

Delegated Report

Planning Ref: 23/01090/OUT

Applicant: Mr H Milner (MTS Storage & Distribution Ltd)

Ward: Markfield Stanton & Fieldhead



Hinckley & Bosworth
Borough Council

Site: Land at Cliffe Lane, Markfield

Proposal: Outline application for the construction of employment units (Use Classes E(g)(i), E(g)(ii), B2 and B8) (all matters reserved except for access)

1. Recommendations

1.1. That the application be approved subject to:

- Conditions outlined at the end of this report.
- A S106 Agreement to secure the following:
 - Highways Contribution towards Coalville Transport Strategy - £55,907.02
 - Highways Travel Packs - £6,342.00
 - Travel Pack Monitoring - £500
 - Travel Plan and Monitoring Contribution - £11,337.50
 - National Forest Contribution - £35,000

2. Planning Application Description

- 2.1. The application seeks outline permission for the construction of employment units (Use Classes E(g)(i), E(g)(ii), B2 and B8), with all matters reserved except for access. An illustrative plan accompanies the application, showing approximately 10,500m² of employment floorspace, split between six units in total, with three large units and three smaller units.
- 2.2. It is anticipated that the proposed units would be portal framed structures finished in profile sheet cladding. Whilst detailed designs have yet to be prepared, it is stated in the application submission that they would have a contemporary character and appearance and would be no more than 15 metres high.
- 2.3. The main site access would be via Cliffe Lane, at the southernmost part of the site. The proposal retains some protected trees and the hedgerows on the site. Whilst details of landscaping are reserved for subsequent approval the applicant suggests that additional compensatory planting would be a feature of the proposal, particularly across the A511 frontage.

3. Description of the Site and Surrounding Area

- 3.1. The site consists of an 'L' shaped parcel of grazing land on the edge of the settlement of Markfield extending to approximately 6 hectares. The land is currently vacant and was last used for agricultural purposes.
- 3.2. The site lies adjacent to Junction 22 of the M1 Motorway, with surrounding uses including a partially closed Motorway services and residential properties to the north, a quarry to the south, agricultural land to the west and a paintballing site to the west.

3.3. The site is enclosed by mature hedgerows interspersed with trees, some of which are subject to preservation orders. There is a woodland buffer across the western site boundary.

3.4. The site is relatively flat with two means of access - a gated farm track which emerges onto the A511 to the north, and a more substantial access onto Cliffe Lane to the west. The site has no recent planning history of relevance to the proposals and does not have any restrictive planning land use designations.

4. **Relevant planning history**

4.1. None relevant.

5. **Publicity**

5.1. The application has been publicised by sending out letters to 2 neighbouring residents. A site notice was also posted within the vicinity the site, and a notice was displayed in the local press.

5.2. No objections or representations have been received.

6. **Consultation**

6.1. **Markfield Parish Council** – No objection.

6.2. **LCC Highway Authority** – no objection subject to conditions and S106 contributions.

6.3. **National Highways** – No objection subject to conditions.

6.4. **LCC Tree Officer**

6.5. **LCC Ecology** – No objection subject to conditions.

6.6. **Lead Local Flood Authority** –

6.7. **Severn Trent Water** – No response to date.

6.8. **Ramblers Association** – No response to date.

6.9. **Western Power Distribution** – No response to date

6.10. **LCC Public Rights of Way** – No response to date

6.11. **NHS England** – No comment.

6.12. **HBBC Drainage** – No objections subject to conditions regarding surface water drainage.

6.13. **HBBC Environmental Health (Pollution)** – No objection subject to conditions

6.14. **HBBC Tree Officer** – No response to date.

7. Policy

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres Relating to Leicester
- Policy 14: Rural Areas: Transport
- Policy 19: Green Space and Play Provision
- Policy 21: National Forest
- Policy 22: Charnwood Forest
- Policy 24: Sustainable Design and Technology

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM20: Provision of Employment Sites

7.3. Markfield Neighbourhood Plan 2020-2039 (2021)

- Policy M1: Countryside
- Policy M2: Landscape Character
- Policy M3: Green Infrastructure
- Policy M4: Ecology and Biodiversity
- Policy M5: Trees
- Policy M8: Electric Vehicle Charge points
- Policy M10: Design
- Policy M14: Infrastructure

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5. Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guide
- Landscape Character Assessment (2017)
- Landscape Sensitivity Study (2017)
- The Green Infrastructure Strategy (2020)
- Open Space and Recreation Study (2016)
- Leicestershire Minerals and Waste Local Plan

8. Appraisal

8.1. As this is an outline planning application with all matters reserved except for access, the number of detailed considerations relevant at this stage are limited. Nonetheless, the following represent the key issues:

- Principle of Development
- Impact upon Highway Safety
- Impact on the Character and Appearance of the Area
- Design and Layout
- Residential Amenity
- Flood Risk and Drainage
- Ecology and Biodiversity
- Archaeology
- Impact on Trees
- S106 Heads of Terms
- Conclusions and Planning Balance

Principle of Development

8.2. 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. Paragraph 2 of the National Planning Policy Framework (NPPF) repeats this and states 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 Markfield Neighbourhood Plan (MNP).

8.4. The Core Strategy (CS) sets out the overarching strategy and core policies to guide development. Markfield is identified within the CS as a Key Rural Centre relating to Leicester, it is generally therefore a sustainable location with access to key services. Policy 7 of the CS seeks to ensure there is a range of employment opportunities within the Key Rural Centres. To support this, the enhancement of allocated employment sites in the Key Rural Centres will be supported, as will the development of employment uses including home working within the settlement boundary. Similarly Policy 8, supports additional employment provision to meet local needs in line with Policy 7. Whilst noting that Markfield is identified as a Key Rural Centre, the application site lies outside of the settlement boundary, in conflict with Policy 7 and 8.

8.5. The site is on land which is designated as countryside. Policy DM4 of the SADMP states that *“to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development.”*

8.6. Development in the countryside will be considered sustainable where:

- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or*
- b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or*
- c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or*
- d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or*
- e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.*

and:

- i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and*
- ii) It does not undermine the physical and perceived separation and open character between settlements; and*
- iii) It does not create or exacerbate ribbon development; with Core Strategy Policies 6 and 9; and*
- iv) If within a Green Wedge, it protects its role and function in line*
- v) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21."*

8.7. The emphasis of Policy DM4 is to promote sustainable development proposals within the countryside and protect it from unsustainable proposals. In that regard Policy DM4 is consistent with and accords with the NPPF, particularly paragraph 187b which provides that planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Policy DM4 would therefore be awarded significant weight in determining any future application.

8.8. In line with Policy DM4, the principle of development would be acceptable providing that the development significantly contributes to economic growth and job creation. Paragraph 5.5 of the submitted Planning Statement states that the proposals would deliver three medium sized non-strategic employment units and three smaller started units. The medium sized units would accommodate local companies seeking additional space or needing to relocate, and the starter units would be suitable for new ventures or SMEs.

8.9. Paragraph 10.5 of the Hinckley and Bosworth Employment Land and Premises Study comments specifically on the delivery of strategic B8 space in the Borough. GL Hearn, in their "Warehousing and Logistics in Leicester and Leicestershire: Managing

growth and change”, April 2021 (amended March 2022), confirmed that Hinckley and Bosworth Borough Council has historically delivered the vast majority of strategic B8 space in Leicestershire. This is because of all the Leicestershire authorities, Hinckley & Bosworth is the district that is closest to the core of the ‘golden triangle’, which is a key area for warehousing and transport, defined by its strategic location between major motorways: M1, M6, and M69.

- 8.10. The report goes on to state that Demand for strategic B8 uses is difficult to quantify on the local level as the market for these uses covers regional and national geographies and the potential area of search for their location is generally wider than a single local authority. Therefore, it is appropriate to consider the needs for this type of employment use at the sub-regional scale.
- 8.11. Icen Projects Ltd has been commissioned by the Leicester and Leicestershire authorities to consider the apportionment of strategic distribution floorspace across Leicester and Leicestershire. The shortfall in road served sites is taken to be 72ha.
- 8.12. Whilst Hinckley & Bosworth is not being looked on to provide all or indeed any of this shortfall, the proposals are considered to provide small and midsize units to meet demand as identified by the Employment Land and Premises Study. In doing so the proposals would facilitate significant economic growth and job creation. The proposals therefore fall within the scope of development acceptable in principle within the countryside as set out by Policy DM4. The development would still need to comply with the latter half of Policy DM4 (criteria i)-v)) regarding its countryside impact as assessed later in the report.
- 8.13. Policy DM20 of the SADMP specifically relates to new employment sites and is also therefore one of the most important policies. The supporting text of Policy DM20 states that sufficient employment land is available in the Borough to support the identified growth over the period of the Local Plan. This issue was raised in the appeal decision for Wood Farm Holdings at Land north of Stanton Lane, Stanton under Bardon (APP/K2420/W/21/3274706 and 3279939). Here the Inspector stated that the SADMP was adopted in 2016 and would have been based on an older evidence base. The independent market evidence provided in support of that application and appeal was considered to draw on much more up to date figures and the Inspector in that case was satisfied the report demonstrated a need for the development proposed. We are now a further 4 years beyond this appeal decision and the employment land evidence base for the emerging Local Plan is yet to be complete.
- 8.14. Policy DM20 also states that proposals which stand outside the settlement boundary and on greenfield sites will only be found acceptable where it is demonstrated that there are no suitable alternative sites identified sequentially in the following locations:
 - *Within settlement boundaries*
 - *On previously developed land*
 - *Adjacent to existing employment sites*
 - *Adjacent to settlement boundaries*
- 8.15. With regard to the Markfield Neighbourhood Plan (MNP), Policy M1 states that “The Countryside (land outside the Settlement Boundary defined on Map 2 and the Policies Maps) will be protected for the sake of its intrinsic character, beauty, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all. The following types of development will be supported in countryside locations:

1. Recreation and tourism that cannot be provided within the Settlement Boundary;
2. Development by statutory undertakers or public utility providers;
3. The subdivision of an existing residential dwelling; and
4. Development that is otherwise in accordance with: national policies; or strategic planning policies or allocations; or with the other policies of the Neighbourhood Plan”.

- 8.16. In order to comply with Policy M1 of the MNP the proposal therefore needs to comply with the aforementioned strategic policies of the CS and SADMP. In this case, due to its compliance with Policy DM4, the application is considered acceptable in principle, subject to its adherence to the other material considerations covered in this report.

Impact upon Highway Safety

- 8.17. 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)).
- 8.18. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.19. Paragraph 115 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users Paragraph 116 of the NPPF 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.
- 8.20. The applicant has been in discussions with the Local Highway Authority (LHA) and National Highways (NH) throughout the determination of this application to overcome a number of concerns that were raised.
- 8.21. Junction 22 of the M1 forms part of the Strategic Road Network in the area. The nearest point of impact from the development on the SRN is the proposed access point of a priority-controlled T-junction, approximately 0.3km away from Junction 22.
- 8.22. National Highways conducted an independent check and confirmed that the proposed development would not adversely affect the operation of Junction 22 subject to conditions.
- 8.23. Regarding the Cliffe Lane access, the Applicant has amended the site access design broadly in line with the LHA's previous comments. In addition, swept path analysis has been provided within Appendix B of the TAA, showing a larger HGV at a 15kph design speed entering and exiting the access from all directions. The LHA advises that whilst the swept path analysis shows that a HGV would over-run the centre line, the drawings show adequate forward visibility between opposing movements, so that collisions between vehicles where they are overrunning the centreline should be avoided. As previously advised by the LHA, whilst a visibility splay of 2.4 x 146m is shown to the south of the site access, the LHA can confirm a visibility splay of 2.4 x 159m would be achievable in this direction, which would be acceptable to the LHA.

- 8.24. Regarding the Shaw Lane (A511) access, the drawing details that existing vehicular access on to Shaw Lane would be permanently closed because of the proposals and would only be accessible by pedestrians. In addition, a 2.0m wide footway link would be provided between the access and the existing bus stop alongside the existing bus lay-by.
- 8.25. The LHA is satisfied with the trip generation and distribution data provided by the Applicant.
- 8.26. The Applicant has obtained the latest junction model from LCC and used traffic counts from January 2023 to establish the level of background traffic.
- 8.27. Details of the modelling results are provided within section 1.4 of the TAA. The junction was modelled in 2024 and 2029 for:
- Baseline – no development traffic
 - Scenario 1 – preferred trip volumes as set out in the original TA
 - Scenario 2 – sensitivity test with revised trip generation assumptions
- 8.28. The Applicant states the results show that whilst traffic from the development will result in a small reduction in Practical Reserve Capacity and a small increase in delay the junction will continue to operate within reserve capacity in 2024 and 2029 in all scenarios tested. The LHA has reviewed the junction modelling and consider this to be acceptable.
- 8.29. The Applicant has advised that they would be happy to contribute towards the Coalville Transport Strategy to mitigate the impact of the development on the A511/ A50 corridor without further assessment of additional junctions.
- 8.30. For off-site implications, The LHA previously advised that a 2.0m wide footway between the site access and the service station egress should be considered by the Applicant. The Applicant has stated that a link between the site to the bus stops on the A511, which by extension would also connect to the service station ingress, is already to be provided and therefore a link to the egress of the service station is not necessary. In addition, the Applicant states whilst the layout of the site is yet to be determined, the likely position of the buildings within the site means that a link via the A511 is more likely to be convenient for site users than accessing via Cliffe Lane. This is accepted by the LHA.
- 8.31. Conditions have been included relating to a Construction Traffic Management Plan, Offsite works, access arrangements, visibility splays, closure of the existing access, and a revised Framework Travel Plan.
- 8.32. Overall, the impacts of this proposed development in relation to access are not considered to be severe to pose an unacceptable impact on highway safety. The proposal is judged to comply with Policy DM17 and Policy DM18 of the SADMP and the aforementioned policies of the NPPF subject to conditions and S106 contributions.

Impact on the Character and Appearance of the Area

- 8.33. Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside;

and it does not undermine the physical and perceived separation and open character between settlements; and it does not create or exacerbate ribbon development. The site is located within open countryside, outside of the settlement boundary and is therefore considered against this policy.

- 8.34. 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.
- 8.35. Policy 8 reiterates the need to contribute to the delivery of the National Forest Strategy in line with Policy 21 and the delivery of the Charnwood Forest Regional Park in line with Policy 22. Policy 21 supports proposals that contributed to the delivery of the National Forest Strategy provided that:
- The siting and scale of the proposed development is appropriately related to its setting within the Forest
 - The development respects the character and appearance of the wider countryside and
 - The development does not adversely affect the existing facilities and working landscape of either the Forest or the wider countryside
- 8.36. Within the National Forest new developments will be required to reflect the Forest context in their accompanying landscape proposals. Developments shall provide on-site or nearby landscaping that meets the National Forest development planting guidelines. Landscaping should generally involve woodland planting but can also include creation and management of other appropriate habitats, open space provision and the provision of new recreational facilities. The appropriate mix of landscaping features will depend upon the setting and the opportunities that the site presents. Only in exceptional circumstances, where planting and landscaping cannot be accommodated on or nearby the development site due to lack of land a commuted sum will be negotiated/accepted.
- 8.37. Policy 22 states that within Charnwood Forest proposals will be supported that:
- Maintain the traditional working landscape of the forest, particularly those which involve rural diversification and sustainable tourism, including green tourism initiatives
 - Provide new recreation facilities around the fringes of the area
 - Provide access to and from the rural areas into and within the regional park by non-vehicular means, provided that they:
- Retain local character and complement the local landscape
 - Enhance open spaces, including the treatment of built edges
 - Enhance woodland and habitat provision and connectivity
 - Manage and enhance the cultural heritage of the area
- 8.38. 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.

- 8.39. Policy M2 of the MNP states that development should be located and designed in a way that is sensitive to its landscape setting, retaining and, where possible, enhancing the distinctive qualities of the landscape character area (identified on Figure 3) which it would affect.

Development should:

1. Conserve and, where possible, enhance the character and qualities of the local landscape through appropriate design of development proposals;

2. Retain and where possible enhance woodland, hedgerows, mature trees, and stone walls as features of landscape importance unless it is demonstrated this is not viable or practicable;

3. Be well integrated within the landscape with planting to soften urban edges;

4. Be located and designed so as not to significantly harm the important long views from the publicly accessible locations at Billa Barra Hill, Hill Hole, and Altar Stones identified on the Map of Views; and

5. Provide appropriate landscape mitigation and/or suitable off-site enhancements.

- 8.40. The application site lies to the south of the A511 (Little Shaw Lane) and west of the M1 Junction 22 and forms an 'L' shaped parcel around The Travelodge Leicester hotel, and the now redundant Cliffe Lane service station.

- 8.41. Due to the proximity to the strategic road network and the neighbouring buildings in the vicinity, the site is well related to existing built development. It is considered to have a low degree of sensitivity in landscape terms due to its setting, and any views of the site are transient in the form of passing motor vehicles. Footpath R6 runs along the western boundary of the site, however views across the site are partially screened by foliage and are experienced in the context of the existing roads and buildings, and the tranquillity of the setting is also impacted with the ambient noise from the motorway.

- 8.42. Whilst the appearance, scale and layout of the proposed units are yet to be determined, it is considered that they can be accommodated within the site without causing unacceptable harm due to the existing context. The site would retain the main boundary treatments and many of the trees within the site, and a comprehensive landscaping scheme is to be submitted at Reserved Matters stage.

- 8.43. It is therefore concluded that whilst there would be some degree of harm to the character and appearance of the countryside, the effects on the site and surrounding area would not amount to significant harm to the intrinsic value, beauty open character and landscape character of the countryside, subject to the forthcoming details to be submitted at Reserved Matters application stage.

Design and Layout

- 8.44. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.

- 8.45. This is an outline application with all matters reserved except for access and therefore detailed layout and appearance considerations are not being assessed at this stage.
- 8.46. Notwithstanding this, the indicative plans illustrate that the development will comprise six employment units of varying sizes, ranging from 226m² to 3162m² with access into the site from Cliffe Road. Some of the existing woodland and trees are to be retained, however much of the site is cleared to allow for the buildings, access and parking areas. Officers consider that the indicative layout provides a reasonable approach to the scheme that would translate to the detailed plans submitted at Reserved Matters stage and indicate that a suitable form of development could be brought forward in accordance with Policy DM10 of the SADMP and the Good Design Guide SPD.

Impact upon Residential Amenity

- 8.47. 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.
- 8.48. 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.
- 8.49. Paragraph 198 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.50. There are no residential dwellings near to the application site that could be adversely impacted by the proposals. The closest dwellings are located more than 100m to the north, on the opposite side of Little Shaw Lane. To ensure that there is no unacceptable noise and light pollution impacts, conditions have been added to ensure that dwellings are protected from additional noise and light pollution. It is therefore considered that the scheme, subject to the detailed matters to come forward at Reserved Matters stage, could be designed such to have a suitable relationship with nearby residential units.
- 8.51. It is considered that the proposed development could be designed such to be acceptable in amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.

Flood Risk and Drainage

- 8.52. 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.
- 8.53. Paragraph 170 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere.

Paragraph 182 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

- 8.54. Leicestershire County Council as Lead Local Flood Authority (LLFA) notes that the 6.2ha greenfield site is located within Flood Zone 1 being at low risk of fluvial flooding and a very low risk of surface water flooding at the southern portion at the site and medium to high risk at the northern portion of the site. The proposals seek to discharge at 16.7 l/s via swales and an attenuation basin to the on-site watercourse.
- 8.55. Following previous LLFA responses and queries, the applicant submitted an amended flood risk assessment and drainage strategy document with added text to explain the sites attenuation pond and outfall level in the eastern boundary watercourse. This is advised to be acceptable subject to conditions.
- 8.56. In summary, neither HBBC Drainage or the LLFA have any objections to the proposal in terms of flood risk and drainage and consider that the proposal would be acceptable in this regard subject to conditions and matters which can be appropriately addressed at reserved matters stage. Therefore, subject to the suggested conditions, it is considered that the proposed development would satisfy Policy DM7 and the NPPF.

Ecology and Biodiversity

- 8.57. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 187 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.
- 8.58. The ecology information submitted with the application indicates that no reptiles were recorded on site, and no evidence of active badger setts was found, although an outlier sett was present and they are likely to still utilise the site for foraging. Suitable habitat exists where a new sett could also be established. Foraging pipistrelle bats made up the large majority of bat activity on site; the site is considered to be of moderate value to bats, although the woodland was not surveyed since it is being retained.
- 8.59. The BNG metric shows that the development will result in a loss of 12% in habitat units and in 8% hedgerow units. As the application is pre-mandatory BNG only a gain of at least 1% is required, in line with NPPF requirements. The watercourse element of the metric has been completed since a small brook runs through the site, however, since there is no impact on the brook the gain can come from elsewhere (with mandatory BNG the trading rules would need to be adhered to and some gain shown for watercourse units, which would most likely have to be provided off-site). There is scope to provide at least some of the BNG gain on site, with the appropriate landscaping.
- 8.60. It is considered that the provision of some degree of biodiversity net gain and appropriate protection of existing habitats and wildlife could be secured via condition, with further BNG calculations and further surveys required at reserved matters stage. Subject to the condition requirements this application is considered be acceptable with respect to ecology and biodiversity matters and complies with Policy DM6 of the SADMP.

Archaeology

- 8.61. Policy DM13 of the SADMP states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate desk based assessment and where applicable a field evaluation. Paragraph 202 of the NPPF also reiterates this advice.
- 8.62. In line with the NPPF Section 16, the planning authority is required to consider the impact of the development upon any heritage assets, taking into account their particular archaeological and historic significance. Paragraph 199 states that where loss of the whole or a material part of the heritage asset's significance is justified., local planning authorities should require the developer to record and advance understanding of the significance of the affected resource prior to its loss. The archaeological obligations of the developer, including publication of the results and deposition of the archive, must be proportionate to the impact of the proposals upon the significance of the historic environment.
- 8.63. Paragraph 207 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that in weighing applications that directly affect non-designated assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage assets.
- 8.64. LCC Archaeology have reviewed the submitted trial trenching report (ULAS Report Ref.: 2024-036) and confirm that no additional archaeological involvement will be required. The report includes a commitment to OASIS reporting with the Archaeological Data Service and an accession number for the Leicestershire Museums Service. The latter is supported by a description of the archive content and a note stating the intention to deposit the digital archive in accordance with professional standards. These provisions are in accordance with the planning requirements and the approved Written Scheme of Investigation. Therefore, it is considered that the proposal complies with Policies DM12 and DM13 of the Site Allocations and Development Management Policies DPD 2016.

Impact on Trees

- 8.65. Policy DM6 of the SADMP sets out that on site features should be retained, buffered and managed favourably to maintain their ecological Value, connectivity and functionality in the long term.
- 8.66. Policy M5 of the MNP states that to be supported development proposals that will result in the unavoidable loss of trees or hedgerows must include replacement planting of native species in locations where they would have the opportunity to grow to maturity, increase canopy cover and contribute to the local ecosystem and the appearance of the area.
- 8.67. In this instance the County Tree Officer has commented on the proposals states that consideration should be given to the retention of as many trees as possible within the Markfield Little Shaw Lane and Cliffe Slade Farm 1971 Tree Preservation Order. Ref G1, G2, G3, G4, G5, G6 and A1. An Arboricultural Method Statement is a requirement by condition.
- 8.68. Regarding the National Forest, the planting requirement is 1.17ha. The applicant has provided an annotated plan showing where new woodland planting could be

provided, amounting to approximately 0.5ha. The remaining shortfall of 0.67ha is secured by a financial contribution.

- 8.69. It is considered therefore that the proposal is acceptable with regard to the requirements of policies DM6 and Policy M5 of the MNP.

S106 Heads of Terms

- 8.70. 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 Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016 updates these standards and also identifies the costs for off-site and on-site contributions.

- 8.71. 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 and paragraph 58 of the NPPF state that planning obligations must only be sought where they meet all of the following tests:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

- 8.72. The contributions sought are detailed below:

- Highways Contribution towards Coalville Transport Strategy - £55,907.02
- Highways Travel Packs - £6,342.00
- Travel Pack Monitoring - £500
- Travel Plan and Monitoring Contribution - £11,337.50
- National Forest Contribution - £35,000

- 8.73. All of the above contributions are considered to meet the tests for planning obligations and should therefore form part of the Section 106 legal agreement to be formulated should the application be approved. No such S106 agreement has been submitted and as such the application is not considered to comply with the requirements of Policy DM3 of the SADMP and Policy 19 of the Core Strategy and is therefore a reason for refusal of the application.

Conclusions and Planning Balance

- 8.74. 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.

9. Equality implications

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

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.

- 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. Recommendation

- 10.1 That the application be **Approved** subject to the conditions set out below and subject to the entering into of a S106 Agreement to secure the required financial contributions and other measures set out above at paragraph 1.1.

10.2 Conditions

1. Application for the approval of reserved matters shall be made within three years from the date of this permission, and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall take place until plans and particulars of "the reserved matters" referred to in the above conditions relating to the: appearance; landscaping; layout; and scale shall be submitted to and approved, in writing, by the local planning authority. The development shall be carried out in accordance with the approved detailed.

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

- Site Location Plan - 2023-775-P-03 received 03/11/22
- Indicative Site Layout – 2023-775-P-01A received 16/11/2023

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).

4. No development shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority. The development must be carried out in accordance with these approved details and completed prior to first occupation. Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. No development shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority. The construction of the development must be carried out in accordance with these approved details.

Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.

Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. No development shall take place until such time as infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate that the site is suitable (or otherwise) for the use of infiltration techniques as part of the drainage strategy in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. No development shall take place (including ground works or vegetation clearance) until a Construction Environment Management Plan for biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Authority. The CEMP shall include the following details:

- Identification of potentially damaging construction activities
- Identification of biodiversity protection zones

- practical measures and sensitive working practices to avoid or reduce impacts during construction on bats, badgers and nesting
- responsible persons for overseeing sensitive works
- use of protective fencing where required

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not cause harm to protected species or their habitats in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016, and to ensure that the development achieves Biodiversity Net Gain in accordance with paragraph 187 of the NPPF (2024).

9. No development shall take place (including ground works or vegetation clearance) until a Biodiversity Net Gain Plan (the Plan) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall provide a minimum of 1% net gain on the reported baseline habitat loss (as per the metric spreadsheet dated 08/05/24 completed by Nathalie Cossa). The Plan shall include the following details:

- a. Location plan of the area(s) to be used for Biodiversity Net Gain;
- b. Description of existing habitats on and off site;
- c. Description of planned habitat creation/enhancement, including species;
- d. Baseline habitat data used to inform metric;
- e. Habitat creation/enhancement plans used to inform metric;
- f. Timetable for implementation of habitat creation/enhancement;
- g. Habitat management and monitoring plan including timetable for management routines and reviews, and strategy for any remedial measures, if and when required;
- h. Mechanism for securing the implementation of the biodiversity off-setting and its maintenance/management for a period of 30 years in accordance with details approved in the Plan.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016, and to ensure that the development achieves Biodiversity Net Gain in accordance with paragraph 187 of the NPPF (2024).

10. No development shall take place (including ground works or vegetation clearance) until an updated badger survey report has been submitted to and approved in writing by the LPA. This survey is to be carried out within 6 months of the likely commencement of works on site. It is to include details on mitigation measures for badgers if necessary. All works are to proceed strictly in accordance with the approved document.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy DM6 of the Site Allocations and

Development Management Policies DPD 2016 and Government guidance contained within the National Planning Policy Framework.

11. No development shall take place until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority and National Highways. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area, and to ensure the efficient and reliable operation of the Strategic Road Network during construction stage.

12. No part of the development shall be first used until such time as the offsite works shown on Edwards & Edwards drawing number 12305/001 Rev. D (closure of the existing A511 Little Shaw Lane access and provision of a pedestrian footway) have been implemented in full.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with the National Planning Policy Framework (December 2024).

13. No part of the development hereby permitted shall be first used until such time as the access arrangements on to Cliffe Lane shown on Edwards & Edwards drawing number 12305/001 Rev. D 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 (December 2024).

14. No part of the development hereby permitted shall be first used until such time as vehicular visibility splays of 2.4 x 73m to the north of the access and 2.4 x 159 metres to the south of the access have been provided at the site access on to Cliffe Lane. 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 (December 2024).

15. The new vehicular access hereby permitted shall not be used for a period of more than one month from being first brought into use unless any existing vehicular access on Cliffe Lane that becomes redundant as a result of this proposal has been closed permanently and reinstated in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety in accordance with the National Planning Policy Framework (December 2024).

16. No part of the development hereby permitted shall be first used until an amended Framework Travel Plan which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the Local Planning

Authority in consultation with National Highways. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.

Reason: To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework (December 2024).

17. No development shall take place until an Arboricultural Method Statement and Arboricultural Impact Statement have been submitted to and approved by the Local Planning Authority.

Reason: In accordance with BS 5837:2012 and Policies DM4, DM6, and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

18. No development shall take place until a scheme for protecting neighbouring dwellings from potential noise from commercial activity and vehicles has been submitted to and approved by the Local Planning Authority.

All works which form part of the scheme shall be completed before the first use of the development hereby approved.

Reason: In the interests of neighbouring amenity to protect neighbouring dwellings from potentially unacceptable noise and disturbance, in accordance with Policy DM10 of the DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

19. Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles).

The lighting shall be installed, maintained and operated in accordance with the approved details.

Reason: In the interests of neighbouring amenity to protect neighbouring dwellings from potentially unacceptable light pollution, in accordance with Policy DM10 of the DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

20. No development shall take place until a scheme for the investigation of any potential land contamination within the relevant phase has been submitted in writing to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

21. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied in the relevant phase.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

Notes to applicant

1. In relation to conditions 21 and 20 advice from Environmental Health should be sought via esadmin@hinckley-bosworth.gov.uk to ensure that any investigation of land contamination is in accordance with their policy.
2. The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations. Full details for the drainage proposal should be supplied including, but not limited to; construction details, cross sections, long sections, headwall details, pipe protection details (e.g. trash screens), and full modelled scenarios for event durations up to the 24 hour (or longer where required) for the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods with results ideally showing critical details only for each return period.

Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.

3. Details of the surface water Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the surface water drainage system that will not be adopted by a third party and will remain outside of individual property ownership. For commercial properties (where relevant), this should also include procedures that must be implemented in the event of pollution incidents.
4. The results of infiltration testing should conform to BRE Digest 365 Soakaway Design. The LLFA would accept the proposal of an alternative drainage strategy that could be used should infiltration results support an alternative approach. Where infiltration is deemed viable, proposed infiltration structures must be designed in accordance with CIRIA C753 "The SuDS Manual" or any superseding version of this guidance.