

Delegated Report

Planning Reference 25/01104/FUL
Applicant(s) Mr A Smith
Ward Twycross, Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Application Site HLCS Hillside, Sibson Road,
Ratcliffe Culey

Proposal Change of use of a caravan and associated land from
agricultural use to residential use (retrospective)

Case Officer Joe Fleetwood (Planning Officer)

1. Recommendations

1.1. Refuse planning permission subject to:

- Planning reasons detailed at the end of this report.

2. Planning Application Description

2.1. The proposal seeks retrospective planning permission for the change of use of the land and the existing caravan located on the site.

2.2. A proposed Lawful Development Certificate was granted for the siting of the caravan for agricultural purposes in 2024. The applicant confirmed at the time that the caravan would be used solely for the purpose of welfare and storage when attending the site in connection with the lawful agricultural use of the land. It is unclear whether the caravan has ever been used lawfully for this purpose.

2.3. The proposal now relates directly to the change of use of the of the unit and land from agricultural to residential use. The development also includes new fencing to the north of the site which measures approximately 1.8m in height from the development site and is located significantly higher due to the land level which slopes away towards the highway. This fencing consists of close boarded timber fencing.

3. Description of the Site and the Surrounding Area

3.1. The application site measures approximately 1.3 acres and is located in the countryside on agricultural pastureland, approximately 1 mile east of the settlement edge of Ratcliffe Culey and is located on the southern side of Sibson Road. The site is bound by hedgerow on all boundaries and is accessed from an existing access point on the northeastern corner of the site.

- 3.2. The site benefits from an approved Certificate of Lawful Development for the siting of a caravan for agricultural use. This unit is located centrally to the site, with an area of hardstanding surrounding the caravan. The site also has a 1.8m (approx.) close boarded fence between the unit and the highway, and low-level post and rail fencing, alongside a post and rail gate on the remaining boundaries.
- 3.3. The site following the approved Certificate, retains its use for agricultural purposes. Footpath T21 runs along the western boundary of the site and links Atherstone to Sibson. The closest dwelling is Barn Farmhouse, 150m to the west.

4. Relevant Planning History

4.1 23/00987/CLP

- Proposed lawful development certificate for the siting of a caravan for agricultural use
- Certificate of Lawful Proposed Use
- 15.12.2023

5. Publicity

- 5.1 The application has been publicised by posting a site notice within the vicinity of the site.
- 5.2 2no. neighbour objections have been received following the public consultation. The key reasons for objection are outlined below:
- The site has always been intended for residential.
 - Highways safety concerns.

6. Consultation

Witherley Parish Council

- 6.1 Objection received to the proposal for the following reasons:

“There never was a caravan on the site originally, comments received that it was an abuse of the planning system. Original application was for a daytime caravan for a child and pony paddock. It would not be lived in. Now asking for a change of use to residential. It is outside of the village boundaries. It is now connected to water & electricity. Concerns received over development in open countryside, outside of settlement boundary that it is setting a precedent. The application contravenes the original application.”

Hinckley & Bosworth Borough Council (HBBC) Environmental Health:

- 6.2 No objections.

Hinckley & Bosworth Borough Council (HBBC) Drainage:

6.3 No objections.

Hinckley & Bosworth Borough Council (HBBC) Waste & Recycling

6.4 Comments have been received from HBBC Waste who have confirmed the following:

“As part of the review of the proposed planning application, please note the following requirements regarding waste and recycling collection:

Collection Point Location - All domestic recycling, garden waste, and refuse collections must take place from the adopted highway boundary in accordance with Hinckley & Bosworth Borough Council’s policy. Please refer to the policy document and our website for further information here: https://www.hinckley-bosworth.gov.uk/info/200084/bins_recycling_and_rubbish/133/property_developer_guidance_-_recycling_garden_waste_and_refuse_services/2 and https://www.hinckley-bosworth.gov.uk/downloads/file/4647/wheeled_bin_and_container_policy_updated_march_2018

Private (Unadopted) Roads - If any part of the new road serving the properties is private/unadopted, you must provide adequate and safe collection point space at the adopted highway boundary for the placement of all containers on collection day. Allow for up to 3 bins per property at one time. Ensure the space is accessible and safe for both residents and collection crews.

Occupier Responsibility - It will be the responsibility of the occupiers to ensure that all containers/wheeled bins are brought to the designated collection point on collection day.

Plan Identification Requirement - We request that the developer clearly identify on the submitted plan:

- *The adopted highway*
- *Any private (unadopted) roads*
- *Suitable storage for wheeled bins and containers within the private grounds*
- *The designated collection point(s)*

This is necessary to ensure the collection arrangements are practical and compliant with policy.

Recommended Planning Condition:

No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing by the Local Planning Authority. The details

should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.”

Leicestershire County Council (LCC) Highways

- 6.5 LCC Highways have confirmed they have no objection to the proposal subject to planning conditions included within their formal comments, the authority have confirmed the following:

“The Local Highway Authority advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 116 of the National Planning Policy Framework (2024), subject to the conditions and/or planning obligations outlined in this report.

The LHA is aware of application reference 23/00987/CLP at the site for a proposed lawful development certificate for the siting of a caravan for agricultural use. The Application was granted planning permission by the LPA on 15th December 2023. The LHA were not consulted on those proposals.

Based on the submitted Planning Statement, the mobile home has been granted permission for a Welfare Unit to be used when attending the site. The application was put together to assist the Applicant’s personal circumstances. The Applicant has also stated there were no conditions or restrictions on the certificate granted with regards to whether this should be permitted to a certain number of days or even if there could be overnight stays. There is no development required, no further buildings to be added and no increase in footfall or traffic considerations compared to that of the site being visited daily by the family.

Access to the site would be via the existing access onto Sibson Road, a C classified road subject to the national speed limit. The Applicant does not propose amendments to the existing site access arrangements. Whilst visibility splays have not been detailed and the access is located on the inside of a bend close to the brow of a hill, it is accepted that the change of use is unlikely to result in a material increase in traffic in comparison to the current use of the caravan.

In these site-specific circumstances, the LHA do not require additional information in respect of the site access arrangements and would not seek to resist the proposals on this basis.

Based on available records to the LHA, there have been no recorded Personal Injury Collisions along Sibson Road within 500m either side of the site access within the last five years.

Apex Strategies drawing number T1336-002 details the internal layout of the site. The LHA is satisfied there is sufficient parking and turning space proposed within the site for at least two vehicles.

The site is in a remote, rural location and occupiers of the caravan are likely to be dependent on the private car for everyday journeys. In the view of the LHA, the site is therefore not in a sustainable location in transport terms. Nevertheless, the LHA is satisfied for the LPA to include this transport context in its wider sustainability considerations for the site.

The application site includes public right of way Footpath T21 which runs inside the western edge of the site as shown here by the Block Plan overlaid with the Definitive Map of public rights of way, the official legal record.

Historically, rather than a separate northern exit for the footpath, public right of way users have gone through the main field entrance. The LHA is aware of recent work possibly connected with this application: a new access point has been created for the footpath; a new fence has been installed parallel with the footpath and the adjoining hedge cut back; the LHA's roadside footpath sign appears to have been moved westwards to be near this new access; and, as the new access point is beside the roadside ditch some form of single plank has been laid down for the public to cross the roadside ditch at the new access point. This crossing will require further improvements by the Applicant, however the LHA advises this can be conditioned

Leicestershire County Council (LCC) Ecology

- 6.6 LCC Ecology have confirmed that they have no objection to the proposal and have confirmed the following:

"We have reviewed the documents supplied by the applicant and we are satisfied that there is sufficient ecological information available to support determination of this application.

No ecological information has been submitted relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation. Therefore, we have conducted a desktop study including local records (accessed under licence) and aerial imagery (Google Earth) to help assess this.

A review of aerial imagery indicates that the boundary vegetation on site does not appear to contain any trees which may offer suitability for bats and consists of fragmented scrub which is suboptimal for foraging and commuting bats.

In addition, this retrospective application for a change of use does not involve any loss or impact to the existing habitats on site, and whilst it may have resulted in an increase in human activity, it is not likely to have caused any significant impacts to protected and Priority species.

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats. Applications are required to deliver a mandatory 10% measurable biodiversity net gain, unless exempt under paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024. As a result, we have reviewed

the application and are satisfied that this application meets the definition of being retrospective, and as such is exempt from the statutory requirement of mandatory biodiversity net gains.

However, reasonable biodiversity enhancements for protected, Priority and threatened species are a requirement to secure net gains for biodiversity, as outlined under Paragraph 187d and 193d of the National Planning Policy Framework (December 2024). Reasonable biodiversity enhancement measures are a separate matter to mandatory biodiversity net gains, and the finalised details should be outlined within a separate Biodiversity Enhancement Strategy to be secured as a condition of any consent.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended) and delivery of mandatory Biodiversity Net Gain.

The below condition has been recommended if the application is to be recommended for approval by the LPA:

“WITHIN ONE MONTH OF CONSENT: BIODIVERSITY ENHANCEMENT LAYOUT
“A Biodiversity Enhancement Layout for biodiversity enhancements prepared by a suitably qualified ecologist shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Layout shall include the following: a) detailed designs or product descriptions for biodiversity enhancements; and b) locations, orientations and heights for biodiversity enhancements on appropriate drawings. The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter.”

Reason: To enhance protected, Priority and threatened species and allow the LPA to discharge its duties under paragraph 187d of the NPPF 2024 and s40 of the NERC Act 2006 (as amended)”.

7. Policy

7.1 Core Strategy (2009):

- N/A.

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

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

7.3 National Planning Policies and Guidance:

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

7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2024)

8. Appraisal

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

- Principle of development (Sustainability)
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety
- Ecology and Biodiversity Net Gain

Principle of Development

- 8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions. Paragraph 3 of the NPPF confirms that it should be read as a whole.
- 8.3 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. However, Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 8.4 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP).
- 8.5 Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF. Paragraph 34 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.
- 8.6 Nevertheless, in accordance with Paragraph 232 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made

prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF.

Assessment of the Development in the Countryside

8.7 Chapter 11 of the NPPF promotes an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. This demonstrates that safeguarding and improving the environment is an effective use of land.

8.8 As a result, outside defined settlement boundaries, the countryside is not regarded as a sustainable location for new development. Chapter 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 187(b) specifically highlights that this should be achieved by:

“Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.”

8.9 Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development.

8.10 To ensure this, Policy DM4 of the SADMP only considers development in the countryside sustainable where:

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

8.11 The submitted Planning Statement confirms that the proposed change of the caravan, and use of the land from agricultural to residential.

8.12 The proposed change of use of the land and the unit to residential, given its countryside location outside of any recognised settlement boundary would not be in accordance with the criteria outlined within Policy DM4 of the adopted SADMP. The

original approval under application reference 23/00987/CLP retained the sites agricultural use, and was proposed to be used as welfare unit, on visits to the site, not as permanent residential accommodation.

- 8.13 Given the above, the Council considers that the proposal is offered no support by Policy DM4 of the SADMP and is considered to represent an unsustainable development in the designated open countryside, which is considered to result in harm to its intrinsic value, beauty, open character, and landscape character in principle as explained further below. As such, the application does not accord with Development Plan Policy and is unacceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Assessment of the Transport Sustainability of the Application Site

- 8.14 Paragraph 161 of the NPPF confirms that the planning should support the transition to net zero by 2050. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and association infrastructure.
- 8.15 Section 9 of the NPPF states that planning decisions should ensure that developments provide appropriate opportunities to promote sustainable transport modes, given the type of development and its location, and a safe and suitable access to the site for all users. Key Policy Paragraph 115 of the NPPF states that in assessing specific applications for development, it should be ensured that sustainable transport modes are prioritised taking account of the vision for the site, the type of development, and its location, and ensure a safe and suitable access to the site can be achieved for all users. Nevertheless, it is appreciated that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Paragraph 135 of the NPPF states that decisions should ensure that developments create places that are safe, inclusive and accessible.
- 8.16 In order to promote sustainable development in rural areas, Paragraph 83 of the NPPF requires new housing to be located where it will enhance or maintain the vitality of rural communities.
- 8.17 This is reinforced by Policy DM17(b) of the SADMP, which requires development proposals to be located where the need to travel will be minimised, and the use of sustainable transport modes can be maximised. Policy DM17 of the SADMP also states that development proposals should seek to ensure that there is convenient and safe access for walking and cycling to services and facilities; and that scheme should make the best use of existing public transport services.
- 8.18 Highways Development Management (HDM) Policy 1 of the Leicestershire Highway Design Guide (LHDG) states that development must be accessible for all highway users and maximise the uptake of sustainable travel choices.

- 8.19 int M2 of the National Design Guide (NDG) confirms that in well-designed places, people should not need to rely on the car for everyday journeys, including getting to workplaces, shops, schools and other facilities.
- 8.20 Policy DM4 of the SADMP also outlines that the countryside will first and foremost be safeguarded from unsustainable development.
- 8.21 The site given its countryside location, limited access to public transport, its lack of access via active travel, and the site's distance from public amenities such as shops, results in a development that is fundamentally unsustainable. The applicant has claimed that in this instance the site would not be considered unsustainable, as the applicants' son would not require transport from the site, however, the proposal promotes retrospective planning for a 3-bedroom family home, which would require travel to and from the site via personal motor vehicle as a means of transport.
- 8.22 Given this assessment, it is considered that the application site is an unsustainable and isolated location that is outside of any identified settlement boundaries and suffers from poor transport sustainability. Therefore, the occupiers of the scheme are highly likely to be dependent on private motorised travel to meet their day-to-day needs. This is considered to result in significant environmental harm in principle that is contrary to, and in conflict with, the overarching sustainable ambitions of the NPPF, including Key Policy Paragraph 115, and Paragraphs 83 and 161, and Chapter 9 of the NPPF, as well as Policy DM17 of the SADMP, HDM Policy 1 of the LHDG, and the National Design Guide.

Design and Impact upon the Character of the Area

- 8.23 Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design (as contained in the National Design Guide and National Model Design Code), taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.24 Chapter 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.
- 8.25 Policy DM4(i) of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside.
- 8.26 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.

- 8.27 The previously approved siting of a caravan on the site was considered lawful when in the context of being used for agricultural use and purposes. It is questioned as to whether the original certificate, which was granted for the purposes of agricultural use, allowing the applicants child to be present within the caravan whilst the site is visited, was ever brought into use. The unit has been constructed as a 3-bedroom dwelling with all relevant amenities to be a detached family dwelling, and as such, as the unit has not been brought into use in accordance with the certificate, the certificate itself would be considered unlawful.
- 8.28 The unit itself is not considered to be in keeping with the character of the area, nor symbiotic with the intrinsic value and beauty of the open countryside. The structure itself is a timber framed cabin, and in comparison, to the neighbouring farmhouses and barns, appears stark and visually prominent when approaching the site from west.
- 8.29 In addition to the structure, the site includes additional boundary fencing which has been erected to secure the site. The west, east and southern fencing on the site consists of post and rail fencing, which is considered to be generally acceptable within the setting and would be relative to the countryside and rural nature of the site. However, to the northern boundary of the site, between the site and the highway, a 2m close boarded timber fence has been erected, this fencing is visually prominent on both the eastern and western approach to the site and is not considered to be of an appropriate design. The associated fencing is considered to detrimentally impact the character of the area and the value and beauty of the open countryside.
- 8.30 The applicants consider that the fall-back position would represent a similar level of harm to the proposed development. Were the LPA satisfied that the caravan was lawful as a welfare unit, this would be for agricultural purposes and would not permit nor lead to the domestication of the wider site that has since occurred through the fencing and hardstanding. The change of use of the land, which includes the entire field parcel, to residential use would create further harm to the character of the countryside in comparison to this disputed fall-back position through the above factors and other residential paraphernalia.
- 8.31 By virtue of these factors, the scheme is considered to represent new and unjustified development in the designated open countryside, which results in significant and permanent harm to the rural character of the site, the surrounding area, and to the intrinsic value, beauty, open character, and landscape character of the countryside. Therefore, the proposal is contrary to, and in conflict with, Policies DM4 and DM10 of the SADMP, as well as Paragraph 135 and Chapters 12 and 15 of the NPPF.

Impact upon Residential Amenity

- 8.32 Paragraph 135 (f) of the NPPF states that it should be ensured developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 8.33 Policy DM10(a) and (b) of the SADMP states that development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.34 There is no built development on any of the surrounding boundaries to the site, in terms of residential properties. The closest residential dwelling to the site is Barn Farmhouse which is located approximately 150m to the west of the development site.
- 8.35 The development by way of its location would not give rise to issues regarding neighbouring amenity in terms of loss of light, loss of privacy or overbearing impacts, given the significant distance between the site and neighbouring properties. The development is also not considered to cause significant impacts in terms of noise or light pollution detrimentally impacting neighbouring properties.
- 8.36 There are no operations within the area, given its rural vernacular, which would impact any occupant on the development site.
- 8.37 The Nationally Described Space Standards (2015) confirms the dimensions which must be afforded to bedspaces and overall internal floor areas.
- 8.38 From images provided by the applicant/agent, the 3no. bedrooms shown on the floor plans provide 2no. bedspaces each, in the way of double beds. The requirement for the NDSS is that the room must be a minimum of 2.55m wide and 11.5sqm. Whilst two of the bedrooms achieve this, the bedroom which includes an en-suite appears to have a marginal shortfall of 0.1sqm. Similarly, for the 6 bedspaces provided within the NDSS guidance (3x2no.bedspaces), for a single storey dwelling an internal floor area of 95sqm must be provided – the application site currently only provides 90.9sqm.
- 8.39 The shortfall whilst potentially acceptable if all other factors of the development were seen to be appropriate, however, given the development is not considered to be appropriate in its location, nor a sustainable development, the additional impacts of the shortfall in NDSS is considered to be significantly detrimental to the amenity of future occupiers of the site.
- 8.40 The proposal is therefore considered to have no impact on neighbouring residential amenity, however, is considered to have detrimental impacts to the residential amenity of future occupiers of the site, and as such the development is not in accordance with Policy DM10 of the SADMP and Paragraph 135 (f) of the NPPF.

Impact upon Parking Provision and Highway Safety

- 8.41 Policy DM17 of the 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.

- 8.42 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.
- 8.43 The Highways authority, as outlined at the start of this report, confirmed they have no objections to the development, subject to a list of planning conditions confirmed within their formal comments. The development, in the view of the LHA, would have no detrimental impact on highways safety, nor impacts on vehicular parking.
- 8.44 As such the proposal would be in general accordance with Policy DM17 and DM18 of the SADMP, subject to planning conditions.

Ecology

- 8.45 Policy DM6 of the SADMP states that proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including proposals for their long-term future management.
- 8.46 The statutory framework for BNG has been designed as a post-permission matter to ensure that the biodiversity gain objective of achieving at least a 10% gain in biodiversity value will be met for development granted planning permission.
- 8.47 It has been confirmed by LCC Ecology, that there are no objections to the proposal in terms of Ecology. The development would be exempt from mandatory BNG owing to the retrospective nature of the development. Whilst mandatory BNG is exempt in this instance, a condition has been included within the LCC Ecology consultation response, confirming that, if approved, reasonable enhancement for biodiversity must be achieved, and within one month of an approval, a biodiversity enhancement layout must be provided to the LPA.
- 8.48 The proposal is therefore considered to be in general accordance with Policy DM6 of the SADMP, subject to planning conditions.

Planning Balance

- 8.49 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.50 This application is for the provision of a single detached dwelling. In addition, the most recent housing land monitoring statement indicates, that the Council cannot demonstrate a 5-year housing land supply. This is also a key material consideration and under these circumstances, the NPPF 2024 sets out, in paragraph 11d) that, for decision makers:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:

- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or*
- ii. *ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

8.51 Footnote 8 in the NPPF states that the application of this approach *“includes, 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 74); 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”*.

8.52 Therefore, currently the ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.53 It is acknowledged that there would be potential social benefits from the scheme such as providing housing for a family with a child with SEN, and economic benefits associated with the occupant’s opportunity to act as new customers and employees for businesses and services within the general area.

8.54 Nevertheless, these benefits when associated with a single dwelling are very limited and are not considered to maintain or enhance the local community. In addition, there are no planning benefits such as affordable housing or essential infrastructure provision as identified within Paragraph 12.13 of the SADMP. Furthermore, whilst the Council is unlikely to be able to deliver a five-year supply of land for housing, the benefit of providing one dwelling within this application site towards the Council’s supply of housing is considered to attract limited weight in the planning balance

8.55 The principle of the proposed development is considered to result in significant and permanent harm to the rural character of the site and the surrounding area, including the intrinsic value, beauty, open character, and landscape character of the countryside. This is further exacerbated by the visual prominence of the development from the highway and nearby public footpath.

8.56 Furthermore, the proposal represents the creation of new residential development in an unsustainable location in the designated open countryside where the future occupiers of the scheme are heavily reliant on private motorised travel to meet their day-to-day needs. This results in significant harm to the environment, and the intrinsic

value, beauty, open character, and landscape character of the countryside in principle.

8.57 Furthermore, the dwelling is not considered, through its failure to comply with National Space Standards, to achieve a high standard of amenity for future occupiers. This is afforded moderate negative weight in the planning balance.

8.58 As a result, the harm and permanent adverse impacts caused by the development are considered to significantly and demonstrably outweigh the potential benefits associated with the scheme. The proposal is contrary to Policies DM4, DM10 and DM17 of the adopted SADMP, Key Policy Paragraph 115, Paragraphs 83, 135, 161 and Chapters 12 and 15 of the NPPF, and HDM Policy 1 of the LHDG, and the National Design Guide.

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 Regard has also been given to the protected characteristics (Disability) for the purposes of the Public Sector Equality Duty under s149 of the Equality Act 2010 which sets out the requirement to have due regard to the need to eliminate discrimination and advance equality of opportunities between persons who share a relevant protected characteristic and persons who do not.

9.4 The applicant's grandson and one occupant of the dwelling has a Severe Mental Impairment (SMI) and is non-verbal. The applicant has explained that with such complex needs "an urban environment is "sensory-toxic", leading to extreme medical distress". The applicants explain that the quiet, low pollution nature of the site and the secure fencing both help their OCD and sensory triggers and create a secure site. The applicant's assert that "The sensory volatility of a typical estate (traffic, sirens,

close-proximity neighbours) would exacerbate their grandsons OCD and sensory triggers, leading to constant medical distress and frequent meltdowns". The applicants also state that removing a child with Severe Mental Impairment (SMI) and autism from their established home is a legal and clinical barrier that planning officers must weigh up.

- 9.5 It is regrettable that the applicant's family have chosen to reside in the caravan given that they were aware through discussions for the Lawful Development application that residing in the caravan would not be lawful. It is acknowledged that there would be clear benefits to the applicant's grandson in living in this quiet location as explained in the applicants submission as set out above. However, it has not been adequately demonstrated that a suitable living environment could not be found in a lawful residential dwelling within the countryside or a quiet settlement.
- 9.6 The LPA have considered the possibility of granting planning permission temporarily, to allow the applicant to find alternative accommodation, however although a temporary permission would have a less immediate impact on the applicant's grandson there would still ultimately be a time where the child would be removed from their established home. For the same reason, the LPA have considered a personal permission, however, the LPA do not consider that there are personal circumstances that outweigh the harm to the countryside.
- 9.7 Overall, the LPA consider the harms resulting from the development, identified within this report, above, and in the reasons for refusal below, do not outweigh the benefits in terms of advancing equality in this case.
- 9.8 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) alongside the Equality Act 2010.

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 refused. This is based on the following reasons for refusal, which relate to the harm to the countryside and character of the area, alongside the unsustainable location of the site, confirming that the proposal is not in accordance with Policies DM4, DM10 and DM17 of the adopted SADMP.

11. Recommendation

- 11.1 **Refuse planning permission** subject to:

- Planning reasons detailed at the end of this report.

11.2 Reasons

1. The development lies outside of any identified settlement boundary and in an isolated location within the countryside. By virtue of its design and use of materials, the development results in a detrimental and irreversible, urbanising and domesticating effect on the intrinsic value, beauty, open character, and landscape character of the countryside, and the surrounding area, as well as views from Public Footpath T21. This harm is compounded by the extensive hard surfacing and associated boundary fencing. Ultimately, the benefits of the development of one dwelling do not significantly and demonstrably outweigh this harm. Therefore, the proposal is contrary to, and in conflict with, Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), alongside Paragraphs 135 and Chapters 12 and 15 of the National Planning Policy Framework (2024).
2. The development represents unjustified residential development in an unsustainable location that fails to promote sustainable transport, the best use of public transport, nor provide any safe walking and cycling access to services and facilities. The future occupants of the scheme are therefore highly likely to be dependent on private motorised transport to meet their day-to-day needs, and this results in significant environmental harm. As a result, the proposal is contrary to, and in conflict with, Policies DM4 and DM17 of the adopted Site Allocations Development Management Policies Development Plan Document (2016), as well as Key Policy Paragraph 115, and Paragraphs 83 and 161, and Chapter 9 of the National Planning Policy Framework (2024), HDM Policy 1 of the LHDG, and the National Design Guide.
3. The development through the shortfall in meeting the criteria of the Technical Housing Standards - Nationally Designated Space Standards (NDSS) 2015 would not achieve a high or acceptable standard of residential amenity for the future occupants of the site, and as such the development is not in accordance with Policy DM10 of the SADMP and Paragraph 135 (f) of the National Planning Policy Framework (2025).