

Delegated Report

Planning Ref: 25/00896/CONDIT
Applicant: Owl Homes
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Land Off Wood Lane, Higham On The Hill

Proposal: Application to vary conditions 1 and 4 of 25/00448/CONDIT. House type substitutions on plots 2, 3, 27 & 28.

1. Recommendations

1.1. Grant planning permission for the variation of 25/00448/CONDIT subject to:

- Planning conditions detailed at the end of this report.

2. Planning Application Description

- 2.1. Section 73 of the Town and Country Planning Act 1990 allows applications for planning permission to be sought for the development of land without complying with conditions that were imposed on a previous planning permission.
- 2.2. In this case, planning permission for application 25/00448/CONDIT granted an approval for the variation of conditions 1 and 4 on planning application 23/00712/REM to amend plans to remove the retail unit and replace it with one dwelling.
- 2.3. The application seeks to substitute house types for plots 2, 3, 27 and 28, with replacement house types. The proposal and application have been supported with update drawings outlining the house types to be erected.
- 2.4. This Section 73 Application seeks planning permission for the variation of Condition 1 and 4 of that planning permission to enable the development to proceed.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is located within Higham-on-the-Hill Parish, less than 1km north of the built-up boundary of Nuneaton which falls under the jurisdiction of Nuneaton and Bedworth Borough Council. Hinckley is located approximately 3km to the south east and Stoke Golding is approximately 2.4km to the northeast. Immediately north and west of Higham on the Hill is MIRA Technology Park and one of Europe's largest automotive research and development locations, which is an enterprise zone. The site is broadly square in shape, measuring approximately 2.5 hectares in size and consists of part of an arable field. The site is adjacent to Wood Lane to the north, the rear gardens of dwellings on Cherry Orchard Estate to the east, arable fields to the south and west.

- 3.2. The site is adjacent to existing built development on two sides; to the east are dwellings on Cherry Orchard Estate and to the north are dwellings along the northern side of Wood Lane. The dwellings to the north do not extend the full width of the site. The site is outside of but adjacent to the defined settlement boundary of Higham on the Hill and as such is located within open countryside. The Conservation Area is in the centre of the village with its western boundary located 75m east of the eastern boundary of the site.
- 3.3. The site boundaries are defined by hedgerows to the north and west. To the east there is a hedgerow, but it is lower and maintained for the most part. There are also 1.8 metre close boarded boundary fences to the rear of most of the residential properties.
- 3.4. The land slopes in a north-south direction from its centre. There is one existing field gate access points to the site from Wood Lane at the north-eastern corner of the site.

4. Relevant Planning History

21/01147/OUT

Residential development for up to 61 dwellings, including a shop, open space, new access and associated works (Outline – access only)

Outline Planning Approval

09.09.2022

23/00284/DISCON

Application to discharge planning condition 23 (Archaeology) from planning application 21/01147/OUT

Discharged

15.05.2023

23/00712/REM

Approval of reserved matters (appearance, landscaping, layout and scale) of outline permission 21/01147/OUT, which was for the residential development for up to 61 dwellings, including a shop, open space, new access and associated works.

Planning Permission

09.11.2023

23/01073/DISCON

Application to discharge conditions 2 (materials), 9 (Higham Drainage Mitigation) and 12 (Waste and Recycling) attached to planning permission 23/00712/REM

Discharged

26.01.2024

23/01077/DISCON

Application to discharge conditions 15 (Noise), condition 18 (Land Contamination), condition 20 (Electronic Communications), condition 21 (Levels), condition 24

(Surface Water Drainage), condition 27 (Infiltration), condition 28 (CTMP), condition 32 (Highway Drainage) of planning application 21/01147/OUT
Discharged
19.04.2024

23/01146/DISCON

Application to discharge planning condition 11 (Tree Protection), condition 16 (CEMP), and condition 25 (Surface Water Management During Construction) of planning application 21/01147/OUT
Discharged
23.02.2024

24/00219/NMA

Non material amendments to 21/01147/OUT, amendment to the wording of conditions 13 and 14
Permit Non Material Amendments
25.03.2024

24/00420/DISCON

Application to discharge condition 26 (Long Term Maintenance for the Surface Water Drainage) attached to planning permission 21/01147/OUT
Discharged
11.06.2024

24/00783/NMA

Non material amendment to planning permission 23/00712/REM to amend affordable housing plots
Permit Non Material Amendments
02.12.2024

25/00448/CONDIT

Application to vary conditions 1 and 4 from planning permission 23/00712/REM to amend plans to remove the retail unit and replace it with one dwelling.
Planning permission
15.10.2025

25/00484/NMA

Non-material amendment to planning permission 21/01147/OUT to amend the description of development to remove reference to the retail unit and replace with an additional dwelling
Permit Non Material Amendments
15.10.2025

5. Publicity

- 5.1. In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have

discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.

5.2. In this instance, the application has been publicised by a site notice being posted within the vicinity of the site.

5.3. No responses have been received.

6. Consultation

6.1 In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.

6.2 There have been no objections from the following consultants:

- Leicestershire Highway Authority (LHA)

6.3 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 12: Rural Villages
- Policy 16: Housing Density, Mix and Design

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design

7.3 National Planning Policies and Guidance:

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

7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Housing Need Study (2024)

8. Appraisal

- 8.1. In accordance with Planning Practice Guidance (NPPG), there is no statutory limit on the degree of change permissible to conditions under Section 73 applications, but the change must only relate to conditions and not to the operative part of the permission. The operative part of the planning permission being the description of the development.
- 8.2. Section 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).
- 8.3. The application seeks to vary the original permission, to substitute out 4 plots with differing plot types. The principle of residential development within the plots has been established and is therefore acceptable in principle.
- 8.4. Therefore, the key issues in respect of this application are:
- Design and impact upon the character of the area
 - Impact on neighbouring amenity
 - Housing Mix
 - Highways and Parking
 - Previously imposed conditions

Design and Impact upon the Character of the Area:

- 8.5 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.6 It is confirmed that plots 2 and 3 relates to 3-bedroom 'Cadeby' house types, that are semi-detached. It is proposed under this variation that the plots will remain as 'Cadeby' house types but would be detached units. Plots 27 and 28 are currently 2-bedroom 'Brinklow' house types that are semi-detached, similarly, to plots 2 and 3, these are now proposed to be detached but changing to the 3-bedroom 'Kestrels' house type.
- 8.7 The replacement units are of an appropriate design and, as shown within the submitted character of the area plan, would be well respected within the street scene of the proposed development. No material amendments are proposed to the previously approved materials, boundary treatment or landscaping plans which continue to respect the character of the area.

- 8.8 By virtue of these factors, the proposal respects the character of the surrounding area. The proposal is therefore considered to be in accordance with Policy DM10 of the adopted SADMP, the adopted Good Design Guide.

Impact upon neighbouring amenity

- 8.9 Policy DM10 of the SADMP seeks to ensure that development would not have significant adverse effect upon the privacy or amenity of nearby residents and occupiers of adjacent buildings, and the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.10 The amendments to the plots, including the inclusion of detached dwellings in situ of semi-detached, and the introduction of a new house type would achieve adequate separation distances within the neighbouring dwellings in accordance with the Good Design Guide. The plots do not have detrimental impacts on neighbouring amenity in terms of window placements causing overlooking or loss of privacy impacts, the dwellings are also located in a similar location to that of the original proposal, and are of a similar scale and height, as such there would be no detrimental impacts on neighbouring amenity in terms of loss of light or overbearing impacts.
- 8.11 Therefore, the application and the development remain compliant with Policy DM10.

Housing Mix

- 8.12 Policy 16 of the Core Strategy (2009) confirms 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 that is likely to be required.
- 8.13 The site delivers 61 dwellings in accordance with the outline permission and a range of densities across the site, with an average gross density of 24 dwellings per hectare. Higher density development is located towards the central and eastern areas of the site, with a reduced density near the site's boundary with the open countryside to the south, and around the attenuation pond in the north west.
- 8.14 The key change from the reserved matters stage, which confirmed the relevant housing mix, is the loss of two 2no. bedroom dwellings, which are replaced with two 3no. bedroom dwellings. It is considered that this amendment would not cause a significant impact to the previously approved plans and housing mix, and as such the proposal is considered acceptable and compliant with Policy 16 of the Core Strategy (2009).

Highways and Parking

- 8.15 Policy DM17 of the adopted SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.

- 8.16 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision. Any reduction below minimum standards will require robust justification.
- 8.17 The changes proposed under this variation of condition application, does not significantly impact highway safety, nor would it have a significant impact on the use of the highway by future occupiers of the development.
- 8.18 The proposed 'Parking Plan, Drg No. 1023-AD-013 Rev C' confirms that two off-street parking spaces will be provided for each of the amended plots. The parking is tandem, which whilst not always preferred, is prevalent within the proposed development, and has been previously approved under the original application and subsequent amendments.
- 8.19 The proposal is therefore not considered to have a material impact on highway safety, nor create any issues with regards to parking facilities, as such the proposal is in accordance with Policies DM17 and DM18 of the adopted SADMP.

Previously Imposed Conditions:

- 8.20 Permission granted under Section 73 takes effect as a new independent permission to carry out the same development as previously permitted, subject to new or amended conditions. A new permission sits alongside the original permission, which remains intact and unamended. It is open to the Applicant to decide whether to implement a new permission or the one originally granted.
- 8.21 Therefore, in accordance with PPG, a Section 73 Decision Notice should set out all the conditions imposed on the new permission, and, for the purpose of clarity, restate the conditions imposed on earlier permissions that continue to have effect.
- 8.22 Planning permission 25/00448/CONDIT was subject to 11 conditions.
- 8.23 Condition 1 of the approval relates to the formerly approved plans, this has been altered in the conditions outlined at the end of this report to reflect the variations made within the application. This also relates to condition 4, which confirms the parking and turning facilities.
- 8.24 All the conditions remain reasonable and necessary to ensure satisfactory development of the site. No additional conditions are considered to be necessary.

9. Equality Implications

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

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

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

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

10. Conclusion

10.1 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is granted, subject to amended conditions. No additional conditions are considered necessary.

11. Recommendation

11.1 **Grant planning permission for the variation of 25/00448/CONDIT** subject to:

- Planning conditions detailed at the end of this report.

11.2 Conditions and Reasons

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

Plans received under application 25/00448/CONDIT, received on 6th May 2025:

- 1023-AD-001 (Location Plan)
- LL1583-001 (Street Lighting Layout)
- 9882-FPCR-XX-XX-DR-L-0002 Detailed On-plot Planting Plan – P03

- 9882-FPCR-XX-XX-DR-L-0003 Detailed On-Plot Planting Plan – P03
- 9882-FPCR-XX-XX-DR-L-0004 Detailed On-Plot Planting Plan – P03
- 9882-FPCR-XX-XX-DR-L-0001-0004 Detailed Planting Plan – P04
- AT-HTR-01(Proposed Plans and Elevations (The Heather))
- 23021-1-K-J – Site Appraisal
- 23031-5-A – Visibility Splays Plan
- 23031-6-A – Refuse Vehicle Tracking
- 23021-7 – Indicative Attenuation Pond Cross Sections
- House Type Pack Rev C

Plans received under application 25/00896/CONDIT, received on 22nd September 2025:

- Proposed Floor Plans, Elevations (KESTREL) Drg No. OH-KES-01
- POS Typologies Plan, Drg No. 1023-AD-021 Rev C
- Character Areas Plan, Drg No. 1023-AD-015 Rev C
- Refuse Storage and Collection, Drg No. 1023-AD-014 Rev C
- Parking Plan, Drg No. 1023-AD-013 Rev C
- Storey Heights Plan, Drg No.1023-AD-012 Rev C
- Surface Materials Plan, Drg No.1023-AD-009 Rev C
- CEMP, Drg No.1023-AD-007 Rev E
- Means of Enclosure, Drg No.1023-AD-005 Rev F
- Materials Plan, Drg No. 1023-AD-004 Rev C
- Site Layout, Drg No. 1023-AD-002 Rev K

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

2. The approved hard and soft landscaping scheme shall be carried out in accordance with the Landscape Proposals as follows;
 - a. 9882-FPCR-XX-XX-DR-L-0002 Detailed On-Plot Planting Plan – P03
 - b. 9882-FPCR-XX-XX-DR-L-0003 Detailed On-Plot Planting Plan – P03
 - c. 9882-FPCR-XX-XX-DR-L-0004 Detailed On-Plot Planting Plan – P03
 - d. 9882-FPCR-XX-XX-DR-L-0001-0004 Detailed Planting Plan – P04

The landscaping works shall be carried out in the first planting season following the first occupation of the site. The soft landscaping shall be maintained for a period of five years from the date of planting. During this period, any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Plan.

3. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Owl Homes Drawing No. 1023-AD-002 Rev K. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in accordance with Policy DM17 and DM18 of the adopted Site Allocations and Development Management Policies Plan.

4. Any dwellings that are served by private access drives (and any turning spaces) shall not be occupied until such time as the private access drive that serves those dwellings has been provided in accordance with Figure DG17 of the Leicestershire Highway Design Guide. The private access drives should be surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

5. No part of the development hereby permitted shall be occupied until such time as 1.0 metre by 1.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of each private drive/ shared private drive with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of pedestrian safety, and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

6. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway and in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

7. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Class A; of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement improvement or other alteration to the dwellings hereby approved shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

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

8. The development shall be carried out in accordance with the Highway Drainage and Adoptable Drainage information submitted as part of the approved discharge of conditions application 23/01073/DISCON.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with policy DM17 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

9. Notwithstanding the submitted plans, any garage doors shall be set back from the highway boundary a minimum distance of 5.5 metres for sliding or roller/shutter doors/ 6.1 metres for up-and-over doors / 6.5 metres for doors opening outwards and thereafter shall be so maintained.

Reason: To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed, to protect the free and safe passage of traffic including pedestrians in the public highway and to ensure that adequate off street parking provision is available to reduce the possibility of on street parking problems locally in accordance with policy DM17 and policy DM18 of the adopted Site Allocations and Development Management Policies DPD and the NPPF.

10. The development hereby permitted shall be carried out in full accordance with the findings and recommendations contained within the Landscape and Ecological Management Plan (FPCR, June 2022). Prior to occupation of the last dwelling on site, photos of the integrated bird and bat boxes within the new dwellings should be provided in order to discharge the condition. The bird and bat boxes shall thereafter be retained in perpetuity.

Reason: In order to protect endangered species and establish new habitats in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016.

11. The development shall be carried out in accordance with the Refuse Storage & Collection Site Layout submitted as part of the approved discharge of conditions application 23/01073/DISCON.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

a. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at building.control@blaby.gov.uk or call 0116 272 7533.
2. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
3. The proposed road layout does not conform to an acceptable standard for adoption and therefore it will not be considered for adoption and future maintenance by the Local Highway Authority. The Local Highway Authority will, however, serve Advance Payment Codes in respect of all plots served by (all) the private road(s) within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the Advanced Payment Code may be exempted, and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details please email road.adoptions@leics.gov.uk. Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it.
4. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
5. All internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the LHDG which is available at <https://resources.leicestershire.gov.uk/lhdg>
6. Nesting birds are protected under the Wildlife & Countryside Act 1981 (as amended); therefore all removal of trees/shrubs/hedges should take place outside the breeding season (March to August inclusive) unless carefully checked beforehand by a suitably qualified person.
7. Slow-worm, common lizard, adder and grass snake are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). This

legislation makes it an offence to deliberately kill, injure or take slow-worm, common lizard, adder or grass snake. As such, care should be taken to avoid impacting reptiles during the development.

8. All roads within the site are to be built to an adoptable standard and maintained to this standard in perpetuity, regardless of whether they are to be adopted or not.