaining green space and purposefully planted trees, both of which contribute positively to the significance of the conservation area. The proposal would therefore have an adverse impact, causing a level of harm to the significance of the Conservation Area, which in this case the level of harm is considered to be less than substantial.

The Inspector for 17/00982/FUL concluded that trees and green space are an intrinsic part of the Conservation Area's character and help to differentiate it from the more recent suburban development in the village. He concluded that the application site forms part of the rural village character of the conservation area and that the value of the site is recognised by the GCAA which identifies it as part of larger green space formed by the gardens to 20 and 26 Rookery Lane. Since the publication of the GCAA the development in the garden of No 20 has served to increase the value and importance of the application site as the only remaining green space along the front boundary separating built development at No 20 from the plot of No 26. The Inspector concluded that the proposed house (17/00982/FUL) would result in the loss of this gap and urbanise the site to the detriment of the character and appearance of the Conservation Area as a whole, and in my opinion the new proposed development would clearly have the same adverse impacts. The Inspector then continued in assessing that the harm caused would not be compensated by the design of the house which would be sympathetic to the appearance of the existing recently built houses and No 20. In my opinion this would remain the case with the new proposed development, which whilst having some aspects of design that follows local characteristics, such as a slate roof and appropriate window detailing, the design of the house overall is clearly insufficient to compensate for the total loss of a valued and important landscaped area within the conservation area.

Due to the rise in levels which increase south east when travelling up Rookery Lane the application site is situated upon a higher land level to that of to the highway, with a retaining stone wall to the front. The scheme proposes a two bed two storey dwelling, which would have a ridge height considerably higher than the adjacent dwellings to the west. Whilst an attempt has been made to reduce the height and scale of the dwelling by proposing a partially subterranean lower ground floor given the significant change in levels within Rookery Lane, and the application site being situated within a prominent and raised location within the street, the proposed dwelling would have a dominant and overbearing impact and presence within the street scene. The location of the proposed dwelling to the front of the listed building would also further erode the perception that the dwelling was a house of status by being located further forward within the plot and diminishing the extent of its former garden.

The proposed dwelling would occupy a constrained plot, with an existing driveway serving the wider developed site to the north-west, with parking to serve the surrounding dwellings to the rear. The proposed dwelling would span the width of the plot. Whilst the urban grain within the area is tighter than what would be expected in more modern developments, due to the historic pattern of development, the proposed development would be uncharacteristically tight and would appear contrived.

The proposed development would be situated close to the south east boundary of the site, which is lined with mature trees, with these trees making a positive contribution to the significance of the conservation area and adjacent listed building by being located within its immediate setting. The application is not accompanied by any tree surveys nor proposed mitigation measures to ensure the health and long term protection of the existing trees. Given the close proximity of the proposed development to the trees along the south east boundary of the site, and taking into account the proposed scale of the development and the change in land levels, it is likely that the development would have a harmful impact upon the health of the existing trees. The development is also likely to have an adverse impact upon the root protection areas of the existing mature trees situated to the front of the listed building.

The Inspector for 17/00982/FUL identified that the listed building has a setting within verdant open surroundings, of which the application site forms a prominent part, is characteristic of when it was built and contributes to its significance. The Inspector went on and concluded that the proposed house (17/00982/FUL) would occupy the width of the application site and urbanise it removing the last open undeveloped land that separates No 26 from development associated with No 20; this remains the case with the new proposal. He continued and identified that in the absence of submitted substantive arboricultural evidence to the contrary, as remains the same for this new proposal, it also appears that the proposal would result in the loss of many of the recently planted trees on the site and harm adjacent trees in the vicinity of the boundary with No 26. Consequently, he concluded that the proposed house (17/00982/FUL) would harmfully encroach upon the setting of the listed building. He finally concluded that as in relation to the Conservation Area, the harm caused would not be overcome by the sympathetic design details of the house, and in my opinion this conclusion would again be applied to this new proposal.

In summary the proposed development would be situated forward of the adjacent Grade II Listed Building and within its former gardens. Due to the land levels of the site, which are elevated the proposed development would result in a dominant and overbearing feature within the street scene, alongside the total loss of the last remaining section of former garden which would diminish an understanding of the status of the listed building, and in addition to the loss of trees and green space which contribute positively to its setting. It is considered that the development of this site would have an adverse impact upon the significance of the Listed Building which would cause a level of harm to its significance. In this case the level of harm is considered to be less than substantial.

Harm vs benefits assessment and summary

It has been identified that the proposed development would cause less than substantial harm to the significance of the Groby Conservation Area and a Grade II Listed Building No 26 Rookery Lane. There is no clear and convincing justification for the harm caused to these designated assets so the proposal is in conflict with paragraph 206 of the NPPF. In accordance with Policy DM11 of the SADMP and paragraph 208 of the NPPF any harm caused by a proposed development should be weighed against the public benefits. Public benefits could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits may include heritage benefits as specified in the Planning Practice Guidance, such as:

- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting*
- Reducing or removing risks to a heritage asset*
- Securing the optimum viable use of a heritage asset in support of its long term conservation*

Of particular relevance in this balancing exercise is a determination of whether the proposal can sustain or enhance the significance of the conservation area and the setting of the adjacent Listed Building, thus demonstrating a heritage benefit. In this case, the proposal does not sustain the significance of the Groby Conservation Area or the adjacent Grade II Listed Building due to the dominant appearance a proposed dwelling would have, situated forward of the front elevation, and the loss of trees and a key space which forms the original gardens to the Listed Building and a key component of the conservation area. The retention of the newly erected stone wall to the front of the application site merely maintains a positive feature and no element of the proposal for the new dwelling is considered to enhance the significance of these heritage assets and their setting. No heritage benefits can be demonstrated from the development of this site.

There are most likely some (non-heritage) benefits that can be demonstrated by the proposal, which include the provision of one dwelling towards the housing supply within the Borough and some short-term employment during the construction of the dwelling. Consideration of further benefits and their identification is a matter for the decision-taker. It is worth noting the Inspector for 17/00982/FUL identified a number of non-heritage benefits

that would be relevant to this new proposal; noting some construction employment and provide a dwelling within a settlement that has a range of services and facilities, including bus services, within easy access. It would also provide a small, low cost open market house that would increase by a nominal amount the housing stock in the Borough. The Inspector attached moderate weight to these benefits of the scheme in the balancing exercise.

Once the level of public benefits has been determined then the balancing exercise undertaken. In this balancing exercise, great weight must be given to the conservation of these designated heritage assets as required by paragraph 205 of the NPPF in order for the local planning authority to fulfil the statutory duties of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990. Should the exercise not come out in favour of the development then this application should be refused.

*It must be noted that the Inspector for 17/00982/FUL concluded that the public benefits of the proposal fell a **long way short** of outweighing the harm that would be caused to Groby Conservation Area and the setting of the Grade II listed building at 26 Rookery Lane. The proposal would therefore be contrary to a policy of the Framework that provides a clear reason for refusing the development proposed, as well as failing the statutory tests. In my opinion due the material similarities between the dismissed appeal scheme and the current proposal are clear'.*

9.21 For the reasons outlined and above and as contained within the comments from the Conservation Officer, by virtue of its siting, layout and overall design the development is not judged to comply with policy DM10 (c) in that it does not complement or enhance the character of the area.

9.22 In accordance with Policy DM11 of the adopted SADMP and paragraph 134 of the NPPF the harm caused by a proposal should be weighed against any public benefits. In this case, the proposal does not sustain the significance of the Groby Conservation Area and would cause harm to the setting of the adjacent Grade II Listed Building, nor does it demonstrate any other heritage benefits. As identified by the Inspector previously the proposal would provide one new dwelling towards the housing supply which would be considered a minor public benefit due to the level of provision towards the housing target would not outweigh the harm to the designated heritage assets. Other benefits include temporary economic and social benefits arising through the construction of the dwelling. These benefits are judged to be minor considering the scale of development and they would outweigh the harm identified to the setting of the Groby Conservation Area or the impact upon the setting of the Grade II Listed building and therefore the proposal would be in conflict with Policies DM11 and DM12 of the adopted SADMP, Section 12 of the NPPF and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

Impact upon neighbouring residential amenity

9.23 Policy DM10 of the SADMP states that new development should not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters such as lighting, air quality, noise, vibration and visual intrusion.

9.24 The proposed dwelling would be situated to the south east of a recently constructed two storey dwelling, and to the north/north west of No.26, which is a doctor's surgery.

9.25 The proposed north-west facing side elevation would face towards the side elevation of the south east facing elevation of the adjacent dwelling with a distance of approx. 5m between the dwellings. There is 1 side window proposed for this elevation which would face towards the adjacent dwelling. There is an existing access which runs between the proposed and existing dwelling to serve the wider site. There are no side facing windows within the existing dwelling which would face onto the application site, and given the proposed relationship between the

existing and proposed dwelling, it is not considered that this dwelling would result in any adverse impacts in terms of overlooking or overbearing impact upon this property.

9.26 The proposed dwelling would face across the public highway towards the dwellings on the opposite side of Rookery Lane and by virtue of the separation distance of approximately 20 metres to the front elevation windows would not result in any adverse relationship to these dwelling from either overbearing/overshadowing impact or loss of privacy from overlooking.

9.27 To the south of the application site, is the Doctors surgery which serves the village, and therefore given the use of this property there would be no residential amenity impacts to this property.

9.28 By virtue of the layout, design, separation distances and existing and proposed boundary treatments, the proposed scheme would not result in any significant adverse impacts on the privacy or amenity of the occupiers of any neighbouring properties or future occupiers of the site and would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact on archaeology

9.29 Policies DM11 and DM13 of the adopted SADMP state that where a proposal has the potential to impact a site of archaeological interest, developers will be required to provide appropriate desk-based assessment and, where applicable, field evaluation detailing the significance of any affected asset. Where preservation of archaeological remains in situ is not feasible and /or justified the local planning authority will require full archaeological investigation and recording by an approved archaeological organisation before development commences.

9.30 Paragraph 128 of the NPPF states that where a site has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit appropriate desk-based assessment and field evaluation. Paragraph 141 of the NPPF requires developers to record and advance understanding of the significance of any heritage assets to be lost in a manner proportionate to their importance and the impact and to make this evidence publically accessible.

9.31 The application site is situated within the Historic Settlement Core of Groby, and a large part of the garden originally belonged to the adjacent 18th Century Listed Building. There is likelihood that archaeological remains relating to the medieval and post medieval settlement are present within the site. Historic mapping and aerial photographs indicate that the garden does appear to be at its original ground level in comparison with adjacent properties. Therefore there is a likelihood that any archaeological remains present have survived in situ.

9.32 Leicestershire County Council (Archaeology) were not consulted for the current proposal but did not object to the previous proposal that was ultimately refused. It sought further information with regard to the archaeological evaluation of the site. This information can be secured by condition and is considered to be a reasonable approach to ensure that any archaeological remains present are treated appropriately. Subject to the inclusion of this condition the development would not have a detrimental impact upon the understanding of the significance of any heritage asset, and would therefore be in accordance with Policies DM11 and DM12 of the SADMP.

Impact upon highway safety

9.33 Policies DM17 and DM18 of the SADMP relate to highway safety and vehicle parking standards. DM17 requires, amongst other things, that proposals do not have a significant impact upon highway safety and DM18 requires an appropriate level of parking provision.

9.34 The proposed dwelling would be served by the existing access serving the wider site, as approved by planning permission 14/01084/FUL which increased the width of the existing access and improved visibility. The level of additional traffic this proposal would provide using the access is not considered to be on a scale likely to result in any significant adverse impact on highway

safety. In addition, adequate parking provision is proposed to serve the dwelling which would be in accordance with the 6C's Design Guidance.

- 9.35 The scheme would not result in any significant adverse impacts on highway or pedestrian safety and would provide adequate off-street parking to serve the development. The proposal would therefore be in accordance with Policies DM17 and DM18 of the adopted SADMP.

Drainage

- 9.36 Policy DM7 of the adopted SADMP seeks to ensure that development does not create or exacerbate flooding. No comments were received from Environmental Health (Drainage) but for the previous application a standard condition was recommended to require the submission for prior approval of a sustainable surface water drainage scheme to serve the development to ensure that the scheme does not result in flooding.

10 Equality Implications

- 10.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

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

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

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

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

11 Conclusion

- 11.1 Given the very minor benefits arising from the proposal, the level of harm to the significance of the conservation area and the adjacent list building, the loss of the green space, which contribute positively to the character and appearance of the Conservation Area, the Local Planning Authority do not consider that the benefit of this proposal would outweigh the heritage harm caused. Given that special attention and regard should be paid under statutory provisions, great weight has been given to the conservation of the designated heritage assets. The proposal conflicts with local planning policies on protecting and enhancing the historic environment and heritage assets and overall the design is not judged to complement the character of the surrounding area. Conflict with policies DM10, DM11 and DM12 are therefore identified.

- 11.2 The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. It is necessary therefore to consider the 'tilted' balance in paragraph 11(d) of the NPPF, as the

development is judged to harm the special significance of heritage assets officers consider this provides a clear reason for refusing the development in line with paragraph 11d) i). Nonetheless, were paragraph 11d) ii) applied whereby planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, the adverse heritage and design impacts would outweigh the benefits of the development. The provision of a single dwelling would contribute positively to the Councils housing land supply, furthermore there would be temporary benefits associated with the construction of the dwelling. However, these benefits are limited owing to the small scale of the development and in therefore are attributed limited positive weight which would not overcome the harm.

12 Recommendation

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

12.2 Reasons

1. The proposed development would result in the unacceptable erosion of the green space within Rookery Lane and the Groby Conservation area. Given the scale, siting and design of the proposed development it would result in a prominent and overbearing feature within the streetscene and would detrimentally impact upon the conservation area and an area of designated green space which is of importance of the historic setting of the Groby Conservation Area. The proposed development is contrary to Policies DM1, DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Paragraph 208 of the National Planning Policy Framework and Section 16 of the National Planning Policy Framework (2023) and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. The proposed development would be situated forward and in close proximity of the adjacent Grade II Listed Building known as 26 Rookery Lane, and would result in the loss of existing green space, existing and future mature trees, which would have an adverse effect upon the setting of the Listed Building. This would not be outweighed by the Public benefits of the scheme. The proposed development is contrary to Policies DM1, DM11 and DM12 of the Site Allocations and Development Management Policies DPD, Paragraph 208 of the National Planning Policy Framework and Section 16 of the National Planning Policy Framework (2023) and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

APPENDIX 2: HBBC CONSERVATION OFFICER COMMENT's 23/01173/FUL

Conservation Officer (Mr Paul Grundy) comments for: 23/01173/FUL

Proposal: Construction of two bedroom dwelling

Site: Land adjacent 22 Rookery Lane, Groby

Date Submitted: 31/01/2024

Site Description and Proposal

The application site is located within the settlement boundary of Groby, and within the Groby Conservation Area. It forms part of an area of landscaping for the wider development of 3 houses which has been implemented to the north west of the application site (references 14/01084/FUL and 17/01071/CONDIT).

The application site is situated in an elevated position to the Rookery Lane as land rises to the south and east. To the north west of the application site are two dwellings, constructed with white painted rough cast rendered walls with brick detailing. There is a Grade II Listed Building (26 Rookery Lane) that backs on to the south east boundary of the site. There are modern two storey semi-detached dwellings to the north east on Rookery Lane and the rear gardens of modern two storey detached dwellings that front onto Crane Ley Road to the south west.

The application site currently consists of an undeveloped open space to serve the implemented development 14/01084/FUL (as amended by 17/01071/CONDIT) and consists of an area laid to grass with young specimens of silver birch, holly, field maple, hawthorn, a stone boundary wall to the front and retaining timber wall to the access drive to the side. The site forms part of the purposefully implemented landscaping scheme which was secured by the local planning authority to ensure the appearance of the development and the character of the area was enhanced.

This application seeks full planning permission for the erection of one detached two-bedroom dwelling upon the dedicated landscaping area to serve the development 14/01084/FUL. Parking spaces and an amenity area would be situated to the rear. The dwelling would have a dual pitched roof form with front facing gables and a staggered floor plan of two storeys with a partially subterranean lower ground floor housing bedrooms and a bathroom and an upper floor housing a living area. It would have rendered walls, a slate roof and fenestration of varying styles.

A strong material consideration in the determination of this planning application is an earlier proposal for a single detached dwelling on the application site (reference 17/00982/FUL). This application was refused by the local planning authority due to identified less than substantial harm to affected heritage assets not being outweighed by public benefits arising from the development. The application was appealed to the Planning Inspectorate but dismissed, upholding the local planning authority's decision that there was clear less than substantial harm caused by the proposal to designated heritage assets and the public benefits of the proposal fell a long way short of outweighing the harm caused to them in order to for the development be considered acceptable. The Inspectors decision clearly remains relevant to this new proposal and their assessment of the significance of affected heritage assets and how they would be impacted by this new proposal is referenced where relevant in these comments.

Relevant Acts, policies and guidance

Policy DM10 of the adopted Site Allocations and Development Management Policies DPD (SADMP) seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and appeal of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.

Policy DM11 of the adopted SADMP seeks to protect, conserve and enhance the historic environment. All development proposals which have the potential to affect a heritage asset or its setting will be required to demonstrate an understanding of the significance of the heritage asset and its setting, the impact of the proposal on the significance of the asset and its setting, how the benefits of the proposal will outweigh any harm caused.

Policy DM12 of the adopted SADMP states that development proposals should ensure the significance of a conservation area is preserved and enhanced through the consideration of important features identified in the relevant Conservation Area Appraisal and Management Plan, including the retention of key spaces, preservation or enhancement of key views and vistas, historic street pattern and plan form where feasible, the use of natural building materials and appropriate boundary treatments. Proposals that affect the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a conservation area to pay special attention to the desirability of preserving or enhancing the character and appearance of that area.

Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 205-208 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.

Impact of the proposal upon affected heritage assets

The Groby Conservation Area Appraisal (GCAA) (2010) states that the character of the conservation area is in stark contrast to its generally suburban surroundings with aspects of its character being immediately apparent when entering the conservation area from the northwest, the east or south. Trees and green space are an intrinsic part of the character of the Groby Conservation Area. The GCAA identifies that trees in this conservation area have ensured that the area has retained a rural village feel despite its location on the edge of a large modern suburban areas.

The application site is in close proximity to the adjacent Grade II Listed Building, No 26 Rookery Lane. The listing description identifies the building as "House. Late C18 with C20 additions. Paired rubble walling with brick dressings, Swithland slate roof with 2 brick painted gable stacks. 2 storey. 3 bay front with central gabled porch with small casement, flanked by single 3 light casements under segment heads. Above 2, 2-light casements to left a lean-to addition, to right a C20 addition with 2 light casement". The age of the building and its external features provide it with special architectural and historic interest and thus significance. Since the building was statutorily listed in 1977 the building has most recently been used as a doctor's surgery, but the features that provide it with such interest and warranting listing remain.

Historical Ordnance Survey mapping confirms that the No 26 Rookery Lane was originally located within with a large plot and surrounded by trees, which indicates it was a house of reasonable status. The application site forms part of the original garden to the listed building and a number of the surrounding mature trees remain along the site boundary. Due to the proximity of the application site to the listed building it is considered to fall within its immediate setting and the

retention of mature trees along the boundary and its verdant character ensures that the site makes a positive contribution to the significance of the building. Indeed the roofscape and upper sections of the side walls of the listed building can be viewed from the Rookery Lane street scene, over the application site, which forms part of a pleasant landscaped foreground in such views.

The GCAA identifies the appeal site as a green space along Rookery Lane reflecting its use as the remnant garden of the adjacent listed building. Following the redevelopment of the wider site situated to the north west this is the last remaining parcel of green space within Rookery Lane, and due to its positive contribution to the character and appearance of the Conservation Area it was secured as an area of landscaping to the wider development site approved under planning permission 14/01084/FUL. The importance of the space was further increased by the unauthorised removal of a number of trees through the wider redevelopment site during the implementation of 14/01084/FUL, and the application site being the location for the planting of a number of trees to mitigate their loss, secured via the approval 17/01071/CONDIT. The proposal for a new dwelling on the site would lead to the total loss of this last remaining green space and purposefully planted trees, both of which contribute positively to the significance of the conservation area. The proposal would therefore have an adverse impact, causing a level of harm to the significance of the Conservation Area, which in this case the level of harm is considered to be less than substantial.

The Inspector for 17/00982/FUL concluded that trees and green space are an intrinsic part of the Conservation Area's character and help to differentiate it from the more recent suburban development in the village. He concluded that the application site forms part of the rural village character of the conservation area and that the value of the site is recognised by the GCAA which identifies it as part of larger green space formed by the gardens to 20 and 26 Rookery Lane. Since the publication of the GCAA the development in the garden of No 20 has served to increase the value and importance of the application site as the only remaining green space along the front boundary separating built development at No 20 from the plot of No 26. The Inspector concluded that the proposed house (17/00982/FUL) would result in the loss of this gap and urbanise the site to the detriment of the character and appearance of the Conservation Area as a whole, and in my opinion the new proposed development would clearly have the same adverse impacts. The Inspector then continued in assessing that the harm caused would not be compensated by the design of the house which would be sympathetic to the appearance of the existing recently built houses and No 20. In my opinion this would remain the case with the new proposed development, which whilst having some aspects of design that follows local characteristics, such as a slate roof and appropriate window detailing, the design of the house overall is clearly insufficient to compensate for the total loss of a valued and important landscaped area within the conservation area.

Due to the rise in levels which increase south east when travelling up Rookery Lane the application site is situated upon a higher land level to that of to the highway, with a retaining stone wall to the front. The scheme proposes a two bed two storey dwelling, which would have a ridge height considerably higher than the adjacent dwellings to the west. Whilst an attempt has been made to reduce the height and scale of the dwelling by proposing a partially subterranean lower ground floor given the significant change in levels within Rookery Lane, and the application site being situated within a prominent and raised location within the street, the proposed dwelling would have a dominant and overbearing impact and presence within the street scene. The location of the proposed dwelling to the front of the listed building would also further erode the perception that the dwelling was a house of status by being located further forward within the plot and diminishing the extent of its former garden.

The proposed dwelling would occupy a constrained plot, with an existing driveway serving the wider developed site to the north west, with parking to serve the surrounding dwellings to the rear. The proposed dwelling would span the width of the plot. Whilst the urban grain within the area is tighter than what would be expected in more modern developments, due to the historic pattern of development, the proposed development would be uncharacteristically tight and would appear contrived.

The proposed development would be situated close to the south east boundary of the site, which is lined with mature trees, with these trees making a positive contribution to the significance of the conservation area and adjacent listed building by being located within its immediate setting. The application is not accompanied by any tree surveys nor proposed mitigation measures to ensure the health and long term protection of the existing trees. Given the close proximity of the proposed development to the trees along the south east boundary of the site, and taking into account the proposed scale of the development and the change in land levels, it is likely that the development would have a harmful impact upon the health of the existing trees. The development is also likely to have an adverse impact upon the root protection areas of the existing mature trees situated to the front of the listed building.

The Inspector for 17/00982/FUL identified that the listed building has a setting within verdant open surroundings, of which the application site forms a prominent part, is characteristic of when it was built and contributes to its significance. The Inspector went on and concluded that the proposed house (17/00982/FUL) would occupy the width of the application site and urbanise it removing the last open undeveloped land that separates No 26 from development associated with No 20; this remains the case with the new proposal. He continued and identified that in the absence of submitted substantive arboricultural evidence to the contrary, as remains the same for this new proposal, it also appears that the proposal would result in the loss of many of the recently planted trees on the site and harm adjacent trees in the vicinity of the boundary with No 26. Consequently, he concluded that the proposed house (17/00982/FUL) would harmfully encroach upon the setting of the listed building. He finally concluded that as in relation to the Conservation Area, the harm caused would not be overcome by the sympathetic design details of the house, and in my opinion this conclusion would again be applied to this new proposal.

In summary the proposed development would be situated forward of the adjacent Grade II Listed Building and within its former gardens. Due to the land levels of the site, which are elevated the proposed development would result in a dominant and overbearing feature within the street scene, alongside the total loss of the last remaining section of former garden which would diminish an understanding of the status of the listed building, and in addition to the loss of trees and green space which contribute positively to its setting. It is considered that the development of this site would have an adverse impact upon the significance of the Listed Building which would cause a level of harm to its significance. In this case the level of harm is considered to be less than substantial.

Harm vs benefits assessment and summary

It has been identified that the proposed development would cause less than substantial harm to the significance of the Groby Conservation Area and a Grade II Listed Building No 26 Rookery Lane. There is no clear and convincing justification for the harm caused to these designated assets so the proposal is in conflict with paragraph 206 of the NPPF. In accordance with Policy DM11 of the SADMP and paragraph 208 of the NPPF any harm caused by a proposed development should be weighed against the public benefits. Public benefits could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits may include heritage benefits as specified in the Planning Practice Guidance, such as:

- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting
- Reducing or removing risks to a heritage asset
- Securing the optimum viable use of a heritage asset in support of its long term conservation

Of particular relevance in this balancing exercise is a determination of whether the proposal can sustain or enhance the significance of the conservation area and the setting of the adjacent Listed Building, thus demonstrating a heritage benefit. In this case, the proposal does not sustain the significance of the Groby Conservation Area or the adjacent Grade II Listed Building due the dominant appearance a proposed dwelling would have, situated forward of the front elevation, and the loss of trees and a key space which forms the original gardens to the Listed Building and a key component of the conservation area. The retention of the newly erected stone wall to the front of

the application site merely maintains a positive feature and no element of the proposal for the new dwelling is considered to enhance the significance of these heritage assets and their setting. No heritage benefits can be demonstrated from the development of this site.

There are most likely some (non-heritage) benefits that can be demonstrated by the proposal, which include the provision of one dwelling towards the housing supply within the Borough and some short-term employment during the construction of the dwelling. Consideration of further benefits and their identification is a matter for the decision-taker. It is worth noting the Inspector for 17/00982/FUL identified a number of non-heritage benefits that would be relevant to this new proposal; noting some construction employment and provide a dwelling within a settlement that has a range of services and facilities, including bus services, within easy access. It would also provide a small, low cost open market house that would increase by a nominal amount the housing stock in the Borough. The Inspector attached moderate weight to these benefits of the scheme in the balancing exercise.

Once the level of public benefits has been determined then the balancing exercise undertaken. In this balancing exercise, great weight must be given to the conservation of these designated heritage assets as required by paragraph 205 of the NPPF in order for the local planning authority to fulfil the statutory duties of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990. Should the exercise not come out in favour of the development then this application should be refused.

It must be noted that the Inspector for 17/00982/FUL concluded that the public benefits of the proposal fell a **long way short** of outweighing the harm that would be caused to Groby Conservation Area and the setting of the Grade II listed building at 26 Rookery Lane. The proposal would therefore be contrary to a policy of the Framework that provides a clear reason for refusing the development proposed, as well as failing the statutory tests. In my opinion due the material similarities between the dismissed appeal scheme and the current proposal are clear.

APPENDIX 4- APPROVED SITE PLAN 17/01071/CONDIT



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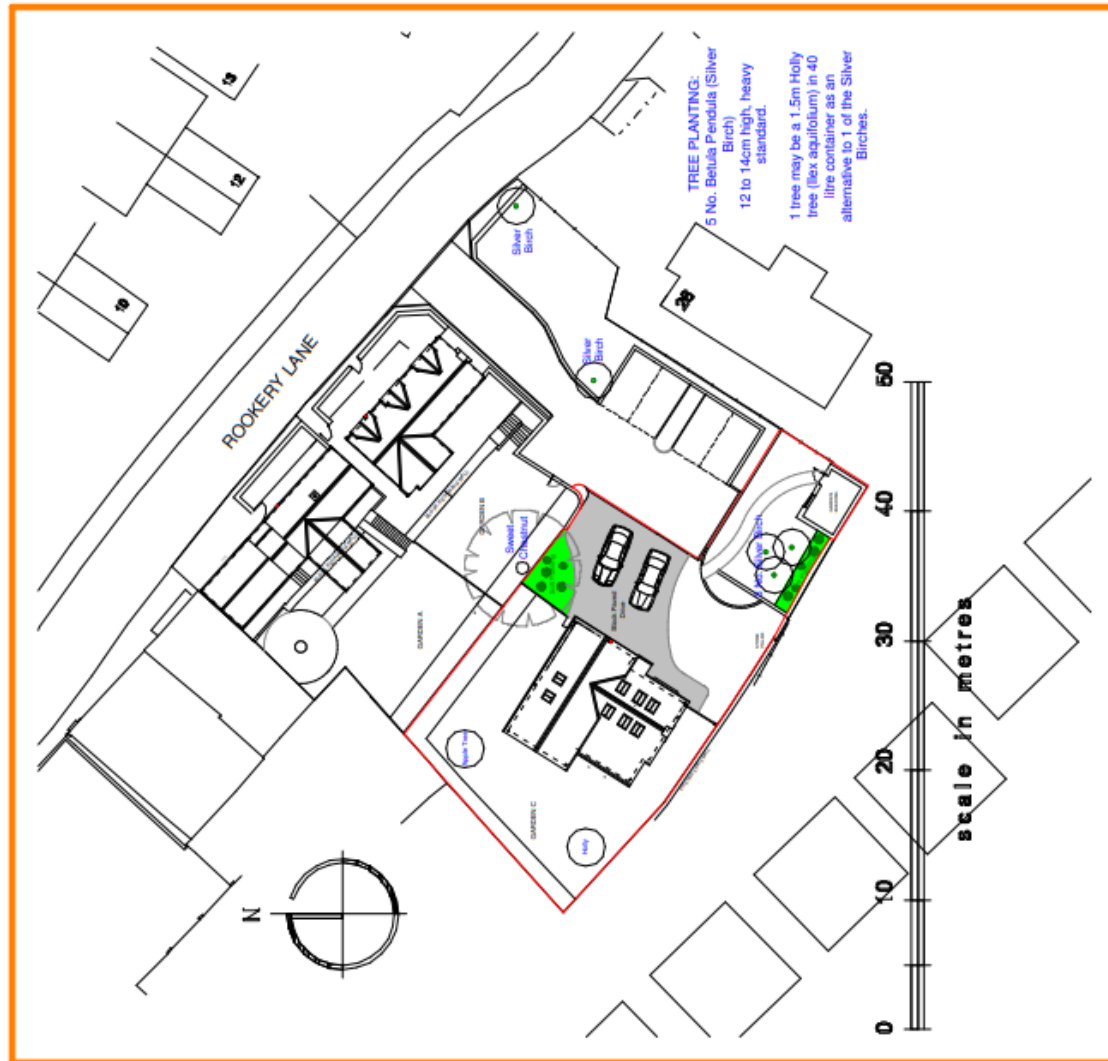
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Job Title:- Proposed Residential Development:-
20 Rookery Lane, Groby.
Leicester. LE6 0GL.

Scale:- 1:1250 & 1:500 **Date:-** January 2018

Drawing Title:-
SITE PLAN

Drawing No	Size	Rev	Checked
2671-15	A4	D	



APPENDIX 5- DELEGATED OFFICER REPORT APPLICATION 17/01071/CONDIT

Delegated Report



Hinckley & Bosworth
Borough Council

Planning Ref: 17/01071/CONDIT

Applicant: Mr R Harrison

Ward: Groby

Site: Holly Cottage 20 Rookery Lane Groby Leicestershire

Proposal: Variation of condition 2 of planning permission 14/01084/FUL to amend car parking layout and landscaping (retrospective)

5. Recommendations

5.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

6. Planning Application Description

- 6.1. This application seeks the variation of condition 2 of planning permission 14/01084/FUL to enable the development to be implemented in accordance with amended plans. The amendments include the provision of additional hardstanding for vehicle parking for Unit C, the provision of new tree planting to replace the unauthorised removal of trees within the site that were to be retained and amendments to the position of boundary fencing to separate the three plots.
- 6.2. The application is retrospective in that the additional hardstanding at the front of Unit C has already been constructed in block pavements and the boundary fencing has been erected in the amended positions. In addition, only one (Sweet Chestnut) of the many trees that were to be retained within the site has survived the development. A second mature tree (Willow) has been removed as have a number of trees that occupied the landscaped area adjacent to the south east side of the access drive.
- 6.3. A separate planning application (17/00982/FUL) for a new dwelling on the proposed landscaped area adjacent to the south east side of the access has recently been refused and is currently subject to a planning appeal.
- 6.4. A planning enforcement notice has been served in respect of the unauthorised removal of trees within the site that lies within the Groby Conservation Area and to require their satisfactory replacement.

7. Description of the Site and Surrounding Area

- 7.1. The application site measures approximately 0.14 hectares (1420 square metres) and is located within the settlement boundary of Groby and within the Groby Conservation Area. It is roughly square in shape measuring approximately 38 metres in width and depth. Following development under planning permission 14/01084/FUL it now comprises three detached dwellings, associated parking and landscaping areas. There is an access off Rookery Lane adjacent to Unit B.
- 7.2. Unit C is located to the rear of the site and occupies an elevated position in relation to Units A and B which front onto Rookery Lane.

- 7.3. There is a Grade II Listed Building (26 Rookery Lane) that backs on to the south east boundary of the site. There are modern two storey detached dwellings that front onto Crane Ley Road to the south west. There is a commercial building to the north west.

8. Relevant Planning History

14/01084/FUL	Partial demolition of, and extensions and alterations to, an existing dwelling and erection of two new dwellings, alterations to access and erection of a new boundary wall	Permitted	03.06.2015
17/00982/FUL	Erection of one dwelling	Refused Appeal	30.11.2017 Pending

7. Publicity

- 7.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 7.2. One response received objecting to the application on the grounds of lack of information in respect of a potential fourth unit within the site but which does not form part of the development proposed by this application.

8. Consultation

- 7.1. No objection has been received from:-
Leicestershire County Council (Highways)
Environmental Health (Pollution)
Environmental Health (Drainage)
Street Scene Services (Waste)
- 7.2. No objection subject to conditions has been received from Leicestershire County Council (Archaeology).
- 7.3. No response has been received from:-
Groby Parish Council
Groby Village Society
Historic Buildings Panel

9. Policy

- 7.1. Core Strategy (2009)
- Policy 8: Key Rural Centres Relating to Leicester
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
 - Planning Practice Guidance (PPG)
 - Planning (Listed Buildings and Conservation Areas) Act 1990

7.4. Other relevant guidance

- Groby Conservation Area Appraisal and Map

10. Appraisal

7.1. Key Issues

- Layout/landscaping and impact upon the character of the Groby Conservation Area and setting of the adjacent Listed Building
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Conditions

Layout/landscaping and impact upon the character of the Groby Conservation Area and setting of the adjacent Listed Building

7.2. Section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990 places a duty on the local planning authority in respect of conservation areas in the exercise of planning functions to require special attention to be paid to the desirability of preserving or enhancing the special character or appearance of conservation areas. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses.

7.3. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area and incorporates a high standard of landscaping where this would add to the quality of the design and siting. Policies DM11, DM12 and DM13 of the adopted SADMP seek to protect and enhance the historic environment, heritage assets and archaeology. Development proposals should ensure that the special character and appearance and thus the significance of a conservation area is preserved and/or enhanced.

7.4. Section 12 of the NPPF provides national guidance on conserving and enhancing the historic environment. Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 133 of the NPPF states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or loss identified is necessary to achieve substantial public benefits that outweigh that substantial harm or loss. Paragraph 137 of the NPPF states that local planning authorities should look for opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance.

7.5. By virtue of its position to the rear of Units A and B which front onto Rookery Lane and the elevated position of the Unit C plot, the provision of additional hardstanding at the front of Unit C and the repositioning of boundary fencing will not result in any significant adverse impacts on the character of appearance of the Groby Conservation Area and would therefore preserve the significance of the heritage asset in accordance with Policies DM10, DM11 and DM12 of the SADMP, section 12 of the NPPF and the statutory duty of the Planning (Listed Buildings and Conservation Area) Act 1990.

7.6. However, the unauthorised removal of mature trees from this site within the Groby Conservation Area has had a significant adverse impact on the verdant appearance of the site, the visual amenity of the Groby Conservation Area and the setting of the adjacent Listed Building (26 The Rookery). The trees removed include a 10 metre high mature Willow (Category B), 10 metre high early mature Holly and Hawthorn (Category B), three other 5 metre high mature Holly (Category C) and a 6 metre high mature Hawthorn (Category C) all identified in the Tree Survey submitted to support the original planning application (ref. 14/01084/FUL).

- 7.7. In addition, the development has been implemented without discharge of pre-commencement conditions attached to the original planning permission (14/01084/FUL) that required the submission of an arboricultural method statement and tree protection plan for prior approval to ensure adequate protection of the trees during construction. The lack of protection afforded to the Sweet Chestnut (T27) has resulted in materials being deposited within the root protection area of the tree and compaction of the soil through the storage of construction materials and parking of vehicles within the root protection area.
- 7.8. The Council's Arboricultural Officer has visited the site and recommends that investigation is carried out to determine the extent of any adverse soil compaction impacts on the tree roots of T27, suitable mitigation to reverse those impacts be undertaken and that additional tree surgery be undertaken to correct previous sub-standard pruning works.
- 7.9. An Arboricultural Report has subsequently been submitted by Beddow Tree Limited containing a programme of works to address these issues. A revised replacement tree planting scheme/schedule (Revision G) scheme has also been submitted, including the planting of heavy standard trees to replace those removed from the Groby Conservation Area without authorisation, to enhance the appearance of the development within the Groby Conservation Area and setting of the adjacent Listed Building.
- 7.10. The Council's Arboricultural Officer recommends that the recommendations and programme of works contained in the submitted Arboricultural Report be secured by a planning condition to ensure that the adverse impacts identified are adequately mitigated to enhance the future health and viability of the Sweet Chestnut Tree. The replacement tree planting scheme/schedule (Rev G) that is also the subject of current planning enforcement action should also be secured through the imposition of a planning condition.
- 7.11. Only by virtue of the proposed replacement tree planting scheme and mitigation measures in respect of the retained Sweet Chestnut (T27) would the current proposal be acceptable. The conditions would therefore be reasonable and necessary in this case.
- 7.12. Subject to the development being implemented in accordance with the approved details the proposal would preserve the character and appearance of the Groby Conservation Area and setting of the adjacent listed building and therefore the significance of these heritage assets be in accordance with Policies DM10, DM11 and DM12 of the SADMP, section 12 of the NPPF and the statutory duty of the Planning (Listed Buildings and Conservation Area) Act 1990.

Impact upon neighbouring residential amenity

- 7.13. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings.
- 7.14. By virtue of separation distances to neighbouring dwellings and screening by walls and fences, the provision of additional hardstanding at the front of Unit C for vehicle parking will not result in any significant additional adverse impacts or disturbance to the amenities of the occupiers of any neighbouring properties.
- 7.15. The amended proposal would therefore be acceptable in terms of residential amenity considerations.

Impact upon highway safety

- 7.16. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision.
- 7.17. The proposed amendments do not affect the approved access to the site and the additional hardstanding for Unit C would provide additional off-street parking within the site. The proposal would therefore have no adverse impacts on highway safety and would provide satisfactory parking

provision to serve the development in accordance with Policies DM17 and DM18 of the adopted SADMP.

Conditions

- 7.18. The original planning permission (reference 14/01084/FUL) was subject to 19 conditions. The development is substantially complete therefore many of the conditions imposed (1 (time), 3 (materials), 4 (window style etc.), 5 (boundary wall), 6 (levels), 7 (landscaping), 8 (landscaping maintenance), 18 and 19 (tree protection/method statement and protection plan) have either been discharged or where not discharged are no longer necessary at this stage of the development.
- 7.19. Condition 2 (plans) and 14 (parking Units B and C) would need to be amended to refer to the amended parking/landscaping layout and tree replacement plan/schedule.
- 7.20. A new condition to require the replacement tree planting scheme to be completed in accordance with the approved details within a suitable time period and thereafter maintained would be required. A new condition to require the implementation of the development in accordance with the tree mitigation measures within the submitted Arboricultural Report would be required.
- 7.21. Conditions 12 (access), 13 (parking Unit A), 15 (access gradient), 16 (access gates), 17 (drainage) are still necessary and should be repeated to ensure satisfactory development.
- 7.22. Leicestershire County Council (Archaeology) has assessed the amended scheme and are satisfied that the amendment to the parking in itself won't alter the archaeological implication of the wider scheme. However the reports and archives resulting from the previous archaeological investigation remain outstanding on the original planning permission (14/01084/FUL). Therefore their submission should be required/conditioned in accordance with Conditions 10 and 11 on the original 2014 permission and these should be repeated to ensure satisfactory archaeological investigation and recording.

11. Equality Implications

- 7.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
 - (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.2. Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 7.3. There are no known equality implications arising directly from this development.

12. Conclusion

- 7.1. By virtue of the elevated ground level and siting to the rear of other dwellings, the provision of additional hardstanding at the front of Unit C and the repositioning of boundary fencing will not result in any significant adverse impacts on the character of appearance of the Groby Conservation Area or setting of the adjacent listed building and would therefore preserve the significance of the heritage assets. However, the unauthorised removal of a number of trees within the Groby Conservation Area, particularly to the site frontage and adjacent to Unit C has resulted in significant adverse impacts on the verdant appearance of the site and visual amenity of the Groby Conservation Area and setting of the adjacent listed building
- 7.2. As a result, the current proposal would only be acceptable subject to the proposed replacement tree planting scheme/schedule and soil compaction and pruning mitigation works proposed as part

of this application. The application is recommended for approval strictly on this basis and subject to the following conditions.

13. Recommendation

7.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

7.2. Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details as follows:- Site Location Plan drg.no. S115 (LP) 01 Rev A, Existing Plans drg.no. S115 (EX) 01, Existing Elevations drg.no. S115 (EX) 02 Rev A, Existing Site Plan drg.no. S115 (EX) 03 received by the local planning authority on 17 November 2014, Site Plan as Proposed drg.no. S115 (PL) 01 Rev B, Elevations & Sections Units A & B as Proposed drg.no. S115 (PL) 02 Rev C, Units A & B Floor Plans and Unit C Floor Plans, Elevations and Section drg.no. S115 (PL) 03 Rev D and Site Section A-A drg.no. S115 (PL) 04c received by the local planning authority on 28 April 2015 and Parking Layout, Hard Landscaping and Replacement Tree Planting Plan/Schedule Drawing No. 2671-15 Rev G received by the local planning authority of 23 February 2018.

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1, DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. The development shall be implemented in full accordance with the approved Tree Replacement Scheme/Schedule on Landscaping Plan drawing No. 2671-15 Rev G received by the local planning authority on 23 February 2018. The replacement trees shall be planted within one month of the date of this planning permission and maintained for a period of five years from the date of planting. The tree replacement scheme shall be maintained for a period of five years from the date of planting. During this period any trees which die or are damaged, removed, or seriously diseased shall be replaced by trees of a similar size and species to those originally planted.

Reason: To enhance the appearance of the development in the interest of visual amenity and to preserve the character and appearance of the Groby Conservation Area and setting of the adjacent listed building in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. Within one month of the date of this planning permission, the tree and soil mitigation measures detailed within the submitted Arboricultural Report by Beddow Tree Limited (reference 23774 dated 24 January 2018) shall be implemented in full, with particular reference to Comments B, C, E, H and I and Program of Works items I - VII inclusive. Confirmation of the implementation of the tree and soil mitigation measures by a suitably qualified arboriculturist shall also be submitted to the local planning authority within this time period.

Reason: To protect the health and future viability of the retained Sweet Chestnut tree in the interest of visual amenity and to preserve the character and appearance of the Groby Conservation Area and setting of the adjacent listed building in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under Condition 9 of planning permission 14/01084/FUL.

Reason: To ensure satisfactory archaeological investigation and recording to accord with Policies DM11 and DM13 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 137 and 141 of the National Planning Policy Framework (2012).

5. No new dwelling shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 9 of planning permission 14/01084/FUL and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure satisfactory archaeological investigation and recording to accord with Policies DM11 and DM13 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 137 and 141 of the National Planning Policy Framework (2012).

6. Before first occupation of any new dwelling hereby permitted, the access shall be widened to a minimum of 4.6 metres and provided with 2 metres x 2 metres visibility splays on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway at the junction with Rookery Lane in accordance with the details shown on Site Plan as Proposed drg.no. S115 (PL) 01 Rev B. The access shall be surfaced with tarmacadam, block paving or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary. The access drive once provided shall be so maintained at all times thereafter.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and to reduce the possibility of deleterious materials (loose stones etc.) being deposited in the highway in the interests of highway and pedestrian safety to accord with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. The two proposed car parking spaces to serve Unit A as shown on Floor Plan drg.no. S115 (PL) 03 Rev D shall be provided and surfaced with tarmacadam, block paving or similar hard bound material (not loose aggregate) prior to completion of the extensions and alterations to Unit A and once provided shall not be obstructed and shall thereafter be permanently so maintained.

Reason: To ensure that adequate off-street parking facilities are available to serve Unit A and to reduce the possibility of deleterious materials (loose stones etc.) being deposited in the highway in the interests of highway safety to accord with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. Before first occupation of any new dwelling hereby permitted, the vehicle parking and turning facilities to serve Units B and C shall be provided, hard surfaced and made available for use within the site in accordance with the amended Parking Layout shown on Drawing No. 2671-15 Rev G received by the local planning authority on 23 February 2018. The vehicle

parking and turning areas so provided shall not be obstructed and shall be so maintained at all times thereafter.

Reason: To ensure that adequate off-street parking and turning facilities are available to serve Units B and C in the interests of highway safety to accord with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. The gradient of the access drive shall not exceed 1:12 for the first 5 metres behind the highway boundary.

Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. Before first occupation of either of the new dwellings hereby permitted, drainage shall be provided within the site such that surface water does not drain into the public highway and once provided shall be so maintained at all times thereafter.

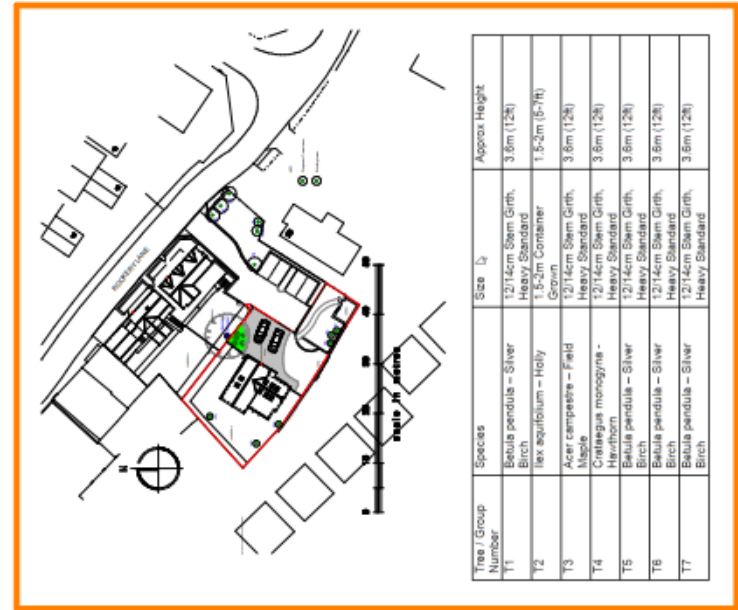
Reason: To reduce the possibility of surface water from the site being deposited in the highway in the interests of general highway safety to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7.3. Notes to Applicant

1. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
2. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.

3. The access drive, parking and turning area, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).
4. The applicant is reminded that the collection point for refuse and recycling is from the public highway and satisfactory arrangements will have to be made by the future occupiers of the site to present the relevant containers in a suitable position on collection days.
5. The applicant's attention is drawn to the proximity of Unit C of the scheme to the air conditioning units on the adjacent commercial premises whose typical hours of operation are 6am-6pm Monday to Friday and 6am-10am Saturday. There is potential for the air conditioning units to be audible in bedrooms with windows open. Mitigation against impact would be most effective at source (for example barriers adjacent to the air conditioning units to deflect sound away from Unit C. The developer should therefore consider approaching the commercial premises informally to discuss undertaking this work to protect the amenity of the future occupiers.

APPENDIX 6- APPROVED TREE PLANTING SCHEDULE 1701071/CONDIT



DRAWING ROOM

(ARCHITECTS) Ltd

Director MALCOLM A. GOODALL

130 Moat Street, Wigston, Leicester, LE18 2GE.

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e-mail:- info@tdrarchitects.co.uk

web site:- www.tdrarchitects.co.uk

Job Title:- Proposed Residential Development:-

20 Rookery Lane, Groby.

Leicester. LE6 0GL.

Scale:- 1:1250 & 1:500 Date:- February 2018

Drawing Title:-

LANDSCAPE PLAN

Drawing No

2671-15-A4

Rev

G

Checked

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

PLANNING PERMISSION

Name and Address of Applicant

R & W Harrison Builders Ltd
40 Farrier lane
Leicester
LE4 0WA

Name and Address of Agent (if any)

Mr Malcolm Goodall
The Drawing Room (Architects) Ltd
Chartered Architects
130 Moat Street
Wigston
Leicestershire
LE18 2GE

Part I - Particulars of Application

Date of Application	Application No.
20 October 2017	17/01071/CONDIT

Particulars and location of development :

Variation of condition 2 of planning permission 14/01084/FUL to amend car parking layout and landscaping (retrospective)

Holly Cottage 20 Rookery Lane Groby Leicester Leicestershire

Part II - Particulars of decision

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council grants permission for the carrying out of the development referred to in Part I hereof in accordance with the application form and plans submitted, subject to the following conditions :-

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details as follows:- Site Location Plan drg.no. S115 (LP) 01 Rev A, Existing Plans drg.no. S115 (EX) 01, Existing Elevations drg.no. S115 (EX) 02 Rev A, Existing Site Plan drg.no. S115 (EX) 03 received by the local planning authority on 17 November 2014, Site Plan as Proposed drg.no. S115 (PL) 01 Rev B, Elevations & Sections Units A & B as Proposed drg.no. S115 (PL) 02 Rev C, Units A & B Floor Plans and Unit C Floor Plans, Elevations and Section drg.no. S115 (PL) 03 Rev D and Site Section A-A drg.no. S115 (PL) 04c received by the local planning authority on 28 April 2015 and Parking Layout, Hard Landscaping and Replacement Tree Planting Plan/Schedule Drawing No. 2671-15 Rev G received by the local planning authority of 23 February 2018.

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1, DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. The development shall be implemented in full accordance with the approved Tree Replacement Scheme/Schedule on Landscaping Plan drawing No. 2671-15 Rev G received by the local planning authority on 23 February 2018. The replacement trees shall be planted within one month of the date

of this planning permission and maintained for a period of five years from the date of planting. The tree replacement scheme shall be maintained for a period of five years from the date of planting. During this period any trees which die or are damaged, removed, or seriously diseased shall be replaced by trees of a similar size and species to those originally planted.

Reason: To enhance the appearance of the development in the interest of visual amenity and to preserve the character and appearance of the Groby Conservation Area and setting of the adjacent listed building in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. Within one month of the date of this planning permission, the tree and soil mitigation measures detailed within the submitted Arboricultural Report by Beddow Tree Limited (reference 23774 dated 24 January 2018) shall be implemented in full, with particular reference to Comments B, C, E, H and I and Program of Works items I - VII inclusive. Confirmation of the implementation of the tree and soil mitigation measures by a suitably qualified arboriculturist shall also be submitted to the local planning authority within this time period.

Reason: To protect the health and future viability of the retained Sweet Chestnut tree in the interest of visual amenity and to preserve the character and appearance of the Groby Conservation Area and setting of the adjacent listed building in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under Condition 9 of planning permission 14/01084/FUL.

Reason: To ensure satisfactory archaeological investigation and recording to accord with Policies DM11 and DM13 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 137 and 141 of the National Planning Policy Framework (2012).

5. No new dwelling shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 9 of planning permission 14/01084/FUL and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure satisfactory archaeological investigation and recording to accord with Policies DM11 and DM13 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 137 and 141 of the National Planning Policy Framework (2012).

6. Before first occupation of any new dwelling hereby permitted, the access shall be widened to a minimum of 4.6 metres and provided with 2 metres x 2 metres visibility splays on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway at the junction with Rookery Lane in accordance with the details shown on Site Plan as Proposed drg.no. S115 (PL) 01 Rev B. The access shall be surfaced with tarmacadam, block paving or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary. The access drive once provided shall be so maintained at all times thereafter.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and to reduce the possibility of deleterious materials (loose stones etc.) being deposited in the highway in the interests of highway and pedestrian safety to accord with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. The two proposed car parking spaces to serve Unit A as shown on Floor Plan drg.no. S115 (PL) 03 Rev D shall be provided and surfaced with tarmacadam, block paving or similar hard bound material (not loose aggregate) prior to completion of the extensions and alterations to Unit A and once provided shall not be obstructed and shall thereafter be permanently so maintained.

Reason: To ensure that adequate off-street parking facilities are available to serve Unit A and to reduce the possibility of deleterious materials (loose stones etc.) being deposited in the highway in the interests of highway safety to accord with Policies DM17 and DM18 of the adopted Site Allocations

and Development Management Policies Development Plan Document (2016).

8. Before first occupation of any new dwelling hereby permitted, the vehicle parking and turning facilities to serve Units B and C shall be provided, hard surfaced and made available for use within the site in accordance with the amended Parking Layout shown on Drawing No. 2671-15 Rev G received by the local planning authority on 23 February 2018. The vehicle parking and turning areas so provided shall not be obstructed and shall be so maintained at all times thereafter.

Reason: To ensure that adequate off-street parking and turning facilities are available to serve Units B and C in the interests of highway safety to accord with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. The gradient of the access drive shall not exceed 1:12 for the first 5 metres behind the highway boundary.

Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. Before first occupation of either of the new dwellings hereby permitted, drainage shall be provided within the site such that surface water does not drain into the public highway and once provided shall be so maintained at all times thereafter.

Reason: To reduce the possibility of surface water from the site being deposited in the highway in the interests of general highway safety to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

NOTES TO APPLICANT :-

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
3. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
4. The access drive, parking and turning area, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).
5. The applicant is reminded that the collection point for refuse and recycling is from the public highway and satisfactory arrangements will have to be made by the future occupiers of the site to present the

relevant containers in a suitable position on collection days.

6. The applicant's attention is drawn to the proximity of Unit C of the scheme to the air conditioning units on the adjacent commercial premises whose typical hours of operation are 6am-6pm Monday to Friday and 6am-10am Saturday. There is potential for the air conditioning units to be audible in bedrooms with windows open. Mitigation against impact would be most effective at source (for example barriers adjacent to the air conditioning units to deflect sound away from Unit C. The developer should therefore consider approaching the commercial premises informally to discuss undertaking this work to protect the amenity of the future occupiers.



Nicola Smith
Planning Manager
Development Management

Date : 1 March 2018

NOTES

1. It will be most helpful if the application number shown overleaf is quoted in all correspondence.
2. If you consider that this decision has been made invalidly through the Council failing to follow a procedure correctly, not having the legal power to make the decision in the way it did or through its decision being so unreasonable as no reasonable local authority would make the same decision based on the same facts, then you may enter a claim for judicial review to quash the decision. In order to proceed with a claim for judicial review an initial application for permission will need to be made to the Administrative Court, this application is required to be made "promptly and in any event within three months of the decision". The initial permission application will decide if you have an arguable case, whether you are sufficiently materially affected by the decision to bring the claim. If you are granted permission to bring the claim it will proceed to a full hearing at the Administrative Court. Although there is no requirement for you to do so it is highly recommended that you seek independent legal advice before bringing forward a claim for Judicial Review.
3. If you are aggrieved by the decision of the Local Planning Authority to grant permission subject to conditions, you may appeal to the Secretary of State for the Environment in accordance with Section 78 of the Town and Country Planning Act 1990 within six months (see para 2a below) of the date of this notice. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, tel. 0303 444 5000 or online at <https://www.gov.uk/planning-inspectorate>). You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that the permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements as set out in Section 78 of the Town and Country Planning Act 1990, to the provisions of the development order, and to the directions given under the order. He does not in practice refuse to entertain appeals solely because the decision by the Local Planning Authority was based on a direction given by him. Appeals- new time rules. Appeals relating to applications made to the Local Planning Authority on, or after, 5th September 2003 must be made within six months of the date of this notice.
4. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application then, you must do so in accordance with the guidance found using the following link <https://www.gov.uk/appeal-enforcement-notice>.
5. If permission to develop land is granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State for the Environment, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
6. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
7. This permission covers only consent under the Town and Country Planning Acts and does not give permission to demolish a Listed Building, for which separate consent is required. Amongst other things the consent of the Council of the district in which the land is situated may be required under the Building Regulations and if the proposals affect land within the limits of the highway (that is between the highway fences or hedges) the separate consent of the Highway Authority may also be required. Steps to obtain the necessary further consents should be taken before proceeding with the development.

SHOPS, OFFICES, FACTORIES, EDUCATIONAL BUILDINGS & BUILDINGS TO WHICH THE PUBLIC ARE TO BE ADMITTED : ACCESS AND PROVISION FOR THE DISABLED PERSONS

1. The Local Planning Authority is required to bring to your attention the requirements of the Disabled Persons 1981, Building Regulations 1991 "Access and facilities for Disabled People" document M and the Chronically Sick & Disabled Act 1970 (as amended 1976) (Sections 4.7.8 and 8A) requiring the provision of access facilities, car parking and toilets for the disabled and the provision of signing indicating what provision has been made for disabled persons within the building. Your attention is also drawn to the Code of Practice B.S 5619 "Design of Housing for the convenience of Disabled People", 1978 and Code of Practice, B.S. 5810 : 1979, "Access for the Disabled to buildings" available from the British Standards Institution, 2 Park Street, London W1A 2BS. (Tel 071-629-9000) and (in so far as educational buildings are concerned), to Design Note 18 "Access for the Physically Disabled to Educational Buildings."
2. The buildings to which these requirements apply are :-
 - a) Buildings to which the public are to be admitted to which Section 4 of the Chronically Sick & Disabled Act 1970 (as amended 1976) applies.
 - b) Offices, Shops & Railway Premises as defined in the Offices, Shops & Railway Premises Act 1963 or premises deemed to fall within the Act.
 - c) Factories as defined by Section 175 of the Factories Act 1961.
Educational Buildings as defined by Section 29B of the Disabled Persons Act 1981.



Hinckley & Bosworth
Borough Council

Start Notice

Important Information – Please keep this with your decision notice

Please read the above decision notice carefully and ensure that you understand and comply with the requirements of any planning conditions imposed.

If you require any further information about why a particular planning condition has been imposed or in respect of what information is needed to discharge your condition please contact the case officer who will be happy to advise of the requirements and information required.

We carry out a programme of site monitoring to check compliance with conditions in order to proactively manage the development and to ensure development is carried out in accordance with the planning permission granted.

Please ensure that any application for the discharge of pre-commencement conditions are carried out in a timely manner as this may take up to 8 weeks depending on the requirements of the condition. Please also be aware there is a charge to discharge conditions per request which means you can discharge conditions individually or group details together as a single request to discharge multiple planning conditions. This charge is currently £28 per householder request or £97 for all other applications.

We would be grateful if you could email the development address and application reference number with your contact details and the intended start date by email to planning@hinckley-bosworth.gov.uk or complete the form on the reverse.

Hinckley & Bosworth Borough Council
Hinckley Hub, Rugby Road, Hinckley, Leicestershire, LE10 0FR
TEL: 01455 238141 EMAIL: planning@hinckley-bosworth.gov.uk



Hinckley & Bosworth
Borough Council

Development Details

Planning application ref:	17/01071/CONDIT
Proposal:	Variation of condition 2 of planning permission 14/01084/FUL to amend car parking layout and landscaping (retrospective)
Site Location:	Holly Cottage 20 Rookery Lane Groby Leicester Leicestershire

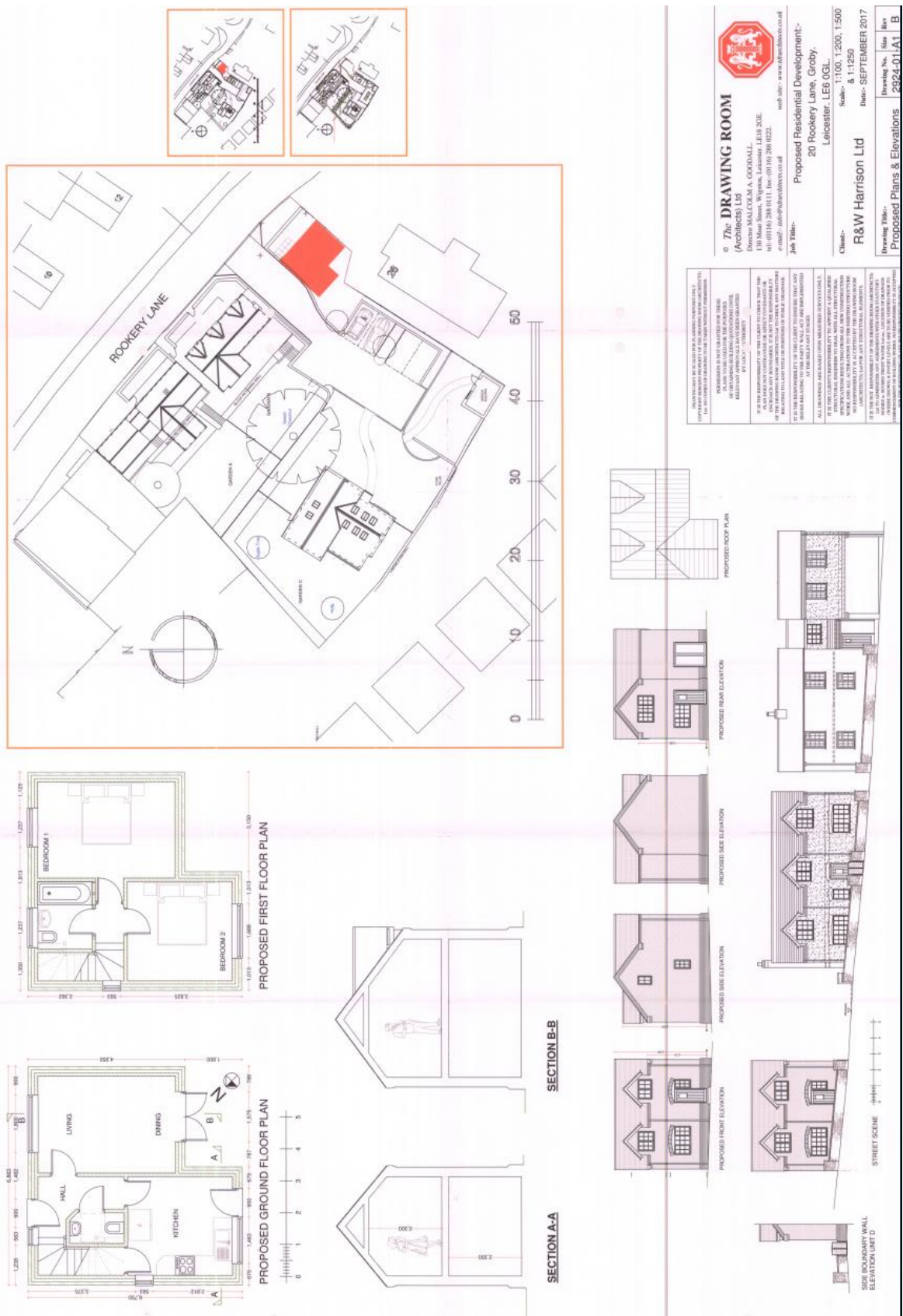
Date when work is intended to start:	
Have all pre-commencement conditions been discharged?	
Signed:	Print Name:

Your contact details (or attach letterhead/business card):

Name:	
Address:	
Telephone:	
Mobile:	
Email:	

Hinckley & Bosworth Borough Council
Hinckley Hub, Rugby Road, Hinckley, Leicestershire, LE10 0FR
TEL: 01455 238141 EMAIL: planning@hinckley-bosworth.gov.uk

APPENDIX 8- ELEVATION AND FLOORPLANS SUBMITTED APPLICATION
17/00982/FUL





Appeal Decision

Site visit made on 9 October 2018

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 02 November 2018

Appeal Ref: APP/K2420/W/18/3194858

20 Holly Cottage, Rookery Lane, Groby, Leicestershire LE6 0GL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr R Harrison of R & W Harrison Builders Ltd against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 17/00982/FUL, dated 26 September 2017, was refused by notice dated 30 November 2017.
 - The development proposed is a new dwelling.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The revised National Planning Policy Framework ('the Framework') was published after the submission of the appeal. As the Council was able to comment on the revised Framework in its appeal statement the appellant was also given the opportunity to comment. The comments received have been taken into account in the determination of this appeal.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of Groby Conservation Area and the setting of 26 Rookery Lane, a Grade II listed building.

Reasons

4. The Framework is an important material consideration. It identifies that heritage assets are an irreplaceable resource. Paragraph 193 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a Conservation Area and a listed building, great weight should be given to the asset's conservation.

Conservation Area

5. The appeal site is located within Groby Conservation Area. In the exercising of planning functions the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Policies DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (SADMPDPD) and policy 8 of the Hinckley and Bosworth Core Strategy require the protection of the character and appearance of a locality, including heritage assets, through high quality design that respects local design features.

6. In terms of assessing the significance of the Conservation Area and the contribution that the appeal site makes to it, I have taken into account the Groby Conservation Area Appraisal (CAA), the comments of the main parties and my observations during the site visit.
7. The Conservation Area covers the village centre and its environs that contain well designed older and historic buildings. Use of local granite and slate is widespread. Trees and green space are an intrinsic part of the Conservation Area's character and help to differentiate it from the more recent suburban development in the village. The significance of the Conservation Area and its listed buildings, which date from the 16th through to the 19th centuries, is therefore architectural and historical.
8. The appeal site is a small elevated open plot adjacent to Rookery Lane with recently planted young trees and more mature trees in the vicinity of the boundary with No 26. As such, it forms part of the rural village character of the Conservation Area.
9. The value of the site is recognised by the CAA and plan of the Conservation Area which identifies it as part of larger green space formed by the gardens to 20 and 26 Rookery Lane. The CAA development guidance states such green spaces should be retained. However, since the publication of the CAA permission has been granted for houses within the garden of No 20 which have now been built. This development has served to increase the value and importance of the appeal site as the only remaining green space along the front boundary separating built development at No 20 from the plot of No 26.
10. The proposed house would result in the loss of this gap and urbanise the site to the detriment of the character and appearance of the Conservation Area as a whole. The harm caused would not be compensated by the design of the house which would be sympathetic to the appearance of the existing recently built houses and No 20.

Listed building

11. In the exercise of planning functions, the statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
12. No 26 is a detached Grade II listed building dating from the eighteenth century. Constructed from local stone with brick dressings, a Swithland slate roof and a three bay front with a central gabled porch its special interest and significance is its history and architecture. Its setting within verdant open surroundings, of which the appeal site forms a prominent part, is characteristic of when it was built and contributes to its significance.
13. The proposed house would occupy the width of the appeal site and urbanise it removing the last open undeveloped land that separates No 26 from development associated with No 20. In the absence of submitted substantive arboricultural evidence to the contrary it also appears to me that the proposal would result in the loss of many of the recently planted trees on the site and harm adjacent trees in the vicinity of the boundary with No 26. Consequently, the proposed house would harmfully encroach upon the setting of the listed building. As in relation to the Conservation Area, the harm caused would not be overcome by the sympathetic design details of the house.

Planning balance

14. The harm caused by the proposed development to the significance of the Conservation Area as a whole and setting of 26 Rookery Lane, a Grade II listed building, would be less than substantial. In such circumstances, paragraph 196 of the Framework advises that the harm that would be caused should be weighed against the public benefits of the proposal.
15. In accordance with the statutory duties described, I attach considerable importance and weight to the harm that would be caused to the Conservation Area and setting of No 26. On the other side of the balance, the proposal would result in some construction employment and provide a dwelling within a settlement that has a range of services and facilities, including bus services, within easy access. It would also provide a small, low cost open market house that would increase by a nominal amount the housing stock in the Borough. I attach moderate weight to these benefits of the scheme.
16. It has been suggested that the proposed development would also prevent fly tipping on the site. However, given that the site is elevated, planted with trees and is on an active residential street such activity is unlikely to occur. Moreover, even if it did, the local planning authority has powers to ensure that the site would be cleared up. As a result, I attach minimal weight to this consideration as a benefit of the proposal.
17. Taking all these matters into account, my overall conclusion is that the public benefits of the proposal fall a long way short of outweighing the harm that would be caused to Groby Conservation Area and the setting of the Grade II listed building at 26 Rookery Lane. The proposal would therefore be contrary to a policy of the Framework that provides a clear reason for refusing the development proposed, as well as failing the statutory tests. As such it would not constitute a sustainable development and would be contrary to section 16 of the Framework, in addition to being contrary to policies DM1, DM10, DM11 and DM12 of the SADMPDPD and policy 8 of the Core Strategy. Policy DM1 states the presumption in favour of sustainable development.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, the appeal should therefore be dismissed.

Ian Radcliffe

Inspector