

Delegated Report

Planning Ref: 23/00332/FUL

Applicant: Mr Adrian Newberry

Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: Land South Of Poplar Terrace Congerstone

Proposal: Erection of additional dwelling to the north of Land south of Poplar Terrace

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning application description

2.1. This planning application seeks full planning permission for the erection of an additional dwelling to the north of the land south of Poplar Terrace, Congerstone, where the construction of five dwellinghouses is currently taking place.

2.2. The additional dwelling is a detached, two-storey, three-bedroom property that externally measures 15m in width x 11.6m in depth, with a total footprint of 130.1sqm. These measurements include the attached 4.2m x 6.5m single-bay garage on the north-eastern side elevation, and the 4.3m x 3.8m single storey, flat roofed rear extension, which features a glass atrium. The application also includes a bay window on the south-western side elevation, and a mono-pitched timber porch on gallows brackets on the south-eastern front elevation.

2.3. The dwelling utilises a dual pitched roof that has a ridge height of 7.6m, and an eaves height of 3.1m. There are also two pitched dormers on the south-eastern front elevation of the property that have a ridge height of 6m, and an eaves height of 4.8m. On the north-western rear elevation of the dwelling, the single storey flat-roofed extension has a maximum height of 3.1m. The attached garage on the north-eastern side elevation of the scheme has a separate dual pitched roof that has a ridge height of 6.3m, and an eaves height of 2.9m.

2.4. The development is constructed with 65mm Ibstock Warwickshire Olde English Blue Engineering Brick, 65mm Class A Blue Engineering Bricks, Redland Plain Tile Coated Black Ridge Dark Grey Concrete Roof Tiles.

2.5. The windows are double glazed uPVC windows that have a wood grain effect in dark grey, and the rooflights and the roof lantern have a dark grey aluminium finish. The 'up-and-over' garage door is Anthracite Grey (RAL 7016), and the bi-fold doors are dark grey to match the windows. The finish of composite front door is to be confirmed.

2.6. The vehicular access is constructed with charcoal block pavers, and 600mm x 600mm herringbone Sandstone/porcelain paving.

3. Description of the site and surrounding area

3.1. The application site is located outside of, but adjacent to, the settlement boundary of Congerstone on the eastern side of the village in the designated open countryside. The application site is also outside of, but adjacent to, the Congerstone Conservation Area.

- 3.2. The site is bound to the west by a modern residential development with four dwellings fronting onto the application site. To the north and east of the site are some dispersed residential units fronting Barton Lane, Barton Road, and Poplar Terrace with agricultural land surrounding. To the south of the site are agricultural fields.
- 3.3. Beyond the dwellings to the east of the site is the Ashby de la Zouch Canal, which is designated as a conservation area. The Congerstone Conservation Area is located to the west of the application site.
- 3.4. Prior to 2020, the site comprised an overgrown parcel of land, which had boundary treatment that consisted of timber post and rail fencing, and low hedgerows.
- 3.5. In 2020, the application received planning permission for the erection of five dwellings, comprising three detached properties and a pair of semi-detached residences via application 20/00444/FUL. The scheme included an area of on-site open space and vehicular access to the dwellings was provided via Dovecot Close. Amendments have since been made to all five plots via two Section 73 applications (22/01030/CONDIT and 22/01044/CONDIT respectively).
- 3.6. The site is bounded by a substantial hedgerow along Barton Road and Poplar Terrace which is identified within the ecology surveying of the site as a Potential Local Wildlife Site.

4. Relevant planning history

22/01044/CONDIT

- Variation of Condition 2 of the Planning Permission 20/00444/FUL. Amendment to replace plans for Plot 1. Vary condition to present amended drawings for the development. Removal of drawings relating to Plot 1 and garage and replacement with new drawings, appended to the application
- Permitted
- 14.02.2023

22/01030/CONDIT

- Proposed variation of Condition to Planning Permission 20/00444/FUL. Amendment to replace Plots 2 – 5 and associated garages for Plot 2 and 3
- Permitted
- 22.12.2022

22/00982/DISCON

- Application to discharge conditions 4 (Construction Environmental Management Plan), 5 (Land Contamination) 7 (Landscaping Scheme), 8 (Landscape Management Plan), 12 (Levels), 13 (Broadband), 14 (Drainage) attached to planning permission 20/00444/FUL
- Partial Discharge of Conditions
- 13.01.2023

22/00885/DISCON

- Application to discharge condition 3 (Materials), attached to planning permission attached to 20/00444/FUL
- Discharged
- 17.10.2022

20/00444/FUL

- Erection of five dwellings (2 x 3no bed and 3 x 5no bed) with public open space provision, landscaping and associated infrastructure and access from Dovecot Close
- Permitted
- 17.06.2021

16/00610/FUL

- Erection of 10 dwellings with public open space provision, landscaping and associated infrastructure (revised scheme)
- Refused
- 25.11.2016

15/00207/FUL

- Erection of 10 dwellings with public open space provision, landscaping and associated infrastructure
- Refused
- 03.07.2015

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 One member of the public objected to the scheme for the following reasons:

- The additional dwelling negatively impacts upon the open character of the development in relation to scale, layout, and density.
- Harm to the character of Barton Road and Poplar Terrace through the increased visibility of the built form of the site due to the loss of the site's boundary hedgerows.
- Harm to the Congerstone Conservation Area.
- Harm to the countryside.
- Harm to neighbouring residential amenity.
- Loss of biodiversity.
- Loss of public open space.
- The proposal is being developed on an area of land that was designated as public open space for wildflower and tree planting within the previous planning permission (20/00444/FUL).
- The scheme results in harm to a potential Local Wildlife Site.

5.3 No further responses have been received.

6. Consultation

6.1 There have been no objections from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer (subject to conditions)
- HBBC's Waste Management Officer
- Leicestershire County Council (LCC)'s Archaeology Team (subject to conditions)
- Local Highway Authority (LHA) (subject to conditions)

Archaeology

6.2 LCC Archaeology have requested a pre-commencement planning condition to ensure that a Written Scheme of Investigation (WSI) has been submitted to, and

approved in writing by, the Local Planning Authority. This planning condition is in accordance with Paragraph 206 of Section 16 of the National Planning Policy Framework (2021), which requires developers to record and advance the understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance.

- 6.3 The Applicant advised the Planning Officer that, due to the construction that has already taken place on site in relation to planning permission 20/00444/FUL, the land within this application has already been disturbed, and, as a WSI condition was attached to the previous planning permissions, the condition is not necessary within these site-specific circumstances.
- 6.4 On 15 May 2023, LCC Archaeology requested clarification on the extent of the disturbance within the application site to determine whether archaeological monitoring remained appropriate.
- 6.5 Images of the extent of the disturbance were provided on 23 May 2023. Following this, LCC Archaeology confirmed that the impact of excavating does not appear to have affected the majority of the building footprint. Therefore, LCC Archaeology advised that their previous archaeological condition remains appropriate.
- 6.6 The Applicant agreed to the archaeology condition on 21 June 2023.

Ecology

- 6.7 LCC Ecology noted that the previous planning permission 20/00444/FUL ensured that there was a buffer between the development and the potential Local Wildlife Site hedgerow to the south of Poplar Terrace, but to the north of the development. LCC Ecology consider this application to encroach into the hedgerow itself and the meadow area that was designed as part of the previous planning permission. Therefore, this development results in the loss of the biodiversity enhancements that were incorporated within the previous planning permission.
- 6.8 As a result, LCC Ecology object to the location of the development, and they have advised that an additional dwelling would be more suitable on the existing paddock land to the south of the site.
- 6.9 Following discussion with the Applicant and LCC Ecology, the Planning Officer requested plans that demonstrated a biodiversity net gain within the site above that which was approved within the extant 2020 planning permission. This was provided on 24 July 2024.

Flood Risk and Drainage

- 6.10 Leicestershire County Council as the Lead Local Flood Authority (LLFA) has referred to standing advice. It was noted by the LLFA that the greenfield application site is located within Flood Zone 1 and is considered to be at low risk of fluvial flooding, and a very low risk of surface water flooding.
- 6.11 However, the Council's Drainage Officer has requested further information on how the additional plot integrates with the sustainable urban drainage system (SuDS) provision within the wider site.
- 6.12 A revised drainage layout plan was submitted by the Applicant on 23 May 2023. Following this, the Council's Drainage Officer requested that the development was

completed in accordance with the submitted detail, which is secured via planning condition.

Pollution

- 6.13 The Council's Pollution Officer has no objection to the principle of the development, but they do recommend that Conditions 4, 5, and 6 of planning permission 20/00444/FUL are added to any permission granted within the site.

Waste

- 6.14 The Council's Waste Management Officer highlighted that the Proposed Site Plan demonstrates that the bin collection points are in such a place that meet the needs of the Household Waste Collection Service.
- 6.15 No further responses have been received.

7. Policy

7.1 Core Strategy (2009)

- Policy 12: Rural Villages
- Policy 14: Rural Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure

7.2 Site Allocations and Development Management Policies (SADMP) 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 DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

7.4 Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)
- National Design Guide (2019)
- Technical Housing Standards – Nationally Described Space Standards (2015)

8. Appraisal

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

- Principle of development
- Housing land supply
- 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, and that the NPPF is a material planning consideration in planning decisions.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted 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. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.4. The current Development Plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). 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.
- 8.5. Both the adopted Core Strategy and the SADMP are over 5 years old, and 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. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.6. Policy 12 of the adopted Core Strategy states that rural villages, such as Congerstone, are, "The focus of limited development with the aim of ensuring existing services... are supported." This policy only supports housing development in rural villages it is, "Within settlement boundaries," and, "Provides a mix of housing types and tenures as detailed in Policy 15 and Policy 16 [of the adopted Core Strategy.]"
- 8.7. The application site is located adjacent to, but outside of, the settlement of Congerstone on land that is designated as countryside, which is contrary to Policy 12 of the adopted Core Strategy.
- 8.8. 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 174(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."

- 8.9. 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 new 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”.
- 8.8 Therefore, the proposed development does not relate to any of the criteria above in either Policy DM4, but this does not mean that the development is not sustainable.
- 8.10. The application site is located close to the settlement boundary of Congerstone, and to other residential properties along Barton Lane, Dovecot Close, and Poplar Terrace. Therefore, the application site is not considered to be in an isolated location.
- 8.11. Moreover, the wider application site benefits from planning permission for five dwellings via 20/00444/FUL, which is material consideration within this application. Therefore, whilst the proposed development does not relate to, or comply with, any of the criteria above in either Policy DM4 or Paragraph 80 of the NPPF, the scheme is not considered to be regarded as unsustainable development.
- 8.9 Importantly, Policy DM4 also requires that development meets five further requirements to be considered as sustainable development, which are discussed in detail further in the report.
- 8.10 Therefore, the Council does not consider that the proposal results in unacceptable harm to the countryside in principle, therefore the suitability of the development is 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

- 8.11 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.
- 8.12 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.
- 8.13 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. In addition, both the adopted Core Strategy and the SADMP are over 5 years old, and 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. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.

- 8.14 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.
- 8.15 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.
- 8.16 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. Paragraph 78 of the NPPF states that planning policies should be responsive to local circumstances and support housing developments that reflect local needs, and Paragraph 69 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. Paragraph 79 of the NPPF states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 8.17 As the scheme does not provide ten or more dwellings, Policy 16 is not applicable for this proposal.
- 8.18 Whilst the provision of one additional dwelling within this application site is unlikely to be a significant benefit to the housing land supply within the Borough, given the Council's failure to deliver a five-year supply of land for housing, it is considered that moderate weight should be given to the provision of the proposed dwellings.

Design and Impact upon the Character of the Area

- 8.19 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.
- 8.20 Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features.

- 8.21 Paragraph 134 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.
- 8.22 The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment.
- 8.23 Excluding the attached garage, the proposal is 10.8m in width, and has a total footprint of 102.8sqm.
- 8.24 In comparison to the dwellings that were originally approved in 20/00444/FUL, the property is 0.8m larger in width, but 0.6m smaller in overall footprint and 0.4m smaller in height than Plots 2 and 3. Furthermore, the scheme is 0.6m smaller in higher and 0.8m narrower, but 44.4sqm larger in overall footprint than Plots 4 and 5 respectively.
- 8.25 In addition, Plot 1 was increased to 9.5m in height, 13.9m in width, 22.1m in depth, and 196.9sqm in overall footprint and via Section 73 application 23/01044/CONDIT. These dimensions include the Plot's attached 6.8m x 7.3m, 49.3sqm double garage. Nevertheless, this demonstrates that Plot 1 is 1.9m larger in height, and 66.8sqm larger in overall footprint (including the attached garage) than the new dwelling.
- 8.26 Given the sizes, scales, volumes, and heights that have already been approved within this application site, the development is not considered to have significant adverse impact on the character of the site or the surrounding area in relation to incongruous sizing, scale, volume, or massing.
- 8.27 However, it is noted that the proposed dwelling is only 10.3m from the northern site boundary with Barton Road, in comparison to the previously closest plot, Plot 3, which is 34.2m southeast of this northern site boundary. Therefore, the development is likely to be more physically prominent from the public highway.
- 8.28 Nevertheless, by virtue of its location, the development is closer to the identified settlement boundary of Congerstone and is experienced within wholly residential area due to the presence of other existing residential properties along Barton Road to the northeast and southwest, Chapel Lane to the north, Poplar Terrace to the east, and the approved dwellings to the south. Furthermore, the massing of the Plot is smaller than those originally approved in this application site, which reduces its visual impact from Poplar Terrace and Barton Road. Therefore, the development is not considered to be incongruous to the character of the street scene.
- 8.29 In addition, given the proposal's distance from the existing hedge on the north-western site boundary, the development is not considered to result in significant harm to or total loss of the hedge, which preserves a feature that has a positive contribution to the character of the surrounding area.
- 8.30 Furthermore, the materials utilised within this application match those of the other five dwellings, were approved via the Discharge of Conditions Application 22/00885/DISCON. In addition, the hard landscaping has been proposed in

accordance with the landscaping that was approved by the Council via the Discharge of Conditions Application 22/00982/DISCON. Therefore, the hard landscaping and materials within this application reflect the character of the application site and are considered to respect and preserve the character of the surrounding area.

- 8.31 The Applicant has provided a revised soft landscaping plan that demonstrates the provision of 885 trees of 13 different species, 1004 shrubs of 18 varying species, 26 climbers of one species, and 27 grasses of two different species. This is considered to represent an increase in biodiversity in the site in comparison to its existing use, and the extant 2020 planning permission.
- 8.32 By virtue of the above factors, the proposal respects the character of the site and the surrounding area and is in accordance with Policies DM4, DM6, and DM10 of the SADMP, and the Good Design Guide.

Impact upon Residential Amenity

- 8.33 Section 8 of the NPPF requires planning policies and decisions to promote healthy, inclusive and safe places. Paragraph 130(f) of the NPPF requires planning policies and decisions to ensure that developments 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.
- 8.34 Paragraph 185 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.
- 8.35 In accordance with National Policy, Policy DM10 of the SADMP requires that proposals do 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.
- 8.36 The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable, and safe internal and external environment.
- 8.37 The Good Design Guide recommends that a principal window to a habitable room should ideally be no less than 8m from the blank side of a single storey neighbouring property, rising to 14m for a two-storey property. The Good Design Guide also states that, "An exception to this rule is in an urban location where it may be acceptable to have a reduced distance where issues of amenity and overlooking are dealt with by good design."
- 8.38 The scheme is 23.6m from the residential properties on Barton Road to the west, and therefore the development is not considered to result in any significant harm to the residential amenity of these neighbouring properties.
- 8.39 However, the scheme is only 11.8m from the front elevation of Plot 3. Whilst this is less than the 21m separation distance between principal windows of habitable

rooms as recommended by the Good Design Guide, this distance is between the front elevations of both properties, and they are separated by a road. Given the above, the development is not considered to result in a significant adverse impact on the neighbouring residential amenity of Plot 3.

- 8.40 The development is also only separated by 12.8m from 82 Barton Road to the north. However, this rises to 17.2m in relation to the first floor of the property, which exceeds the requirements of the Good Design Guide in relation to blank elevations. In addition, the two properties are separated by Poplar Terrace and hedgerows, and there are no principal windows to habitable room on the south-western side elevation of 82 Barton Road. Therefore, the development is not considered to result in any significant harm to neighbouring residential amenity.
- 8.41 To comply with the Good Design Guide, three-bedroom houses must also provide a minimum of 70sqm of private outdoor amenity space with a minimum length of 7m.
- 8.42 The development has private outdoor amenity space with a length of 12.7m from the Living Room, and 8.5m from the Snug. In total, the scheme has 139.8sqm of private outdoor amenity space, which does not interfere with the existing hedgerow and exceeds the requirements of the Good Design Guide.
- 8.43 By virtue of these, the proposal is not considered to result in any adverse harm to neighbouring residential in relation to overbearing or overshadowing impacts, any overlooking or loss of privacy, or any light, noise, or air pollution to the neighbouring properties. Therefore, the development is considered to be in accordance with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.44 Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 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.
- 8.45 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)).
- 8.46 The dwelling is situated approximately 85m along a private drive where it connects to the public highway via Dovecot Close. Whilst the proposal brings the total number of dwellings to size within the site via the access approved under 20/00444/FUL, the Local Highway Authority (LHA) consider the wider site's access to the public highway suitable for the provision of six dwellings as per Table DG17 of Part 3 of the LHDG.
- 8.47 The new dwelling has three-bedrooms and utilises an integrated garage. It is noted by the LHA that the internal dimensions of the garage are not in accordance with Paragraph 3.200 of Part 3 of the LHDG. Nevertheless, the LHA notes that there is adequate space to the front of the dwelling for two off-street vehicle parking spaces, which is in accordance with the quantum of off-street parking required by Paragraph 3.151 of Part 3 of the LHDG.

- 8.48 The LHA has checked its Personal Injury Collision (PIC) database and notes that there have been no recorded PICs along the entire length of Dovecot Close within the last five years. Subsequently, the LHA does not consider the development to exacerbate the existing highway situation.
- 8.49 Given the above, the proposal is considered to provide adequate off-street parking and it 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

- 8.50 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.
- 8.51 The Council cannot demonstrate a five-year supply of housing land and the housing policies most important for determining the application are out of date. Therefore, it is necessary to consider the 'tilted' balance in accordance with Paragraph 11(d) of the NPPF, where planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 8.52 Whilst the development is within the designated open countryside, the scheme is located adjacent to the settlement boundary of Congerstone within an area of land that already benefits from planning permission for five dwellings. As a result, the application site is not considered to cause unacceptable harm to the countryside in principle.
- 8.53 Furthermore, by virtue of its size, scale, volume, massing, and use of previously approved materials, the development is considered to respect the character of the surrounding area and thus preserve the significance of the Congerstone Conservation Area.
- 8.54 In addition, the scheme provides an additional dwelling to the Council's housing land supply, which is given moderate weight in the planning balance.
- 8.55 The proposal is not considered to result in any adverse harm to neighbouring residential amenity, nor does it create an unacceptable impact on highway safety or the road network in accordance with Policies DM10, DM17 and DM18 of the SADMP, and the LHDG
- 8.56 Given the above, it is considered any adverse impacts of the scheme do not significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the NPPF taken as a whole. Therefore, the development is considered acceptable and recommendable for approval.

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 The proposed development is considered to be compliant with the relevant national and local policy as it:

- Is an appropriate scale and design.
- Does not have an adverse impact upon the character and appearance of the area.
- Provides over 80sqm of rear amenity space.
- Does not have a significant adverse impact upon the amenity of neighbours.
- Does not have a significant adverse impact upon highway safety.
- Provides sufficient vehicle parking spaces for off-street parking.

10.2 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

11.2 Conditions and Reasons

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

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

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

- Proposed Plans and Elevations 5188-024-P2 (submitted: 20.06.2023)
- Proposed Site Plan 5188-023-P3 (submitted: 20.06.2023)
- Site Location Plan (submitted: 04.04.2023)

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

3. The materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials within the Application Form (submitted: 04.04.2023).

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

4. The development hereby permitted shall be implemented in accordance with the landscape management plan within the approved Proposed Landscaping Scheme 2208-PL1-02(A)) (submitted: 24.07.2023).

Reason: To ensure that the development has a satisfactory external appearance and promotes biodiversity net gain in accordance with Policies DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. The development hereby permitted shall be implemented in accordance with the drainage layout plan within the approved Drainage Layout 22-1724 0-500P3 (submitted: 23.05.2023)

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. The development shall be carried out in full accordance with the recommendations within the Ecology Report 5188-230327-0318- (submitted: 04.04.2023).

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. The development shall be carried out in full accordance with the Tree Protection Plan (OE-003) at Appendix 4 and the recommendations at Section 8 within the Arboricultural Report 5188-230331-0319 (submitted: 04.04.2023).

Reason: To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2021).

8. Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Classes A, AA, B, C, D, and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or

other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

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

9. No demolition/development shall take place/commence until a Written Scheme of Investigation (WSI) has been submitted to, and approved in writing by, the Local Planning Authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives and
 - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination, and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason: To ensure a satisfactory historic building survey and to record and advance understanding of the significance of the affected resource prior to its loss and recording as specified in *Historic England's Good Practise Advice Note 2, Managing Significance in Decision-Taking in the Historic Environment* (p. 11) and to advance the understanding of, and safeguard the significance of the heritage asset in a manner proportionate to its importance in accordance with Policies DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 205 and Section 16 of the National Planning Policy Framework.

10. Prior to the commencement of development, a Construction Environmental Management Plan shall be submitted to, and agreed in writing by, the Local Planning Authority. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises, and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light, and land contamination. The plan shall detail how such controls will be monitored.

The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development.

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

11. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site 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 will be implemented in accordance with the

agreed details and any remediation works so approved shall be carried out prior to the first site being occupied.

Reason: To ensure that risk from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. 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 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 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).

13. A landscape management plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas, including the retention and height maintenance of the hedges fronting Barton Road and Poplar Terrace, but excluding other small privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as per the approved details.

Reason: To ensure that the work is carried out within a reasonable period and thereafter maintained in order to provide biodiversity net gain and a satisfactory appearance to the development in accordance with Policies DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

a. **Notes to Applicant:**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. The Written Scheme of Investigation must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this Written Scheme of Investigation has been secured, the Applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
3. In relation to Condition 11, 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.
4. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is

commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance, or alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaways will be subject to the approval of the Building Control Surveyor.

5. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).