

Bill Cullen MBA (ISM), BA(Hons) MRTPI
Chief Executive

Date: 4 June 2024



**Hinckley & Bosworth
Borough Council**

To: Members of the Planning Committee

Dear Councillor,

Please see overleaf a Supplementary Agenda for the meeting of the **PLANNING COMMITTEE** on **TUESDAY, 4 June 2024** at **6.30 pm**.

**Hinckley & Bosworth
Borough Council**

ITEM 07	21/01511/OUT	Bloor Homes Limited + Jelson Limited
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Proposal:- Outline application to include up to 1,000 dwellings (C3) up to 5.3 hectares for employment uses comprising a mix of B2, B8 and E(g) uses, a primary school/education uses (F1), retail floor space (E) and hot food takeaway (Sui Generis) as part of a mixed use local centre/community hub (E/F1/F2/C3), two vehicular accesses from the A47, limited access from Breach Lane, vehicular access from Mill Lane, public open space including sustainable urban drainage systems and the provision of associated infrastructure and ancillary works and demolition of former girl guide building (outline - access only)(EIA development)

Proposal:- Outline application to include up to 500 dwellings, a primary school / education use (Class F1), retail (Class E), community hub (Class E/F1/F2), hot food takeaway (Sui Generis), accesses from Mill Lane and Astley Road and infrastructure including; public open space, SUDS, landscaping, the provision of associated infrastructure and ancillary works. Outline - all matters reserved except for access (EIA development).

1.1. Since publication of the Planning Committee report, additional objections, from existing objectors, have been received from three addresses.

- Access to property, signage to property and access to services to property required during construction period;
- Impact of noise during construction period;
- Request for a new mains water supply south of Clickers Way;
- Background mapping of plans, including for bridleways and nearby properties is out of date;
- Impact of street lighting to new junctions;

All of the above points raised are matters for relevant planning conditions already included, including for construction management, or for matters related to reserved matters or highway related matters that will be considered through the relevant S278 or S38 process with Leicestershire County Council.

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- Contrary to AAP with regards to location of employment provision, with no buffer to Union Mill Close proposed;
- No assessment of noise from employment uses to nearby residents of Union Mill Close;
- Union Mill Close not assessed through the Environmental Statement;
- Developability of the employment units proposed queried due to restrictive planning condition;
- Application 20/01225/OUT not considered with regards to highways and noise impact

Officer response to points raised:

The above points are considered to be able to overcome at reserved matters stage or through suitable planning conditions. The application is outline only with parameters to guide reserved matters.

Application 20/01225/OUT referenced is not consented, as suggested in the objection, instead the application is pending determination and will consider the wider impacts of the whole development.

The agent has provided a detailed response to all points raised in this objection taking each point raised in turn with their response in blue text.

iii.) Objection number 3 raises the following points:

- Impact upon access roads and highway safety

Officer response to points raised:

The above highways matters are covered within the Committee Extract.

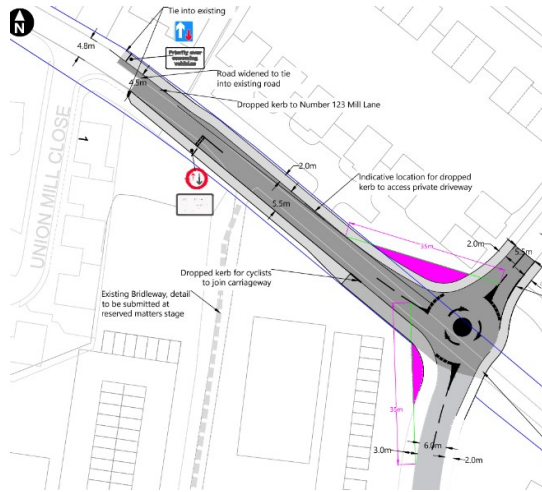
RESPONSE TO UNION MILL CLOSE OBJECTION

- 1.2. The outline application and supporting masterplanning material for the SUE has been carefully prepared in the context of the development plan and having regard to the surrounding land uses to ensure any impact is minimised. This approach extends equally to existing residential areas at Union Mill Close, and has involved a wide range of technical studies, including an Environmental Impact Assessment. To demonstrate this, the following note responds to each of the points raised by the Union Mill Close objection dated 29th May 2024 as they appear in the correspondence.

Objector Comment: *Union Mill Close was constructed before the Earl Shilton and Barwell Sustainable Urban Extensions were allocated. The proposal, as submitted for approval will result in us losing all our natural light, create significant noise issues, Damaging our health and wellbeing whilst devaluing our properties.*

Applicant Response: Other than access, the application is submitted in outline and therefore it will only establish the broad land use and design parameters to guide future detailed reserved matters. Planning conditions are also to be attached to any planning permission which can be used to further control the way the site is developed and secure appropriate mitigation. As such the reserved matters approval process and conditions will ensure that there is no unacceptable impact on existing properties and that suitable mitigation is secured.

Objector Comment: *The parameters plan does not determine the use for the green area behind our properties allowing for them to be used as hard standing, parking or worse service yards and noisy operations. This impact is demonstrated on WSP Plan x 42523-WSP-XX-XX-DR-OT-00003_S0_P01.4.*



Applicant Response: The Land Use Parameter Plan only indicates the general extent of land that can be used for employment uses. This does not mean that it will be appropriate to cover all the said area with buildings or hardstanding. The final reserved matters for this area will need to include details of layout, appearance, scale and landscaping appropriate to the uses proposed.

In addition, a series of planning conditions and other design parameters will provide control over noise, uses and building heights to limit impact (See the Submitted Building Height and Density Parameter Plan, Conditions 23, 37 and 43). These conditions specifically control noise limits at nearby properties and require detail of suitable buffers and screening to be provided regarding proposed plant and machinery, and external operations such as parking and loading activities. Should a reserved matter application not comply with these conditions or fail to provide suitable mitigation then the application would be refused by the Local Planning Authority. Employment building heights are specifically limited to 12m in areas close to existing residential properties, which is similar to a 2.5 storey dwelling, to ensure buildings are not overbearing. This is a reduction from the 17m allowed elsewhere close to the A47. Compliance with these range of parameters will be required and will ensure that residential amenity is protected.

Objector Comment: *Spatial objective 2 of the vision for the Earl Shilton and Barwell SUE, as set out in the adopted area action plan, is to integrate the urban extension with the existing communities and provide inclusive and attractive and vibrant healthy and safe environment, with a high quality of life for all residents. When this was agreed and the EIA scoped, The location of the employment had no impact on Union Mill Close. Your proposal does not meet these objectives and is contravenes there entire ethics.*

Applicant Response: As set out in the previous response the scheme has been designed and controls proposed to ensure that existing residential amenity is protected. For example, see Section 4.8 and Table 4.5 of the Environmental Statement that sets out the 'embedded mitigation' proposed to reduce or offset significant adverse environmental effects and the compliance mechanism. Any reserved matters would be required to comply with these measures and any planning conditions. Objective 2 of the AAP would therefore be achieved.

Objector Comment: *The proposal is contrary to the AAP development framework which identifies the land adjacent Union Mill Close as suitable for residential only. By proposing the employment in this location you have placed a severe impact on Union Mill Close with no proposed mitigation!*

Figure 3: Earl Shilton Sustainable Urban Extension Development Framework



Applicant Response: The previous responses explain how the amenity of residential properties will be protected at the reserved matters detailed design stage.

It should be recognised that the AAP Development Framework for the SUE sets out a 'spatial vision' for the development that is intended to be flexible over time (see clarification at Para. 5.8). This flexibility is to allow the final masterplan to be informed by the more detailed technical and environmental studies that are undertaken when preparing a planning application.

Policy 6 only requires development to 'generally follow' the land uses within the Development Framework. It does not state that other uses would not be suitable, and Policy 6 expressly states that deviation will be permitted where proposals would not prejudice the achievement of the overall requirements of the AAP and Local Plan.

Alternative land arrangements are therefore allowed under Policy 6 of the AAP.

Objector Comment: *The submitted noise report has the impact of employment use scoped out based on the AAP development frame work above. But following your amended arrangement, Union Mill Close is directly affected by the impact which is proposed to be granted with no requirement for mitigation as the noise report only demonstrates impact from the road network, identifying Union Mill Close as minor impacted which is disingenuous and False.*

Applicant Response: Union Mill Close has been included as a sensitive receptor with the properties within Union Mill Close classed as 'medium sensitivity' in line with the assessment methodology (refer to Section 11 of the ES, e.g. Para. 11.7.5).

Potential effects on noise sensitive receptors due to fixed plant and other commercial activity relating to the proposed commercial/industrial buildings were scoped out from further assessment based on 'embedded mitigation' in line with the Noise Policy Statement for England through application of a proposed maximum rating level for proposed commercial uses to meet a noise emissions criterion of +5 dB(A) above background noise level at the worst affected receptors. This level is usually considered the onset of adverse impact due to commercial noise. There are also further contextual elements that should not be discounted in a BS 4142 assessment at the detailed design stage, such as the existing ambient noise levels from the A47, that would not be insignificant at the southern boundary of the residences of Union Mill Close.

The provisions in the Environmental Statement are considered appropriate to protect residential receptors on Union Mill Close. It is also noted that the HBBC proposed planning conditions further reduces the proposed noise limits by 5dB ensuring that no

adverse impact is likely. Any reserved matters applications adjacent to Union Mill Close would be required to comply with these conditions and to specify the required mitigation to protect residential amenity.

Objector Comment: *Policy 8 (employment in the urban extension of Earl Shilton) A buffer must be provided between the employment area and any surrounding land allocated for residential use to protect their amenity. No buffer is proposed for Union Mill Close contrary to this policy. This has not been provided under these parameters. Whilst the submitted reported identifying Employment Area Character Area, fails to address the residential adjacencies.*

Applicant Response: The previous responses set out in detail how the amenity of existing properties is to be protected and managed through the reserved matters process. These matters will be subject to further consultation on the proposed detail regarding the uses being proposed and matters such as noise, landscaping, layout, appearance and scale.

It is noted that Policy 8 is referring to a buffer being required internally within the site to other land 'allocated' for housing rather than existing housing. This buffer is also shown on the Development Framework. Having said this, the Applicant will in any event be required to detail a suitable buffer to Union Mill Close when complying with proposed planning conditions and submitting landscaping and layout reserved matters applications for this area. Any such application would need to demonstrate full compliance with the range of planning and environmental controls imposed on any permission before development is brought in to use. These compliance mechanisms will ensure that residential amenity is adequately protected.

Objector Comment: *Paragraph 5.6 Employment uses are to be located to the east of the urban extension area, next to the A47, and north of the existing watercourse. They would be accessed via a new junction close to Mill Lane. A buffer should be provided between the employment land and surrounding residential development to ensure a high level of amenity is secured for future residents. This has not been provided to Union Mill Close.*

Applicant Response: The actual design and extent of the buffer (and/or other mitigation) is to be determined at Reserved Matters stage and will be informed by the uses being proposed at that time. As an outline application, future occupiers are currently unknown and therefore this approach has the advantage of securing mitigation that is specific to the actual proposed uses to ensure compliance with planning controls.

Objector Comment:

NPPF not adhered to.

135. Planning policies and decisions should ensure that developments:

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁵²; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

NPPF180. Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

191. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life⁶⁹;

DM7 Preventing Pollution and Flooding

d) It would not cause noise or vibrations of a level which would disturb areas that are valued for their tranquillity in terms of recreation or amenity; (the residential gardens for Union Mill Close (the only amenity space for the residents) is significantly affected by the parameters.

In further reference to the Noise report

The ES has incorrectly assessed Union Mill Close as a sensitive receptor as it has excluded the noise from the employment use which will be severe without mitigation. To accept the outline as submitted will be setting the precedent for accepting this impact.

It is not appropriate to assess parameters that have been designed without taking into account the impact they will generate. It is not suitable to grant these parameters without assessing the operations effects of the employment use on Union Mill Close.

11.7.8 ES States 'potential effects on NSRs due to fixed plant and other commercial activity relating to the proposed schools and commercial/industrial buildings: as shown in Section 11.14, an embedded measure of the Proposed Development is that the rating level for proposed commercial uses are to be designed to meet a noise emissions criterion of +5 dB(A) above background noise level at the worst affected receptors, which will be part of the Proposed Development. *Given the distance between the proposed commercial properties and the nearest existing NSRs, it is considered unlikely that emissions from fixed plant/commercial activity would lead to a significant effect. THIS IS CLEARLY NOT TRUE FOR UNION MILL CLOSE.*

The proposal is not in accordance with planning policy or NPPF guidance,

Impacts have been incorrect assessed.

Applicant Response: The previous responses demonstrate that the application has considered and accords with national and local planning policy. The response also explains that the potential effects have been properly assessed and that the embedded mitigation measures can be secured using appropriately worded planning conditions and through the Reserved Matters detailed design process.

ITEM 09

24/00026/FUL

Statue Homes Ltd

Site:- Kyngs Golf And Country Club, Station Road, Market Bosworth, Nuneaton

Proposal:- Erection of 2 subterranean golf holiday lodges with associated works

Appraisal:-

1.1. The applicant has confirmed that foul drainage will drain to a cesspit.

Proposal:- Erection of single storey self-build/custom-build dwelling (Resubmission of 23/00923/FUL).

Consultations:-

- 1.1. Following publication of the report the Parish Council has written as follows:

Sheepy Parish Council submitted its response to this application on 30 April and we note that this has been acknowledged in the Head of Planning's report to the Committee and that it has made an important contribution to this report, its conclusions, and the recommendation for refusal of the application.

As indicated in the Parish Council's representation, the Parish Council believes that the application does not comply with a number of the legally binding policies in the Sheepy Neighbourhood Plan and additionally the application contains a number of errors. It therefore supports your recommendation (as Head of Planning) for refusal of this planning application. The Parish Council will therefore not take up the invitation to speak at the Planning Committee meeting.

Appraisal:-

- 1.2. The Applicants have also drawn officers' attention to two reports. The first is the Market Bosworth Neighbourhood Plan Housing Needs Assessment (Dec 2022). This is considered to be of limited relevance though as the site does not lie within the area covered by the Neighbourhood Plan.
- 1.3. The point that the Applicants are seemingly making is that there is a high proportion of older people in the area and that the 2011 Census shows that many households are occupying dwellings that are too big for them. The Applicants point out that approval of the single storey dwelling will allow them to move out of the current house in to the new purpose built accommodation and allow the main dwelling to be occupied by a larger family.
- 1.4. This is considered a national issue and not one that is limited to or prevalent within the local area and the benefits to the Applicants of a new purpose built dwelling are understood. It is noted that the Assessment states that specialist housing for older people should only be provided in sustainable, accessible locations that offer services and facilities, public transport options, and the necessary workforce of carers and others. It is not considered though that there are any wider planning benefits that should attract weight in the planning balance given the isolated and unsustainable location of the site.
- 1.5. The second document is an assessment of the Council's position regarding self-build dwellings that was commissioned by an applicant elsewhere, in different circumstances, in support of their application for a new self-build dwelling. The Applicants consider that the report shows that there are significant issues related to the Council's self-build register and how it is compiled and maintained.
- 1.6. The report concludes that an average of 16 individuals have been added to the self-build register every year but that there is consensus within Government research and other evidence that local authority self and custom build registers are not representative of the full demand, and as such there is a need for more self and custom build plots.

The report states that Government guidance recommends that when assessing the need for self/custom build plots, in addition to assessing numbers on the Council's Register, they also draw from secondary data sources.

- 1.7. The report sets out that the current demand for self-build plots within Hinckley and Bosworth is significantly in excess of that which can be derived from the Council's Register, and that demand continues to grow. The report also concludes though that the Council has three years in which to grant permission for self-build plots to meet the level of demand – a key point that is already set out at paragraph 8.33 of the main report.
- 1.8. Officers note that the report refers to Government guidance with regard to assessing the realistic level of demand. It is considered that this is not a straight-forward task and it is one made more complicated by the fact that the regulations that will inform the legislative changes to self-build and custom build housing that have been brought about by the Levelling Up and Regeneration Act 2023 have yet to be published.
- 1.9. For example, the Applicant is on the Council Register. However, the eligibility set out in legislation is that the person is seeking to acquire a serviced plot of land in the authority's area for their own self-build. Given that the Applicants are seeking to build on their own land and are not, for example interested in building within Hinckley or Groby for example, it is questioned whether they are eligible for inclusion on the Register.
- 1.10. Equally, Section 10 of the Self-Build and Custom Housebuilding Regulations 2016 states that individuals must be removed from the register when they make a written request to be removed and that individuals may be removed from the register when they have acquired land suitable for their self-build or custom build dwelling or where the authority considers that the individual is no longer eligible for inclusion in the register. The Council has undertaken an exercise in 2021 to remove such individuals but the legislation sets out that demand is evidenced by the number of entries added during any period, which could be interpreted as being uninfluenced by legitimate removals from the register.
- 1.11. The other main point made by the Applicant with regard to its self-build position is set out at paragraph 8.39 of the main report. The point was refuted in the same paragraph. A more nuanced position is that unlike the review of the position regarding demand which was undertaken in 2021 no review of past supply has been undertaken. Officers are confident that at the time those included in the supply of permissions satisfied the tests applicable at the time.
- 1.12. Regardless of the above points the Council has a three year period in which to grant sufficient permissions to meet supply. In addition there is no requirement placed on Council's to meet the specific needs of those on the Register. As set out in the main report the Council has until 30 October 2024 to grant seven additional self-build dwellings. As such the weight that is given to the provision of an additional self-build dwelling remains as set out in the main report.
- 1.13. The Applicants have also asked that the Committee visit the site given that significant weight is placed on the effect of the development on the countryside.

Recommendation:-

- 1.14. The recommendation remains one of refusal for the reasons detailed in the main report.

Proposal:- Application to vary condition 2 (approved plans) on 15/00678/REM (retrospective)

Recommendation:-

- 1.1. Following publication of the report there are a number of clarifications required as follows:
- 1.2. To add to paragraph 2.3, it should be pointed out that the trees to the rear of the site between the gardens and the industrial premises to the north are covered under Tree Protection Order. The Order was made in 1997 and protects the mainly leylandii and some pine trees. It is considered necessary to add the following planning condition;

Prior to commencement of the outbuilding, an Arboricultural Method Statement prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include full details of the technical structural engineering design and specification of the proposed outbuilding in relation to critical roots of the adjacent TPO trees. The development shall then be Page 5 of 5 implemented in strict accordance with the approved Arboricultural Method Statement and no tree shall be damaged as a result of construction works.

Reason: To ensure that adjacent TPO trees are retained and adequately protected during and after construction in the interests of the visual amenities of the area and biodiversity in accordance with Policies DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

- 1.3. For clarity, planning permission is often not required for an outbuilding within a garden where it is used for a purpose incidental to the main dwellinghouse and where it complies with the size limits set out in the Town and Country Planning General Permitted Development Order. Key to the use of the outbuilding is that it has to be incidental to the main dwelling. This means, for example, that an outbuilding cannot provide independent, self-contained, accommodation and cannot be used for commercial purposes.
 - 1.4. It is important to point out that the drawing approved under application 15/00678/REM showed the two adjacent dwellings having the same eaves and ridge height as the proposed dwelling. This was not the case, and the two adjacent dwellings should have accurately been shown as having significantly lower eaves and ridge heights. Contrary to what is stated at paragraph 8.5 the as built dwelling is only approximately 0.2m taller than the dwelling approved under 15/00678/REM with the discrepancy in the respective heights being mainly attributable to the inaccuracy of the height of the adjacent dwellings. It should be noted that application 15/00678/REM had a different applicant and agent than the current application.
 - 1.5. No further late items have been received.
-