



Planning Statement

Land South of Sapcote Road, Burbage

July 2023

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For and on behalf of Avison Young (UK) Limited

1. Introduction

1.1 Avison Young is instructed by Jelson Homes Limited ('Jelson') to submit an application for outline planning permission for the residential development of up to 343 dwellings, including 20% affordable housing, public open space and associated infrastructure on land to the south of Sapcote Road, Burbage, Leicestershire.

1.2 The proposed description of development is as follows:

"Residential development of up to 343 dwellings including provision of public open space, associated infrastructure and all matters reserved except for access."

1.3 Jelson is a Leicester based house builder established in 1889. The company has a longstanding history of building quality homes throughout the East Midlands, including a number of developments in the Hinckley and Bosworth Borough. Jelson prides itself on using traditional building techniques, as well as using modern technologies to create popular and successful homes.

1.4 The site is identified as a draft housing allocation in the Council's Regulation 19 'Pre-Submission' Local Plan.

1.5 An outline planning application was submitted to Hinckley and Bosworth Borough Council in November 2022 for the redevelopment of this site, under the planning application reference 22/01037/OUT ('the 2022 application'). The 2022 application sought outline planning permission for the same quantum of development as proposed by this current application, i.e. the erection of up to 343 dwellings and the provision of public open space, associated infrastructure.

1.6 During the determination of the 2022 application, Leicestershire County Council (LCC) Highways raised concerns regarding the proposed access arrangements submitted as part of this planning application and made some detailed comments on the Transport Assessment and Travel Plan.

1.7 The application was subsequently refused under delegated powers on 30 March 2023, with the following reasons for refusal stated:

"1. The Applicant has failed to demonstrate that safe and suitable access for all users would be provided to the proposed development and the proposal, if permitted, could consequently result in an unacceptable form of development and could lead to dangers for road users, contrary to Policy DM17 of the Site Allocations and Development Management Policies DPD and paragraphs 110 and 111 of the National Planning Policy Framework (2021).

2. The Applicant has failed to fully demonstrate the impact of the proposed development on the local highway network, contrary to Policy DM17 of the Site Allocations and Development

Management Policies DPD and paragraphs 110 and 111 of the National Planning Policy Framework (2021)."

- 1.8 Since this time, Jelson and its highways consultant (Tetra Tech) has engaged in discussion with LCC Highways in relation to its comments on the 2022 application. In this context, Jelson's highways consultant (Tetra Tech) has produced an alternative access strategy which now features as part of this revised planning application. The alternative access strategy is described in more detail in Section 3 of this Statement and the accompanying Transport Assessment, prepared by Tetra Tech.

Scope of Application Documents

- 1.9 In addition to this Planning Statement, the following documents make up the application:
- completed and signed application forms and Ownership Certificate;
 - a Site Location Plan, prepared by FPCR;
 - a Topographical Survey, prepared by Phoenix Survey Services Ltd;
 - a Design and Access Statement, prepared by FPCR,
 - a Landscape and Visual Impact Assessment, prepared by FPCR;
 - a Desk-Based Archaeological Assessment prepared by the University of Leicester Archaeological Service (ULAS);
 - a Geophysical Survey Report, prepared by SUMO Geophysics Ltd;
 - a Transport Assessment, prepared by Tetra Tech (including detailed access drawings);
 - a Travel Plan, prepared by Tetra Tech;
 - an Arboricultural Assessment, prepared by FPCR;
 - an Ecological Appraisal and associated Protected Species Surveys including Biodiversity Net Gain Assessment, prepared by FPCR;
 - a Flood Risk Assessment and Drainage Strategy, prepared by Avison Young;
 - a Phase 1 Environmental Report, prepared by Avison Young;
 - an Agricultural Land Classification Assessment, prepared by Kernon Countryside Consultants.

Structure

- 1.10 This Statement describes the development proposals and assesses them against the development plan and other material considerations, having regard to the conclusions reached by officers in determining the 2022 application.
- 1.11 The remainder of this Statement is structured as follows:

- **Section 2** – describes the application site and surrounding context;
- **Section 3** – details the development proposals;
- **Section 4** – explains the scope of pre-application discussions with Officers at Hinckley and Bosworth Borough Council and background to the 2002 application (reference 22/01037/OUT);
- **Section 5** – reviews the Development Plan policies relevant to the determination of the application;
- **Section 6** – reviews other material considerations of relevance to the determination of the application including, the National Planning Policy Framework, emerging Local Plan and housing land supply position in Hinckley and Bosworth;
- **Section 7** – provides an analysis of the planning merits of the scheme and reaches conclusions in relation to the planning balance;
- **Section 8** – discusses affordable housing; and
- **Section 9** – considers potential planning obligations.

2. Site, Surroundings and Accessibility

- 2.1 The site is located south of Sapcote Road on the eastern edge of Burbage and is approximately 2km south east of Hinckley town centre. The site is made up of two parcels of land to the east and west of Aston Flamville Road, and combined these parcels extend to an area of approximately 16 hectares.
- 2.2 The northern parcel is approximately 4.3 hectares in area and is bound to the north and west by Sapcote Road, to the south by Aston Flamville Road, and to the east by existing development and agricultural fields.
- 2.3 The southern parcel is the larger of the two parcels at approximately 11.7 hectares and comprises three field parcels. The north western and western boundaries of this parcel are defined by the built urban edge of Burbage, beyond which is residential development. To the north of this parcel is Aston Flamville Road, and to the south and east are agricultural fields. An existing watercourse runs west to east adjacent to the southern site boundary.
- 2.4 The site generally slopes from west to east with high points of around 105m AOD on the western boundary, falling to below 100m AOD at the lowest point in the south eastern corner. There are hedgerows and trees along both the site boundaries and internal field boundaries.
- 2.5 Burbage is a large village and 'Urban Centre' with numerous amenities including a medical centre, pharmacy, convenience food store, travel agents, general store, hair and beauty salon, cafés and takeaways, public houses, dentist, laundrette and veterinary centre. All of these amenities are within two kilometres of the site and are highly accessible for pedestrians and cyclists.
- 2.6 There is good accessibility to primary and secondary schools from the site, with Burbage Church of England Infant school, and Burbage Junior School located approximately 1.5km and 1.4 km from the site respectively. The nearest secondary school is Hastings High School, approximately 2.1km away.
- 2.7 In terms of accessibility to public transport, bus stops are located on Sapcote Road within 400 metres of the site. These stops are served by bus service X6 which provides services between Leicester and Coventry (via Burbage and Hinckley), Monday to Sunday. The number 8 bus service also stops on Hinckley Road, approximately 800m from the proposed Dorchester pedestrian link. This service provides an hourly route, Monday to Saturday, between Lutterworth and Hinckley town centre.
- 2.8 The nearest railway station is Hinckley, which is located approximately 3km away.

3. Development Proposals

3.1 This application seeks outline planning permission for the development of up to 343 residential dwellings at an average density of 35 dwellings per hectare (dph), including 20% affordable housing, public open space and associated infrastructure with all matters reserved except for access.

3.2 In summary, it is proposed that the scheme would deliver:

- up to 343 dwellings (including a mix of dwelling types from 2 - 5 bedroom properties) at an average net density of circa 35 dph;
- 20% affordable housing (including affordable rent and shared ownership);
- a new vehicular and pedestrian access taken from Aston Flamville Road into both the northern and southern parcels of land;
- pedestrian access point on Dorchester Road;
- improvements to the pedestrian and cycle infrastructure;
- a network of green infrastructure (circa 6.15 hectares) interspersed throughout the site;
- a potential link to the existing Public Right of Way to the south of the site;
- an equipped play area;
- the retention and addition of structural landscaping; and
- new sensitively designed sustainable drainage system (SuDs)

3.3 The proposals are described in more under the headings below. The Design and Access Statement which accompanies the application also includes a further detailed description of the proposals.

Access and Parking

- 3.4 As explained in Section 2, an alternative access strategy is proposed compared to that shown in the 2022 application. This has been designed in response to feedback from LCC Highways on the 2022 application and subsequent discussions with them.
- 3.5 In summary, it is proposed that there will be a single point of entry and egress for both parcels of land from Aston Flamville Road. The access will be in the form of a 4-arm roundabout. Two arms of the roundabout will extend into and serve both parcels of land.
- 3.6 The roundabout will include pedestrian crossing points on all arms. Footways would continue along all four arms of the roundabout to some extent allowing connections into the existing footway on the eastern side of the carriageway between the site access and Sapcote Road. This footway is proposed to be widened to 2m. These proposals would enhance connectivity between the proposed network of streets, footways and open space within the development to the north and south for both pedestrians and cyclists, as well as into the existing settlement.
- 3.7 A further point of pedestrian / cycle access is proposed on the south western boundary, which will provide links to the existing settlement from the development via Dorchester Road. The Illustrative Masterplan also shows a potential connection from the area of public open space on the southern boundary to existing public rights of way which would provide an alternative route into Burbage.
- 3.8 New public roads and footpaths would be created within the site, which would be provided through a clear and legible hierarchy of routes, allowing easy access and navigation. The Framework Plan demonstrates this by showing a network of pedestrian and cycle routes through the development with a connected pattern of streets, footpaths and open spaces.
- 3.9 Please refer to the Framework Plan, Design and Access Statement and Transport Assessment for further details on the proposed accesses and connectivity through the site.

Green Infrastructure, Landscaping & SuDS

- 3.10 As illustrated in the Design and Access Statement a total of approximately 6.15 hectares of Green Infrastructure (equating to over 38% of the site area) with high quality landscaping is proposed to be interspersed through the site.
- 3.11 The masterplan proposes a 'Linear Park' along the southern, eastern and western edge of the site. This broad, green space would provide a buffer to the development and a link to the wider countryside. It is envisaged that new dwellings along these boundaries would front onto the park to encourage

residents to view it as usable space. This would also provide natural surveillance of the area. The houses in this location are envisaged to adopt a more informal layout to create a soft edge.

- 3.12 The park area would include a matrix of grasslands with meadow planting and managed amenity areas closer to the new housing. Tree planting would be selected from a palette of native species. Sustainable drainage features would also be incorporated, some of which could include permanent wet areas, along with damp marshy grassland. Access could be provided through the park through a mix of surfaced routes and mown grass pathways. The Linear Park would create a transition from the edge of Burbage to the wider countryside.
- 3.13 New footpaths through the proposed green infrastructure network would also provide a potential connection to the existing Leicestershire Round long-distance footpath to the south of the site, as well as towards the village and wider countryside to the south west.
- 3.14 To inform these proposals a hydraulic flood modelling exercise has been undertaken to understand the flood risk associated with the ordinary watercourses which flow through the site. The modelling has shown that to reduce flood risk to the site, three undersized culverts will be removed and the banks of the watercourses will be raised slightly to keep water within the channel. In order to ensure that flood risk to land downstream of the site is not increased, using the existing site levels, the southern corner of the site is proposed to be used for floodplain compensation. Whereby, during heavy rainfall when the water course levels rise, water will flow into the storage area. Water will then flow back into the watercourse through a flow control at a controlled rate. The south-eastern corner of the site would therefore be a multiuse area with meadow grassland and informal paths, with new shrub planting. The submitted Illustrative Masterplan and Design and Assess Statement show the proposed locations of the attenuation basins in this location.

Site Layout

- 3.15 The Illustrative Masterplan has been designed based on a robust analysis of the site opportunities and constraints, policy and guidance.
- 3.16 It shows how the proposed development would be laid out to maintain quality trees and hedgerows, where possible. It also demonstrates how new housing will be integrated into a network of new multi-functional Green Infrastructure. The Framework Plan shows a network of pedestrian / cycle routes through the development with a connected pattern of streets, footpaths and open spaces.

3.17 It is expected that there would be variations in character, density and design across the development areas to create a strong sense of place. The Design and Assess Statement shows three distinctive Character Areas, these being:

- Green Fingers and Edges – Proposed throughout the site and will follow the existing hedgerow and tree network across this site;
- Residential Core – A diverse hierarchy of streets is proposed within the site; and
- Linear Park – Proposed along the southern, eastern and western edge of the site to provide a buffer between the development, the wider countryside and the existing dwellings along Dorchester Road.

3.18 Higher density development is proposed at the heart of the development with lower density development along the edges of the scheme and fronting on to areas of open space.

3.19 The developable area of the site extends to circa. 9.85 hectares with an average density of 35 dwellings per hectare. The density in the core of the development and along the primary routes would be around 40pdh with a transition to lower density housing (around 30dph) along the secondary routes and towards the green edges of the development parcels.

Dwelling Mix and Building Heights

3.20 The scheme proposes a total of up to 343 new residential dwellings, including bungalows, of which 69 dwellings (20%) will be affordable and 274 dwellings (or 80%) will be for open market sale.

3.21 The scheme would provide a mix of 2 – 5-bedroom properties, including terraced or linked units, townhouses, semi-detached and detached dwellings. The detailed housing mix would be finalised through the reserved matters stage.

3.22 Buildings will follow a scale that is in keeping with the adjacent landscape and urban context where buildings are commonly between 2 and 2.5 storeys in height. The use of 2.5 storey dwellings will be carefully considered within the layout, and they will be used to reinforce an important street or to act as a landmark building. Throughout the scheme, 2 storey dwellings will be the standard approach.

Appearance

3.23 The proposed dwellings would be traditional in appearance and would seek to reflect the local vernacular and draw upon precedents within the wider settlement. As identified in the Design and Access Statement, the general themes that contribute to the character of Burbage include:

- red brick, which is particularly prominent in the village;
- rendered feature properties;
- occasional brick walls to frontages;
- front porches;
- occasional bay windows;
- a mixture of slate and red tile roofs; and
- properties on the edge of the village are generally set back from the road.

3.24 Further details on the appearance will be provided as part of a reserved matters application in due course.

4. Planning Background

- 4.1 Jelson has been promoting its land to the south of Sapcote Road in Burbage through the Local Plan Review process since 2018. Following the submission of 'Call for Sites' representations Jelson has proactively engaged with the Council regarding this site.
- 4.2 Following early discussions with the Council in the context of the emerging Plan, a planning application was submitted in July 2021 which sought outline planning permission for residential development of up to 351 dwellings at the site.
- 4.3 Jelson subsequently met with Officers at the Borough Council in October and November 2021. Progress with the emerging Local Plan was discussed and views were sought from Officers on site specific matters and Jelson's proposals.
- 4.4 Jelson also met a number of local Councillors in November 2021. An overview of the proposals was presented, and comments were invited. Local Members expressed some concerns over the total number of dwellings proposed, indicating a preference for fewer homes, and that they were keen to see additional tree planting as part of any new public open space. Members encouraged a walking and cycling link to be made to the Public Right of Way Network and via Dorchester Road and a green buffer to be provided along this edge of the site.
- 4.5 Following this meeting, the planning application was withdrawn and the scheme was reviewed and subsequently revised, including to:
- connect the proposed linear park to Dorchester Road, providing a large green open space buffer between existing dwellings and proposed residential dwellings, focussed around a proposed pedestrian link;
 - incorporate additional tree planting, including to the rear of properties on Sapcote Road; and
 - reduce the overall scale of development from 'up to 351 dwellings' to 'up to 343 dwellings'.
- 4.6 Members also queried whether there was a need for any alterations or improvements to be made to the junction of Sapcote Road and Aston Flamville Road, in order to safely accommodate vehicle trips generated by housing development. This has been considered by Jelson's Transport Consultant, TetraTech, as part of its Transport Assessment, the conclusions of which are summarised in Section 7 of this Statement.

- 4.7 Jelson has separately made representations to the emerging Local Plan, including to the Council's Regulation 19 Consultation on the 'Pre-Submission Draft' which was published in February 2022 and identifies the site as a proposed housing allocation.
- 4.8 Jelson met with officers again, in July 2022, following the Regulation 19 version of the Draft Plan and discussed Jelson's representations to it. At this meeting, Officers explained that submission of the Draft Local Plan has been delayed beyond the timescales set out in the Council's Local Development Scheme (2022).
- 4.9 The publication of the Statement of Common Ground (SoCG) between the Leicestershire Authorities was also discussed. The SoCG indicates that the Borough needs to accommodate a significant amount of additional housing to contribute towards the unmet needs arising from Leicester City.

The 2022 Application

- 4.10 As set out in Section 1 of this report, a planning application was submitted to the Council for the redevelopment of the site in November 2022 under the planning application reference 22/01037/OUT and was subsequently refused in March 2023 on highways grounds.
- 4.11 During the consultation period a number of statutory consultee responses were received. These have been summarised in the table at **Appendix 2**.
- 4.12 The Officers Delegated Report (received on the 31 March 2023) reached the following conclusions:
- Principle of Development
 - The site is proposed to be allocated for a minimum of 180 dwellings, in the Pre-submission Regulation 19 Local Plan (Ref. BUR01H & BUR012H).
 - It has, therefore, been *"identified as a sustainable location for development and identifies a clear direction of future growth for Burbage."*
 - HBBC accepts that it cannot demonstrate a five-year housing land supply, as such the 'tilted balance' at paragraph 11(d) of the NPPF is engaged and the delivery of 343 dwellings (69 affordable) is a significant benefit to be weighed in the planning balance.
 - The site is located adjacent to the settlement boundary of Burbage, which is described as an Urban Area in the settlement hierarchy. Therefore, the proposals comply with Policy 1 of the Burbage Neighbourhood Plan (BNP), subject to compliance with other development plan policy.

- The proposals comply with the criteria in Policy 11 of the BNP.
- Despite not fully complying with Policy DM4, the proposals comply with the relevant Policies in the BNP, represent sustainable development in this location, and are considered to be acceptable in principle.
- Impact upon Highway Safety
 - Jelson had engaged in lengthy discussions with LCC Highways to overcome several initial concerns raised in relation to the proposals.
 - LCC Highways had advised HBBC that the applicant had failed to demonstrate: i) that a safe and suitable access to the site for all highways users can be achieved; and ii) the impact of the proposed development on the local highway network, contrary to paragraph 110 of the NPPF and the requirements of Policy DM17 of the SADMP.
 - That HBBC's view was that the proposals posed an unacceptable impact on highways safety, which weighs heavily against the approval of the development and justifies refusal on highways grounds.
- Other Technical Matters
 - There are no other technical or design related reasons for refusal, including in relation to:
 - **Character and Appearance of the Area** – HBBC agreed with the conclusions of the LVA, prepared by FPCR. Confirmed that the proposed development would not have an unacceptable landscape or visual impact and complies with Policies 10 and 11 of the BNP and requirements of the NPPF.
 - **Heritage** – The proposals would have negligible impact, causing no harm to the setting and significance of the Grade II* Listed Church of St Catherine, and the Burbage Conservation Area. The proposals accord with Policies DM11 & DM12 of the Site Allocations and Development Management DPD, Policy 11 of the BNP, Section 16 of the NPPF and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.
 - **Design and Layout** – that the Illustrative Layout indicated that a suitable form of development could be brought forwards at the reserved matters stage in accordance with Policy DM10 of the SADMP and Good Design SPD.

- **Housing Mix and Supply** - the final mix of dwellings would be determined at the Reserved Matters stage and concluded that the proposals would deliver an acceptable housing mix and level of affordable housing, subject to the completion of a Section 106 legal agreement.
- **Amenity** – the development could be designed to be acceptable in amenity terms in accordance with Policy DM10 of the SADMP and Good Design SPD.
- **Flood Risk and Drainage** - Hinckley and Bosworth Borough Council Drainage Officers considered that the proposals are acceptable subject to conditions. *[NB: since the Decision Notice and Officers Report were issued, comments were received from the LLFA. These have been addressed as part of this re-submission].*
- **Ecology and Biodiversity** – the proposals comply with Policy DM6 of the SADMP subject to conditions to secure biodiversity net gain and protection of existing habitats and wildlife.
- **Trees** – the proposals does not impact on protected trees, would deliver significant tree planting and are acceptable having regard to Policy DM6 and Policy 12 of the BNP.

Overview

- 4.13 Overall, despite concluding that: i) the presumption in favour of sustainable development was engaged; ii) the proposals were acceptable, as a matter of principle; iii) the scheme would deliver significant benefits, including over 343 much needed new homes, and a substantial package of planning obligations, Officers considered that the impacts of the proposals in terms of safety of the proposed access and impact on the local highway network, would significantly and demonstrably outweigh the benefits of the proposals when assessed against the NPPE.
- 4.14 This application has, therefore, been prepared to address the highways concerns raised and respond to subsequent feedback received through engagement with Officers and the LCC Highways following the refusal of the 2022 application.

5. The Development Plan

- 5.1 Section 38 of the Planning and Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 5.2 The site is located in Hinckley and Bosworth Borough, where the Development Plan comprises the Local Plan 2006-2026. This consists of the Core Strategy, the Site Allocations and Development Management Policies Development Plan Document, and the Burbage Neighbourhood Plan.

Core Strategy

- 5.3 The Core Strategy was adopted in December 2009 and provides the over-arching strategy and vision for growth in the Borough up until 2026. The Core Strategy was prepared to deliver the strategy identified in the now revoked East Midlands Regional Plan. It was also prepared and adopted prior to the publication of the original National Planning Policy Framework (NPPF) and revisions to it.
- 5.4 Section 4 of the Core Strategy sets out the spatial strategy for the Borough and categories settlements as Urban and Rural Areas. The four Main Settlements are confirmed as Hinckley, Burbage, Barwell and Earl Shilton. The Strategy recognises Hinckley as a sub-regional centre where the majority of development within the plan period should be focused, but that all four settlements work together as an 'urban area' with clear linkages.
- 5.5 **Policy 4: Development in Burbage** seeks to support Burbage's role as one of the main settlements. The policy states that:

"To address the small pockets of deprivation in Burbage, support the Burbage local centre and support Hinckley's role as a sub-regional centre, the council will:

- Allocate land for the development of a minimum of 295 new residential dwellings, focusing primarily to the north of Burbage, adjacent to the Hinckley settlement boundary to support the Hinckley sub regional centre. In particular, the council will seek to diversify the existing housing stock to cater for a range of housing types as supported by Policy 15 and Policy 16" (Our own emphasis added).*

- 5.6 This policy also seeks to ensure that development proposals contribute to Burbage's character and sense of place, and that the settlement's infrastructure can accommodate the new development. As part of this, the Council will *"Protect and preserve the open landscape to the east which provides an*

important setting for the village and seek to enhance the landscape structure which separates the village from the M69 corridor as supported by the Hinckley & Bosworth Landscape Character Assessment”.

- 5.7 **Policy 5: Transport Infrastructure in the Sub-regional Centre** states that additional transport interventions are proposed to support increased development in and around the Hinckley sub-regional centre, which will in turn support sustainable development in the area. This will include the provision of new transport linkages from existing urban areas for buses, walking, cycling and local traffic.
- 5.8 **Policy 15: Affordable Housing** states that to support the provision of mixed, sustainable communities, a minimum of 2090 affordable homes will be provided in the borough from 2006 to 2026. To achieve this, the council will expect a proportion of affordable housing to be provided on eligible sites.
- 5.9 This policy sets out the starting point for the level of affordable housing in the urban areas of Hinckley, Barwell, Earl Shilton and Burbage. Through this, development proposals of 15 dwellings or more, or on sites of 0.5 hectares or more, are expected to deliver 20% affordable housing.
- 5.10 The policy also seeks a tenure split of 75% social rented and 25% intermediate housing, although notes that this is subject to amendment depending upon changes in the housing market and local circumstances. Any changes to tenure split will be provided through an Affordable Housing Supplementary Planning Document.
- 5.11 **Policy 16: Housing Density, Mix and Design** relates to the density, mix and design of new housing. The policy explains that the Council requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings taking into account the type of provision likely to be required. The policy directs the reader to Table 3 within the Core Strategy as a starting point for calculating housing mix alongside other up to date evidence. A copy of Table 3 is provided below:

Table 3: Profile of new housing needed to meet household type projections

Medium and Larger Family Units*	Multi-person Provision, Student Housing, Flats etc	Smaller and Medium Sized Units**
32%	4%	64%

(Source: Strategic Housing Market Assessment Page 6-194, Figure 6-30)

* two and three bed houses and larger = medium to larger family units

** one and 2 bed flats, 2 bed houses and 2 bed bungalows = smaller and medium

- 5.12 The policy states that all development of 10 or more dwellings should meet a ‘very good’ rating (16 or more positive answers out of 20) against the Building for Life criteria, unless it can be demonstrated that this is not viable on the site.

5.13 The policy also sets out the density standards for new residential development. The policy states that new residential development should be provided at least 40 dwellings per hectare within and adjoining Hinckley, Burbage, Barwell and Earl Shilton. The policy explains that in exceptional circumstances, where individual site characteristics dictate and are justified, a lower density may be acceptable.

5.14 **Policy 19: Green Space and Play Provision** sets out the standards for the quantity and location of different types of green space and play provision for the Borough's residents. These requirements are:

Quantity		
Equipped Children's Play Space		A minimum of 0.15 ha/1000 population (excluding buffer zones)
Casual/Informal Play Space		A minimum of 0.7 ha/1000 population
Outdoor Sports Provision		A minimum of 1.6 ha/1000 population
Accessible Natural Green Space		A minimum of 2 ha/1000 population
Accessibility		
District Parks and Green Spaces		All households should be within 5 kilometres of an open space of at least 10 hectares which provides general facilities for recreational activity within a landscaped setting
Neighbourhood Parks and Green Spaces		All households should be within 600 metres of an open space of between 1 and 10 hectares which provide general facilities for recreational activity within a landscaped setting
Local Parks and Green Space		All households should be within 400 metres of an open space of between 0.2 - 1.0 hectare which provide facilities for recreation within a localised area, catering for the specific informal needs of the local community
Incidental/Amenity Green Space		All household should be within 300 metres of a small formal or informal area of open space

Site Allocations and Development Management Policies DPD

5.15 The Site Allocations and Development Management Policies DPD ("SADMP") was adopted in July 2016 and allocates land to deliver the development requirements in the Core Strategy. It also sets out a series of development management policies used when determining planning applications in the Borough.

- 5.16 **Policy DM1: Presumption in Favour of Sustainable Development** reflects the presumption in favour of sustainable development, as set out in the NPPF (2021).
- 5.17 **Policy DM3: Infrastructure and Delivery** states that where development will create a need to provide additional or improved infrastructure, amenities or facilities, developers will be expected to make an appropriate financial contribution. The policy states that appropriate justification will be required when viability issues require development to offer a reduced contribution.
- 5.18 **Policy DM4: Safeguarding the Countryside and Settlement Separation** seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside by safeguarding it from unsustainable development. The policy lists the situations in which development in the countryside is 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;*
- 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"*

5.19 **Policy DM6: Biodiversity and Geodiversity** seeks to ensure that development proposals conserve and enhance features of nature conservation and requires major development proposals to include measures to deliver biodiversity gains. The policy states that on-site features should be retained, and that the removal or damage of features should be mitigated for so that the proposal results in no net loss of biodiversity. It confirms that if harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.

5.20 **Policy DM7: Preventing Pollution and Flooding** requires developments to ensure that adverse impacts from pollution and flooding will be prevented.

5.21 **Policy DM10: Development and Design** sets out a number of requirements for new development, including:

- a) *development should not have a significant adverse effect on the privacy and amenity of nearby residents, and that occupiers of the proposed development should not be adversely affected by activities in the vicinity of the site;*
- b) *it complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features;*
- c) *the use and application of building materials respects the materials of existing buildings and the local area;*
- d) *development incorporates a high standard of landscaping;*
- e) *development maximises opportunities for the conservation of energy and resources through design, layout, orientation and construction;*
- f) *that electric charging points are included where feasible where parking is proposed;*
- g) *that a Sustainable Drainage Scheme is included in the application submission which incorporates wildlife areas, ponds, swales and permeable paving where appropriate; and*
- h) *that development maximises natural surveillance and incorporates the principles of Secured by Design.*

5.22 **Policy DM11: Protecting and Enhancing the Historic Environment** confirms that the Council will protect, conserve and enhance the historic environment throughout the Borough. The policy requires

all development proposals to demonstrate any impact they may have on heritage assets and archaeology.

- 5.23 **Policy DM12: Heritage Assets** requires all development proposals affecting heritage assets and their setting to secure their continued protection or enhancement, contribute to the distinctiveness of the areas in which they are located and contribute to the wider vibrancy of the borough.
- 5.24 **Policy DM13: Preserving the Borough's Archaeology** builds on policy DM11 and requires that proposals with the potential to impact a site of archaeological interest should set out an appropriate desk-based assessment *"and, where applicable, the result of a field evaluation detailing the significance of any affected asset"*.
- 5.25 **Policy DM17: Highways and Transportation** states that development proposals will be supported where they:
- a) *seek to make the best use of existing public transport services;*
 - b) *seek to ensure convenient and safe access for walking and cycling to services and facilities;*
 - c) *demonstrate that the development will not have a significant adverse impact on highway safety;*
 - d) *ensure the development is located where sustainable transport modes can be maximised and the need to travel is minimised; and*
 - e) *demonstrate that the residual cumulative impacts of development on the transport network are not severe.*
- 5.26 **Policy DM18: Vehicle Parking Standards** states that development proposals should provide an appropriate level of parking provision that is justified by an assessment of the site location, type of housing, and access to other modes of transport (including public transport and the cycle network).

Burbage Neighbourhood Plan (2015 – 2026)

- 5.27 Following an independent examination and a positive referendum result on 6th May 2021, the Burbage Neighbourhood Plan was 'made' on 10th May 2021. The Neighbourhood Plan now forms part of the development plan for Hinckley and Bosworth and will be used to determine planning applications.
- 5.28 The following policies are of relevance to this proposal:
- 5.29 **Policy 1: Settlement Boundary** states that residential development on land within or adjacent to the settlement boundary will be supported, subject to complying with other development plan policy.

- 5.30 **Policy 2: Design and Layout** states that any future residential development within the Parish of Burbage must respect its surroundings and, where appropriate, should follow the existing pattern of development and should retain existing important natural features on the site, such as trees, hedgerows and streams.
- 5.31 **Policy 4: Parking** states that at least two off-street car parking spaces should be provided within the curtilage for each new 2 bed or larger dwelling development within the Parish unless it is unachievable.
- 5.32 **Policy 5: Footpaths and Cycleways** states that the protection of footpaths and cycleways will be supported.
- 5.33 **Policy 9: Wildlife and Green Corridors** states that development should seek to protect and enhance the network of green spaces, stepping stones and wildlife corridors including species rich hedgerows, which provide a valuable linear network for movement, as well as providing a habitat for wildlife.
- 5.34 **Policy 10: Landscape Character** states that development which has a significant adverse impact on the viewpoint shown on the Landscape Setting and Key Views Map (Figure 27, page 66 of the plan), which cannot be mitigated, will not be supported.
- 5.35 **Policy 11: Area of Landscape Sensitivity** refers to an area of open countryside, as shown on the Landscape Setting and Key Views Map (Figure 27, page 66 of the plan), which has been designated as an area of landscape sensitivity. The part of the site to the south of Aston Flamville Road is identified within the Area of Landscape Sensitivity, Through this, *“any new development should:*
- a) *Seek to avoid development on the higher ridge top area adjacent to the cemetery which forms the immediate rural setting to the historic core of Burbage – and maintain this area as a rural green wedge.*
 - b) *Plan for successful integration of development in the landscape through sensitive design and siting, including use of appropriate materials and landscape mitigation to enhance sense of place.*
 - c) *Seek to retain historic field patterns where distinctive s-shaped or dog-leg boundaries remain.*
 - d) *Retain pattern of hedgerows and hedgerow trees and incorporate further buffer planting to major transport corridors and new development.*
 - e) *Promote opportunities to maintain and enhance the network of rights of way and consider opportunities to create and promote an integrated green infrastructure network around Burbage, Hinckley, Barwell and Earl Shilton urban edge.*

- f) Protect localised areas that retain a natural character, notably the small areas of seminatural woodland, plus streams and small waterbodies."*

5.36 We note that this is a permissive policy that seeks to guide development rather than prevent it.

6. Other Material Considerations

- 6.1 Other material considerations relevant to assessing the planning potential of the site include the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG), emerging policy and any relevant supplementary planning documents. These are summarised below.

National Planning Policy Framework

- 6.2 The National Planning Policy Framework (NPPF) was published in March 2012 and has subsequently been revised in July 2018, February 2019 and July 2021. The NPPF provides guidance for local planning authorities both in drawing up planning policy and making decisions about planning applications.

The Presumption in Favour of Sustainable Development and the Tilted Balance

- 6.3 Underpinning the NPPF is a presumption in favour of sustainable development. This reflects a desire for the planning system to positively and proactively support sustainable development proposals rather than act as an impediment to development.

- 6.4 Paragraph 11 states how the presumption in favour of sustainable development should be applied for both plan-making and decision-taking. For decision-taking, the paragraph states that this means:

- c) *“approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. *the application of policies in [the NPPF] 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.”*

- 6.5 Footnote 7 of the NPPF clarifies those policies in the Framework which could provide a ‘clear reason’ for refusing the development proposed in accordance with Paragraph 11 d) i.

- 6.6 Footnote 8 clarifies what “out-of-date” can mean in relation to the application of the presumption. It states that:

“for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in

paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.”

- 6.7 At paragraph 47, the NPPF emphasises that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 6.8 Paragraph 48 advises that LPAs may give weight to emerging plans according to their stage of preparation, with the more advanced the emerging plan, the greater the weight that may be given.
- 6.9 The revised NPPF continues to focus on the delivery of the Government’s core objective of boosting significantly the supply of new homes, as set out in Section 5.
- 6.10 Paragraph 74 requires LPAs to *“identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old”*. It explains that the supply of specific deliverable sites should include an appropriate buffer.

Healthy and Inclusive Communities

- 6.11 The development of healthy and inclusive communities is pursued in Section 8 of the NPPF. Paragraph 92 sets out that planning policies and decisions should aim to achieve healthy, inclusive and safe places which:
- promote social interaction;
 - are safe and accessible; and
 - enable and support healthy lifestyles.
- 6.12 Paragraphs 98 to 103 relate to open space. The paragraphs explain that planning decisions should protect and enhance Public Rights of Ways, and that access to a network of high-quality open spaces is important for the health and well-being of communities.

Transport

- 6.13 Chapter 9 relates to the promotion of sustainable transport. Development proposals are directed towards sustainable locations, with an emphasis on ensuring that opportunities to promote walking, cycling and public transport are optimised. It also states 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.

Design

- 6.14 Chapter 12 relates to the creation of well-designed places. The chapter explains that achieving high quality places is fundamental to the planning system, and that *"good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities."* At paragraph 130, the NPPF states that developments 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..."*

Flooding

- 6.15 Paragraphs 159 to 169 relate to flood risk. The paragraphs explain that major development proposals should incorporate sustainable drainage systems (SUDS), and that, where possible the drainage systems should provide multifunctional benefits. In relation to flood risk it seeks to direct new development to areas at lowest risk of flooding. It confirms that schemes should be safe for the lifetime of the development and not increase flood risk elsewhere.

The Natural Environment

- 6.16 Chapter 15 of the NPPF includes policy which seeks to conserve and enhance the natural environment.
- 6.17 Paragraph 174 seeks to do so by protecting sites of biodiversity value, commensurate with their status, recognising the intrinsic character and beauty of the countryside and wider benefits including the economic and other benefits of best and most versatile agricultural land and trees and woodland. It also seeks to minimise impacts on and provide net gains for biodiversity, prevent new and existing development from contributing to, being put at unacceptable risk from or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.
- 6.18 Paragraph 180 establishes that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 6.19 Paragraph 183 establishes that decisions should ensure that:
- a) *a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*

- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

6.20 Paragraph 185 confirms that decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Historic Environment

6.21 Chapter 16 seeks to conserve and enhance the historic environment. Paragraph 194 of the NPPF requires that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, developers are to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Planning Obligations

6.22 In respect of planning obligations, the Framework advises that these should only be used where it is not possible to address unacceptable impacts of the proposed development through a planning condition. They should, in addition, meet all of the following tests, which mirror those in the Community Infrastructure Levy Regulations 2010:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The Planning Practice Guidance

- 6.23 The Planning Practice Guidance (PPG) was originally published in March 2014 and is a web-based resource that aids the interpretation of policies contained in the NPPF through the provision of detailed guidance.

Supplementary Planning Documents

Hinckley and Bosworth Borough Council Good Design Guide SPD

- 6.24 HBBC appointed urban designers, Node, to produce 'The Good Design Guide' which was adopted by the Council as an SPD in March 2020.
- 6.25 The Design Guide seeks to raise design quality in the Borough whilst ensuring that the local identity and heritage of the Borough is preserved and enhanced. The document provides guidance for masterplanning and residential design and includes a short design assessment of Burbage.

Affordable Housing SPD

- 6.26 HBBC adopted an Affordable Housing SPD in February 2011.
- 6.27 The SPD reiterates the Core Strategy requirement for the provision of 20% affordable housing in the Urban areas of Hinckley, Barwell, Earl Shilton and Burbage on development sites of 0.5 hectares or more.
- 6.28 The SPD also provides an indicative tenure split for affordable housing. Key Policy Principle AH1 suggests that the starting position for negotiations between HBBC and developers will be for 75% of new affordable housing to be for social rent, with 25% for intermediate tenure.

Emerging Hinckley and Bosworth Local Plan Review

- 6.29 The Council is preparing a new Local Plan, which when adopted, will form part of the statutory Development Plan for the Borough and will replace the Core Strategy (2009) and the SADMP DPD (2016). The new Local Plan will establish a spatial strategy for the distribution of growth over the plan period until 2039 and will set out strategic policies to address the development and use of land within the borough.
- 6.30 Numerous public consultations have taken place regarding since 2016 which have fed into the preparation of this emerging development plan document including:
- Growth Workshops: January and May 2016

- Scoping, Issues and Options Consultation: January – March 2018
- New Directions for Growth Consultation Paper: January – March 2019
- Sustainability Appraisal: November 2020 – January 2021
- Regulation 18 - Draft Local Plan: June – August 2021
- Regulation 19 – Pre-submission Plan: February – March 2022

6.31 HBBC published its latest Local Development Scheme (LDS) in February 2022. The LDS sets out the timetable for the preparation of emerging planning policy although we note that the published dates have slipped.

6.32 Paragraph 48 of the NPPF states that local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

6.33 Whilst the emerging Plan has reached a relatively advanced stage it is yet to be submitted and examined. On this basis, the emerging Plan carries less than full weight.

6.34 Relevant policies contained within the Regulation 19 document consulted on in February 2022 which are relevant to this planning application include:

6.35 **Policy SS02: Development Strategy** sets out that development in the Borough will be directed to the most sustainable locations based on a hierarchy of settlements, with the majority of homes directed to the urban area. Provision will be made for a minimum of 9,124 dwellings during the plan period 2020-2039, with 1,862 homes being provided through non-strategic allocations in the Local Plan as set out through Policy HO01.

6.36 This is based on the Council's calculation of its minimum local housing need applying the standard method. The figure referred to in the draft Plan is 444 dwellings per annum (8,436 over the Plan period).

However, when re-calculated by Avison Young, as at August 2022, we find that the local housing needs is now 472 dwellings per annum.

- 6.37 **Policy SS05: Strategy for Burbage** aims to support Burbage's role as a key local centre with strong links to the Hinckley urban area.
- 6.38 **Policy SS03: Local Plan Review** confirms that within 6 months of the publication of a Statement of Common Ground for the apportionment of unmet housing need, the Council will publish a review of the Local Plan. Should a full or partial update be triggered by the review, the Council will commence the review (through the commencement of a Regulation 18 consultation) within 12 months of the publication of the review. Once the update has commenced the plan will be submitted for Examination within 36 months.
- 6.39 **Policy HO01: Provision of New Housing** sets out that in order to meet the strategy for housing, as set out in Policy SS02, planning permission will be granted for residential development on sites allocated on the Policies Map provided the development is in accordance with other relevant policies of the Development Plan. This policy includes the allocation of this site under the following references:

Site Allocation Reference	SHELAA Ref.	Site	Minimum Housing to be delivered (2020-2039)
BUR01H	AS134	Land at Manor Farm, Aston Flamville Road, Burbage	75
BUR02H	AS135	Land off Sapcote Road, Burbage	105
Total			180

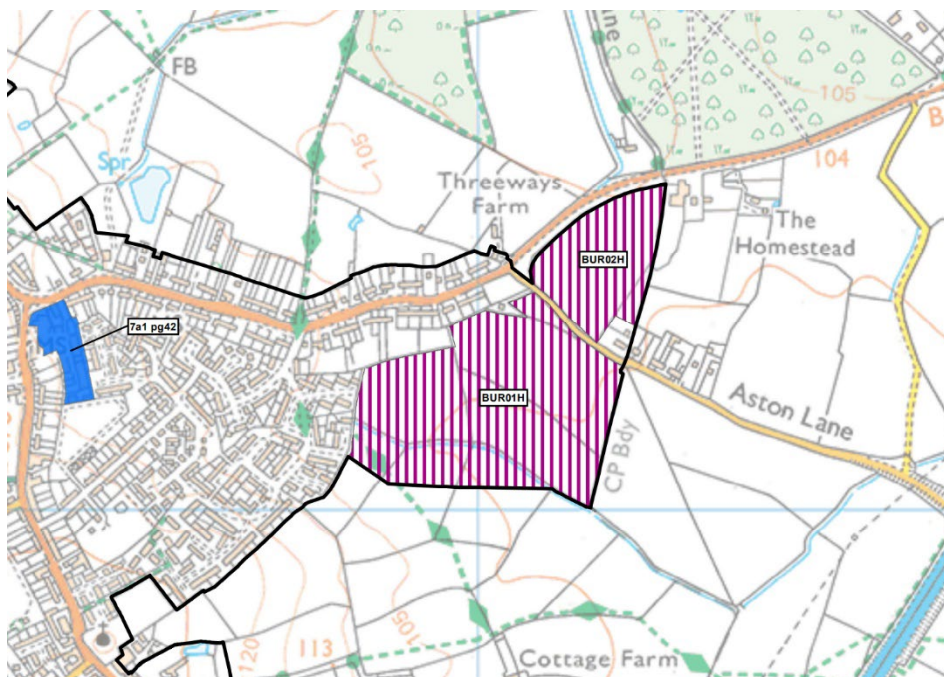


Figure 1- Extract from the HBBC Regulation 19 settlement map for Hinckley and Burbage showing BUR01H and BUR02H

- 6.40 **Policy HO04: Housing Density** confirms that a minimum density target of a least 45 dpa within and adjoining Hinckley, Burbage, Barwell and Earl Shilton should be provided, unless justified through principles of good design.
- 6.41 **Policy HO09: Affordable Housing** requires a total of 20% affordable housing to be provided onsite within or adjacent to the settlement boundaries of Hinckley, Barwell, Earl Shilton and Burbage. 25% of all affordable homes on qualifying sites will be sought as First Homes, 56% for affordable rent and 19% for affordable ownership. Any reduction on viability grounds will require an independent viability assessment.

Leicestershire Strategic Growth Plan

- 6.42 A consortium of Local Authorities in Leicestershire published the non-statutory Leicester & Leicestershire Strategic Growth Plan (SGP) in December 2018. The Strategic Growth Plan sets out the aspirations for growth and development in the county for the period to 2050.
- 6.43 The Plan seeks to strengthen Leicester's role at the centre of the city region. The Plan recognises that Leicester is unable to meet its objectively assessed need (OAN) for housing within the authority area during the period to 2031 and that Oadby and Wigston Borough is also unlikely to be able to meet its needs in the period 2031 – 2036. The SGP sets out 'notional' figures in terms of how the housing needs within the HMA could be met in and distributed between the adjoining authorities including HBBC.

However, this analysis pre-dated the publication of the 'standard method' and the draft Leicester Local Plan.

- 6.44 Following the publication of the draft Leicester Local Plan in September 2020, a Joint Position Statement relating to Leicester's Housing and Employment Land Needs was published by the Leicestershire Authorities. This confirmed that the draft Leicester Plan identifies a potential unmet need of 7,742 homes and 23 hectares of employment land 2019-2036. The Leicester and Leicestershire authorities have been progressing work on a Sustainability Appraisal to assess options for where the unmet need could be appropriately distributed across the area. This information would inform a Statement of Common Ground setting out how any unmet need from Leicester would be distributed amongst the HMA authorities.
- 6.45 In December 2020 the Government published a new standard method for calculating housing need. The new method increased Leicester's housing need by 35% from 1,734 dwellings to 2,341 dwellings per annum (dpa). This significant increase added a further 9,712 homes to their total housing need between 2020 and 2036.
- 6.46 In June 2021 an initial Statement of Common Ground was prepared by the Leicester and Leicestershire authorities to support the Charnwood Local Plan through examination. This statement focused on programme of evidence-based work which needed to be undertaken, relating to Leicester and Leicestershire's Housing and Employment Needs to 2036, Unmet Need to 2036; and the process of apportioning unmet need to 2036.
- 6.47 In June 2022 an updated Statement of Common Ground was published which sets out how the unmet housing and employment need will be apportioned across the authorities following the completion of some of the evidence work including the Housing and Economic Needs Assessment (HENA) and the Sustainability Assessment (SA).
- 6.48 Leicester's standard method Local Housing Need figure is now 2,464 homes per year generating a need for 39,424 dwellings over the 2020-2036 period. This includes the 'cities and urban areas uplift' and the 2021 affordability ratios published in March 2022. The June 2021 Statement of Common Ground was informed by the evidence from Leicester's Draft Local Plan which sets out the City's capacity to accommodate growth over this period as 20,721 dwellings. An unmet need of 18,700 dwellings is therefore identified based on evidence at the current time. Although it is acknowledged that the quantity of Leicester's unmet need may change as the Local Plan progresses, the authorities have agreed a working assumption that Leicester's unmet need accounts to 18,700 homes and 23 hectares of employment land (2020-2036). The updated Statement of Common Ground sets out the local

housing need (per year) for the period 2020-2036, and how Leicester's unmet need will be retributed across the Leicestershire authorities. Hinckley and Bosworth's figures are set out below:

Authority	Local Housing Need	Proposed redistributed Housing Provision	Difference
Hinckley and Bosworth	472	659	+187

6.49 Based on the June 2022 Statement of Common Ground the apportionment of Leicester City's unmet for the period 2020 to 2036 to Hinckley and Bosworth is 187 dwellings per year. However, it is understood that HBBC do not agree with certain aspects of the methodology contained within the HENA, that ultimately apportions 187 dwellings per year of Leicester's unmet housing need to the Borough. HBBC considers that 102 dpa (85 dwellings per year lower than the apportionment suggested) is an initial justified apportionment of Leicester's unmet need for HBBC. HBBC is of the view that the methodology and redistribution of housing need is a 'starting point' for testing subject to the preparation of further evidence and testing through the Local Plan process.

6.50 Charnwood Borough Council has submitted its Plan for examination in December 2021, and consideration to housing and employment needs, including the implications of the SoCG in terms of the apportionment of Leicester's unmet needs, were discussed at length during the hearing sessions. The examination is on-going, with the Local Plan Inspectors requesting further information in relation to various matters in an update letter dated 23 May 2023.

Housing Land Supply Position

6.51 HBBC accepts that they do not currently have a five-year housing land supply. The most recent Residential Land Availability Monitoring Statement (covering the period 1st April 2021 – 31 March 2022) for the authority sets out that that the Council can demonstrate a supply of 4.89 years.

6.52 The Council's five-year housing land supply has been considered in several recent appeals, including the appeal decision relating to Land East of The Common, Barwell (Appeal Ref: APP/K2420/22/3295558) which was published on 27 March 2023. This decision sets out that the Council has a shortfall resulting in a supply of 4.75 years. As such, footnote 7 of the Framework establishes that the policies which are most important for determining the application are out-of-date.

6.53 Paragraph 11 (and footnote 8) of the NPPF make clear that where LPAs cannot demonstrate a five-year supply of deliverable sites, the policies which are most important for determining applications should be considered 'out-of-date'. The 'presumption in favour of sustainable development' is therefore engaged. For the current planning application, this means that planning permission should be granted unless any adverse impacts would "*significantly and demonstrably*" outweigh the benefits, when assessed against the NPPF as a whole.

7. Analysis of Planning Merits

Principle of Development

7.1 In determining the 2022 application HBBC accepted that:

- The Council is currently unable to demonstrate a five year supply of deliverable housing land.
- The “tilted balance” at paragraph 11(d) of the NPPF is engaged.
- Therefore, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- The site is a draft allocation for housing in the Reg 19 Pre-Submission Draft of the emerging Borough Plan and is a sustainable location for development in Burbage.
- The site is adjacent to the urban area of Burbage where residential development is in accordance with the policies in the BNP, subject to compliance with other policies in the Development Plan.
- The delivery of 343 homes, of which 20% are affordable, at the site, is a significant benefit that weighs positively in the planning balance along with other social, economic and environmental benefits.
- Residential development at the site does not comply fully with Policy DM4, but there would be no unacceptable landscape and visual impact arising from the proposals.
- The delivery of 343 dwellings at the site is considered acceptable in principle.
- The only factor weighing against the grant of planning permission for the 2022 application was LCC’s comments on the safety of the proposed access and the impact of the development on the local highway network.

7.2 On this basis, subject to the resolution of the highways reasons for refusal, we conclude that there is no harm that would significantly and demonstrably outweigh the benefits of the proposals. Therefore, permission ought to be granted without delay.

7.3 In this context, the following paragraphs seek to demonstrate that the current proposals cause no unacceptable harm to highways safety or impact on the highway network.

7.4 There were no other technical or design related reasons for refusal for the 2022 application. However, given the minor changes to the scheme as a result of the alternative access strategy, under the headings below, we summarise the other technical and environmental assessments which have been carried out to inform the proposals. These demonstrate that the development would not cause any material harm to the application site or its surroundings.

7.5 **Design and Other Technical Considerations**

Highways, Access and Car Parking

7.6 A Transport Assessment (TA) has been prepared by Tetra Tech to support the planning application following detailed scoping discussions with Leicestershire County Council and Highways England on the previous application, as well as detailed discussions regarding transport matters both during the determination of 2022 application, and post decision.

7.7 Tetra Tech has also prepared a Travel Plan (TP) which identifies a range of measures to encourage future residents to use sustainable modes of transport and minimise car usage.

7.8 Access into both parcels is proposed from a new roundabout located along Aston Flamville Road. The detailed access design is shown at Appendix D of the submitted Transport Assessment. The access has the following key features:

- 30m Inscribed Circle Diameter
- 4.8m Circulatory carriageway width

Entry Widths

- 4.0m entry widths on all arms

Entry Radii

- 20m entry radii on all arms

Exit Radii

- 20m exit radii on all arms

Carriageway Widths

- 6.75m wide carriageway serving the western parcel of development

- 5.5m wide carriageway serving the eastern parcel of development

Footways

- 2m wide footways on both sides of both site access arms

- 7.9 The proposed access arrangements have been designed to the appropriate technical standards, with appropriate visibility splays, and have sufficient operating capacity to cater for the scale of development proposed. Detailed access drawings are included as an Appendix to the TA.
- 7.10 Pedestrian and cycle access will be available from the proposed vehicular access. In addition, a dedicated pedestrian/ cycle access is proposed onto Dorchester Road to the west. The connection to Dorchester Road will provide a more direct, shorter route for pedestrians and cyclists between the site and the surrounding local areas. Connections to existing Public Rights of Ways will be provided as part of a network of informal walking routes through the green infrastructure provided within the site.
- 7.11 The TA considers also the accessibility of the site by sustainable modes of transport and concludes that the site benefits from a good range of local facilities and amenities within a reasonable walking and cycling distance of the site. It also confirms that the site is within a reasonable walking distance of regular bus services to Leicester and Hinckley. It is, therefore, considered that the site has a good level of accessibility by sustainable modes of transport.
- 7.12 In terms of highway safety, Tetra Tech has reviewed local road collision data and concluded that there are no particular road safety problems in the area that would be exacerbated by the proposed development.
- 7.13 During pre-application discussions with local Councillors, Members queried whether there was a need for any alterations or improvements to be made to the junction of Sapcote Road and Aston Flamville Road, in order to safely accommodate vehicle trips generated by housing development at the site. This has been considered by, TetraTech, as part of its Transport Assessment. Tetra Tech confirm that this junction operates with sufficient capacity when a post development scenario is applied. There are no records of any safety issues that would require any alterations or improvements to be made to the junction in order to satisfy Paragraph 111 of the NPPF.
- 7.14 The TA does however confirm that the Hinckley Road/ Sapcote Road/ B578 junction is shown to be operating above capacity before the introduction of development traffic, and therefore goes further over capacity when the development traffic is added in. To improve the current situation and mitigate any further impact resulting from the proposed development the existing priority junction is proposed to be improved to become a signal-controlled junction, in accordance with the junction layout drawing

shown at Appendix I of the submitted Transport Assessment. Jelson is willing to enter into discussions with the HBBC and the County Council regarding an appropriate level of contribution towards this scheme of improvement.

7.15 Through this revised application we intend to continue the positive dialogue with the County Council regarding highways matters.

7.16 As such, we conclude that the proposed development is in accordance with relevant planning policy and design guidance and is therefore acceptable in transport terms.

Design and Open Space

7.17 Aside from the changes to the overall access strategy the overall design of the proposals remains substantially the same as the 2022 application, which was considered acceptable by Officers and capable of complying with the relevant Development Plan policies at reserved matters stage.

7.18 The current proposals would deliver approximately 6.15 hectares of multifunctional green infrastructure and public open space. This would continue to exceed the local standards identified in Policy 19 in terms of the amount of play space and natural green space.

Housing Mix and Affordable Housing

7.19 Of the 343 dwellings proposed, 274 dwellings would be for open market sale and 69 dwellings (or 20% of the total) would be affordable, of which 75% would be affordable rent and 25% would be shared ownership/ intermediate.

7.20 It is anticipated that the scheme would provide a mix of 2 – 5 bedroom properties, including a mixture of terraced or linked units, townhouses, semi-detached and detached dwellings. However, the detailed housing mix would be finalised at the reserved matters stage.

7.21 It is therefore considered that these proposals comply with Policy 15 and 16 of the Core Strategy. Indeed, HBBC raised no objection to the proposed housing mix or affordable housing on the 2022 application.

Trees and Landscaping

7.22 No objection was raised in relation to impact on trees in respect of the 2022 application. Aside from the changes to the overall access strategy, the overall design of the proposals remains substantially the same as the 2022 application.

- 7.23 An Arboricultural Assessment has been prepared by FPCR to support this application. This includes an updated Tree Retention Plan which reflects the changes to the access strategy from the 2022 application. This shows that two low quality trees (T26 & T28) and a section of a low quality tree group G7 on Sapcote Road, which were originally proposed to be removed to accommodate a new access from Sapcote Road, can be retained under the current proposals. However, two low quality trees (T3 & T4), a section of hedge and a section of low quality tree group G1 would be removed to facilitate the new access roundabout.
- 7.24 Therefore, the current proposals would have no greater impact on trees than the 2022 application and continues to provide significant opportunity for new planting as part of the proposed open space and Green Infrastructure.
- 7.25 Since the 2022 application was refused, a Tree Preservation Order (TPO) has been made which protects three trees (T5, T6 and T8) on the western boundary of the site (Ref. 23/00001/TPORD). These trees would be retained as part of the development.
- 7.26 On this basis, we conclude that the current proposals comply with policies DM6 of the SADMDPD and Policy 12 of the BNP.

Ecology

- 7.27 An updated Ecological Appraisal has been prepared by FPCR following updates to various site surveys and desk-based research as part of this revised planning application. The key findings and recommendations of the appraisal remain largely consistent with the information submitted as part of the 2022 application.
- 7.28 We will submit the updated report shortly, which also includes an updated Biodiversity Net Gain (BNG) assessment.
- 7.29 Taking the findings and recommendations of the Ecological Appraisal into account, alongside the conclusions previously reached by Morph Ecological Consultants on behalf of LCC's Ecology team, we conclude that the development proposals comply with policy DM6 of the SADMP and national policy.

Flood Risk and Drainage

- 7.30 A Flood Risk Assessment (FRA) and Drainage Strategy has been prepared by Avison Young. This report is an update to the one submitted as part of the 2022 Application and seeks to address the comments made by the LLFA. It is noted that a 3rd Party detailed review of the hydraulic flood model has been instructed, and the results will be shared with the LLFA in early July once received.

- 7.31 The FRA and Drainage Strategy confirms that the Environment Agency (EA) Flood Map for Planning shows the site is entirely within Flood Zone 1 (i.e. at a low probability/ risk of flooding).
- 7.32 The report also confirms that a small network of land drains run through the site. The recently revised Hinckley and Bosworth Borough Council Level 2 Strategic Flood Risk Assessment (May 2020) provides high level flood modelling which includes flood risk from the Main Drain and Drain. The results of this assessment show that the central and south-eastern portion of the site is at risk of flooding. To help understand the risks associated with the watercourses, JBA Consulting was commissioned to undertake a detailed hydraulic flood modelling study to further understand flood risk associated with the land drains, and to identify mitigation measures required to reduce the risk of flooding to the development area. The modelling results show that the flood extent is similar to the SFRA, however the flood depths are generally shallow ranging from 1cm to 15cm.
- 7.33 To reduce the flood extent across the development area, various flood mitigation options have been tested to reduce flood risk without increasing flood risk elsewhere. A solution has been identified which includes:
- The removal of three undersized culverts
 - Raising the bank levels of the Main Drain and Drain
 - Creating a flood storage area with a flow structure at the southern end of the site
 - A 1m deep low flow channel running along the Flood Storage Area with a lowered left-hand bank to allow excess water to spill directly into the Flood Storage Area.
- 7.34 Post development modelling shows that by incorporating the above measures, all development falls outside of the 1 in 100-year plus 30% flood outline.
- 7.35 A number of further flood risk developer recommendations have been made through the submitted FRA and Drainage Strategy.
- 7.36 The Flood Risk Assessment also confirms that the risk of flooding from other sources including surface water, ground water, artificial sources and sewer flooding is low or very low.
- 7.37 Avison Young has also prepared a surface water Drainage Strategy for the site. This proposes a separate surface water drainage system that discharges to the existing ditches with peak flow limited to greenfield flow rates by attenuating surface water run-off within SuDS attenuation basins. On that basis, it is proposed that surface water be drained via a combination of traditional pipe network and various SuDS features.

- 7.38 The development also proposes to retain the existing drains as open channels with recommendations for mitigation measures to improve existing drainage conditions featuring in the submitted Drainage Strategy.
- 7.39 The Drainage Strategy has been designed to contain flood water during the 1 in 100-year storm event (plus 40% allowance for climate change).
- 7.40 In terms of foul drainage, Avison Young proposes that foul water would be discharged to the existing public foul water and combined sewers located within and in close proximity of the site. A foul pumping station is required to drain the site due to the topography.
- 7.41 A pre-development enquiry response from Severn Trent Water has confirmed that the existing sewerage network has adequate capacity to serve the proposed residential development. It has been recommended through the submitted Drainage Strategy that further consultation with Severn Trent Water is undertaken to investigate the option of a gravity connection directly into their foul water pumping station on Sapcote Road.
- 7.42 On this basis we conclude that the proposals comply with the relevant local and national flood risk and drainage policy and guidance, including Policy DM7 and DM10.

Ground Conditions

- 7.43 The application is supported by a Phase 1 Environmental Report, prepared by Avison Young. The Report concludes that the application site represents a low environmental risk for future redevelopment for a residential end user.
- 7.44 The Report includes a number of recommendations including that ground investigations and an appropriate Quantitative Risk Assessment be carried out prior to each phase of development. It also recommends that a Materials Management Plan be developed at an early stage to help provide the most sustainable and cost-effective solution for the reuse on or off site of soil to be removed.
- 7.45 In response to the 2022 application, the Council's Environmental Health team confirmed that any necessary ground investigations could be secured by way of planning condition.
- 7.46 As such, we consider that taking into account the recommendations within the Phase 1 Environmental Report, the development proposals comply with Policy DM7 of the SADMP.

Loss of Agricultural Land

- 7.47 An Agricultural Land Classification Survey has been undertaken by Kernon Countryside Consultants.

- 7.48 This confirms that of the 16 hectares of land within the application site 5.7 hectares (35.6%) of the site can be classified as Grade 3a 'good quality' land which falls within the definition of 'Best and Most Versatile' agricultural land.
- 7.49 The remainder of the site is Grade 3b 'moderate quality' land or classified as other land and not surveyed, this does not constitute 'Best and Most Versatile' agricultural land.
- 7.50 The Council published its own 'Agricultural Land Study' in 2020 which surveyed the area south of Burbage. These estimates show a mixture of Grades 1, 2 and 3a with subgrade 3b. Some 73% of the area surveyed was estimated to be BMV. The application site, with 35.6% BMV, is poorer than the surveyed area in the Council's study and so compares favourably.
- 7.51 There are no local policies relating to best and most versatile agricultural land. However, paragraph 174 of the NPPF requires planning decisions to recognise the *"economic and other benefits of the best and most versatile agricultural land"*.
- 7.52 The PPG confirms that local authorities are only required to consult Natural England in relation to the loss of best and most versatile land on applications for 'large-scale' non-agricultural development. The Natural England Guidance defines 'large-scale' as *"likely to cause the loss of 20 hectares or more of BMV land"*.
- 7.53 The scale of BMV land that would be lost as a result of the proposals is clearly far below the threshold above which Natural England would be consulted on a planning application and the loss of a very small area of BMV would not have any material adverse impact on the overall stock of BMV land in the Borough.
- 7.54 Furthermore, the assessment by Kernon Consulting concludes that the loss of c. 5.7 hectares of BMV land would only have a very small economic impact that would clearly be outweighed by the economic benefits of the development itself.
- 7.55 On this basis, it is considered that the loss of a very small area of BMV is insignificant.

Heritage and Archaeology

- 7.56 In determining the 2022 application, HBBC concluded that the proposals would cause no harm to the significance of the relevant designated heritage assets (i.e. Grade II* listed building the Church of St Catherine and the Burbage Conservation Area). The current proposals are substantially the same as the 2022 application and would, therefore, cause no harm to the significance of designated heritage assets. The proposals would, therefore, comply with the relevant Development Plan policies.

- 7.57 In terms of Archaeology, we note that LCC's Archaeologist was not consulted on the 2022 application. However, an Archaeological Desk-Based Assessment has been prepared by the University of Leicester Archaeological Services (ULAS) to support the application. A geophysical survey of the site has also been undertaken by SUMO Geophysics Ltd with the results summarised in the Desk-Based Assessment.
- 7.58 The Assessment concludes that there is moderate potential for pre-historic and Roman remains to be present, and low potential for Anglo-Saxon, medieval and post-medieval remains within the proposed development area.
- 7.59 It is considered that the assessment undertaken by ULAS is sufficient to meet the requirements of Paragraph 194 of the NPPF and that any further archaeological work could be secured by way of a planning condition.

Landscape and Visual Impact

- 7.60 The application is supported by a Landscape and Visual Impact Assessment prepared by FPCR. In considering the 2022 application Officers agreed with the conclusions of FPCR's assessment and concluded that the proposals would have no unacceptable adverse landscape and visual impact. Officers also concluded that the proposals would not affect the 'key viewpoint' identified in Policy 10 of the BNP and would comply with the criteria set out a Policy 11 of the BNP.

Other Benefits

- 7.61 In accordance with paragraph 11 d) of the NPPF it is necessary to weigh any adverse impacts against the benefits of the proposals.
- 7.62 In addition to those benefits highlighted in the paragraphs above, the scheme would deliver a range of other benefits including:
- the delivery of a mixture of market and affordable dwellings, boosting the supply in an area where the adopted Plan is based on an out-of-date requirement, there is evidence of a local need for market and affordable housing and the Council is unable to demonstrate sufficient supply of deliverable housing land;
 - the provision of housing in a sustainable location on the edge of an 'Urban Centre' that is accessible to a range of local services and amenities in the village and is well-served by public transport;
 - the provision of housing on a site which has been identified as the preferred location for housing growth in Burbage in the Regulation 19 Pre-Submission Draft of the emerging Local Plan;

- substantial new green infrastructure, including formal and informal open spaces, wildlife habitats, retained landscape features and significant areas of new woodland planting;
- new play areas and recreational facilities through the proposed open space;
- improvements to the pedestrian and cycle network within and in the vicinity of the site through the creation of new footpaths and cycle ways through the development which will improve connectivity to the village and surrounding countryside;
- improvements to the Burbage Road, Sapcote Road, Hinckley Road junction which is current operating above capacity through the introduction of a signal-controlled junction;
- job creation (on site, during the construction period);
- the generation of additional population in Burbage resulting in:
 - increase local spend which would support the vitality and viability of local services and facilities;
 - a more sustainable, vital and cohesive community;
 - additions to the local employment pool, assisting with economic growth;
- the generation of Council Tax and New Homes Bonus to be spent in the local area; and
- substantial contributions to local infrastructure through appropriate site-specific planning obligations (see Section 8 for proposed Heads of Terms).

The Planning Balance

- 7.63 For the reasons set out in the paragraphs above, the Council has accepted that the delivery of up to 343 dwellings at the site would represent sustainable development that is acceptable, as a matter of principle, subject to the resolution of the identified highways reasons for refusal.
- 7.64 An alternative access strategy has been developed following further engagement with LCC Highways. It is considered that the amended access solution ought to be sufficient to demonstrate that the proposals would benefit from safe and suitable access for all users. An updated Transport Assessment has also been prepared.
- 7.65 We, therefore, consider that the highways reasons for refusal of the 2022 application have been addressed and the revised proposal presents no unacceptable impacts in highways terms.
- 7.66 On this basis, we conclude that any harm arising from the proposals would clearly not *"significantly and demonstrably outweigh the benefits"* when assessed against the Framework and permission should be granted in accordance with paragraph 11 d) of the NPPF.

8. Affordable Housing Statement

- 8.1 Policy 15 of the adopted Core Strategy sets out the planning policy position regarding affordable Housing. This policy confirms that a minimum of 2090 affordable homes will be provided in the Borough from 2006 to 2026.
- 8.2 For the Urban Areas of Hinckley, Barwell, Earl Shilton and Burbage, developments which comprise of 15 or more dwellings are required to deliver 20% affordable housing onsite with a tenure split of 75% social rented and 25% intermediate housing. The Policy confirms that these targets will be monitored regularly and may be revised to reflect changes in the housing market and local circumstances.
- 8.3 Jelson is committed to providing 20% onsite affordable housing, in accordance with adopted policy. This would be secured through a Section 106 legal agreement and further details will be provided at the detailed design stage.

9. Planning Obligations

- 9.1 As with all new residential development, the new homes proposed, and new population that they will create, will have some impact on the local services and infrastructure. The provision of infrastructure to cope with any additional demand is a matter that the applicant takes very seriously, and it should be borne in mind that impacts on local infrastructure are not necessarily negative. This development provides one of the few opportunities to invest in and improve local facilities and improve viability.
- 9.2 Whilst planning policy is clear that development must mitigate its impact, any contributions must also meet the legal tests set out in Regulation 122 of the Community Infrastructure Regulations (CIL Regulations). This requires contributions to be necessary, directly related to the development and proportionate to its impacts. As a consequence, we have built up a list of those areas to which the development may have to contribute in order to mitigate its impact on the local community.
- 9.3 We would welcome early dialogue with the Borough Council regarding the scope of a legal agreement and the degree to which contribution requests meet the statutory tests set out in the CIL Regulations and the Framework.
- 9.4 A draft set of Heads of Terms is as follows:
- **Affordable Housing** – 20% (up to 69 units) of the proposed dwellings on site will be affordable.
 - **Public Open Space** – Obligations in relation to the provision of on-site open space, including play provision, and their future maintenance.
 - **Junction Improvement in Burbage** – An appropriate contribution towards Improvements to the Burbage Road/ Sapcote Road/ Hinckley Road Junction.
 - **Sustainable Transport** – Contributions to sustainable transport objectives through measures and improvements identified in the Travel Plan, prepared by Tetra Tech, and any other necessary highway improvements.
 - **Education** – Financial contribution towards local schools, if relevant, based on up to date and proportionate evidence of needs.
 - **Healthcare** – Financial contribution towards local facilities, if relevant, based on up to date evidence.

- 9.5 It is Jelson's position that such contributions will only be offered in the event that those seeking the contributions are able to evidence the need for them and demonstrate compliance with the CIL / NPPF tests.

Appendix 1 – Site Location Plan

Appendix 2 – Summary of Consultee Responses to 2022 Application

Consultee	Summary of comments provided
Burbage Parish Council	- Concerns over the increased pressures on local facilities and infrastructure - Concerns surrounding potential flood issues with the site and on-site open space being used for flood attenuation
Blaby District Council	- Note that consideration should be given to any highways impacts arising from the development of the site, including the proposed Hinckley National Rail Freight Interchange - The Council should ensure improvements to pedestrian and cycle connectivity are provided - Ensure that consideration is given to the proximity to existing residential properties surrounding the site - Ensure that the impact on the local facilities and infrastructure has been adequately considered - Consideration given to the impact of surface water flooding
Leicestershire Country Council Highways Authority	Objection based on the following reasons: - The proposed access arrangements failed to demonstrate that a safe and suitable access for all users could be provided - The application failed to demonstrate the impact of the proposed development on the local highways network
National Highways	- Were content that the trip rates included in the Transport Assessment were suitable - Requested further clarification regarding the Traffic Flow Diagrams contained within the Transport Assessment Appendix, and details of impacts on the SRN.
Leicestershire Country Council Tree Officer	Noted that the at the time of the application the proposed development did not directly impact on any LCC Tree Preservation Orders.
Leicestershire Country Council Ecology	Recommended that details should be submitted at the Reserved Matters stage to set out how hedgerows, trees and ditches located within the site would be protected during construction works.

	Recommend that a condition is attached to any permission which requires a BNG Plan, along with an ecological mitigation and enhancement strategy, to be submitted prior to commencement.
Leicester County Council Planning Obligations	Contributions requested
NHS England	Contributions requested
Hinckley and Burbage Borough Council Conservation	Considered that the proposal was compatible with the significance of the nearby listed building, and that the development would preserve the significance of the conservation area
Hinckley and Burbage Borough Council Affordable Housing	Requested that the section 106 agreement should include a clause regarding the affordable rented properties, in that allocation would be to people with a connection to the borough of Hinckley and Bosworth
Hinckley and Burbage Borough Council Drainage	No objections subject to conditions regarding surface water drainage being included within the decision
Hinckley and Burbage Borough Council Environmental Health	Proposed that conditions relating to further site investigation works, and the preparation and submission of a CEMP should be included
Leicester County Council – Lead Local Flood Authority (response received post-decision)	Requested further information and clarification be provided on a number of matters

We note that at the time of the decision responses had not been received from

- HBBC Tree Officer
- LCC Public Rights of Way
- Western Power Distribution
- Ramblers Association
- Severn Trent Water
- Leicestershire Police
- LCC Archaeology

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