

HINCKLEY AND BOSWORTH BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990



Hinckley & Bosworth
Borough Council

**STATEMENT OF CASE ON BEHALF OF THE LOCAL PLANNING
AUTHORITY**

PLANNING APPEAL BY MR D RICHARDWON & HALL LUXURY

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE
DEVELOPMENT OF 3NO. RESIDENTIAL DWELLINGS WITH ASSOCIATED
VEHICULAR ACCESS, PARKING, AMENITY SPACE AND OTHER WORKS**

**AT: BARWELL CONSTITUTIONAL CLUB, 20 CHAPEL STREET, BARWELL,
LEICESTER, LEICESTERSHIRE**

HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE: 23/00716/FUL

THE PLANNING INSPECTORATE REFERENCE: APP/K2420/W/24/3346306

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1.0 SECTION 1: INTRODUCTION

- 1.1 This statement outlines Hinckley and Bosworth Borough Council's (HBBC) statement of case in relation to the appeal against the refusal of full planning permission for the erection of three dwellings with associated development at Barwell Constitutional Club, 20 Chapel Street, Barwell, Leicester, Leicestershire
- 1.2 This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers and the Delegated Officer Report contained in Appendix 1. This statement is in full support of the decision of HBBC to refuse planning permission.

2.0 SECTION 2: DESCRIPTION OF THE SITE, SURROUNDING AREA AND PROPOSED DEVELOPMENT

- 2.1 The application site is within the Barwell settlement boundary. The surrounding area is mainly residential, with residential development on both sides of the public highway. Schools, local shops, places of worship and public houses / restaurants are within walking distance along the High Street, with bus services at the nearby square offering onward travel to Leicester on a half-hourly service.
- 2.2 Levels on the site are flat. The site is sometimes used as an open amenity area associated with Barwell Constitutional Club to the west with several tables and a lawn area. Barwell Constitutional Club is a Community Facility. To the rear of the site is the George Ward Centre. The front boundary of the site consists of palisade fencing with hedgerow behind. The eastern elevation of the Barwell Constitutional Club is a blank elevation, with no windows overlooking the site. On the 1st floor rear elevation there is a steward's room with a small balcony that forms a fire escape in an emergency. This room is not a habitable room. No. 30 to the east is a 2-storey dwelling with ground floor windows as well as 3 first floor windows on its western side elevation which face the site. There is mature hedgerow on the northern, eastern and southern boundary but this would be removed as a result of the proposal.
- 2.3 During the application, concerns were raised with the agent about various matters and revised plans were received which reduced the number of dwellings being proposed from 4 to 3. Both the site layout and internal layouts of the units themselves were also changed and acoustic fencing included as part of the revised plans.
- 2.4 This application is for three single-storey dwellings, each with private amenity space and two dedicated parking spaces. The proposed dwellings in Plot 1, 2 and 3 are of the same size, layout and design apart from the front windows. All would be 13m in length and 7m in width. All would have a pitch roof with a ridge and eave height of 5.15m and 2.5m respectively. Two regular sized windows are proposed for the eastern side of the dwelling in Plot 1 and letterbox windows are proposed for the eastern elevation of the dwelling in Plot 2 and Plot 3. The letter box windows on the eastern elevation of the dwelling in Plot 3 would be for a utility room, a bedroom and an open plan kitchen/ living room.
- 2.5 To the north of Plot 3 and separated by new planting are 6 car parking spaces and a bin storage area. Proposed boundary conditions would be 2m high close boarded wooden fencing at the sides and rear of the site but also acoustic fencing along the

western boundary. New planting is proposed for the front boundary which would be kept outside of visibility splays as well as new planting at the front and rear of plot 2 and 3. Around the rear garden of Plot 1 a 1.8m high acoustic fence is proposed in addition to the planting. A new dropped kerb is also proposed at the front of the site to facilitate vehicular access and parking.

- 2.7 The proposed dwellings would utilise use a palette of materials which is common in the local area including external walls finished in facing brickwork with cast stone header and cill detailing to window and door openings. Natural or good-quality artificial slate is proposed for each roof and window frames, rainwater goods and composite doors are proposed to be finished in grey.

3.0 SECTION 3: SITE HISTORY

02/00480/COU

- Change of use from vacant land to amenity area in connection with adjacent licensed club
- Approved
- 06.06.2002

21/10167/PREHMO

- Pre-application enquiry for the erection of five single storey dwellings with associated parking and amenity space.

4.0 SECTION 4: POLICY

- 4.1 National Planning Policy Framework (NPPF) (2023)
- 4.2 National Planning Practice Guidance (PPG)
- 4.3 National Design Guide (2019)
- 4.4 Core Strategy (2009)
- Policy 3: Development in Barwell
- 4.5 Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM7: Prevention Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
 - Policy DM25: Community Facilities
- 4.6 Earl Shilton and Barwell Area Action Plan 2006-2026 (2014)
- Policy 22: Development and Design
 - Policy 24: Safeguarding Community Facilities
- 4.7 Other relevant Policy and guidance
- HBBC Good Design Guide (2020)

5.0 SECTION 6: THE CASE FOR THE LOCAL PLANNING AUTHORITY

- 5.1 The planning application was refused for the following reason:

“The development is not judged to meet the standards of good design and represents overdevelopment of the site, leading to adverse impacts upon the amenity of future residents through the relationship between plots in terms of over dominance and enclosure. Therefore, the development is not in accordance with Section 12 and Paragraph 135 of the National Planning Policy Framework, Policy DM10 of the Site Allocations and Development Management Policies DPD, Policy 22 of the Earl Shilton and Barwell Area Action Plan and the Good Design Guide.”

- 5.2 A full assessment of the application is made within the Delegated Officer Report contained in Appendix 1. For completeness the key issues are considered below.

Update to the Council's Housing Land Supply Position

- 5.3 As set out in paragraph 8.6 of the Delegated Officer Report (Appendix 1), at the time the decision was made on application 23/00716/FUL, the Council was unable to demonstrate a 5 year housing land supply. However, the Council published an updated 5 year housing land supply calculation on Monday 29th July 2024. 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.
- 5.4 For decision taking, a 5 year housing land supply is a material consideration in all relevant applications for dwellings in the Borough. However, 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, HBBC consider that the 'tilted balance' still applies.

Design and Impact on the character of the Area

- 5.5 Paragraph 131 of the NPPF states 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, creates better places in which to live and work and helps make development acceptable to communities.”
- 5.6 Paragraph 135 of the NPPF states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. That developments should be sympathetic to local character including the surrounding built environment and establish or maintain a strong sense of place.
- 5.7 Paragraph 139 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Local policy is considered to accord with the NPPF.
- 5.8 Policy DM10 (c), (d) and (e) of the Site Allocations and Development Management Policies DPD (2016) (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 the use and application of building materials respects the materials of existing, adjoining/ neighbouring buildings and the area generally and incorporates a high standard of landscaping.

- 5.9 Policy 22 of the Earl Shilton and Barwell Area Action Plan 2006-2026 (2014) (AAP) provides guidance on design. Various criteria provide policy guidance on character, density, layout, scale fenestration, materials and landscaping and crime.
- 5.10 The Good Design Guide SPD (SPD) provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment. The SPD sets out minimum separation distances between dwellings and a general guideline for garden sizes of 7.0m minimum length and size of 60sqm for a 2 bed house, and 80sqm for a 3 bed house. The SPD states that the spine roads of Barwell are principally characterised by the influence of dense, enclosing terraced housing, alongside social infrastructure.
- 5.11 In the immediate locality of the site is a mix of single storey church, a two-storey brick/rendered club house, a long terrace of two storey Victorian townhouses and further south are two-storey semi-detached brick dwellings. The area therefore has a mixed character.
- 5.12 The proposed layout of this site with 3 detached bungalows perpendicular to the highway is at odds with the prevailing character of Chapel Street but given the 15m set back of No. 30 from the street and the single storey church opposite this is not to the degree that it would be adversely harmful to the character of the area. There are other examples of bungalows (No. 76, 78 and 80) along Chapel Street but they are parallel to the streetscene and have more alignment in their layout.
- 5.13 Other alternative layouts were discussed with the applicant such as two bungalows side by side, parallel to the streetscene which the LPA consider would be more in keeping with the surrounding character but the applicant decided to remain with the current proposal.
- 5.14 Comments have been received from the Parish Council that raise concerns regarding overdevelopment of the site and a loss of parking on the street. The proposed number of dwellings have been reduced from 5 in the pre-application enquiry, to 4 in the original current application and then reduced further to 3 dwellings following discussion with the agent.
- 5.15 The revised plans show three single-storey dwellings. 2 dwellings are sited near the western boundary of the site and 1 dwelling is proposed near the eastern boundary of the site with 6 parking spaces to the front of it. Each dwelling has a small rear garden that satisfies SPD guidance for dwellings of this size. The dwellings are to be constructed of brick, tile and UPVC windows. The additional planting at the front of the site & the front of Plot 2 & 3 would also soften the proposed from a streetscene perspective.
- 5.16 The garden sizes comply with the standard in the SPD (80sqm for a 3 bed dwelling). Waste and recycling bins are to be stored at the front of the site which is regrettable in design terms, however, with hedgerow proposed for the front of this area subject to suitable details which could be secured via condition this could be mitigated to some degree. The SPD (page 36) states that storage for three bins per household should be considered in the design process, three bins have been proposed per dwelling. Two Cycle storage spaces have also been provided per dwelling.

- 5.17 On balance, considering the mixed street scene character and development opposite the site, the design of the dwellings is considered to respect local distinctiveness and the street scene and complement the character of the surrounding area. The use of traditional materials would better reflect the character of the street scene and the use of regular sized windows rather than letter box windows on the eastern elevations of plot 1 would help break up the eastern elevation of this dwelling from a streetscene perspective.
- 5.18 Final landscaping details could be secured by condition to secure compliance with policy 22h) and DM10e). Electric vehicle charging points could be secured by condition to secure compliance with policy DM10g) and policy 22 j).
- 5.19 Overall, it is considered that, on balance, the proposal complements the character of the surrounding area in scale, layout, density and design, in compliance with policy DM10 c) of the SADMP and policy 22 b), c), d), e) and f) of the Earl Shilton and Barwell AAP. Therefore, in accordance with NPPF paragraph 139 the development is considered to be reflective of local design, concerns are however raised below with regards to the quality of design for future residents.

Impact upon residential amenity

- 5.20 Paragraph 135 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 5.21 Paragraph 193 of the NPPF states that decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
- 5.22 Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities with in the vicinity of the site.
- 5.23 Policy 22 of the Earl Shilton Area Action Plan (AAP) states that 'developments will be permitted providing that the following requirements are met:

It does not adversely affect the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality (including odour), noise, vibration and visual intrusion:

- a) The amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site*
- b) There is no detriment to the character or appearance of the host building or the surrounding area*

- c) *The siting and density respects the character and layout of the area*
- d) *It respects the local distinctiveness of existing buildings and landscape settings e) The design respects the scale, proportions and height of the existing building, neighbouring structures and overall street scene*
- f) *Fenestrations are well proportioned, well balanced within the elevations and sympathetic to adjoining/neighbouring buildings*
- g) *The use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the local area generally*
- h) *It incorporates a high standard of landscaping where this would add to the quality of the design and siting*
- i) *It maximises the opportunities for conservation of energy and resources through design, layout, orientation and construction in line with Core Strategy Policy 24*
- j) *Where parking is to be provided a minimum of one charging point for electric/low emissions vehicles is included per development scheme (excluding extensions and alterations and change of use) unless it is demonstrated this is not technically feasible*
- k) *An appropriate Sustainable Drainage Scheme is submitted to and approved by the Local Planning Authority*
- l) *The applicant has demonstrated consideration to community safety through designing out crime*

Favourable consideration will be given to proposals where it can be demonstrated the views of community have significantly influenced the design of the new development.

Development which does not meet the above criteria and would result in poor design which fails to improve design standards in the locality will be refused.

In exceptional circumstances where outstanding, innovative design is demonstrated (particularly where high levels of sustainability are an integral feature), applications will be considered favourably, even where this may result within some conflict with the above criteria'.

- 5.24 The Good Design Guide SPD outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.
- 5.25 The Good Design Guide recommends that a principal window to a habitable room should ideally be no less than 8m from the blank side of a single storey neighbouring property, rising to 14m for a two-storey property. In addition, the separation distance between two principal windows to habitable windows should be a minimum of 21m. However, the Good Design Guide also states that, "An exception to this rule is in an urban location where it may be acceptable to have a reduced distance where issues of amenity and overlooking are dealt with by good design."
- 5.26 The nearest neighbours to the site are the Barwell Constitutional Club to the west and a 2 storey neighbouring dwelling to the east, No. 30 Chapel Street. The George Ward Centre is at the rear. As the Barwell Constitutional Club sometimes has disco nights and bingo nights noise prevention needs to be considered to safeguard the amenity of future occupiers.
- 5.27 The Barwell Constitutional Club has no windows on its eastern elevation and a non-habitable stewards room on its rear elevation that leads to a small balcony area and stairs that acts as a fire escape. This small terrace is not an area where people gather to socialise. In any case amended plans received on 09/01/2023 propose a 1.8m high

privacy screen on the eastern and rear side of this terrace to prevent overlooking and potential impacts on privacy. As a result of this and the acoustic fencing proposed it is considered the relationship here is acceptable in terms of amenity.

- 5.28 The Environmental Health officer (EHO) has considered the potential for noise disturbance from the Constitutional Club, on the new residents. The EHO advises that there is mitigation that would allow standards to be met internally and external standards are likely to be achieved for the majority of the time with a 2m acoustic fence along the western site boundary rising to 3.4m high for the extent of the Constitutional Clubs eastern elevation plus 1m to the front and rear. 2m high acoustic fencing is proposed for the remainder of this boundary as well as 1.8m acoustic fencing internally around the garden area for plot 1. This is considered sufficient to limit potential noise effects. Noise screens would also be placed around the existing air conditioner units on this elevation. There is scope within guidance for the standards to be relaxed where it is not possible to achieve them. On the occasions that there may be elevated noise from the club the noise standards may be exceeded. The above would reduce adverse impact from noise on any future occupier. People moving in, next to a Constitutional Club that has weekly social activities taking place have to accept that, to a degree, there may be impact from the club. However, the club would need to ensure they do all they can to limit impact e.g. keeping doors and windows shut during music entertainment (this would be done through statutory nuisance legislation if complaints were received). The Pollution Officers final comments were 'Following the submission of additional details regarding the control of noise impact (FP003 Proposed Acoustic Treatments), I have no objection to the scheme' subject to conditions. Therefore the EHO considers that a significant adverse effect on future occupiers would not be caused by the club subject to a condition securing noise attenuation measures.
- 5.29 The only residential neighbour to the site is No. 30 Chapel Street to the east. This property has a ground floor window on its western elevation which serves a study. There would be some additional enclosure and loss of light to this window but considered the single storey nature of the proposed dwelling and present existing boundary treatment the additional loss of light and enclosure would not be to an adverse. No. 30 Chapel Street also has three existing 1st floor windows on the western elevation. Considering the single storey height of the proposed dwellings and the pitch of the roof away from this property these rooms would not experience adverse overdominance or loss of light.
- 5.30 Windows on the eastern elevations of the dwelling in plot 3 are to be obscure glazed by condition to limit any potential of overlooking/ lack of privacy between Plot 3 and No.30 Chapel Street. The obscure glazed windows in plot 3 would be for a utility room and bathroom. Turning to the impact of the development on the rear windows/outlook of No.30 Chapel Street, plot 3 would not break the 45 degree rule measured from the rear windows of No.30. It is subservient in height to the 2 storey dwelling to the east, the proposed roof is pitched away from the eastern boundary and no roof lights are proposed. Furthermore the development is also to the west of this neighbouring dwelling so there would not be significant impact in terms of overshadowing. Overall the relationship here in terms of amenity is considered acceptable.
- 5.31 The Parish Council has raised concerns that there will be a detrimental impact on amenity of future occupiers of the plot and the LPA did seek amendments during the course of the application to try to overcome amenity issues. Initially officers raised concern with the on-site relationship between Plots 1 and 3 in terms of over dominance/ enclosure and the outlook of bedroom 1 and 2 of Plot 2. Amendments were made during the course of the application that moved Plot 1 closer to the road increasing the

distance between Plot 1 and 2, allowing more room between the boundary fence and windows in Plot 2. The dwelling in Plot 3 has also been reduced in size from a 3 bed to a 2 bed which has also increased the distance between it and the dwelling in Plot 1 to 9m. Whilst an improvement, the distances between dwellings is still limited and the proposal still appears cramped.

- 5.32 The distance between the dwelling in plot 1 and 2 would be 13m at its nearest point. There are habitable rooms facing each other, however a 1.8m high acoustic fencing is proposed around the garden of plot 1 along with proposed landscaping. This along with the separation distance is considered acceptable in this case to protect neighbouring amenity in terms of overlooking between the plots. However, in terms of outlook for the rear of Plot 1 which contains the principle living/dining room window, the 45° guideline would be breached to the west by the existing Constitutional Club and with the proposed 3.4m high acoustic fencing proposed for much of the remainder of the garden boundary. Outlook to the south and south east would be constrained to some degree by the presence of Plot 2 and 3, albeit at a greater distance. The living room would be served via a high level window in the western elevation which would face the two storey elevation of the Constitutional Club and a second kitchen window facing the parking area. The presence of neither additional window is judged to overcome the sense of enclosure for this open plan room.
- 5.33 The side elevation of Plots 2 and 3 would be separated by 2.4m with a 1.8m high close boarded wooden fence as well as proposed landscaping separating their rear gardens. The 2 proposed windows on the eastern elevation of plot 2 and two windows in the western elevation of plot 3 would be high level letterbox windows and serve a bedroom and a living room. Both living rooms would be served by rear windows providing sufficient outlook and light for the rooms. The bedroom windows serving both front rooms on Plot 2 would face onto a 1.8m high fence, providing little outlook to the front for both rooms. This is especially the case for Bedroom 2 given the proximity of the tall 3.4m high boundary fence to the north west combined with the 1.8-2m high fencing to other boundaries.
- 5.34 It is considered that although the amendments received have improved the proposal the overall relationship between the proposed dwellings would result in the proposed dwellings being over dominant and overbearing upon each other which would have a significant adverse impact on the residential amenity of the occupiers.
- 5.35 Other limitations of the layout include the remoteness of bin storage and parking, especially from Plot 2 and the cramped nature of the parking and turning space in terms of its proximity to Plot 1.
- 5.36 Overall, the combination of factors contribute to the site appearing over-developed with regards to the relationship and distance between dwellings and boundary treatments including acoustic fencing, meaning that future occupiers would experience a high degree of over dominance and enclosure. The layout is not judged to be of a high standard of design for future occupants, noting paragraph 135 of the NPPF which states that developments should function well, not just for the short term but over the lifetime of the development and with a high standard of amenity for existing and future users.
- 5.37 It is considered, from an amenity perspective the development is not, on balance, in compliance with policy DM7 & DM10 of the SADMP, policy 22a) of the Earl Shilton and Barwell AAP, the Good Design Guide SPD and paragraph 135 of the NPPF.

6.0 SECTION 6: COMMENTS ON THE APPELLANTS STATEMENT OF CASE

- 6.1 With regards to the advice provided at pre-application stage this is given in good faith but is not binding as during the course of the planning application full consultation occurs with various consultees and surrounding residents. In any event the applicant did not follow the advice given at pre-application stage, Mr Brown advised the south eastern plots were removed to mitigate any impact on no.30 Chapel Street. The plans initially submitted with the application did reduce the number of dwellings from 5 to 4, however, a plot was retained in the south eastern corner which did not accord with the advice given at pre-application stage. On identifying issues with the proposed layout and its impact on No.30 Chapel Street the plans were amended during the course of the application. As a result of these amendments the amenity relationship between the proposed plots was changed and new detrimental impacts arose as a result. Whilst it is acknowledged that the planning application was protracted in its length, officers have tried to work with the appellants to achieve an acceptable scheme.
- 6.2 With regards to section 6 of the appellants Statement of Case, the LPA does not consider that application 22/00370/FUL represents a comparable development. The layout of the appeal development and that approved under 22/00370/FUL are significantly different. Furthermore each application is assessed on its own merits and as well as the site layout and internal layout of the units, the relationship between the dwellings and surrounding properties is materially different in both cases.
- 6.3 Finally and for the avoidance of doubt the appeal scheme was not submitted on the basis of being limited to housing for over 55s and was therefore not considered on this basis. However, this would not have overcome the residential amenity concerns.

7.0 SECTION 6: CONCLUSION

- 7.1 The proposal is acceptable in principle as it is located within the settlement boundary of Barwell. Paragraph 11d) of the NPPF applies and therefore permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.2 The proposal has been found to have adverse impacts upon the amenity of future residents through what it considered to be a poorly designed layout and overdevelopment of the site with unsuitable, overdominant relationships between the proposed dwellings.
- 7.3 Policy DM10 of the SADMP and policy 22 of the AAP are given significant weight in the planning balance as they are considered to be consistent with the NPPF in relation to amenity and design.
- 7.4 Weighed against the adverse impacts are the benefits of the scheme. These are considered to be the addition of 3 dwellings in the urban area and small scale and short term employment in construction of the new dwellings. There would be minimal environmental benefits via the provision of small scale soft landscaping. In light of the Councils' 5 year housing land position, and low number of units proposed the benefits of the development are attributed very limited weight in the planning balance.

- 7.5 It is considered that the adverse impacts of the development would significantly and demonstrably outweigh the very limited social and economic benefits of the development in this instance.
- 7.6 With regard to the information contained in this statement, the accompanying Delegated Officer Report (Appendix 1) and that submitted with the Appeal Questionnaire, 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 below.

8.0 SECTION 8: 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:

Neighbour Amenity Provision Drg. FP004 received by the LPA on 09/01/2024
Site Location & Block Plan Drg. FP002 Rev G received by the LPA on 28/03/2024
Plot 1 Elevations & Floor Plans Drg. FP101 Rev F received by the LPA on 28/03/2024
Plot 2 Elevations & Floor Plans Drg. FP201 Rev E received by the LPA on 28/03/2024
Plot 3 Elevations & Floor Plans Drg. FP301 Rev E all received on 28/03/2024
Proposed Acoustic Treatments & Internal Street Scene received on 23/11/2023

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

3. No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments, tree species and planting specification, for the site, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. . The hard landscaping scheme shall be carried out prior to the first occupation of the dwellings hereby approved. The soft landscaping scheme shall be carried out within the first planting season following the first occupation of the dwellings hereby approved The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. Notwithstanding the provisions of Schedule 2, Part 1 Classes A - E inclusive of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no

enlargement, improvement or other alteration to the dwellings hereby permitted shall be carried out unless planning permission for such development has been granted by the local planning authority.

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

5. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Site Location & Block Plan Drg. FP002 Rev G 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 the National Planning Policy Framework (2023).

6. Notwithstanding the submitted plans, the proposed access shall be surfaced in a bound material for a distance of at least 5 metres behind the highway boundary with a 5.5 metre dropped crossing. The access once provided shall be so maintained at all times.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner and to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.), in the interests of general highway safety and in accordance with the National Planning Policy Framework (2023).

7. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 43 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with the National Planning Policy Framework (2023).

8. No part of the development hereby permitted shall be occupied until such time as 2.0 metre by 2.0 metre pedestrian visibility splays have been provided on the highway boundary 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 and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of pedestrian safety and in accordance with the National Planning Policy Framework (2023).

9. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Site Location & Block Plan Drg. FP002 Rev G. Thereafter the onsite parking and turning provision shall be kept available for such use in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with the National Planning Policy Framework (2023).

10. All windows on the eastern elevations of the 3 dwellings shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and non-openable. Once so provided the windows shall be permanently maintained as such at all times thereafter.

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

11. The development hereby permitted shall not be occupied until such time as covered secure cycle parking has been provided in accordance with Site Location & Block Plan Drg. FP002 Rev G received by the local planning authority on 22 December 2023. The cycle parking shall be permanently maintained and kept available for such use at all times thereafter.

Reason: To promote travel by sustainable modes in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2023).

12. The development hereby permitted shall not be occupied until such time as the private and communal amenity areas and bin store have been provided in accordance with Site Location & Block Plan Drg. FP002 Rev G received by the local planning authority on 22 December 2023. The amenity areas and bin store shall be permanently maintained and kept available for such use at all times thereafter.

Reason: To ensure satisfactory amenity space and bin storage to serve the development hereby permitted in the interests of residential amenity in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

13. Construction work of the development, hereby permitted, shall not take place other than between the hours of 07:30 hrs and 18:00 hrs on weekdays and 08:00 hrs and 13:00 hrs on Saturdays and at any time on Sundays and Bank Holidays unless other agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

14. The installation of the approved acoustic fencing & noise screens for protecting the proposed dwellings from noise from the adjacent commercial premises shall be completed before any of the permitted dwellings are first occupied.

Reason: To ensure that noise from the adjacent commercial premises does not become a source of annoyance to the future occupiers of the site in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

15. Development shall not begin until surface water drainage details, incorporating sustainable drainage principles (SuDS) have been submitted to and approved by the Local Planning Authority (LPA), and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site to accord with Policy DM7 of the 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. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.

Any proposed access drives, parking and turning areas, 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).

3. 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.
4. Where soakaway drainage is initially proposed, the suitability of the ground strata for infiltration should be ascertained by means of the test described in BRE Digest 365 and the results submitted to the LPA before development is commenced, including calculations of soil infiltration rate and soakaway sizing to accommodate the 1 in 100 year rainfall event plus climate change allowance. If the ground strata proves unsuitable for infiltration, alternative SuDS proposals will require the further approval of the LPA before this condition can be discharged.

APPENDIX 1: DELEGATED OFFICER REPORT

Delegated Report

Planning Ref: 23/00716/FUL
Applicant: Mr D Richardson
Ward: Barwell



Hinckley & Bosworth
Borough Council

Site: Barwell Constitutional Club, 20 Chapel Street, Barwell,
Leicester

**Proposal: Proposed 3no. residential dwellings with associated vehicular access,
parking, amenity space and other works**

Recommendations

- 1.1. **Refuse planning permission** for the reasons outlined at the end of this report.

Planning application description

- 2.1. During the application, concerns were raised with the agent about various matters and a revised plan was received which reduced the number of dwellings being proposed from 4 to 3. Internal layouts were also changed & the dwelling for plot 3 is now more alongside the neighbouring dwelling to the east, No. 30. All dwellings are subservient to neighbouring properties. Further amended plans were received on 23/11/2023 which provides various heights of acoustic fencing along the western boundary, around the air conditioning units and internally around plot 1, to reduce any potential noise pollution. This acoustic fencing would be 3.4m high along the western boundary of the site from the front elevation of the dwelling in plot 1 to 1m behind the rear elevation of the constitutional club then reduced to 2m for the remainder of the western boundary. Further amended plans were received 22/12/2023 which consisted of a few minor changes to the design of the bungalows on the advice of the applicants' Building Control officer & on 09/01/2023 which propose a 1.8m high screen at the side and rear of the club fire escape/ balcony. Final amended plans were received on 28/03/2024 to move Plot 1 closer to the public highway to improve the outlook from Plot 2 Bedroom 2, with the separation distance between this window and the internal boundary fencing of Plot 1 increased to 4.3m. The front elevation of Plot 1 has also been improved given its prominent position at the front of the plot.
- 2.2. This application is for three single-storey dwellings, each with private amenity space and two dedicated parking spaces. The proposed dwellings in Plot 1, 2 & 3 are of the same size, layout & design apart from the front windows. All would be 13m in length & 7m in width. All would have a pitch roof with a ridge and eave height of 5.150m & 2.5m respectively. Two regular sized windows are proposed for the eastern side of the dwelling in Plot 1 & letterbox windows are proposed for the eastern elevation of the dwelling in Plot 2 & Plot 3. The letter box windows on the eastern elevation of the dwelling in Plot 3 would be for a utility room, a bedroom and an open plan kitchen/ living room.
- 2.3. To the north of Plot 3 and separated by new planting are 6 car parking spaces and a bin storage area. Proposed boundary conditions would be 2m high close boarded wooden fencing at the sides and rear of the site but also acoustic fencing along the western boundary. New planting is proposed for the front boundary which would be

kept outside of visibility splays as well as new planting at the front & rear of plot 2 & 3. Around the rear garden of Plot 1 a 1.8m high acoustic fence is proposed in addition to the planting. A new dropped kerb is also proposed at the front of the site to facilitate vehicular access and parking.

- 2.4. The proposed development will also incorporate biodiversity and sustainability features, in accordance with the LPA's guidance. Each dwelling will be fitted with an electric vehicle (EV) charging point.
- 2.5. The proposed dwellings are designed in a traditional style and use a palette of materials which is common in the local area. External walls will be finished in facing brickwork with cast stone header and cill detailing to window and door openings. Natural or good-quality artificial slate is proposed for each roof. Window frames, rainwater goods and composite doors will all be finished in grey.

Description of the site and surrounding area

- 3.1. The application site is within the Barwell development boundary. The surrounding area is mainly residential, with residential development on the both sides of the public highway. Schools, local shops, places of worship and public houses / restaurants are within walking distance along the High Street, with bus services at the nearby square offering onward travel to Leicester on a half-hourly service.
- 3.2. Levels on the site are flat. The site is sometimes used as an open amenity area associated with Barwell Constitutional Club to the west with several tables and a lawn area. To the rear of the site is the George Ward Centre. The front boundary of the site consists of palisade fencing with hedgerow behind. The eastern elevation of the Barwell Constitutional Club is a bare wall with no windows. On the 1st floor rear elevation there is a stewards room with a small balcony that forms a fire escape in an emergency. This room is not a habitable room. No. 30 to the east is a 2 storey dwelling with ground floor windows as well as 3 first floor windows on its western side. There is mature hedgerow on the northern, eastern and southern boundary but this would be removed as a result of the proposal & compensated for with other proposed landscaping and biodiversity gain.

Relevant planning history

02/00480/COU

- CHANGE OF USE FROM VACANT LAND TO AMENITY AREA IN CONNECTION WITH ADJACENT LICENSED CLUB
- Approved
- 06.06.2002

21/10167/PREHMO

- Erection of five single storey dwellings with associated parking and amenity space.

Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. 4 Letters of representation have been received, all objecting to the proposal. The main summarised points of objection are:
 - Further loss of parking is not wanted
 - Loss of parking will lead to more inconvenience for elderly people
 - Impacts on neighbouring amenity and privacy
 - Impact on daylight & visual intrusion & overbearing
 - Impact on quality of life
 - Impact on neighbours middle bedroom on 1st floor side elevation & ground floor gym/study

- Plots 2 & 4 contravene the 25 degree test & also the 45 degree tests; horizontal & vertical.
- Plot 2 will also overshadow a large part of a neighbouring garden & outside seating area, which falls immediately under our lounge window. This would give us a sense of overbearing & being closed in.
- Overdevelopment on the site
- Good Design Guide & space between buildings
- The distance between plot 2s principle bedroom window & the external wall of plot 3 also contravenes distancing guidelines of 8m.
- Access for emergency services
- Plot 2s northern elevation bedroom windows looks into plot 1s lounge with only 10m between (approx) which is less than half the suggested 21m in the Good Design Guide;
- Is private amenity space sufficient?
- The correct amenity space & separation distances need to be adhered to and many of this neighbours principle habitable windows are not an acceptable distance from the proposed dwellings windows or walls.
- Due to the close proximity between plot 4an & a neighbours boundary it will lead to the proposed living space being extremely close to this neighbours main habitable living areas ie. Lounge & study leading to an increase in noise levels & vibration.
- The location of bins adjacent to No. 30's boundary could cause a problem with smell & vermin infestation directly next to their outdoor seating area & lounge window. The proposed dwellings are also too far from the collection point for refuse collection.
- The proposed development is not in proportion or scale to neighbouring properties which are large individual spacious plots
- One or two more spacious plots would be far more in keeping with the current landscape & character of neighbouring properties.
- The proposed development is a direct contravention of DM10c as it will significantly alter the fabric & feel of the street & amount to "cramming" & over development of what is a low density part of the street.
- The green garden space for each plot is extremely small & falls significantly below the 80sqm recommended for 3 bedroom properties in the Good Design Guide
- The proposed will not enhance the character of the surrounding area
- Is there appropriate drainage on the site?
- The proposed doesn't comply with parking guidance
- The acoustic fencing will be an eye sore.
- The balcony area will directly overlook the dwelling in Plot 2.

5.3 The letter of objection from the immediate neighbour to the east, No. 30, has been withdrawn.

Consultation

- 6.1. Barwell Parish Council – objection on the following grounds:
- not enough parking per unit. DM10 Overdevelopment and DM17 Highways issues due to Chapel Street being a narrow one way system and lack of on road parking.
- 6.2 HBBC Waste – No objections.
- 6.3 LCC Highways – No objection subject to a number of conditions.
- 6.4 Hinckley & Bosworth CAMRA – 'They appear to be merely revising the layout of the 4 dwellings and the access arrangements to the site in an effort to comply with

highway authority requirements. There are still no planning arguments put forward by the applicant to justify how the principle of the proposal meets the adopted and emerging policies of the Local Plan. Unless the Local Planning Authority can be assured that Policy DM25 of the adopted Plan and Policies CLT01 and CLT02 of the emerging Plan are not compromised by the loss of part of a community facility, the application should be refused’.

- 6.4 HBBC Drainage – No objection, notes to applicant recommended.
- 6.5 HBBC Environmental Services (pollution) – The potential for noise impact from the air handling units serving the club and also the George Ward centre needs to be considered. This should be done prior to determination as mitigation may affect detailed design. Final comments received on 27/11/2023 were- ‘Following the submission of additional details regarding the control of noise impact (FP003 Proposed Acoustic Treatments), I have no objection to the scheme but recommend the following condition’.

Policy

- 7.1. Core Strategy (2009)
 - Policy 3 – Development in Barwell
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM7: Prevention Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
 - Policy DM25: Community Facilities
- 7.3 Earl Shilton and Barwell AAP 2006-26 (Dec 14)
 - Policy 22 Development and Design
 - Policy 24 Safeguarding Community Facilities
- 7.4 National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.5 Other relevant guidance
 - Good Design Guide (2020)

Appraisal

- 8.1 Key Issues
 - Assessment against strategic planning policies
 - Design and impact upon the character of the area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Flood Risk and Drainage
 - Other matters
- 8.2 Assessment against strategic planning policies

Paragraph 2 of the National Planning Policy Framework (NPPF) (2023) states 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. 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.

- 8.3 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP) and the Earl Shilton and Barwell AAP (2014).
- 8.4 The site is located within the settlement boundary of Barwell and Barwell is an urban area providing local facilities. The settlement is part of the wider urban area of Hinckley/Burbage/Barwell and Earl Shilton that is the focus of growth in the Borough as set out in the Core Strategy (CS). Policy 3 of the CS supports development within the settlement boundary.
- 8.5 The Emerging Local Plan for 2020-39 has previously been out for consultation at Regulation 19 draft stage (February to March 2022). The latest Local Development Scheme (LDS) was published on 8th February 2024. The updated LDS extends the Local Plan period to 2041, revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a second Regulation 18 Consultation which is not scheduled until June-July 2024 with adoption due around January/February 2026. The Replacement Local Plan is therefore delayed.
- 8.6 Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Due to this and the change in the housing figures required for the Borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (NPPF) 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. This is weighed in the balance of the merits of the application when considered with the policies in the ESBAPP, SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.6 Therefore, redevelopment of the site for housing is considered acceptable in principle, subject to all other policy considerations.
- Design and impact upon the character of the area
- 8.7 Policy DM10(c), (d) and (e) of the 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 the use and application of building materials respects the materials of existing, adjoining/ neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.8 Policy 22 of the AAP provides guidance on design. Various criteria provide policy guidance on character, density, layout, scale fenestration, materials and landscaping and crime.

- 8.9 The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment. The SPD sets out minimum separation distances between dwellings and a general guideline for garden sizes of 7.0m minimum length and size of 60sqm for a 2 bed house, and 80sqm for a 3 bed house. The SPD states that the spine roads of Barwell are principally characterised by the influence of dense, enclosing terraced housing, alongside social infrastructure.
- 8.10 In the immediate locality of the site is a mix of single storey church, a two-storey brick/rendered club house, a long terrace of two storey Victorian townhouses and further south are two-storey semi-detached brick dwellings. The area therefore has a mixed character.
- 8.11 The proposed layout of this site with 3 detached bungalows perpendicular to the highway is at odds with the prevailing character of Chapel Street but given the 15m set back of No. 30 from the street and the single storey church opposite this is not to the degree that it would be adversely harmful to the character of the area. There are other examples of bungalows (No. 76, 78 and 80) along Chapel Street but they are parallel to the streetscene and have more alignment in their layout.
- 8.12 Other alternative layouts were discussed with the applicant such as 2 bungalows side by side, parallel to the streetscene but the applicant decided to remain with the current proposal.
- 8.12 Comments have been received from the Parish Council that raise concerns regarding overdevelopment of the site and a loss of parking on the street. The proposed number of dwellings have been reduced from 5 in the pre-app to 4 in the original current application and then reduced further to 3 dwellings following discussion with the agent.
- 8.12 The revised plans show three single-storey dwellings. 2 dwellings are sited near the western boundary of the site & 1 dwelling is proposed near the eastern boundary of the site with 6 parking spaces to the front of it. Each dwelling has a small rear garden that satisfies SPD guidance for dwellings of this size. The dwellings are to be constructed of brick, tile and UPVC windows. The additional planting at the front of the site & the front of Plot 2 & 3 would also soften the proposed from a streetscene perspective.
- 8.13 The garden sizes comply with the standard in the Good Design Guide SPD (80sqm for a 3 bed dwelling). Waste and recycling bins are to be stored at the front of the site which is regrettable in design terms, however, with hedgerow proposed for the front of this area subject to suitable details this could be mitigated to some degree. The SPD (page 36) states that storage for 3 bins per household should be considered in the design process. 3 bins have been proposed per dwelling. 2 Cycle storage spaces have also been provided per dwelling.
- 8.14 On balance, considering the mixed street scene character and development opposite the site, the design of the dwellings is considered to respect local distinctiveness and the street scene & complement the character of the surrounding area. The use of traditional materials would better reflect the character of the street scene and the use of regular sized windows rather than letter box windows on the eastern elevations of plot 1 would help break up the eastern elevation of this dwelling from a streetscene perspective.

- 8.15 Final landscaping details could be secured by condition to secure compliance with policy 22h) and DM10e). Electric vehicle charging points could be secured by condition to secure compliance with policy DM10g) and policy 22 j).
- 8.16 Overall, it is considered that, on balance, the proposal complements the character of the surrounding area in scale, layout, density and design, in compliance with policy DM10 c) of the SADMP and policy 22 b), c), d), e) and f) of the Earl Shilton and Barwell AAP. Therefore, in accordance with NPPF paragraph 139 the development is considered to be reflective of local design, concerns are however raised below with regards to the quality of design for future residents.

Impact upon residential amenity

- 8.17 Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities with in the vicinity of the site.
- 8.18 Policy 22 of the Earl Shilton Area Action Plan (AAP) states that 'developments will be permitted providing that the following requirements are met:

It does not adversely affect the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality (including odour), noise, vibration and visual intrusion:

- a) The amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site*
- b) There is no detriment to the character or appearance of the host building or the surrounding area*
- c) The siting and density respects the character and layout of the area*
- d) It respects the local distinctiveness of existing buildings and landscape settings*
- e) The design respects the scale, proportions and height of the existing building, neighbouring structures and overall street scene*
- f) Fenestrations are well proportioned, well balanced within the elevations and sympathetic to adjoining/neighbouring buildings*
- g) The use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the local area generally*
- h) It incorporates a high standard of landscaping where this would add to the quality of the design and siting*
- i) It maximises the opportunities for conservation of energy and resources through design, layout, orientation and construction in line with Core Strategy Policy 24*
- j) Where parking is to be provided a minimum of one charging point for electric/low emissions vehicles is included per development scheme (excluding extensions and alterations and change of use) unless it is demonstrated this is not technically feasible*
- k) An appropriate Sustainable Drainage Scheme is submitted to and approved by the Local Planning Authority*
- l) The applicant has demonstrated consideration to community safety through designing out crime*

Favourable consideration will be given to proposals where it can be demonstrated the views of community have significantly influenced the design of the new development.

Development which does not meet the above criteria and would result in poor design which fails to improve design standards in the locality will be refused.

In exceptional circumstances where outstanding, innovative design is demonstrated (particularly where high levels of sustainability are an integral feature), applications will be considered favourably, even where this may result within some conflict with the above criteria'.

- 8.20 The Good Design Guide SPD outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.
- 8.21 The Good Design Guide recommends that a principal window to a habitable room should ideally be no less than 8m from the blank side of a single storey neighbouring property, rising to 14m for a two-storey property. In addition, the separation distance between two principal windows to habitable windows should be a minimum of 21m. However, the Good Design Guide also states that, "An exception to this rule is in an urban location where it may be acceptable to have a reduced distance where issues of amenity and overlooking are dealt with by good design."
- 8.20 Paragraph 135 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.21 Paragraph 193 of the NPPF states that decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
- 8.22 The nearest neighbour to the site is the Barwell Constitutional Club to the west and a 2 storey neighbouring dwelling to the east, No. 30. The George Ward Centre is at the rear. As the Club sometimes has disco nights and bingo nights noise prevention needs to be considered to safeguard the amenity of future occupiers.
- 8.23 The Barwell Constitutional Club has no windows on its eastern elevation & a non-habitable stewards room on its rear elevation that leads to a small balcony area and stairs that acts as a fire escape. This small terrace is not an area where people gather to socialise. In any case amended plans received on 09/01/2023 propose a 1.8m high privacy screen on the eastern & rear side of this terrace to prevent overlooking and potential impacts on privacy. As a result of this and the acoustic fencing proposed it is considered the relationship here is acceptable in terms of amenity.
- 8.24 The Parish Council has raised concerns that there will be a detrimental impact on amenity and officers are concerned with the on-site relationship between Plots 1 & 3 in terms of over dominance/ enclosure and the outlook of bedroom 1 and 2 of Plot 2. Amendments have been made that moved Plot 1 closer to the road increasing the distance between Plot 1 and 2, allowing more room between the boundary fence and windows in Plot 2. The dwelling in Plot 3 has been reduced in size from a 3 bed to a 2 bed which has also increased the distance between it and the dwelling in Plot 1 to 9m however it is not considered the on-site relationship between the Plots would be acceptable from an amenity perspective. Although it is considered the site is suitable

for development it is officer opinion the current proposal is too cramped for the site resulting in a poor relationship between the proposed dwellings.

- 8.25 The Environmental Health officer (EHO) has considered the potential for noise disturbance from the Constitutional Club, on the new residents. The EHO advises that there is mitigation that would allow standards to be met internally and external standards are likely to be achieved for the majority of the time with a 2m acoustic fence along the western site boundary rising to 3.4m high for the extent of the Constitutional Clubs eastern elevation plus 1m to the front and rear. 2m high acoustic fencing is proposed for the remainder of this boundary as well as 1.8m acoustic fencing internally around the garden area for plot 1. This is considered sufficient to limit potential noise effects. Noise screens would also be placed around the existing air conditioner units on this elevation. There is scope within guidance for the standards to be relaxed where it is not possible to achieve them. On the occasions that there may be elevated noise from the club the noise standards may be exceeded. The above would reduce adverse impact from noise on any future occupier. People moving in, next to a Constitutional Club that has weekly social activities taking place have to accept that, to a degree, there may be impact from the club. However, the club would need to ensure they do all they can to limit impact e.g. keeping doors and windows shut during music entertainment (this would be done through statutory nuisance legislation if complaints were received). The Pollution Officers final comments were 'Following the submission of additional details regarding the control of noise impact (FP003 Proposed Acoustic Treatments), I have no objection to the scheme but recommend the following condition'. Therefore the EHO considers that a significant adverse effect would not be caused by the club. Conditions are recommended to secure noise attenuation measures.
- 8.26 The only residential neighbour to the site is No. 30 to the east which has a ground floor window on the western elevation serving a study. There would be some additional enclosure and loss of light to this window but considered the single storey nature and existing boundary treatment not to the degree it would be adverse. The existing 1st floor windows on the western elevation of No. 30 wouldn't experience adverse overdominance or loss of light as the proposed dwellings are single storey with roofs pitched away from No. 30.
- 8.27 Windows on the eastern elevations of the dwelling in plot 3 are to be obscure glazed by condition to limit any potential of overlooking/ lack of privacy between Plot 3 and the dwelling to the east. The obscure glazed windows would be for a utility room and bathroom. The dwelling in plot 3 would not break the 45 degree rule, is subservient to the 2 storey dwelling to the east and would have a 1.8m high close boarded wooden fence on its eastern boundary. The proposed roof is pitched away from the eastern boundary with no roof lights proposed. The proposed is also to the west of this neighbouring dwelling so there would not be significant impact in terms of overshadowing, loss of privacy or overlooking and the proposed would not have a significant impact on the amount of light entering this neighbours ground or first floor windows. The relationship here in terms of amenity is considered acceptable.
- 8.27 The distance between the dwelling in plot 1 and 2 would be 13m at its nearest point. There are habitable rooms facing each other, however a 1.8m high acoustic fencing is proposed around the garden of plot 1 along with proposed landscaping. This along with the separation distance is considered acceptable in this case to protect neighbouring amenity in terms of overlooking between the plots. In terms of outlook to the rear of Plot 1, the 45° guideline would be breached to the west by the existing Constitutional Club & with the proposed 3.4m high acoustic fencing proposed for much of the remainder of the garden boundary. Outlook to the south and south east would be constrained to some degree by the presence of Plot 2 and 3, albeit at a greater distance. The living room would be served via a high level window in the

western elevation which would face the two storey elevation of the Constitutional Club and a second kitchen window facing the parking area

- 8.28 The proposed dwelling in plot 2 & plot 3 would be separated by 2.4m & have a 1.8m high close boarded wooden fence as well as proposed landscaping separating their rear gardens. The 2 proposed windows on the eastern elevation of plot 2 and two windows in the western elevation of plot 3 would be high level letterbox windows and serve a bedroom and a living room. Both living rooms would be served by rear windows providing sufficient outlook and light for the rooms. The bedroom windows serving both front rooms on Plot 2 would face onto a 1.8m high fence, providing little outlook to the front for both rooms. This is especially the case for Bedroom 2 given the proximity of the tall 3.4m high boundary fence to the north combined with the 1.8-2m high fencing to other boundaries.
- 8.29 It is considered that although the amendments received have improved the proposal both from changing the placement of the dwellings on site to providing more amenity space for each dwelling, changing the internal room configuration of the proposed dwellings and introducing acoustic fencing and noise containment around conditioning units the overall relationship between the proposed dwellings would result in the proposed dwellings being overly dominant and overbearing upon each other which would have a significant adverse impact on the residential amenity of the occupiers.
- 8.30 Other limitations of the layout include the remoteness of bin storage and parking, especially from Plot 2 and the cramped nature of the parking and turning space in terms of its proximity to Plot 1.
- 8.31 Overall, the combination of factors contribute to the site appearing over-developed with regards to the relationship and distance between dwellings and boundary treatments including acoustic fencing, meaning that future occupiers would experience a high degree of over dominance. The layout is not judged to be of a high standard of design for future occupants, noting paragraph 135 of the NPPF which states that developments should function well, not just for the short term but over the lifetime of the development and with a high standard of amenity for existing and future users
- 8.29 It is considered, from an amenity perspective the development is not, on balance, in compliance with policy DM7 & DM10 of the SADMP, policy 22a) of the Earl Shilton and Barwell AAP, the Good Design Guide SPD and paragraph 135 of the NPPF.

Impact upon highway safety

- 8.30 Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.31 Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible. This would be assessed and secured at reserved matters stage.
- 8.32 Policy 22(j) of the AAP requires a minimum of 1 charging point for electric/low emission vehicles where parking is provided.
- 8.33 Paragraph 115 of the NPPF (2023) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 111(e) of the NPPF states development should be designed to

enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

- 8.34 The site is located on Chapel Street, an adopted, unclassified, one-way road that is subject to a 30mph speed limit. Running along the frontage of the site are on-street parking bays that do not appear to be currently covered by a Traffic Regulation Order however some or all of these would be displaced by the proposed development.
- 8.35 The LHA welcome the amended access design shown in Houseplans Direct drawing No. FP002 Rev. A. The access is shown to measure 4.25m for the first 5m from the highway which the LHA advise is in accordance with Figure DG17 of Part 3 of the Leicestershire Highway Design Guide (LHDG).
- 8.36 Also shown is the provision of vehicular visibility splays of 2.4m by 43m on either side of the access which is in accordance with Part 3, Table DG4 of the LHDG . The LHA note that the splay to the north runs very close to the adjacent Constitutional Club however given Chapel Street is a one-way street in a south to north direction the LHA are prepared to accept the possible slight interference in the splay to the north.
- 8.37 The pedestrian visibility splays shown are located in the public footway. Pedestrian visibility splays should provide drivers sight of pedestrians before a vehicles leaves the development.
- 8.38 Notwithstanding this the LHA are satisfied that the pedestrian visibility splays can be re-located to be contained in the area marked New planting on drawing No. FP002 Rev. A. Planting is still permitted in this area so long as it remains below 0.6m in height.
- 8.39 The LHA confirm that the proposed access is safe and suitable for the proposed development and has been designed in accordance with Paragraph 110 of the National Planning Policy Framework (2023).
- 8.40 The Applicant will need to apply to the LHA for a Vehicle Access (dropped kerb) permit before undertaking any works. Further details of the requirements can be found at <https://www.leicestershire.gov.uk/roads-and-travel/cars-and-parking/vehicle-access-dropped-kerbs>. Any grant of planning permission by the LPA does not guarantee that an application for a dropped kerb would be successful.
- 8.41 The Applicant will be required to remove/ amend the existing white lining delineating on-street parking spaces within the vicinity of the site and may be required to relocate the existing road sign fronting the site to an appropriate location. Signage or lining to highlight the one-way system may also be required. The LHA advise that the above will be addressed as part of the post planning technical approval process and the Applicant will be liable for all associated costs.
- 8.42 In accordance with Part 3, Paragraph 3.151 of the LHDG the Applicant proposes the provision of two off-street parking spaces to serve each three bedroom dwelling. The LHA confirm that the dimensions of the parking spaces shown in drawing No. FP002 Rev. A accord with Part 3, Paragraph 3.188 of the LHDG and that the 5.5m- 6.5m aisle width will enable vehicles to turn so that the public highway is approached in a forward gear. In addition, the LHA welcome that the proposed bin store is suitably located as not to interfere with the visibility splays. Whilst officers would question the turning ability from parking spaces for plot 3 in the absence of concerns from LCC highways do not consider this would lead to an unacceptable impact on highway safety.
- 8.35 Therefore, the highways impact of the proposal is considered to comply with the policies DM17 and 10g of the SADMP and policy 10g) of the AAP and the NPPF.

Flood Risk and Drainage

- 8.36 Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.37 Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere.
- 8.38 The site is located within flood zone 1 indicating a low probability of flooding. The site is predominantly at low risk of surface water flooding.
- 8.39 The Council Drainage team advise an informative regarding disposal of surface water. Full hard and soft landscaping details can be secured by condition. The proposal will comply with the above policy.

Obligations

- 8.40 Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.41 The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.
- 8.42 The public amenity space within the accessibility standards to the application site is the Barwell Church of England Junior School Playing Field (reference BRW33) which is about 200m from the proposed site but was not given a quality score in the Open Space and Recreation Study (2016).
- 8.43 Any requested infrastructure contribution for public play and open space facilities would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant.
- 8.44 However, in this case, the proposal is for three additional dwellings which would not have any significant impact on existing play and open space facilities. Therefore the contribution would not be CIL compliant in this case. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution is pursued in this case.

Equality implications

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

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

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

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

Conclusion and planning balance

10.1 The proposal is acceptable in principle as it is located within the urban area. Paragraph 11d) of the NPPF applies and therefore permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

10.2 The proposal has been found to have adverse impacts upon the amenity of future residents through what it considered to be a poorly designed layout and overdevelopment of the site with unsuitable, overdominant relationships between the proposed dwellings.

10.3 Policy DM10 of the SADMP and policy 22 of the AAP could be considered out of date as they are over 5 years old, however, they are given significant weight in the planning balance as they are considered to be consistent with the NPPF in relation to amenity and design.

10.4 Weighed against the adverse impacts are the benefits of the scheme. These are considered to be the addition of 3 dwellings in the urban area and small scale and short term employment in construction of the new dwellings. There would be minimal environmental benefits via the provision of small scale soft landscaping.

10.5 It is considered that the adverse impacts of the development would significantly and demonstrably outweigh the limited social and economic benefits of the development in this instance.

10.6 It is officer opinion that there is a reasonable likelihood that a satisfactory alternative development could be achieved, that would not have the adverse amenity impacts on future occupiers that this proposal has. Alternatives have been discussed with the applicants, such as two dwellings in the centre of the plot which would offer a better design and amenity relationship, but in this case a solution has not been achieved.

Recommendation

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

11.3 Reasons

1. The development is not judged to meet the standards of good design and represents overdevelopment of the site, leading to adverse impacts upon the amenity of future

residents through the relationship between plots in terms of over dominance and enclosure. Therefore, the development is not in accordance with Section 12 and Paragraph 135 of the National Planning Policy Framework, Policy DM10 of the Site Allocations and Development Management Policies DPD, Policy 22 of the Earl Shilton and Barwell Area Action Plan and the Good Design Guide.

11.3 Notes to applicant

1. This application has been determined having regard to the following submitted documents and plans:
 - Application Form received 20.07.2023
 - Location Plan received 20.07.2023
 - FP002 Rev G Proposed Block and Location Plans
 - FP101 Rev F Plot 1 Proposed Elevations and Plans
 - FP201 Rev E Plot 1 Proposed Elevations and Plans
 - FP101 Rev E Plot 1 Proposed Elevations and Plans received on 28.03.2024
 - Design Statement received 20.07.2023