

## Delegated Report

**Planning Ref: 22/00318/OUT**  
**Applicant: Richborough Estates**  
**Ward: Hinckley DeMontfort**



Hinckley & Bosworth  
Borough Council

**Site: Land North Of A47 Normandy Way And East Of Stoke Road**  
**Hinckley Leicestershire**

**Proposal: Outline planning application for the erection of up to 475 dwellings, including public open space, land reserved for a primary school together with future expansion land (Use Class F1(a)), drainage, landscaping and associated infrastructure.**

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### **1. Recommendations**

#### **1.1. Refuse for the following reasons:**

- The Applicant has failed to demonstrate that safe and suitable access for all users would be provided to the development and the proposal, if permitted, could consequently result in an unacceptable form of development and could lead to dangers for highway users contrary to paragraph 110 and 111 of the National Planning Policy Framework (2021).
- The Applicant has failed to demonstrate that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be mitigated, contrary to paragraph 110 and 111 of the National Planning Policy Framework (2021).
- The applicant has not entered into a signed Section 106 agreement for the delivery of Affordable Housing, Public Open Space and other identified financial contributions. As such the application is considered contrary to Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.

### **2. Planning application description**

- 2.1. The application seeks outline permission for the erection of up to 475 dwellings, open space, land reserved for a primary school and associated infrastructure, together with future expansion land (Use Class F1(a)) with all matters reserved except for access.
- 2.2. Vehicular and pedestrian access is proposed via a new three arm roundabout on Stoke Road.
- 2.3. The Council has worked proactively with the applicant to overcome various issues raised during the planning process.

### **3. Description of the site and surrounding area**

- 3.1. The site is located to the North of Normandy Way (the A47) on the corner of Stoke Road, on the edge of the Growth Town of Hinckley in Leicestershire. The site constitutes five interconnecting fields managed for livestock pasture east of Stoke Road, and a further field west of Stoke Road. There are a number of hedgerows and small groups of trees within it. Topographically speaking, the site slopes up to the east from Stoke Road.

- 3.2. The surrounding area is characterised by its edge of settlement location. Across the A47 is relatively densely built form with both commercial and residential uses on show. To the north is open countryside, as well as across Stoke Road to the west. A Public Right of Way lies to the south western-western edge between the A47 Normandy Way and Stoke Road. This route passes through the site from the A47 and links with the wider open countryside beyond the site.
- 3.3. Middlefield Farm and Stoke Fields Farm lie to the north of the application site.
- 3.4. The A47 is partly a ring road – though there have been historic and more modern extensions of development beyond it – most notably the Bloor Homes site (Hollycroft Grange) to the southwest. As such it is increasingly becoming more of an arterial route.

#### **4. Relevant planning history**

- 4.1 There is no relevant planning history associated with the site from a planning application perspective. However, the applicant has engaged with the Council through the Call For Sites process as part of the draft Local Plan. It is not currently allocated within the most up to date draft of that Plan. Furthermore, the applicant engaged in pre-application discussions with the Council under **reference 21/10199/PREMAJ. The summary of the response provided was as follows:**

*“The Council cannot currently demonstrate a 5 year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. Therefore, the ‘tilted’ balance in paragraph 11(d) of the NPPF currently 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.*

*The provision of circa 500 dwellings, a proportion of which to be Affordable Housing, is considered to be a significant benefit of the proposal and weighs heavily in favour of the scheme.*

*It is likely that the scheme does not fully comply with Policy DM4 of the SADMP. The above comments re LVIA are clearly going to be key in the determination of any application as are the impacts on infrastructure.”*

- 4.2. An EIA Screening Request was submitted on behalf of the applicant in January 2022 as part of the pre application advice request (reference number: 21/10199/PREMAJ), and the Council confirmed in their response dated 14th February 2022 that an Environmental Statement was not required in this instance.

#### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. 13 public comments have been received, raising the following concerns:
- Increased traffic
  - Unsuitable access road
  - Insufficient capacity in local schools
  - Insufficient capacity in local GP surgeries

- Too much development
- Noise impact
- Out of character
- Air quality/pollution
- Lack of transparency relating to future developments to the west
- Loss of countryside

## **6. Consultation**

6.1. No objection has been received from:

- Natural England
- LCC Ecology (Conditions required relating to biodiversity net gain and barn owls)
- Leicestershire Fire and Rescue
- Leicestershire Police
- Coal Authority
- HBBC Environmental Health (Conditions relating to noise, CEMP, land contamination, construction times)
- HBBC Waste (Condition relating to refuse storage and collection)
- HBBC Conservation Officer
- LCC Drainage (Conditions relating to surface water drainage, management thereof and long-term maintenance thereof)
- LCC Planning Obligations Team

6.2. Local Highway Authority – The Local Highway Authority (LHA) has been actively engaged with the applicant team as part of pre-application discussions and following formal submission of application 22/00318/OUT. A significant part of these ongoing discussions concerns the progression of strategic modelling assessment using the Leicestershire County Council Pan Regional Transport Model (PRTM) which is considered to be the most appropriate assessment tool available for the development proposed. In addition, the applicant team has been proactively engaging in this process and with relevant stakeholders such as National Highways and Warwickshire County Council. The LHA is aware that this strategic assessment has progressed to the point of undertaking forecast modelling in the PRTM model and which has identified the strategic impacts of the development proposals. Stakeholders have agreed a defined study area for detailed assessment by the applicant team including the necessary assessment methodology and this work is ongoing. It is anticipated that this work would lead to the development of a mitigation strategy that would need to be reviewed and agreed with stakeholders following submission of necessary supporting information such as a revised Travel Plan, scheme drawings, junction files, road safety audits and such like.

Whilst this work continues to progress positively, it has yet to be concluded. The LHA has however been consulted by Hinckley & Bosworth Borough Council as Local Planning Authority on the 24<sup>th</sup> April 2023 for final observations following the applicant lodging an appeal on non-determination of the pending application. Therefore, whilst the LHA would expect that conclusion of the transport assessment work may well lead to a positive response being forthcoming, regrettably at this stage the LHA has no alternative than to advise refusal on the highway grounds identified above. The LHA will however continue to work proactively with the applicant team in order to resolve the issues and assessment work currently outstanding where possible.

The Local Highway Authority advice is that the residual cumulative impacts of the development are severe in accordance with the National Planning Policy Framework (2021) and the Local Planning Authority is advised to consider refusal on transport/highway grounds for the reasons outlined below.

The Applicant has failed to demonstrate that safe and suitable access for all users would be provided to the development and the proposal, if permitted, could consequently result in an unacceptable form of development and could lead to dangers for highway users contrary to paragraph 110 and 111 of the National Planning Policy Framework (2021).

The Applicant has failed to demonstrate that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be mitigated, contrary to paragraph 110 and 111 of the National Planning Policy Framework (2021).

- 6.3. Stoke Golding Parish Council - Stoke Golding Parish Council support the plan to improve/upgrade the pathway to Stoke Golding along Stoke Road. There are a lot of issues with traffic coming and going from Stoke Golding at school times and this could contribute to alleviating the problem.
- 6.4. HBBC Major Projects Team - Public realm improvements within Hinckley town centre are required from developments in accordance with Policy 1 and 5 of the Core Strategy. Due to the size and scale of the development this would increase the number of users of the town centre and therefore it is considered that the scheme should contribute towards the improvement of the public realm of the town centre. A number of projects towards public realm and transportation improvements in Hinckley Town Centre have been identified within the Hinckley Town Centre Area Action Plan (Policy 11) and the Hinckley Town Centre Public Realm Strategy.
- 6.5. S106 Monitoring Officer - The illustrative masterplan key indicates different coloured stars for a NEAP, LEAP and LAP however I am unable to see these on the plan itself. They do however provide details of areas of where the NEAP, LEAP and LAP are to be provided by words. On reviewing the details it seems that there is a shortfall of children's equipped play by 310sqm and the informal / LAP areas only required to 1200sqm where the study requires 7980. Accessible Natural Green Space for 475 dwellings 1900sm should be provided. The areas to be provided on site are not fully identified on the masterplan with the sq m. The s106 should secure the amounts of open space required per dwelling. Whilst there are LAP's being provided around the site, which are welcomed the casual informal area should be bigger to ensure a required usable space is provided for various types of ages and play and that the natural accessible areas / LAPS are used around the site to soften specific areas. NEAP (10) is next to a primary road and the school with no parking nearby not all users would walk. An off-site outdoor sports contribution should be secured for Richmond Park.
- 6.6. HBBC Economic Regeneration Team - As with other large scale sites due to the high number of proposed dwellings please could a Local Employment & Training Strategy be requested. In the planning statement, section 7 Section 106 Heads of terms I cannot see any mention of a Local Employment & Training Strategy.

## **7. Policy**

- 7.1. Core Strategy (2009)

- Policy 1: Development in Hinckley
- Policy 5: Transport Infrastructure in the sub regional centre
- Policy 7: Key Rural Centres
- Policy 11: Key Rural Centres Standalone
- Policy 14: Rurals Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Leicestershire Highway Design Guide
- Landscape Character Assessment (2017)
- Landscape Sensitivity Assessment (2017)
- Landscape Sensitivity and Green Infrastructure Study for Leicester & Leicestershire (October 2017)
- Open Space and Recreation Study (2016)
- Housing Needs Study (2019)
- Affordable Housing SPD (2011)
- Leicestershire Minerals and Waste Local Plan

## 8. **Appraisal**

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

- Principle of development
- Housing land supply
- Housing mix and supply
- Impact upon highway safety
- Landscape and visual impact

- Heritage Impacts
- Archaeology
- Residential amenity
- Flood risk and drainage
- Ecology and biodiversity
- Minerals
- Planning Obligations
- Planning balance

#### **Principle of development**

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 8.4. The Emerging Local Plan for 2020-39 has previously been out for consultation at Regulation 19 draft stage (February to March 2022). The latest Local Development Scheme (LDS), was approved at Full Council on 13 December 2022. The updated LDS extends the Local Plan period to 2041, revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a second Regulation 19 Consultation which is not scheduled until May-June 2024. The Replacement Local Plan is therefore delayed.
- 8.5. The Core Strategy (CS) sets out the settlement hierarchy for the Borough. The application site is located adjacent to the settlement of Hinckley but is on land which is designated as countryside.
- 8.6. Policy DM4 of the SADMP states “that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development.
- 8.7. Development in the countryside will be considered sustainable where:
  - a) It is for outdoor sport or recreation purposes (including ancillary buildings) and It can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
  - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
  - c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
  - d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or

e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation”.

8.8. The proposed development does not relate to any of the criteria above. The application sets out why development in this location is deemed to be sustainable; and provides a reasonable and accurate assessment of how the proposal would contribute to sustainable development as required by the NPPF. The proposal is also supported by a Landscape Visual Impact Assessment (LVIA) setting out the impact on the wider landscape character.

8.9. Despite the proposal not complying with Policy DM4, it is still considered to represent sustainable development on an edge of an urban settlement location, and is therefore deemed to be acceptable for the material reasons set out below.

#### **Housing land supply**

8.10. 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.

8.11. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. However, at a recent appeal (application ref: 21/01131/OUT, appeal Ref: APP/K2420/W/22/3301735, determined 4 January 2023) the Council signed a Statement of Common Ground which updates the monitoring position. On this basis, the Council have agreed that the 5 year housing land supply currently stands at 4.76 years, as of 1st April 2022. Due to this and the change in the housing figures required for the borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (NPPF) whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.

8.12. Under these circumstances, the NPPF 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 proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

8.13. 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”.*

- 8.14. Paragraph 60 of the NPPF sets out that *“it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”.*
- 8.15. Paragraph 77 of the NPPF sets out that *“To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority’s housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of under delivery and identify actions to increase delivery in future years.”*
- 8.16. The 2021/ 22 housing land monitoring statement is currently being prepared but on the basis of the previous years’ assessment, section 2.2 of the aforementioned monitoring statement required an action plan to be produced to set out how the Council will deal with under delivery in light of achieving 86% of the Housing Delivery Test (HDT).
- 8.17. Development on this site would contribute to the housing land supply and consideration should be given to para 77 of the NPPF which states:
- “To help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability”*
- 8.18. 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.
- 8.19. The provision of up to 475 dwellings, 20% of which is to be Affordable Housing, is considered to be a significant social and community benefit of the proposal and weighs heavily in favour of the scheme.

#### **Housing mix and supply**

- 8.20. Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data. All developments of 10 or more dwellings are also required to meet a ‘very good’ rating against Building for Life, unless unviable. The Good Design Guide SPD also advocates the use of the Building for Life assessment.
- 8.21. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.
- 8.22. Final number and mix of dwellings will be determined at Reserved Matters stage, but the illustrative layout shows a mix of types and sizes can be accommodated.



The development is for up to 475 dwellings and the appropriate layout and density will be determined at Reserved Matters stage. The applicant has not undertaken a Building for Healthy life Assessment (the replacement for Building for Life). A detailed assessment should be provided at Reserved Matters stage and is requested as a condition.

- 8.23. Policy 15 of the CS sets out that a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026. At least 480 dwellings will be in the rural areas, at a rate of 40%. The rest will be delivered in urban areas at a rate of 20%. The Borough has an unmet affordable housing need and this is given significant weight in the planning balance. The Housing Needs Study (2019) identifies a Borough need for 271 affordable dwellings per annum (179 in the urban area and 92 in the rural area) for the period 2018-36. The Study states this is not a target, but that affordable housing delivery should be maximised where opportunities arise.
- 8.24. The Housing Officer has requested 20% affordable housing provision as set out in the Core Strategy, Policy 15. This would give 95 dwellings for affordable housing. To be policy compliant 75% of these dwellings would be for affordable rent and 25% for intermediate tenure (shared ownership) However this policy has been superseded by guidance in the National Planning Policy Framework which states that:
- “Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.”*
- 8.25. Furthermore, Government has introduced First Homes as a form of affordable home ownership, and requires that after the transitional period, 25% of all affordable housing on qualifying sites should be for First Homes. The remainder of the affordable housing should be split according to the tenure split in the adopted policy. Taking these changes into account, the tenure delivery for affordable housing on this site should therefore be as follows:
- 24 homes for First Homes
  - 50 homes for affordable rent
  - 21 homes for shared ownership
- 8.26. This meets both the requirement in NPPF for 10% of all homes to be for affordable home ownership (the First Homes and the shared ownership) and the ministerial guidance that 25% of the affordable housing provision should be for First Homes. The remainder of the affordable housing requirement is made up of affordable rented homes.
- 8.27. The preferred mix for affordable housing for rent is for 10% of any affordable rented homes to be for 1 bed roomed 2 person properties, either quarter houses or flats without communal areas, with the remainder of the mix being for 2 bed 4 person and 3 bed 5 person houses, with a greater delivery of 2 bed roomed houses. There are 90 applicants aged 60 or more who would qualify for age restricted accommodation and therefore a provision of a small number of bungalows should also be considered. All properties should meet Nationally Described Space Standards where possible. Applicants for the rented housing would be required to have a connection to the Borough of Hinckley and Bosworth.

- 8.28. Subject to these requirements being met through completion of a Section 106 legal agreement, this proposal is deemed to be acceptable with respect to housing mix and affordable housing provision.

**Impact upon highway safety**

- 8.29. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.30. Policy DM10 (g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.31. Paragraph 111 of the NPPF (2019) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.32. Stoke Golding Parish Council have stated that they support the plan to improve/upgrade the pathway to Stoke Golding along Stoke Road. They note that there are a lot of issues with traffic coming and going from Stoke Golding at school times and this plan could help to alleviate the current problems.
- 8.33. The local planning authority and highway authority have been seeking to work proactively with the developers in order to identify and assess the impact the development would have on the highway network. This has taken some time to discuss and agree but several extensions of time had been agreed with the applicant/agent for the application since the submission of the planning application.
- 8.34. A significant part of these ongoing discussions concerned the progression of strategic modelling assessment using the Leicestershire County Council Pan Regional Transport Model (PRTM) which is considered to be the most appropriate assessment tool available for the development proposed. In addition, the applicant team had also been proactively engaging in this process and with relevant stakeholders such as National Highways and Warwickshire County Council. To the Council's knowledge and the LHA the strategic assessment has progressed to the point of undertaking forecast modelling in the PRTM model and which has identified the strategic impacts of the development proposals. Stakeholders have agreed a defined study area for detailed assessment by the applicant team including the necessary assessment methodology and this work has been ongoing. It was anticipated that this work would lead to the development of a mitigation strategy that would need to be reviewed and agreed with stakeholders following submission of necessary supporting information such as a revised Travel Plan, scheme drawings, junction files, road safety audits and such like.
- 8.35. Whilst this transport/highway work continues to progress positively, it has not yet been concluded. Hinckley & Bosworth Borough Council as Local Planning Authority on 24<sup>th</sup> April 2023 requested final observations from the LHA following

the applicant lodging an appeal on non-determination of the pending application. Therefore, whilst it was expected that conclusion of the transport assessment work may well have led to a positive response being forthcoming, regrettably at this stage the LHA had no alternative other than to advise refusal on the highway grounds.

- 8.36. The LHA have made clear that they will continue to work proactively with the applicant team in order to resolve the issues and assessment work currently outstanding where possible. But at the time of the appeal being lodged, the highway issues remain outstanding and it is considered that the proposal would have a severe impact on the highway network and as per paragraph 111 of the NPPF should be refused on these grounds.

**Landscape and visual impact**

- 8.37. Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and it does not undermine the physical and perceived separation and open character between settlements; and it does not create or exacerbate ribbon development. The site is located within open countryside, outside of the settlement boundary and is therefore considered against this policy.
- 8.38. A Landscape and Visual Impact Assessment (LVIA) has been submitted as part of the outline planning permission.
- 8.39. The site does not lie within or close to a nationally designated landscape. Indeed there are no landscape or environmental designations or sensitivities or note for the site and its immediate surroundings.
- 8.40. In the Landscape Sensitivity and Green Infrastructure Study for Leicester & Leicestershire (October 2017), the site is found to be within the regional landscape character area, the Mease/Sence Lowlands Landscape Character Area.
- 8.41. The site is situated on the urban edge of Hinckley, to the north of the site, there is open countryside. The landform and landscape fabric is similar to that of the site with medium rectangular fields enclosed by mature native hedgerows with scattered broadleaf trees. The brook which encloses the site runs on a north to south trajectory with an extensive tree line of native broadleaf trees and native scrub vegetation. Landform rises east of the site.
- 8.42. The site lies within the local landscape Character Area 'E' (Stoke Golding Rolling Farmland); the key characteristics include:
- Undulating arable and pasture farmland with gentle valleys sloping down to the Ashby Canal, Tweed River and associated tributaries.
  - Small to medium scale rectilinear field pattern divided by low hedgerows and mature hedgerow trees typical of parliamentary enclosure, with smaller pasture fields around settlements, creating a largely unified field pattern and providing continuity with the agricultural past.
  - Rural settlement pattern with former agricultural villages typically demonstrating a historic core, modern outskirts and sporadic farmsteads on the outer edges, within a strong rural setting.
  - Historic villages occupying higher ground with attractive red brick cottages fronting onto the road and connected by rural lanes with grass verges and well-maintained hedgerows.

- Church spires and towers within villages in and around the character area form distinctive landmarks on the skyline.
- Associations with the Battle of Bosworth, particularly at Crown Hill in Stoke Golding.
- Ashby Canal has affiliations with coal mining that has influenced the landscape over the years and is designated as a conservation area. It is now important for biodiversity and tourism.

8.43. The HBBC Landscape Character Assessment (September 2017) shows that the application site is also located within Sensitivity Area 6 – Hinckley West and North which has the following key sensitivities:

- The rural and sparsely settled character of the landscape with a relative sense of tranquillity
- Low hedgerows and mature hedgerow trees define historic field patterns and form part of the overall ecological network
- The remaining historic country houses and associated designed landscape which create a sense of historic time depth and visual amenity
- The open countryside that forms much of the separation between the settlements of Hinckley and Stoke Golding
- The character of the rural lanes
- The River Tweed and local tributaries and associated habitat values
- The Ashby de la Zouche Canal – historic character and role as part of the Green Infrastructure Network
- The uninterrupted views over undulating farmland which contributes to the high scenic quality and attractive setting to Hinckley

8.44. However, it must be highlighted that the site occupies an urban edge location situated off Normandy Way on the northern edge of Hinckley. Consequently, the site is overlooked by and enclosed along its south eastern and southern periphery by existing residential development, as well as commercial/employment built form on Normandy Way. It is considered, therefore, that the site is part of the transition from the urban edge to the wider open countryside rather than an isolated rural site. Consequently, the site area, and its immediate context is not considered to have 'strong rural qualities' when compared to other parts of the wider Character Area.

8.45. Notwithstanding this, given the nature of the development proposal, it is inevitable that the landscape character of the site would be impacted as a result of the development. The landscape character assessment categorises this sensitivity area (06) as having a medium to high sensitivity to residential development. However it is recognised that some parts of the area have a stronger relationship with the settlement of Hinckley and as such are influenced by adjacent urban development. The application site is considered to be one such area.

8.46. The LVIA submitted as part of the application states that the following landscape mitigation measures would be provided by the applicant:

- The establishment of new landscape infrastructure across the wider site area to enhance the existing fabric
- The improvement and enhancement of existing hedgerows
- The provision of further hedgerows and typical hedgerow tree, copse and woodland spinney planting
- The creation of green corridors through the developed site areas
- The planting of species-rich grassland to replace the previous livestock pasture

- The establishment of native structure planting, field margins, scrubland and areas of specimen tree and orchard planting with wildflower meadows.
- 8.47. Further design mitigation measures are set out within the LVIA proposed as part of the development to help offset the likely landscape and visual effects:
- Residential dwellings to be sited within the main body of the site area, enabling land within the periphery of the site retaining existing landscape fabric on the edges, providing new landscaping and provision of Public Open Space.
  - The proposed residential built form will be set within the northern site boundary at a marginally lower topography below that of the open countryside beyond the site. This measure, combined with the extensive landscaping of the northern periphery of the site for green infrastructure and public open, will help to appropriately bed the new built form within the existing landscape.
  - The proposed primary street of the development is oriented (generally north east to south west east to west through the length of the land parcel to avoid long contiguous roadways cutting across the topography.
  - A new route enables retained landscape fabric and new green infrastructure to break up the mass of the proposal throughout the scheme.
  - Tree planting is proposed to help break up the mass of development and afford filtering of views.
  - Development is to be set back from the eastern edge to protect the existing brook (on the eastern edge), as well as the south and western edge to protect existing landscape fabric of hedgerows and trees and the extensive groups of mature trees along Normandy Way.
  - The retention of existing field hedgerows and hedgerow trees are to be incorporated into the interior design of the site to create a mature landscape setting and facilitate green corridors through proposed development.
  - Building heights will be minimised
  - The cladding of proposed buildings to be undertaken with a non-glossy matt material in a sensitive colour to ensure the new buildings are visually recessive.
  - Homes would not be overly glazed so the new buildings are visually recessive.
- 8.48. It is considered that where the development would be discernible its context would be seen against the wider urban edge setting of Hinckley, including long-standing development along the A47 Normandy Way which comprises employment and commercial development, the wider industrial estate and the surrounding residential neighbourhoods rather than the more rural isolated parts of the sensitivity area. It would be reasonable, in this context, to describe the application site as having a 'developed countryside' character. This is distinct from other portions of Sensitivity Area 6, which are not so visually linked with the existing built form.
- 8.49. Overall therefore, the landscape in this character area is considered to have a medium sensitivity to residential development due to the strong influences of the existing settlement edge of Hinckley and the A47. With the mitigation proposed the resultant impact would be minor-moderate. Given this, together with the Council's lack of a 5 year housing land supply, and the clear benefits to the public from the delivery of 475 dwellings (20% of which to be affordable), it is considered that the proposals would not have such a detrimental impact on landscape character or from a visual perspective to warrant refusal of the application.

### **Heritage Impacts**

- 8.50. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural and historic interest which it possesses.
- 8.51. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 8.52. Paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Paragraph 203 states that *"the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."*
- 8.53. Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) Development Plan Document seek to protect and enhance the historic environment and heritage assets. Policy DM11 states that the Borough Council will protect, conserve and enhance the historic environment throughout the borough. This will be done through the careful management of development that might adversely impact both designated and non-designated heritage assets.
- 8.54. A Heritage Statement was submitted as part of the application details. There are no designated or non-designated built heritage assets located within the site. This assessment identifies two Listed Buildings and seven non-designated built heritage assets located within a 1km search radius surrounding the site. However, the report concludes that only the non-designated built heritage assets of Middlefield Farm, Stoke Road and the Isolation Hospital, Ashby Road have the potential to be affected by development within the site through changes within their settings.
- 8.55. The assessment concludes that the site comprises a neutral element within the setting of these non-designated built heritage assets whereby it makes no contribution to their respective significance. Although the development will result in changes within the settings of Middlefield Farm and to a lesser extent the Isolation Hospital, these changes will not affect how their limited significance is appreciated or understood and will cause no harm.
- 8.56. The Conservation Officer has been consulted on the application and raises no objections.
- 8.57. The proposed development of the site is therefore in accordance with the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990 and

conforms to the requirements of the NPPF and local planning policy with regard to Built Heritage specifically policies DM11 and DM12 of the SADMP.

### **Archaeology**

- 8.58. Policy DM13 of the SADMP states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate desk based assessment and where applicable a field evaluation. Paragraph 194 of the NPPF also reiterates this advice.
- 8.59. In line with the National Planning Policy Framework, Section 16, the planning authority is required to consider the impact of the development upon any heritage assets, taking into account their particular archaeological and historic significance. Paragraph 199 states that where loss of the whole or a material part of the heritage asset's significance is justified, local planning authorities should require the developer to record and advance understanding of the significance of the affected resource prior to its loss. The archaeological obligations of the developer, including publication of the results and deposition of the archive, must be proportionate to the impact of the proposals upon the significance of the historic environment.
- 8.60. The Leicestershire and Rutland Historic Environment Record (HER) notes that the site lies within an area of archaeological interest, lying within a landscape where prehistoric remains are relatively frequent. The geophysical survey identified a cross-shaped feature suspected to be the foundation for a medieval/post-medieval windmill. The possible ring ditch identified to the north of this could be the remains of a second windmill, or a different archaeological feature. The report also shows a number of anomalies for which an archaeological origin cannot be ruled out, which should be tested by trial trenching. Prehistoric and Anglo-Saxon remains often do not present well on geophysical survey, and the presence of ridge and furrow across the survey area may also have had a distorting effect on the results. Given the limitations of geophysical survey as a means of archaeological evaluation, it is our recommendation that this should be supported by a programme of trial trenching in order to test the identified anomalies, in addition to any geo-physically 'blank' areas.
- 8.61. The archaeology team recommend that an Archaeological Impact Assessment was submitted prior to determination. This was completed and submitted to the local planning authority. The trial trenching identified significant archaeological remains, consisting of foundations for wooden cross-beams used to support a windmill likely dating to the medieval period. This is supported by a large number of nails and other objects recovered from the feature, as well as its location at the highest point of the site, with surrounding ridge and furrow respecting its position. Further investigation of this feature could provide a better understanding of its possible construction date, period of use and later abandonment.
- 8.62. Subject to a suitably worded condition relating to a written scheme of investigation the Archaeology have no objections to the application being granted permission and it is considered that proposal accords with Policy DM13 of the SADMP and the requirements set out within the NPPF with respect to archaeological considerations.

### **Impact upon neighbouring residential amenity**

- 8.63. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and

amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.

- 8.64. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.65. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.66. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.67. The scheme, subject to the detailed matters to come forward at Reserved Matters stage, will have a suitable relationship with nearby residential units.
- 8.68. The Environmental Health Officer has requested conditions with respect to a Noise, Construction Environmental Management Plan including air mitigation, construction hours and Land Contamination. These are all reasonable requests that can be appropriately sought through condition and will help to protect amenity.
- 8.69. Objections from third parties/local residents have been received in relation to noise and air pollution concerns. It is considered that the proposed conditions to be placed on the scheme (particularly those relating to noise, air quality and construction management), together with the Council's continued role in approving detailed plans at Reserved Matters stage, will ensure that sufficient scrutiny and control will be retained and that these concerns are appropriately mitigated.
- 8.70. Subject to conditions recommended by the Environmental Health Team this application is considered to be acceptable in amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.

#### **Flood Risk and Drainage**

- 8.71. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.72. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.



- 8.73. The application site is located within Flood Zone 1 being at low risk of fluvial flooding and a low to high risk of surface water flooding with high-risk areas indicating local ordinary watercourses. The Illustrative Masterplan shows a series of surface water attenuation features, primarily in the form of attenuation ponds that are located to the eastern and western site boundaries. The drainage strategy plan is detailed to a sufficient standard expected of an outline application.
- 8.74. The LCC Drainage Team advises that the proposals are acceptable subject to conditions and will comply with the development will satisfy Policy DM7 and the NPPF.

#### **Ecology and Biodiversity**

- 8.75. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.
- 8.76. An area of woodland planting is proposed along the site's northern boundary, together with a community orchard.
- 8.77. The Ecologist requested on initial submission of the application that a number of surveys were to be provided specifically in relation to barn owls, bats and hedgerows. On further re-consultation the Ecology Team has stated that the further surveys identified nesting barn owl in a tree, therefore mitigation will need to be put in place for barn owls. As the barn owl is a Local Biodiversity Action Plan species for Leicestershire, an appropriate level of mitigation, compensation and enhancement for barn owls should be created within the surrounding land/as part of the development, in order to promote this species in the immediate environment. This should be agreed and included as part of a condition. Only one hedgerow was identified as 'important' and therefore is to be retained and protected during the development. Six notable breeding bird species were present (including barn owl) within the survey area and therefore these will need to be a consideration for mitigation and compensation measures. No great crested newts were recorded therefore these do not need to be considered. The proposed mitigation and compensation measures proposed within each of these reports are acceptable and will need to be implemented in any Reserved Matters applications. The revised Biodiversity Net Gain assessment is acceptable.
- 8.78. Subject to an ecological mitigation and compensation condition as requested by the Ecology Team this application is considered to be acceptable with respect to ecological matters and in compliance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

#### **Minerals**

- 8.79. The application site sits within a Minerals Safeguarding Area for sand and gravel, and therefore policy M11 of the Leicestershire Minerals and Waste Local Plan is a relevant development plan policy. The planning application is supported by a Minerals Assessment which recommends intrusive investigation work to establish the presence of economically viable sand and gravel deposits within the site.
- 8.80. The Minerals and Waste team at LCC requested that investigation works are carried out prior to the determination of this planning application. The local planning authority considers that the public benefit for the number of houses

proposed clearly outweighs any sterilisation of minerals resources under the site. As such, it is considered that this matter can be dealt with by a suitably worded condition and it is considered that the proposal adheres to the requirements of Policy M11 of the Minerals and Waste Local Plan.

### **Planning Obligations**

- 8.81. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016 updates these standards and also identifies the costs for off-site and on-site contributions.
- 8.82. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations and paragraph 57 of the NPPF state that planning obligations must only be sought where they meet all of the following tests:
- A) Necessary to make the development acceptable in planning terms;
  - B) Directly related to the development; and
  - C) Fairly and reasonably related in scale and kind to the development.
- 8.83. **The contributions sought are detailed below:**
- Open Space spreadsheet submitted and amounts/provision to be agreed**
- **Off site Outdoor Sports Provision - £165,072.00**
  - **Off site Outdoor Sports maintenance - £78,432.00**
  - **On site Children's Equipped Play - £311,100.30**
  - **On site Children's maintenance - £300,278.00**
  - **Affordable Housing – 20%**
    - **24 homes for First Homes**
    - **50 homes for affordable rent**
    - **21 homes for shared ownership**
- (The preferred mix for affordable housing for rent is for 10% of any affordable rented homes to be for 1 bed roomed 2 person properties, either quarter houses or flats without communal areas, with the remainder of the mix being for 2 bed 4 person and 3 bed 5 person houses, with a greater delivery of 2 bed roomed houses. There are 90 applicants aged 60 or more who would qualify for age restricted accommodation and therefore a provision of a small number of bungalows should also be considered).**
- **Library Services (£14,381.10)**
  - **LCC Waste Management (£23,526.75)**
  - **Healthcare (£229,459.20)**
  - **Early years education £356,280.00 + 150 m2 of land in addition to the serviced school site in the same location**
  - **Primary Education (£5,509,873 + 1ha serviced school site)**
  - **Secondary Education (no contribution sought)**
  - **Post 16 Education (£302,950.73)**
  - **Primary SEND Education (£113,221.15)**
  - **Secondary SEND Education (£154,908.90)**
  - **Potential off site highway contributions**

- **Monitoring Fees**

- 8.84. In terms of library services the nearest library to this development is Hinckley Library and it is estimated that the total assumed occupancy of 1425 arising from the development will create additional pressures on the availability of the facilities at that library. The contribution is sought to provide materials such as books, audio books, newspapers, periodicals for loan and reference use, and associated equipment or to re-configure the library space to account for additional usage of the venue for residents to hold meetings, including book reading and activity sessions.
- 8.85. The nearest Recycling and Household Waste Site to this development is Barwell RHWS and the proposed development of 475 dwellings would create additional pressures on the site. The contribution is determined by multiplying the proposed dwellings by the current rate for the above RHWS, which is £49.53.
- 8.86. In terms of healthcare the housing development will result in a minimum population increase of 1140 patients. The GP Practices in closest proximity of the application site are Barwell & Hollycroft Medical Centres: Hollycroft Medical Centre and Castle Mead Medical Centre: Pine Close Surgery. The practices are already experiencing capacity issues in relation to their premises and would need to increase facilities to meet the needs resultant of this development; therefore any contributions would be required prior to first occupation.
- 8.87. With respect to early years education a desktop review of providers in a one-mile radius of the site is undertaken using the most recent capacity figures against a pupil yield rate of 8.5 children per 100 dwellings of 2 bedrooms or more (or 0.085 children per dwelling). A request for contributions is made where there is not sufficient capacity within those providers, and a cost multiplier of £8,907 per place is applied to the likely number of children generated. This is an average cost per place and is based on assessments of new build projects, extensions and modular buildings built across Leicestershire since 2012. This development creates 40 early learning places. There are 8 childcare providers within a 1 mile radius of the development who have 226 places. At the Summer 2021 headcount, there were 178 funded 2-, 3- and 4-year-olds in those providers, creating a surplus of 48 places. There is one other housing development in the area of 850 dwellings which creates 72 places. This creates a deficit of 22 places. This with the additional 40 places from this development creates a deficit of 66 places so a full claim is justified. This contribution would be used to accommodate the early learning capacity issues created by the proposed development at the new school or by improving, remodelling or enhancing existing facilities at Richmond Primary school or any other school or other early learning provision within the locality of the development.
- 8.88. For Primary Education, 143 primary aged pupils would be expected to arise from the site. The appropriate size for a new primary school to serve the development would therefore be a 210 place school. The current indicative cost to construct a 210 place primary school is £5,509,873, however work is ongoing to refine these costs and updated figures will be provided following submission of a formal planning application. The County Council would require the provision of a fully serviced site of 1ha on which to construct the new school, however it would also recommend, where possible to safeguard an additional hectare of land adjacent to the school site to accommodate potential future expansion. Until the school is available the developer would be expected to meet the full transitional cost either of transporting pupils to the nearest available primary school with places, or if no

local places are available, providing the cost of transport and temporary accommodation at a nearby school. At present it is not possible to calculate the additional transition costs as these will be determined by the start date for the development and the build rate for the new homes.

- 8.89. For Secondary Education, the site falls within the catchment area of Redmoor Academy. The Academy has a net capacity of 925 and 1,222 pupils are projected on the roll should this development proceed; a deficit of 297 pupil places. There are currently 146 pupils at this school being funded by S106 agreements from other developments in the area to be deducted. This reduces the deficit at this school to 151 pupil places. There are two other schools within a three mile walking distance of the development. There is an overall surplus in this sector of 16 pupil places. An education contribution will therefore not be requested for this sector.
- 8.90. For Post 16 Education the nearest Post 16 provision to the site is Hinckley Academy and John Cleveland Sixth Form Centre. The Post 16 provision has a net capacity of 300 and 428 pupils are projected on roll should this development proceed; a deficit of 128 pupil places. A total of 12 pupil places are being funded at this school from S106 agreements for other developments in this area which reduces the total deficit for this school to 116 pupil places (of which 100 are existing and 16 are created by this development). There are no other post 16 schools within a three mile walking distance of the site. A claim for an education contribution in this sector is therefore justified. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Hinckley Academy and John Cleveland Sixth Form Centre or any other school within the locality of the development.
- 8.91. All Special Schools in Leicestershire are full, and have a deficit of available spaces, and are forecast to remain so. In some instances the special schools are having to use their own teaching staff to teach pupils in available space in mainstream schools. Pupils are therefore missing out on the facilities, equipment and environment a Special School establishment is able to provide. The Council therefore seeks developer contributions towards the cost of expanding Special school provision for developments of 100 dwellings or more. The threshold of 100 dwellings was chosen to reflect the low special pupil yield and the avoidance of claiming very small amounts on all developments.
- 8.92. This development of 475 houses with two or more bedrooms generates 1.72 primary and 1.9 secondary SEN pupils. There are five Area Special Schools in Leicestershire. The closest school to this development is the Dorothy Goodman School, Hinckley. The school currently has capacity for 368 pupils and 379 pupils are projected on roll should this development proceed, a deficit of 11 pupil places. There are currently 2 pupils at this school being funded by S106 agreements from other developments in the area to be deducted. This reduces the deficit at this school to 9 pupil places. There is one other SEND school within a three-mile walking distance of the development. There is an overall deficit in this sector of 5 pupil places. An education contribution is therefore justified.
- 8.93. As it stands the local highway authority have recommended refusal of this application since the applicant lodged an appeal for non-determination. Transport modelling work is ongoing and may reveal the need for financial contributions towards highway improvements at the appeal stage.

- 8.94. All of the above contributions are considered to meet the three tests, and therefore would have formed part of a Section 106 legal agreement. However the applicant has appealed for non-determination and at the time the appeal was made the Section 106 had not been fully agreed/concluded. It therefore forms a reason for refusal as the application is not considered to be in accordance with Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.

### **Planning Balance**

- 8.95. 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.
- 8.96. The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. Therefore, 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.
- 8.97. The provision of up to 475 dwellings (20% of which to be affordable units) is considered to be a significant benefit of the proposal and weighs heavily in favour of the scheme.
- 8.98. The scheme does not fully comply with Policy DM4 of the SADMP but the impact on landscape and visual amenity has been assessed and is considered to be medium for this development proposal. In addition, the provision of much-needed housing is considered to outweigh the landscape impact identified.
- 8.99. However, the applicant has made an appeal against the Council for non-determination of the application. When this appeal was made the highway details/modelling work were not concluded and as such the application is considered to have an unacceptable impact on highway safety and access and is therefore recommended for refusal on these grounds as per the requirements of the NPPF. There is no agreed/signed Section 106 legal agreement and as such the application is considered to be unacceptable and not in accordance with Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.

## **9. Equality implications**

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

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

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

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.
- 9.3. There are no known equality implications arising directly from this development.
- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

## **10. Recommendation**

### **10.1. Refuse Outline Planning Permission for the following reasons:**

**The Applicant has failed to demonstrate that safe and suitable access for all users would be provided to the development and the proposal, if permitted, could consequently result in an unacceptable form of development and could lead to dangers for highway users contrary to paragraph 110 and 111 of the National Planning Policy Framework (2021).**

**The Applicant has failed to demonstrate that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be mitigated, contrary to paragraph 110 and 111 of the National Planning Policy Framework (2021).**

**The Applicant has not entered into a signed Section 106 agreement for the delivery of Affordable Housing, Public Open Space and other identified financial contributions. As such the application is considered contrary to Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.**

## **INFORMATIVES**

In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority have attempted to work with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application as required by the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). However, in this instance, it has not been possible to overcome the concerns raised and the proposal remains in conflict with the provisions of the Development Plan and therefore the application has been refused.

