

Delegated Report

Planning Ref: 24/00138/OUT

Applicant: Mr A Green

Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Land North Of Woodlands High Tor East Earl Shilton

Proposal: Outline planning permission (access only) for the erection of a single dwelling (C3 self-build)

1. Recommendations

1.1. Refuse planning permission subject to:

- Planning reasons outlined at the end of this report.

2. Planning Application Description

2.1. This planning application seeks outline planning permission for the provision of one self-build dwelling at land north of Woodlands, High Tor East, Earl Shilton. Only access, is sought for approval within this outline application and all other matters are reserved.

2.2. No details have been provided regarding the appearance, scale, layout, massing, or landscaping of the development.

3. Description of the Site and the Surrounding Area

3.1. The 425sqm application site is located to the north of, and outside of the settlement boundary of, Earl Shilton in the designated open countryside. The site is also identified within the Council's latest Open Space and Recreation Study (2016) as a part of the Keats Lane Allotments Open Space and Recreational Facility (EAR32).

3.2. High Tor East itself is a partly unmade, unadopted road that serves dwellings of a variety of ages, styles, designs, scales, and sizes of residential dwelling and therefore the area does not feature a discernible unique character. There is continuous development along High Tor East that ends at the dwellings 'The Woodlands' and 'Bardon View' to the east and south of the application site respectively. High Tor East whilst being reasonably flat slopes as it enters the area of the allotments and there is an impression of descending a scarp slope in this location. Whilst the land within the application site itself is flat, the site lies on this sloping land and is notably lower in ground level than the other dwellings along High Tor East.

3.3. The application site lies within an area of allotments and is currently laid out as an allotment, but there appears to be an area of residential garden to the rear of the site, which is separated from, and distinct from, the adjacent neighbouring dwelling, The Woodlands. The Woodlands is adjacent to the southern boundary of the application site and features a brick-built bungalow with an attached double garage.

3.4. The site is accessed via High Tor East, which is an unadopted and private road, subject to a 30mph speed limit. However, Public Right of Way, Footpath U27, runs halfway up this road, which is maintainable by Leicestershire County Council. This Public Footpath connects to Public Footpath T94, which runs in a northerly direction 127m to the east of the application.

- 3.5. To the north and west of the application site are further allotments within the Keats Lane Allotments, beyond these areas is open agricultural fields. The allotments themselves are largely open and relate well to the open countryside beyond. To the south and southeast of the application site is residential development within Earl Shilton.

4. Relevant Planning History

4.1 22/00980/OUT

- One new dwelling
- Withdrawn
- 14.11.2022

This application was withdrawn by the Applicant following the Local Planning Authority's intention to refuse the development due to its potential significant adverse impact to the character of the street scene and the intrinsic value, beauty, open character, and landscape character, of the open countryside.

5. Publicity

- 5.1 The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

- 5.2 Nine members of the public have objected to the development from eight separate addresses for the following reasons:

- Devaluation of the properties along High Tor East.
- The development is outside of the identified settlement boundary of Earl Shilton.
- Ecological Concerns.
- Existing poor infrastructure along High Tor East.
- Harm to the access of the allotments.
- Harm to the character of the countryside.
- Harm to the character of the surrounding area.
- Harm to neighbouring residential amenity.
- Highway safety concerns.
- High Tor East is not suitable for further residential development.
- Loss of allotments and recreational open space.
- Residential development in a similar location along High Tor East has previously been refused.

- 5.3 Several members of the public have highlighted that the address of the development as, "Allotment Gardens, Keats Lane, Earl Shilton," was deliberately misleading and incorrect.

In light of these concerns, the address of the application site was revised, and a further round of public and statutory consultee consultation was undertaken by the Local Planning Authority.

- 5.4 A further member of the public has highlighted that the submitted plans suggest that the access road encroaches upon third-party land to show that the road is wider than it actually is.

- 5.5 No further responses have been received.

6. Consultation

6.1 There have no objections to the application from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer (subject to conditions)
- Local Highway Authority (LHA)

6.2 Earl Shilton Town Council have made comments in support of the planning application, but they have requested that the development is kept as a single storey property.

6.3 The Council's Waste Management Officer did not respond to the planning application.

Pollution

6.4 The Council's Pollution Officer stated that, due to the potentially contaminative present/ past use of the application site as an allotment, pre-commencement planning conditions are required to ensure that a scheme for the investigation of any potential land contamination on the site has been submitted to, and agreed in writing by, the Local Planning Authority, which shall include details of how any contamination shall be dealt with. A further planning condition is required to ensure that, if during development contamination not previously identified is found to be present within the site, no further development shall take place until an addendum to the scheme of the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority.

6.5 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 2: Development in Earl Shilton
- Policy 19: Green Space and Play Provision

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM8: Safeguarding Open Space, Sport, and Recreational Facilities
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 Earl Shilton and Barwell Area Action Plan (ESBAAP) (2014):

- Policy 22: Development and Design
- Policy 25: Safeguarding Open Space, Sport, and Recreational Facilities

7.4 National Planning Policies and Guidance:

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

- 7.5 Other Relevant Guidance:
- Good Design Guide (2020)
 - Leicestershire Highway Design Guide (LHDG) (2022)
 - Open Space and Recreation Study (2016)

8. Appraisal

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

- Principle of development
- Housing land supply
- Custom and self-build housing
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety
- Planning balance

Principle of Development

- 8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions.
- 8.3 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.
- 8.4 However, 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. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.5 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.6 Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF. Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.
- 8.7 Nevertheless, in accordance with Paragraph 225 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF.

- 8.8 Ultimately, the closer the policies in the plan are to the policies in the NPPF, the greater weight they may be given. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.9 Policy 2 of the adopted Core Strategy states the housing development will be supported within the identified settlement boundary of Earl Shilton to deliver a minimum of 10 new residential dwellings.
- 8.10 Notwithstanding this, the application site is not within the identified settlement boundary of Earl Shilton.
- 8.11 Outside the defined settlement boundaries, the countryside is not regarded as a sustainable location for new development. Section 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 180(b) specifically highlights that this should be achieved by, *“Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.”*
- 8.12 This is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. Policy DM4 of the SADMP only considers development in the countryside sustainable where:
- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation”.
- 8.13 Therefore, the proposed development does not relate to, or comply with, any of the criteria above in either Policy DM4, but this does not mean that the development is not sustainable.
- 8.14 Importantly, Policy DM4 also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.
- 8.15 For example, the application site is identified within Appendix 6 of the ESBAAP and the Council’s latest Open Space and Recreation Study (2016) as a part of the Keats Lane Allotments Open Space and Recreational Facility (EAR32).
- 8.16 Section 8 of the NPPF requires planning policies and decisions to aim to achieve healthy, inclusive, and safe places and beautiful buildings, which enable and support healthy lifestyles, especially where this would address identified local health and wellbeing needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments, and layouts that encourage walking and cycling.

- 8.17 Paragraph 4.62 of the adopted Core Strategy states that an important component of green infrastructure is the green spaces and play areas that are integral to both urban and rural communities. The provision of high-quality green spaces and play areas in the right areas can have significant benefits in relation to health, community cohesion, and general wellbeing.
- 8.18 Paragraph 103 of the NPPF states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- (a) An assessment has been undertaken which has clearly shown the open space, buildings, or land to be surplus to requirements.
 - (b) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.
 - (c) The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
- 8.19 Policy DM8 of the SADMP supplements Core Strategy Policy 19 by seeking to safeguard existing facilities whilst enabling flexibility to accommodate for identified surpluses, improvements or replacement facilities. In accordance with Policy DM8 of the SADMP, planning permission will not be granted for proposals resulting in the loss of land or buildings in recreational or sporting use and areas of open space, as identified in the most recent Open Space, Sport and Recreational Facilities Study, except where:
- (a) A replacement of an equivalent typology is provided, as defined by the most recent Open Space, Sport, and Recreational Facilities Study, in an appropriate location serving the local community; or
 - (b) It is demonstrated that there is a surplus of recreational land, facilities, or open space of the same typology exceeding the needs of the local community; or
 - (c) The development of a small part of a larger site in recreational use would result in the enhancement of recreational facilities on the remainder of the site, or on a nearby site serving the same community.

These requirements are echoed within Policy 25 of the ESBAAP.

- 8.20 The Applicant has not undertaken an assessment, nor provided any justification to demonstrate that the open space and land is surplus to requirement. Moreover, the Applicant has not proposed to replace the open space with an equivalent or better provision.
- 8.21 Therefore, the development is contrary to, and in conflict with Paragraph 103, and subsequently Section 8, of the NPPF, Policy DM8 of the SADMP, and Policy 25 of the ESBAAP.
- 8.22 Given the above, the Council considers that the proposal is offered no support by Policy DM4 of the SADMP, nor Policy 2 of the adopted Core Strategy. Furthermore, the scheme results in the loss of allotments and open space as identified within the Open Space and Recreation Study, which is considered to be contrary to, and in conflict with, Policy 25 of the ESBAAP, Policy DM8 of the SADMP, Paragraph 103 of the NPPF and ultimately Paragraph 8(b) and Section 8 of the NPPF. As such, the application does not accord with Development Plan Policy and is unacceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Housing Land Supply

- 8.23 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.24 Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.25 Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), Hinckley and Bosworth Borough Council are able to demonstrate 4.89 years of deliverable housing on 01 April 2022.
- 8.26 Given the above and the change in the housing figures required for the Borough, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered.
- 8.27 Paragraph 11 (d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.28 Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. The overall aim is to meet as much of the area's identified housing need as possible with an appropriate mix of housing types for the local community.
- 8.29 Paragraph 70 of the NPPF states that small and medium sized sites, such as windfall sites, can make an important contribution to meeting the housing requirements of an area.
- 8.30 The development is for one singular residential property within a rural area, and therefore Policy 15 (Affordable Housing) and Policy 16 (Housing Density, Mix and Design) of the adopted Core Strategy are not applicable for this scheme.
- 8.31 Whilst the Council is unable to deliver a five-year supply of land for housing, given the provision of one dwelling within this application site is unlikely to be a significant benefit to the housing land supply within the Borough, it is considered that limited weight should be given to the provision of one proposed dwelling.

Custom and Self-Build Housing (CSB)

- 8.32 Paragraph 63 of the NPPF states that the need, size, type, and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who required affordable housing; families with children; older people (including those

who require retirement housing, housing-with-care, and care homes); students; people with disabilities; service families; travellers; people who rent their homes; and people wishing to commission or build their own homes.

- 8.33 As of 31 January 2024, Section 123 of the Levelling Up and Regeneration Act 2023 (LURA) came into force regarding amendments to the duty in relation to self-build and custom housebuilding within Section 2A of the Self-Build and Custom Housebuilding Act 2015.
- 8.34 Section 2A of the Self-Build and Custom Housebuilding Act places a statutory duty on the Local Planning Authority to give permission to a sufficient number of self-build and custom housebuilding developments on serviced plots to meet the demand for self-build and custom housebuilding in the Authority's area.
- 8.35 Section 6 of Section 2A of the Self-Build and Custom Housebuilding Act confirms that the demand for self-build and custom housebuilding in an authority's area in respect of a base period is an aggregate of:
- (i) The demand for self-build and custom housebuilding arising in the authority's area in the base period; and
 - (ii) Any demand for self-build and custom housebuilding that arose in the authority's area in an earlier base period and in relation to which:
 - (a) The time allowed for complying with the duty in Subsection (2) expired during the base period in question, and
 - (b) The duty in Subsection (2) has not been met.
- 8.36 The demand for self-building and custom housebuilding arising in an authority's area in a base period is evidence by the number of entries added during that period to the authority's Self-Build and Custom Housebuilding Register. At the end of each base period, the Local Planning Authority have three years in which to approve an equivalent number of plots of land for self-build and custom housebuilding on serviced plots of land as there are entries for that base period. However, there is no duty for the Local Planning Authority to grant permission for land that specifically meets the requirements expressed by those on the Register.
- 8.37 Section 5 of the Self-Build and Custom Housebuilding Act confirms that a, "*Serviced plot of land,*" means a plot of land that has access to a public highway, and has connections for electricity, water, and waste water, or can be provided with those things in specified circumstances or within a specified period. For clarity, "*Specified*" in this instance means specified by regulations.
- 8.38 The Applicant claims that the proposed development is classified as a 'self-build; within the definition provided within the Self-Build and Custom Housebuilding Act 2015, which is a material consideration within this planning application.
- 8.39 Section 1 of the Self-Build and Custom Housebuilding Act defines self-build and custom housebuilding as the building or completion of houses by individuals, associations of individuals, or persons working with or for individuals or associations of individuals to be occupied by as homes by those individuals.
- 8.40 The Local Planning Authority notes that the Applicant is not on the Local Planning Authority's Custom and Self Build Register, Moreover, aside from referencing a self-build development within the description of the application and their Design and Access Statement, the Applicant has failed to demonstrate that the application is a serviced plot of land and that they intend to occupy it as their sole or main

residence. As such, the Applicant has failed to demonstrate that their development is eligible for consideration as a self-build proposal in accordance with the definition within Section 1 of the Self-Build and Custom Housebuilding Act 2015. Consequently, no weight is given to this in the planning balance of this current application.

- 8.41 Notwithstanding this, to date, Hinckley and Bosworth Borough Council does not have a shortfall of self-build and custom housebuilding.
- 8.42 Whilst the Council require 19 suitable cumulative permissions to be granted by 30 October 2024, it must be noted that the Council has currently granted nine permissions for custom and self-build housing in this period so only ten further permissions need to be granted before 30 October 2024. In addition, the Council will only be considered to have a shortfall if a sufficient number of suitable permissions have not been achieved after this date.
- 8.43 As the Council have supplied more suitable permissions than demand required at the end of Base Period 7 (31 October 2021 to 30 October 2022), and more suitable permissions than the demand for the next base period, it is considered that no weight can be given to the benefits of contributing to the supply of self-build and custom build dwellings at this moment in time.

Design and Impact upon the Character of the Area

- 8.44 Section 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.
- 8.45 Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.46 Policy DM4 of the SADMP states that development in the countryside will be considered sustainable where:
 - i.) It does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside; and
 - ii.) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii.) It does not create or exacerbate ribbon development.
 - iv.) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
 - v.) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21.
- 8.47 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.48 Policy 22 of the ESBAAP requires development to ensure that it does not result in detriment to the character or appearance of the host building or the surrounding area. Furthermore, Policy 22 requires development to respect the local distinctiveness of existing buildings and landscape settings, and its design should

respect the scale, proportions, and heights of existing buildings, neighbouring structures, and the overall street scene.

- 8.49 Ultimately, development that does not meet the above criteria and would result in poor design which fails to improve design standards in the locality will be refused.
- 8.50 No details have been submitted in relation to the precise appearance, siting, scale, layout, or landscaping of the development.
- 8.51 Notwithstanding this, the development is outside of any identified settlement boundary in the open countryside and is considered to be unacceptable in principle. Furthermore, the scheme results in the loss of allotments and open space as identified within the Open Space and Recreation Study, which results in significant harm to the character of the area.
- 8.52 The provision of residential development in this application site fundamentally and detrimentally alters the character of the application site. Whilst the application site is adjacent to existing residential properties, there is a clear distinction between the residential properties and their associated gardens on High Tor East and the allotments beyond. The development extends beyond the area of built residential development on High Tor East and is considered to represent a prominent and incongruous feature in the local landscape. This is considered to result in a significant adverse impact to the intrinsic value, beauty, open character, and landscape character of the countryside. This extension into the countryside, and its harm, is evident due to the clear level differences between the application site and the other dwellings along High Tor East.
- 8.53 As a result, the development represents new and unjustified residential development in the open countryside, which is protected from unsustainable development by local and national planning policy. The development clearly amounts to the domestication of the site, which intrudes into the verdant rural character of the application site and the countryside. This is considered to result in a significant adverse and irreversible impact on the intrinsic value, beauty, open character, and landscape character of the open countryside.
- 8.54 By virtue of these factors, the development is in conflict with, and is contrary to, the Good Design Guide, Policy 22 of the ESBAAP, Policies DM4 and DM10 of the SADMP, and Sections 12 and 15 of the NPPF.

Impact upon Residential Amenity

- 8.55 Paragraph 135(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, which promote health and well-being, and a high standard of amenity for existing and future users.
- 8.56 Paragraph 14.2 of the SADMP states that new development should be located and designed in such a way that the amenity of both existing residents and occupiers are fully considered when assessing planning applications.
- 8.57 Policy DM10(a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.

- 8.58 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.
- 8.59 Policy 22 of the ESBAAP states that development will be permitted provided that the amenity of occupiers of the proposed development would not be adversely affected by the activities within the vicinity of the site.
- 8.60 No details of the design of the development have been submitted at this stage. Nevertheless, it is considered that the scheme can be designed to prevent any significant harm to the residential amenity of neighbouring dwellings or the future occupants of the scheme at the Reserved Matters stage in accordance with the Good Design Guide, Policy 22 of the ESBAAP, and Policy DM10 of the SADMP.

Impact upon Parking Provision and Highway Safety

- 8.61 Section 9 of the NPPF promotes sustainable transport. Paragraph 114 of the NPPF states that planning decisions should ensure that developments provide appropriate opportunities to promote sustainable transport modes, given the type of development and its location and a safe and suitable access to the site for all users. Any proposal should ensure that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 8.62 Ultimately, development should not 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, in accordance with Paragraph 115 of the NPPF.
- 8.63 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 highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.64 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.65 The proposal is located approximately 145m to the north of the junction of High Tor East/Keats Lane. Although the access onto Keats Lane is not in accordance with Leicestershire Highway Design Guide (LHDG) standards, the LHA have considered the below:
- High Tor East is a private road.
 - The nature of Keats Lane, given it is narrow with prevalent on-street vehicle parking means speeds are likely to be lower than posted.
 - Keats Lane and High Tor Lane are cul-de-sacs, meaning the number of trips using these lanes are likely to be lower.
 - There have been no recorded personal injury collisions within 200m of the junction of Keats Lane/High Tor East within the last five years.
- 8.66 The Applicant has not submitted a drawing which specifically provides details in respect of the site access arrangements. A red line boundary has, however, been

provided which details that High Tor East falls within the Applicant's red line boundary between the site and Keats Lane. The submitted Planning, Design & Access Statement also details that parking is provided within the site.

- 8.67 On the basis High Tor East is not adopted, the LHA do not consider it necessary to pursue a drawing that provides specific details in the respect of the access. Nevertheless, the LHA strongly advise that appropriate pedestrian and vehicular visibility splays should be provided at the access point on to High Tor East.
- 8.68 Given all of the above, the above the LHA would not seek to resist the application on the grounds of highway safety.
- 8.69 No details of the quantum, dimensions, or layout of the parking provision for the application site
- 8.70 The LHA notes Public Right of Way (PRoW), Footpath U27, runs along High Tor East. The LHA do not consider that the proposal is likely to affect the enjoyment of the PRoW. However, the Applicant should be mindful that vehicles and users of the PRoW might be required to share what is a narrow road. As such, the LHA would not resist the proposals, however the Applicant should be aware of the informatives below.
- 8.71 Notwithstanding this, it is considered that sufficient off-street parking that complies with the requirements of the LHDG and Policy DM18 of the SADMP can be provided within the application site during the Reserved Matters Stage of the development.
- 8.72 Subject to further information being provided by the Applicant, it is considered that the proposal does not create an unacceptable impact on highway safety or the road network. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP and the LHDG.

Planning Balance

- 8.73 The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. It is necessary therefore to consider that the 'tilted' balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.74 Policy DM4 of the SADMP is considered to be broadly consistent with the overall aims of the NPPF, and therefore significant weight should be attached to the fact that the proposal is contrary to the Development Plan and undermines the plan led approach endorsed by the Framework.
- 8.75 The development is considered to result in a significant adverse and irreversible impact on the intrinsic value, beauty, open character, and landscape character of the open countryside. This is contrary to the Good Design Guide, Policy 22 of the ESBAAP, Policies DM4 and DM10 of the SADMP, Policy 2 of the adopted Core Strategy, and Sections 12 and 15 of the NPPF. Therefore, this harm is considered to attract significant weight in the planning balance.

- 8.76 To justify their development, the Applicant has referred to the approved planning permission for two dwellings at Land south of The Woodlands via planning application 18/00701/FUL. It is noted that this proposal is located in between existing residential properties along High Tor East and therefore the current application site has a materially differently relationship to the character of the surrounding area.
- 8.77 On the other hand, the Local Planning Authority has noted that a previous planning application, 20/00525/OUT, for the change of use of allotment land and the provision of two detached dwellings opposite from the application site on the Land north of Bardon View, High Tor East, Earl Shilton was refused by the Local Planning Authority and dismissed at appeal due to its significant harm to the character and appearance of the locality through the introduction of a prominent and incongruous development in a countryside location.
- 8.78 A further development was proposed on the Land north of Bardon View, High Tor East, Earl Shilton via planning application 22/01201/FUL. This application was also refused due to its significant harm to its significant harm to the intrinsic value, beauty, open character, and landscape character of the countryside.
- 8.79 Nevertheless, all planning applications must be determined on their own merits.
- 8.80 The development results in the unjustified loss of an area of land within identified within Keats Lane Allotments as community open space and recreational facility. This is likely to result in significant social harm to the wider residents of Earl Shilton, and this is contrary to, and in conflict with, Policy S25 of the ESBAAP; Policy DM8 of the SADMP; Paragraph 103, Section 8, and the overarching social objective of the NPPF. This is considered to attract significant weight in the planning balance.
- 8.81 In spite of this, it is acknowledged that there are potential social benefits from the scheme such as providing housing for a range of occupants including families, and economic benefits associated with the construction of the dwelling and the future occupant's opportunity to act as new customers and employees for local businesses and services.
- 8.82 Notwithstanding this, the Applicant has failed to demonstrate that their proposal is considered to be a self-build development in accordance with the Self-Build and Custom Housebuilding Act 2015. Moreover, the Council does not have a shortfall in the supply of custom and self-build developments. Whilst there may be some social benefits associated with one dwelling, these are considered to be modest and do no maintain or enhance the local community. In addition, there are no planning benefits such as affordable housing or essential infrastructure provision as identified within Paragraph 12.13 of the SADMP. Therefore, it is considered that no weight can be afforded towards the benefit of contributing to the supply of self-build and custom build dwellings in the Borough and only limited weight can be given to the social and economic benefits of the scheme.
- 8.83 The Applicant has also attempted to justify their development by referring the development promoting and support the development of underutilised land in accordance with Section 11 and Paragraph 124 of the NPPF.
- 8.84 Section 11 of the NPPF requires planning policies and decisions to promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

- 8.85 It is noted by the Local Planning Authority that safeguarding and improving the environment from built development is considered to be an effective use of land by National Policy.
- 8.86 Furthermore, Paragraph 124(b) of the NPPF states that planning policies and decisions should recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production.
- 8.87 The application site already performs a function for recreation and food production as part of the Keats Lane Allotments. Therefore, the loss of this identified area of Open Space and Recreation is considered to be contrary to Paragraph 124(b) of the NPPF.
- 8.88 It is noted that none of the remaining criteria of Paragraph 124 of the NPPF are applicable to this proposal.
- 8.89 In summary, it is considered that the adverse environmental and social impacts of this proposal significantly and demonstrably outweigh its potential benefits. As a result, it is considered that the development is in conflict with, and contrary to, The Good Design Guide, Policies S22 and S25 of the ESBAAP, Policies DM4, DM8, and DM10 of the SADMP, and Sections 2, 8, 11, 12, and 15 of the NPPF.

9. Equality Implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

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

11. Recommendation

11.1 Refuse planning permission subject to:

- Planning reasons outlined at the end of this report.

11.2 Conditions and Reasons

1. The development represents unjustified and unrestricted residential development that extends beyond the existing built form into the open countryside. This domestication of the application site results in an irreversible and detrimental urbanising and domesticating effect on the intrinsic value, beauty, open character, and landscape character of the countryside. This harm significantly and demonstrably outweighs the benefits of the development, and therefore the proposal is in conflict with, and is contrary to, the Good Design Guide, Policy 22 of the adopted Earl Shilton and Barwell Area Action Plan (2014), Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), as well as Sections 2, 11, 12, and 15 of the National Planning Policy Framework (December 2023).
2. The development results in the unjustified loss of recreational allotment land within the Keats Lane Allotments that is identified within the adopted Earl Shilton and Barwell Area Action Plan (2014) and the Council's Open Space and Recreation Study (2016) as an Open Space and Recreation Facility. This loss causes significant adverse social impacts to the wider community of Earl Shilton that significantly and demonstrably outweigh the benefits of the development, contrary to, and in conflict with, Policy 25 of the adopted Earl Shilton and Barwell Area Action Plan (2014), Policy DM8 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), as well as Paragraph 103 and Section 8 of the National Planning Policy Framework (December 2023).

a. Notes to Applicant

1. This application was assessed by the documents submitted by the Applicant that were received by the Local Planning Authority, as follows:
 - Application Form (submitted: 13.02.2024)
 - Block Plan (submitted: 12.02.2024)
 - Design and Access Statement (12.02.2024)
 - Site Location Plan (submitted: 12.02.2024)