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COMMERCIAL PROPERTY ADVICE



## **Supporting Planning Statement** **Town and Country Planning Act 1990** **Planning and Compulsory Purchase Act 2004** **Localism Act 2011**

**Outline Planning Application for the Development of up to 40 Dwellings, Public Open Space and Associated Infrastructure with All Matters Reserved for Subsequent Approval Other than Access.**

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### **Land to the West of Workhouse Lane, Burbage**

**On Behalf Of:**  
Central England Co-Operative

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Job Ref: P1672

Date: August 2020

## **Supporting Planning Statement**

**Land to the West of Workhouse Lane, Burbage**

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**Date: 26 AUGUST 2020**

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## 1.0 INTRODUCTION

1.1 This Supporting Planning Statement (“**SPS**”) has been prepared by Harris Lamb Planning Consultancy (“**HLPC**”) under the instruction of Mather Jamie acting on behalf of Central England Co-Operative (“**The Co-Op**”). It has been prepared in conjunction with a planning application proposing the residential led development of a parcel of land to the west of Workhouse Lane, Burbage (“**The Application Site**”) immediately adjacent to the south-east built up edge of the settlement. The Applicant is the owner of the Application Site.

1.2 The planning application has been submitted in outline form with all matters reserved for subsequent approval with the exception of access. The description of development, as referred to on the application form, is:

***“Outline planning application for the development of up to 40 dwellings with associated public open space and infrastructure” (“the Application Scheme”).***

1.3 The Application Scheme will deliver market and affordable housing in a highly sustainable location. There are a range of significant benefits associated with the development of the Scheme as detailed in the SPS.

1.4 Given the outline nature of the planning application the principal matters for consideration in the determination of the application are whether the principle of development is acceptable having regard to the requirements of the Development Plan and wider material considerations, and whether the site is capable of accommodating the proposed development from a technical perspective. The Reserved Matters process will be used to establish if the design and layout of the scheme are acceptable should this application be approved.



## **The Supporting Planning Statement**

- 1.5 The SPS has been prepared in order to help inform the determination of the application by demonstrating that the proposed development is suitable and sustainable. A comprehensive review of the planning policy framework relevant to the determination of the application has been undertaken. Where appropriate, appeal decisions are referred to in order to assist in the proper interpretation of local planning policies. It is HLPC's view that there are significant material circumstances to support the case for planning permission being granted.
- 1.6 This SPS should be read alongside the other application documents and does not seek to repeat information that can be found elsewhere in the submission. So, for example, the accompanying Design and Access Statement identifies and addresses the relevant design policies. Matters covered by the Design and Access Statement are not, therefore, addressed in this SPS in order to avoid unnecessary repetition. The SPS relies upon the conclusions of the supporting reports.

## **Pre-Application Consultation**

- 1.7 Prior to the submission of the application pre-application consultation was undertaken with the District Council. A pre-application consultation letter was sent to Officers on 18<sup>th</sup> September 2019 (ref P1672/SH/lmp). A response was received on 3<sup>rd</sup> March 2020 (HBBC ref 20/10019/PREMAJ). The pre-application response concludes that the proposal would be in conflict with policy DM4 of the SADMP. It is, however, understood that the Council accept that their Local Plan is out of date. As a consequence, the pre-application advice advises that when assessing the proposal for housing the "tilted balance" should be applied in accordance with paragraph 11d of the Framework and policy DM1 of the Core Strategy. The proposal would involve the development of open land in the countryside and an assessment on the level of harm the character of the area would need to be undertaken. The harm found would then need to be weighed against the benefits of the proposal. This SPS undertakes this planning balance exercise.

1.8 The pre-application response also advises on the documentation required to support the application. In accordance with this guidance the planning application is submitted along with the following documents and plans:

- Site Location Plan
- Site Ownership Plan
- Indicative Masterplan
- Design and Access Statement
- Landscape and Visual Impact Assessment
- Transport Statement
- Archaeological Survey
- Ecological Surveys
- Tree and Hedgerow Survey
- Flood Risk Assessment and Drainage Strategy
- Air Quality Assessment
- Noise Report

1.9 The application is not supported by elevation, floorplans or other detailed layout plans as referred to in the pre-application advice. This is due to the fact that the application has been submitted in outline form with all matters reserved other than access. Details of the reserved matters have not, therefore, been made with this submission.

1.10 It is trusted that sufficient information has been provided to register and positively determine the application. However, the Applicants and their representatives would welcome the opportunity to engage with officers and the statutory consultees during the determination period to address any issues that may arise.

## **2.0 SITE DESCRIPTION**

- 2.1 The Application Site comprises a broadly rectangular shaped greenfield parcel of land. It extends to approximately 2.5 hectares in size. It comprises a single agricultural field adjacent to the built-up boundary of the south-eastern edge of Burbage. The levels on site fall from Workhouse Lane down to the south-east corner.
- 2.2 There are few distinguishing features within the site itself. The majority of the field is grassland. There is a cluster of trees located around a pumping station and drainage pond associated with the development to the north towards the centre of the northern section of the site. Existing established trees and hedgerows line all site boundaries.
- 2.3 The land to the north and east of the Application Site is predominantly residential in nature. The land to the south and west is predominantly in agricultural use, with Britannia Park located to the north-west.
- 2.4 The site is in a sustainable location for development. It is approximately 1.2 kilometres from Junction 1 of the M69 motorway, which runs to the south of Burbage and links the settlement directly to Leicester and Coventry. The nearest railway station is located in Hinkley which provides links to larger urban centres such as Birmingham and Leicester.
- 2.5 Burbage benefits from a range of local services and facilities including schools, a post office, places of worship and public houses. These facilities are identified in Figure 2.1 of the Design and Access Statement. These services and facilities are all well linked to the Application Site.
- 2.6 The Application Site falls within Flood Zone 1. It does not contain, nor is it located in the vicinity of any locally listed buildings. The Site is not subject to any of the restrictive policy designations identified by Footnote 6 of the Framework, namely SSSI, Green Belt, Local Green Space, AONB, national

parks or defined heritage coasts, irreplaceable habitats, a designated heritage asset or an area at risk of flooding or coastal change.

### **3.0 THE PROPOSED DEVELOPMENT**

- 3.1 The Scheme comprises an outline planning application proposing the development of up to 40 dwellings with associated public open space and infrastructure. All matters other than access are reserved for subsequent approval. Access will be taken from Workhouse Lane in the north-east corner of the site. A new pavement will be provided from the proposed point of access northwards along the western edge of Workhouse Lane connecting directly to the existing pavement further north.
- 3.2 The exact design, layout, appearance and landscaping of the scheme will be determined at the Reserved Matters stage. An indicative Masterplan has, however, been prepared in order to demonstrate how the site could come forward for development (drawing 3518-SK01C). It is envisaged that there will be a principal road running through the site from Workhouse Lane. Dwellings will face north and south onto this road. The properties on the northern section of the site will back upon to the properties to the north which create a defensible boundary. The only exception to this is in the north-west corner of the site, where the properties will back onto the existing brook. New landscaping will be introduced in and around the brook to create a green corridor.
- 3.3 The southern section of the Application Site will be designed so that dwellings will face eastwards towards a private road behind the hedgerow on Workhouse Lane. This ensures that the majority of the hedgerow remains intact and the development is outward facing. Properties further into the site will face north, towards the principal access road and south, onto a private drive ensuring a back to back housing arrangement is achieved.
- 3.4 The properties on the western edge of the developed section of the site will face outwards towards the new area of public open space. These properties will all be served by a private drive,



- 3.5 It is expected that all parking will be provided in plot. A mix of housing will be provided. The indicative Masterplan shows a mixture of 2, 3 and 4 bedroom properties. 20% of the properties will be provided as affordable units in accordance with adopted policy.
- 3.6 The western edge of the site will be used as an area of Public Open Space. Approximately 1.2 hectares of public open space will be provided. The location of the area of public open space is in part dictated by site constraints. There is an existing sewer running from the north western to the south east section of the proposed area of public open space. In addition, it is necessary for an attenuation basin to be created in this location as part of the drainage strategy.
- 3.7 Given the scale of development it is expected that the public open space will be laid out in an informal fashion with a looped walkway surrounding a wildflower meadow and the proposed attenuation basin.
- 3.8 New tree planting will be introduced throughout the site. The new trees will be located throughout the development helping to break up and create a green appearance in the residential development parcel of the site and to create visual interest and an open green character in the area of public open space.

## **4.0 PLANNING POLICY REVIEW**

4.1 The starting point for the determination of the application is the Development Plan, which in this case comprises the Hinckley and Bosworth Core Strategy 2006 - 2026 and the Site Allocations and Development Management Policies DPD. The Application Scheme should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

4.2 Set out below is a summary of the planning policies and guidance relevant to the principle of development. These are set out in order to provide the policy context for the Case for the Application chapter of the SPS. The other application supporting reports should be referred to for an analysis of area specific policies.

### **1. The Development Plan - Core Strategy**

4.3 The Hinckley and Bosworth Borough Council Core Strategy was adopted in December 2009. It is, therefore, now 11 years old and pre-dates all versions of the National Planning Policy Framework (***"the Framework"***). The Core Strategy was prepared in order to provide overarching policies and guidance to control development in the period 2006 - 2026. It provides the overall vision and strategy for the Borough.

4.4 The Core Strategy was prepared to be in conformity with the provisions of the now revoked East Midlands Regional Plan (March 2009). The housing requirements in the Core Strategy, and general approach to development, are, therefore based upon the housing requirement set in the East Midlands Regional Plan.

4.5 Spatial Objective 05 - Housing for Everyone, of the Core Strategy is to ensure sufficient housing is provided to meet the requirements of the East Midlands Regional Plan to enable all residents of the Borough to have access to a suitable home which they can afford in sustainable locations.

The focus of development will be in and around the Hinckley urban area, with more limited development in the rural areas to meet local needs

- 4.6 Table 1 - Current Housing Supply, identifies a housing requirement of 9,000 dwellings during the course of the Plan Period. At the time of the preparation of the Core Strategy it was advised that 3,954 of these dwellings were committed. As a consequence, the Development Plan process needed to make provision for the development of a further 5,046 dwellings. In order to assist in meeting this housing requirement the Core Strategy identifies two large Sustainable Urban Extensions ("**SUE**") to the east and west of Barwell. The approximate location of the SUE is identified on the Key Diagram. The Key Diagram also identifies a Green Wedge to the south of Barwell and north east of Hinckley and Burbage designed to ensure that there is separation between these settlements. The Application Site does not fall within any of these policy designations.
- 4.7 The Core Strategy confirms that the main urban area of the borough is made up of the four settlements of Hinckley, Burbage, Barwell and Earl Shilton (paragraph 4.14). This area is expected to be the focus of development.
- 4.8 Policy 4 - Development in Burbage, advises that the Council will allocate land for the development of a "minimum" of 295 dwellings focused primarily on the north of Burbage adjacent to the Hinckley Settlement Boundary to support the Hinckley sub-regional centre.
- 4.9 Policy 15 - Affordable Housing, advises that at Hinckley, Barwell, Earl Shilton and Burbage 20% affordable housing provision will be sought on sites for 15 dwellings or more / 0.5 hectares or more. The tenure split will be 75% social rented and 25% intermediate. A preferred mix of affordable housing is identified by the policies supporting text.
- 4.10 Policy 16 - Housing Density, Mixed and Design, advises that the Council requires a mix of housing types and tenures to be provided on all sites of 10 dwellings or more, taking into account the type of provision that is likely to be required by Core Strategy Table 3 as a starting point.



4.11 Policy 19 - Green Space and Play Provision, sets the following requirements for Public Open Space:

- Equipped children play areas - a minimum of 0.15 hectares per 1,000 population.
- Casual / informal space - a minimum of 0.7 hectares per 1,000 population.
- Outdoor sports provision - a minimum of 1.6 hectares per 1,000 population.
- Accessible natural green space - a minimum of 2 hectares per 1,000 population.

## **2. Site Allocations and Development Management DPD**

4.12 The Council adopted the Site Allocations and Development Management Policies DPD ("**SADMP**") in July 2016. The SADMP has been prepared to be in conformity with the Core Strategy. It allocates sites for housing, employment, retail, open space and community facility development in order to deliver the provisions of the Core Strategy.

4.13 A Policies Map has been prepared to accompany the SADMP. The Application Site is located outside of, but adjacent to, the settlement boundary of Burbage. It is, therefore, in the countryside for decision making purposes. The land immediately to the north of the Application Site is identified as a residential site with planning permission.

4.14 Policy DM1 - Presumption in Favour of Sustainable Development, advises that planning applications which are in accordance with the policies in the Local Plan will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application, or relevant policies are out of date at the time of making the decision, then the Council will grant planning permission unless material considerations indicate otherwise, taking into account whether:

- Any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- Specific policies in the Framework indicate that development should be restricted.

4.15 The provisions of policy DM1 now need to be read in conjunction with the requirements of paragraph 11 of the Framework, which adopts an amended approach.

4.16 Policy DM3 - Infrastructure and Delivery, advises that where new infrastructure is required to serve development the developers are expected to make such provision directly or indirectly through appropriate funding mechanisms.

4.17 Policy DM4 - Safeguarding the Countryside and Settlement Separation, advises that the countryside will be first and foremost safeguarded from unsustainable development. Appropriate forms of development are listed in the policy, none of which includes residential development of the nature proposed. Given the application site falls outside of the defined settlement boundary of Burbage it should be treated as being within the countryside for the purposes of the application of policy DM4.

4.18 The SAPDM includes a series of policies on design, heritage and other matters in the Built Environment section. These policies are addressed as necessary in the wider supporting reports.

### **3. Material Planning Considerations**

4.19 There are a number of documents that are material considerations in the determination of the application. These are detailed below:

#### ***The National Planning Policy Framework***

4.21 The revised version of the National Planning Policy Framework (“**The Framework**”) was published in February 2019. The Framework sets out the Governments planning policies for England and guidance on how they are expected to be applied. It is confirmed that planning law requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Framework must be taken into account in preparing Development Plans and is a material consideration in planning decisions.

4.22 Part 2 - Achieving Sustainable Development, of the Framework advises that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are independent and need to be pursued in mutually supportive ways:

- An economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth, innovation and improve productivity; and by identifying and co-ordinating the provision of infrastructure.
- A social objective - supporting strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities health, social and cultural wellbeing; and
- An environmental objective - to contribute towards protecting and enhancing the natural, built and historic environment; including making efficient use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

- 4.23 These objectives should be delivered through the preparation and implementation of plans and the application of policies in the Framework, they are not a criteria against which every decision should be judged.

- ***The Presumption in Favour of Sustainable Development***

- 4.24 Paragraph 11 of the Framework advises that plans and decisions should apply a presumption in favour of sustainable development. For decision making this means:

- Approving development proposals that accord with an up to date Development Plan without delay;
- Where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out of date, grant planning permission unless:
  - I. The application of policies in the Framework that protect areas or assets of particular importance provide 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 the Framework taken as a whole.

- 4.25 Footnote 7 of the Framework advises that planning policies should be considered out of date where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with an appropriate buffer) or where the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years.

- ***Decision Making***



- 4.26 Part 4 of the Framework provides guidance on Decision Making. It requires Local Planning Authorities to work proactively with applicants to secure development that will improve economic, social and environmental conditions of the area. Decision makers at every level should seek to approve applications for sustainable development where possible.

• ***Delivering a Sufficient Supply of Homes***

- 4.27 Part 5 - Delivering a Sufficient Supply of Homes, of the Framework confirms that it is the Government's objective to "significantly boost" the supply of homes. Paragraph 68 of the Framework advises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. To promote the development of a good mix of sites Local Planning Authorities should give great weight to the benefits of using sustainable sites within existing settlements for homes.
- 4.28 The Framework requires Local Planning Authorities to identify and update annually the supply of specific deliverable sites sufficient to provide a minimum of five years worth of housing against the housing requirement set out in adopted policies, or against their Local Housing Needs where the strategic policies are more than five years old.
- 4.29 The Framework provides a specific definition of "deliverable" within the glossary section. The definition confirms what sites can, and cannot, be included in the five year housing land supply calculation based on their planning status and the type of evidence required to demonstrate deliverability.
- 4.30 The supply of specific deliverable sites should include a buffer moved forwards from later in the Plan Period of:
- a) 5% to ensure choice and competition in the market for land.

- b) 10% if the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual Position Statement or recently adopted plan.
- c) 20% where there has been significant under delivery of housing over the previous three years to improve the prospect of achieving the plan supply.

4.31 Footnote 39 confirms that “significant under delivery” should be measured against the Housing Delivery Test results from November 2018.

4.32 The Framework also includes policies on:

- Promoting healthy and safe communities
- Open space and recreation
- Promoting sustainable transport
- Making effective use of land and achieving appropriate densities
- Achieving well designed places
- Meeting the challenge of climate change, flood and coastal change
- Serving and enhancing the natural environment; and
- Serving and enhancing the historic environment

4.33 The requirements of these policies are addressed as appropriate in the supporting application documents.

#### ***Emerging Replacement Local Plan***

4.34 The Council are in the process of preparing a new Local Plan to replace the existing Development Plan. New Directions for Growth, consultation took place between January and March 2019. The Consultation document examines potential spatial approaches to order distribution of development. It does not identify potential development sites. As part of the Consultation interested parties were asked to provide details of sites they would like to be considered for allocation for development through the plan making process. Given that the emerging Local Plan is in the early stages of the preparation

process it can be afforded highly limited weight in the decision-making process.

- 4.35 A number of potential growth options were identified. This includes continuation of the current development approach through to identification of a new settlement to facilitate in meeting the housing employment requirement. A preferred housing target is not, however, included with the plan, nor are potential allocations.

#### ***Annual Monitoring Reports 2018 - 2019***

- 4.36 The Council's most recent Annual Monitoring Report ("**AMR**") covers the period up to the end of the monitoring year 31<sup>st</sup> March 2019. As of yet the 2019/2020 monitoring information is not available. Chapter 5 - Housing Supply, of the AMR confirms the local authorities five year housing land supply position.
- 4.37 The AMR confirms that as the Core Strategy was adopted more than five years ago the five year housing land supply requirement should be taken from the application of the Standard Method. This results in a Local Housing Need figure of 457dpa. A 5% buffer is applied. Based upon various sources of housing land supply the AMR suggests that a 4.15 year housing land supply is available. This is a shortfall of 406 dwellings.
- 4.38 It is HLPC's view that the Council have significantly over estimated their five year housing land supply. A series of sites are included within the five year housing land supply calculation that cannot be properly justified having regard to the definition of "deliverable" included within the Framework. HLPC represented the Co-Operative in an appeal in relation to a site at Crabtree Farm, Hinckley Road, Barwell, Leicestershire (Appeal Reference APP/KT420/W/19/322850) where planning permission was granted for the development of 25 dwellings, an area of public open space, and new burial ground on land outside of the Barwell Settlement Boundary. During the course of this appeal it was suggested by HLPC that a 2.94 years supply of

housing land was available. The Inspector concluded that even if the Council's figures of 4.15 years was correct it still represented a "significant shortfall" (paragraph 7). The Inspector also noted that it was a matter of agreement between the parties that significant weight should be attributed to the shortfall. On that basis, it was not productive in the context of the appeal to examine in detail the supply. A copy of the appeal decision can be found at Appendix A.

- 4.39 The Inspector confirms at paragraph 8 that given a five year housing land supply shortfall exists that provisions of paragraph 11 of the Framework are engaged, and the policies which are most important for determining the application should be considered to be out of date, engaging the tilted balance.

***The Burbage Neighbourhood Plan***

- 4.40 Burbage Parish Council are currently in the process of preparing a Neighbourhood Plan. It has been submitted for examination and a hearing took place on Thursday 3<sup>rd</sup> March 2020 that was attended by HLPC acting on behalf of the Applicant.
- 4.41 As drafted, the Burbage Neighbourhood Plan does not make any allocations in or around Burbage. This is due to the fact that it is based upon the 2009 Core Strategy, which is an out of date document. Relatively unusually given the number and content of the objections to the Neighbourhood Plan the Inspector decided to call a Hearing to explore a number of matters, as opposed to deal with the submissions by way of written representations.
- 4.42 Paragraph 48 of the Framework identifies the weight that can be attached to Draft Neighbourhood Plans in the decision making process. Local Planning Authorities may give weight to relevant policies in emerging Plans according to:
- The stage of preparation of the emerging Plan.



- The extent of which there are unresolved objections to relevant policies.
- The degree of consistency in relevant policies in the emerging Plan to this Framework.

4.43 The NPPG advises that once a Local Planning Authority publish notices of a referendum on the emerging Neighbourhood Plan it should be given more weight in the decision making process. However, the Burbage Neighbourhood Plan Inspector's Report has yet to be published. There are a significant number of unresolved objections. The Neighbourhood Plan can, therefore, only be afforded minimal weight in the decision making process.

#### ***Strategic Housing and Economic Land Availability Assessment***

4.44 The Council's most recent Strategic Housing and Economic Land Availability Assessment ("**SHELAA**") covers the monitoring period 2017/18. The Application Site is identified to SHLAA site AS971. The SHLAA suggests that the site can deliver 64 dwellings between 2023 and 2027. It is considered to be a "developable" residential site adjacent to the settlement boundary.

## **5.0 CASE FOR THE APPLICANT**

5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 require planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In this case the Development Plan comprises the Hinckley and Bosworth Core Strategy and Site Allocations and Development Management Policies DPD. The planning policy review has identified the following material considerations in the determination of the application:

- The National Planning Policy Framework
- Emerging Local Plan evidence base documents
- The Council's five year housing land supply position
- Relevant appeal decisions

5.2 This Planning Application has been submitted in outline form with all matters reserved for subsequent approval other than access. That being the case the key matters for consideration in the determination of this application are:

1. Whether the proposed development is Development Plan compliant
2. Whether there are material considerations that support the grant of planning permission
3. Whether the access arrangements are appropriate
4. Whether the application site is capable of accommodating the 40 dwellings proposed from a technical perspective

5.3 Turning to points 3 and 4 in the first instance, the accompanying Transport Assessment demonstrates an appropriate access can be created to the site and the development will not have an adverse impact on the highways network. The wider supporting reports demonstrate that the site is capable of accommodating the 40 dwellings proposed from a landscape and visual impact, heritage, flood risk, drainage and ecological perspective. These reports should be referred to for a detailed explanation as to how these

matters have been addressed. That being the case, this SPS concentrates in addressing the first two matters identified above.

### **The Principle of Development**

- 5.4 The Application Site is identified as being outside of, but adjacent to, the settlement boundary of Burbage by the SADMP Policies Map. It is, therefore, subject to the provisions of policy DM4 - Safeguarding the Countryside and Settlement Separation. The policy advises that the countryside will first and foremost be safeguarded from unsustainable development. A series of appropriate forms of development are identified by the policy, none of which include residential development of the nature proposed. The proposed development is in conflict with the provisions of policy DM4. It is, therefore, necessary to consider if there are material planning considerations that outweigh this policy conflict in the determination of the application.
- 5.5 Paragraph 11 of the Framework provides guidance in this regard. It advises that where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out of date, local authorities should grant planning permission unless:
- i. The application of policies in the Framework that protect areas or assets of particular importance provide 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 the Framework taken as a whole.
- 5.6 Footnote 6 of the Framework identifies the “protected area or assets” for the purposes of the application of bullet point “i”. The application site does not fall within any of the identified protection areas or assets.
- 5.7 That being the case, if the Development Plan policies are “out of date” planning permission should be granted unless the impacts of doing so would

significantly and demonstrably be outweighed by the benefits in accordance with the requirements of bullet point 'ii'.

- 5.8 In this case it is clear that the most important policies are 'out of date'. There are a number of reasons why this is the case. Footnote 7 of the Framework confirms that one of the reasons why policies may be considered out of date is due to a lack of a five year housing land supply. The Council's most recent AMR advises that there is a 4.15 five year supply of housing land available. On this basis paragraph 11.D of the Framework is engaged and applications should be determined having regard to the 'tilted balance'.
- 5.9 In addition, the housing policies in the plan as a whole should be considered out of date in any event. The Core Strategy was adopted in December 2009. Its housing requirement was based upon a housing figure included within the East Midlands Regional Plan of 2009. The housing requirement is, therefore, some 11 years old. The RSS has now been revoked. The Core Strategy predates all versions of the Framework and, therefore, does not include an OAHN or Standard Method housing requirement. The housing requirement in the plan is clearly out of date.
- 5.10 This in turn means that all policies that stem from the housing requirement should be considered out of date. For example, the SADMP's housing allocations and the settlement boundaries were established on the basis of meeting the housing requirement in the Core Strategy. Policy DM4 is an out of date policy as it seeks to restrict development beyond settlement boundaries. That being the case, any conflict with SADMP Policy DMP4 must be considered in this context.
- 5.11 Attached at Appendix 1 is a copy of the recent Crabtree Farm, Hinckley Road, Barwell appeal decision where the Inspector agreed that paragraph 11D of the Framework was engaged and the application should be determined using the tilted balance. The same approach should be applied in the determination of this application.



- 5.12 The SPS has, therefore, sought to identify the adverse impacts and the benefits of granting planning permission for the tilted planning balance test. These are set out below:

***Adverse Impacts***

- 5.13 The adverse impacts of granting planning permission are minimal. As referred to above, whilst there would be a conflict with policy DM4 of the SADMP that this is an out of date policy for the purposes of the planning balance. The proposed development would also result in new built development being introduced into the open countryside. The site is a greenfield site, however, there is considered to be limited harm in this regard.
- 5.14 It is not possible for the Council to address its five year housing land supply shortfall without development taking place on greenfield sites beyond the settlement boundary. The Council presented evidence to the Burbage Neighbourhood Plan Examination on the availability of sites for new development at Burbage. All of these sites fell outside of the defined Settlement Boundary.
- 5.15 It is, therefore, the Applicant's view that any harm is limited. There are a series of significant material considerations that support the grant of planning permission.

***Benefits***

**1) Affordable Housing Delivery**

- 5.16 The Applicant is proposing to make a policy compliant level of affordable housing provision. This is a material benefit of significant weight. The delivery of affordable housing in the Borough has been insufficient to meet requirements. Table 5 on page 14 of the Council's Residential Land Availability Monitoring Statement 2018/19, confirms that in the most recent monitoring year the Council delivered 99 affordable dwellings, and in total

since the start of the plan period only 1,155 of the 2,090 affordable homes required.

- 5.17 The application scheme will deliver 8 affordable dwellings and is in accordance with requirements of policy 15 of the Core Strategy. Whilst the total number of affordable housing units coming forward on this particular site is relatively modest, this should be set against a pressing need for additional affordable housing delivery and those 8 units represent a valuable contribution to meeting that need.

## **2) The Delivery of New Housing**

- 5.18 The Council have a five year housing land supply shortfall. This triggers the “tilted balance” in determination of the application and, in addition, is a material consideration of significant weight in the determination of the application.
- 5.19 The degree in the shortfall of the housing land supply may be relevant to the weight to be given to the scheme’s benefits in providing new housing, as noted, in the Phides case referenced below:

***“Phides Estates (overseas) Limited v Secretary of State for Communities and Local Governments (2015) EWHC 827”***

***“[60] Naturally, the weight given to a proposals benefit in increasing the supply of housing will vary from case to case. It will depend, for example, on the extent of a shortfall, how long the deficit is likely to persist, what steps the authority could reasonably take to reduce it, and how much of it the development would meet. So the decision maker must establish not only whether there is a shortfall but how big it is, and how significant”.***

- 5.20 Based on the Council’s housing shortfall figure of 4.15 years the shortfall is “significant”. This is how it was described by the Crabtree Farm appeal

Inspector (APP/KT420/W/19/3222850 - paragraph 7). It was agreed that significant weight should be attached to the shortfall.

- 5.21 The Council's ability to address the five year housing land supply in the short term is clearly affected by the fact that the replacement Local Plan Review is at a very early stage. The adopted Local Plan does not present a means of addressing the shortfall in the foreseeable future. The only way in which this can be done is to increase the supply of sites in the short term through the grant of planning permissions on sites that are not allocated for development. This includes delivering development outside of the defined settlement boundaries. It is understood that this position is accepted by the Council, and the Inspector of the Burbage Neighbourhood Plan was advised that this is the case in Council's written submissions to the Hearing.

### **3) Settlement Strategy**

- 5.22 The grant of planning permission will provide housing at a settlement which is identified as being an area which is expected to accommodate a significant proportion of the new housing requirement in the plan area.

### **4) Small and Medium Sized Sites**

- 5.23 The Government now seeks to ensure that small and medium sized sites can be brought forward through the planning process because of the important contribution they can make to meeting housing requirements of an area. One way of bringing forward such sites is through the development of windfall sites (paragraph 68). The appeal site is a medium sized site which can be regarded as a windfall and which can be built out in the five year period.

### **5) Increased Local Expenditure**

- 5.24 The proposed development will result in additional expenditure in local shops. In addition, jobs will be created through the construction of the

proposed development. It therefore contributes towards the economic aspect of sustainable development.

## **6) Public Open Space**

- 5.25 A significant amount of new public open space will be created on the development site. This will be accessible to both the residents of the scheme and the wider area. This is a significant benefit of the proposed scheme.
- 5.26 Weighed against these benefits is the harm to the countryside. It is the Applicant's view that any harm to the countryside is highly limited. The Application Site forms a broadly featureless field. It has been assessed through the Landscape and Visual Impact Assessment in order to establish whether it is particularly visually sensitive. It is not. Any harm on the impact to the countryside is highly limited, it is not a valued landscape.
- 5.27 The adverse impacts of granting planning permission are not demonstrably outweighed by the benefits. Indeed, the benefits are significant and clearly outweigh any limited impacts of the scheme. That being the case, in accordance with the provisions of paragraph 11 of the Framework it is the Applicant's view that planning permission should be granted.



## **6.0 CONCLUSIONS**

- 6.1 This SPS has been prepared to support an outline planning application proposing the residential led development of a parcel of land to the west of Workhouse Lane, Burbage. The SPS explains why it is the Applicant's view that the principle of residential development on the site is considered to be acceptable.
- 6.2 The Application Site lies outside of, but adjacent to the Settlement Boundary of Burbage. The proposed development does not, therefore, conform with the provisions of SADMP Policy DM4 - Safeguarding the Countryside and Settlement Separation. As the Application Site sits outside of the Settlement Boundary it is considered to be "countryside" for the purposes of decision making. A residential scheme of the nature proposed would conflict with the appropriate forms of development in the countryside identified by Policy DM4. It is, therefore, necessary to consider whether there are any material considerations that exist that outweigh the conflict with the Development Plan.
- 6.3 The Framework requires planning applications to be determined in accordance with the provisions of the Development Plan. However, where there are no relevant Development Plan policies or the policies which are most important for determining the application are out of date, planning permission should be granted unless the Application Site falls within one of the policy designations identified by Footnote 6 of the Framework, this is not the case in this instance, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 6.4 In this case it is clear that the most relevant policies in the Development Plan are out of date. This is due to the fact that the Council have a five year housing land supply shortfall. This is confirmed by the Council's most recent AMR. At the recent Crabtree Farm, Hinckley Road, Barwell appeal the Inspector concluded that the Council's housing shortfall was a "significant shortfall". In addition, the Core Strategy's housing policies, and

subsequently the policies that seek to control the location of the delivery of housing, are out of date. This is due to the fact that the Core Strategy housing requirement is based upon the now revoked East Midlands Regional Plan. The Core Strategy housing requirement is significantly out of date and can be afforded no weight. The 'tilted balance' required by paragraph 11d of the Framework is subsequently engaged.

6.5 In undertaking the tilted planning balance it is clear that any harm caused by the development is limited and the benefits are significant. The only notable harm, other than the fact that the proposed scheme is not in accordance with provisions of policy DM4 of the SADMP, is the fact that development will take place in a greenfield site that is identified as being within the countryside. However, by the Council's own admission it is not possible for the housing requirement to be met using brownfield land alone. Development must take place on sites outside of defined settlement boundaries in order for the housing requirement to be met. The adoption of the Emerging Local Plan to put new allocations in place to meet the housing requirement is a number of years away. There is, therefore, a requirement to deliver housing on unallocated sites in the short term.

6.6 The benefits of granting planning permission include:

- The provision of much needed affordable housing.
- Providing new housing to help "boost significantly" the supply of housing and rectify the existing housing land supply shortfall.
- Delivering development adjacent to a settlement which is identified as being an area which is expected to accommodate housing in the adopted Development Plan.
- The delivery of a medium sized housing site in accordance with the aspirations of paragraph 68 of the Framework.
- Increased expenditure in local shops for the residents of the development.
- A significant amount of public open space.

- 6.7 It is the Applicant's view that the adverse impacts of granting planning permission are not demonstrably outweighed by the benefits. Indeed, a number of significant benefits arise from the development that meet the requirements of the Framework and the aspirations of the Development Plan. It is, therefore, respectfully requested that planning permission is granted.

## **APPENDIX 1**

### **CRABTREE FARM APPEAL DECISION**



## Appeal Decision

Inquiry opened on 11 June 2019

Accompanied site visit carried out on the same day

**by Mrs J A Vyse DipTP Dip PBM MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 2<sup>nd</sup> July 2019**

**Appeal Ref: APP/K2420/W/19/3222850**

**Land at Crabtree Farm, Hinckley Road, Barwell, Leicestershire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Jeremy Pyatt of Bruton Knowles against the decision of Hinckley and Bosworth Borough Council.
- The application No 18/00279/OUT, dated 15 March 2018, was refused by a notice dated 17 August 2018.
- The development proposed comprises up to 25 dwellings, provision of open space and land for a new burial ground.

### Decision

1. For the following reasons the appeal is allowed and planning permission is granted for the erection of up to 25 dwellings, provision of open space and land for a new burial ground on land at Crabtree Farm, Hinckley Road, Barwell, Leics in accordance with the terms of the application, No 18/00279/OUT, dated 15 March 2018, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. The appeal relates to an outline application with all matters other than access reserved for future consideration. It is accompanied by a completed planning obligation comprising a unilateral undertaking by way of a Deed under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended).<sup>1</sup> The obligation is a material consideration and I return to its provisions later on.
3. Mr Tyrer (Leicestershire County Council) was to have taken part in the discussion on the Undertaking. In the event, he was unwell and so was unable to attend for that part of the Inquiry. He had, however, submitted a detailed statement explaining the County Council's position that informed the related discussion and which I have taken into account in coming to my decision.

### Main Issues

4. The main issues in this case relate to:
  - whether the proposed housing would be in an acceptable location having regard to development plan and national policies that seek to manage the location of new development; and
  - the effect of the development proposed on the character and appearance of the area and on the role and function of the Hinckley/Barwell/ Earl Shilton/ Burbage Green Wedge.

<sup>1</sup> Inquiry Document (ID)12



## Reasons for the Decision

5. At the time the planning application was determined, the Council maintained that it could demonstrate a five year supply of housing land. By the time of the Inquiry, however, its position had changed. At the end of the Inquiry it was agreed that the supply was somewhere between 2.94 years (the appellant's position) and 4.15 years (the position of the Council).<sup>2</sup>
6. Much of the difference in the figures relates to a difference in approach as to whether a number of the supply sites should be considered as deliverable or not having regard to the definition set out in the Glossary to the latest iteration of the National Planning Policy Framework (the Framework). For the appellant, it was maintained that there is nothing in the Glossary definition that indicates that there is some further category of site additional to the two set out after the words '*In particular*' at the start of the second sentence. For the Council, it was argued, having regard to advice in the Planning Practice Guidance<sup>3</sup> and a Court of Appeal judgement<sup>4</sup> that it made no sense for instance, to exclude sites with resolutions to grant permission, or to ignore sites where a developer has confirmed an intention to submit a reserved matters application after the base date for calculating the supply – in essence, it was argued that there is no reason to exclude a 'residual' category of sites and that there is no case, in law, for an artificial cut-off date for obtaining relevant evidence.
7. However, as was agreed during cross-examination, even on the Council's best case, a supply of 4.15 years represents a significant shortfall. It was also a matter of agreement between the parties that significant weight should be attributed to a shortfall in supply anywhere between the two values put forward. On that basis, it is not productive in the context of this appeal to examine the detail of the supply.
8. I recognise that there has been no significant under-delivery of housing in recent years when measured against relevant requirements. It was also confirmed that, in granting planning permissions on sites outwith development boundaries, the Council has been applying its policies flexibly in order to ensure that its housing supply has remained strong. Indeed, as much was recognised by Inspector Robins in his Decision in relation to an appeal on a site to the south of Barwell.<sup>5</sup> Be that as it may, the Council now finds itself in a position where it cannot currently demonstrate a five year supply of housing land against its current requirement of 480 dwellings per annum. As a consequence, whilst the extent of the shortfall remained a matter of dispute between the parties it was common ground that, with regard to paragraph 11 of the Framework and its associated footnote 7, the housing land supply position on either case means that the policies which are most important for determining this application are to be considered out-of-date, thus engaging the so-called tilted balance.

## Location of the Development

9. The Hinckley and Bosworth Core Strategy (2009) sets out a broad settlement hierarchy, with the majority of new housing development to be accommodated in and around the Hinckley sub-regional centre where there is a concentration

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<sup>2</sup> ID8

<sup>3</sup> Reference ID: 3-048-20180913 and Reference ID: 3-030-20180913

<sup>4</sup> *St Modwen Developments Ltd v SoS [2017] EWCA Civ 1643*

<sup>5</sup> Appeal Ref APP/K2420/W/17/3188948 DL paragraph 87

of services, where accessibility can be maximised and modal choice is available, plus two Sustainable Urban Extensions (SUEs) one of which is at Barwell, with Barwell being identified as an urban area. Paragraph 4.5 of the Core Strategy acknowledges that in order to accommodate the housing requirement it may be necessary to review settlement boundaries through the Site Allocations and Development Management Policies DPD (2016) (DPD).

10. The appeal site is not allocated for development in the DPD. It lies adjacent to but outside the settlement boundary for Barwell as currently defined and thus, for planning policy purposes, lies in the open countryside. It is also within a Green Wedge as defined by the development plan. However, the parties are agreed that the appeal site is in an accessible location, close to the settlement with easy access to the facilities and services that future residents would require on an everyday basis. I have no reason to take a different view. It was also accepted by the Council at the Inquiry that, going forward, some further development would have to take place outside the development boundaries as currently defined in order to meet its housing needs.
11. In light of its accessibility and the Council's current housing land supply position, and subject to my findings below in relation to the effect of the development proposed on the character and appearance of the surrounding area and on the role and function of the Green Wedge I consider that, in principle, this could be an acceptable location for development.

#### ***Character and Appearance/Green Wedge***

12. It was no part of the Council's case that the proposed burial ground would harm the character and appearance of the area or have an adverse impact on the role and function of the Green Wedge. Indeed, policy 6 of the Core Strategy specifically cites burial grounds as being an acceptable land use within the Green Wedge. On that basis, the thrust of what follows focusses largely on the residential element of the appeal scheme.
13. The 4.35 hectare appeal site is relatively flat and comprises three rectilinear fields that extend back from the southern side of Hinckley Road. It adjoins the defined settlement edge along the eastern and northern site boundaries and is currently in use as grazed pasture, enclosed and divided by mature hedgerows and hedgerow trees that delineate the historic field pattern.
14. Neither the appeal site itself, nor the land that surrounds it, is subject to any national or local landscape designation. Whilst I am in no doubt that the landscape is valued by local residents, it was a matter of agreement between the parties that it is not a valued landscape in the terms of paragraph 170 of the Framework. On the evidence before me, I have no reason to come to a different view.
15. In terms of landscape, the historic field pattern, which also contains remnants of ridge and furrow, could be reflected through retention of the internal hedgerows, a matter that could be secured by condition. I am also mindful that the existing landscape heritage interest is not readily appreciated from outwith the site, even at close proximity and that better examples of ridge and furrow are to be found in the fields to the east of St Mary's Avenue. Nevertheless, the residential element of the development proposed would clearly have a permanent adverse impact on the landscape character of the appeal site itself, replacing small-scale pastoral fields on the settlement edge



(a key sensitivity of this landscape character area<sup>6</sup>) with built form. However, as confirmed by the Council's landscape witness, although the effect would be adverse it would, subject to retention and enhancement of the boundary vegetation, be localised in extent.<sup>7</sup> I agree – the appeal site has a high degree of visual enclosure, being contained within a network of generally unmanaged mature hedges, hedgerow trees and some individual mature trees. In my view, the degree of containment is such that the site is almost completely separate physically, visually and perceptually from the wider open landscape beyond, which is defined by large open fields bounded by low hedgerows and post and wire fencing.<sup>8</sup>

16. In terms of visual impact, this is not a remote area, the character of the countryside here being influenced to some extent by its proximity to the adjacent urban area of Barwell, with Hinckley Road being one of the main routes into Barwell. Properties on the opposite side of Hinckley Road to the appeal site extend as a linear ribbon of development to the west, well beyond the western boundary of the appeal site, towards the junction with Ashby Road. The allocated Barwell SUE lies behind those properties.
17. I also saw that existing development on this southwestern edge of Barwell forms a relatively hard edge to the settlement here, abutting the adjacent fields, including those of the appeal site. The existing houses are readily apparent, for instance, on the footpath approach across the fields to the south. The adjacent housing is also clearly perceived from within the site itself, where it butts right up to the eastern boundary, although I recognise that the appeal site is not accessible by the public and so the juxtaposition of the housing with the site is not seen from any public vantage point. Housing on Hinckley Road also backs onto part of the northern site boundary. In contrast, the existing vegetation around the appeal site, together with adjacent copses, provides a soft edge that largely screens views of the existing properties, with no obvious long or middle distance views into the site, particularly into the eastern part of the site on which the residential element proposed would be located (as secured by one of the suggested conditions).
18. Even in winter months,<sup>9</sup> the residential development would, if contained within the eastern part of the appeal site, generally only be perceived from within the appeal site itself, from Hinckley Road at the site entrance, from the ends of Crabtree Road and Powers Road, and from some nearby parts of the local rights of way network. In particular, there would be very little impact in views from the west, since the dwellings would be largely screened by existing/enhanced boundary vegetation not only along the western boundary of the residential area, but also along the western boundary of the proposed burial ground area.
19. I recognise that in views on approach from the south, along the permissive footpath, the development would be less well screened, but it would be seen in the context of the existing development on St Mary's Avenue and Powers Road, with the opportunity to enhance the planted field boundary. Whilst the indicative layout<sup>10</sup> shows buildings close to the boundary here, closer than the existing dwellings, the Council would have control over the final layout of any

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<sup>6</sup> Burbage Common Rolling Farmland as defined in the Council's Landscape Character Assessment (2017)

<sup>7</sup> Appendix 5 to the proof of Kate Ahern (paragraph A5.9)

<sup>8</sup> See footnote 5 above

<sup>9</sup> Photoviewpoints 7 - 11 in the appellant's February 2019 Landscape and Visual Appraisal (LVA).

<sup>10</sup> Page 3 of the appellant's LVA



residential scheme and could ensure that built form was kept away from the boundary and that boundary planting was reinforced. Even if some of the boundary vegetation transpires not to be in the control of the applicant (a concern of the Council) there is plenty of scope within the site boundaries for significant planting, as agreed by Ms Wilkinson in cross-examination.

20. Subject to conditions to secure the retention and enhancement of existing boundary vegetation both around and within the site, and confining residential development to the eastern part of the site<sup>11</sup> (all of which matters can be secured by condition were the appeal to succeed) I am satisfied that whilst the development would cause some visual harm, it would not be unduly intrusive and it would not necessarily appear out of place or incongruous in its context.
21. As confirmed in the related Statement of Common Ground, the Green Wedge is not a landscape designation. Rather, its purpose is to protect the separation of Hinckley, Barwell and Earl Shilton, helping to protect their individual identities and provide easy access from the urban areas into green spaces. In order to ensure that the Green Wedge remains or is enhanced as an attractive contribution to the quality of life for nearby urban residents Core Strategy policy 6 encourages uses that provide appropriate recreational facilities within easy reach of the urban population and promote positive management of land. Policy 20 of the Core Strategy also seeks, among other things, to maintain the Green Wedge as it plays an important environmental and landscape protection role.
22. Whilst residential development is not listed in policy 6 as a use considered as being acceptable in the Green Wedge, the policy does not necessarily preclude other types of development. Rather, it is to be considered against four criteria: it should retain the function of the Green Wedge; retain and create green networks; retain and enhance public access to the Green Wedge; and should retain the visual appearance of the area. It was no part of the appellant's case that this policy is inconsistent with the Framework.
23. In the locality of the appeal site, as illustrated by Plan 10 of the appellant's LVA, the Green Wedge provides physical separation between Hinckley and Barwell in the region of some 430 metres between the properties towards the western end of Hinckley Road (Barwell) and those on Ashby Road (Hinckley) and some 440 metres between properties on Powers Road (Barwell) and Newquay Close (Hinckley) to the southwest. The development proposed would not affect the gap between the existing Hinckley Road/Ashby Road properties. However there would, as a matter of fact, be a reduction in the separation to the southwest of the settlement of some 55 metres, to approximately 385 metres. To that extent, there would be some impact on the function of the Green Wedge. That said, as I saw during my visit, and as shown on photographs in the appellant's LVA, belts of trees along both sides of the A47 (which runs between the two settlements to the south of Barwell) mean that there is very limited intervisibility between the two settlements at these points. Moreover, the smallest gap - some 355 metres between Powers Road (Barwell) and Harwood Drive (Hinckley)- which gap is appreciated from the permissive footpath to the south of the settlement, would be unaffected by the appeal scheme. Consequently, I am satisfied that the role and function of the Green Wedge would not be undermined in any perceptual sense by the development proposed on that approach to the settlement.

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<sup>11</sup> Pursuant to the Landscape Strategy Plan (11976/P13) in the appellant's LVA

24. Looking at the other criteria, the development would retain and has the potential to create green networks. In addition, the residential element includes a play area that would be accessible to existing residents. The landscape strategy plan in the appellant's LVA illustrates a path linking the burial ground through the residential element to the proposed play area, shown as potentially being sited adjacent to the existing open space area between Crabtree Road and Powers Road. Whether or not those spaces could be physically linked (and I acknowledge that that would be dependent on the consent of the owner of the adjacent land) the footpath through the burial ground and into the play area within the residential scheme<sup>12</sup> would enhance public access into the Green Wedge compared with the existing situation, where there is no public access to any part of the site. For the reasons set out earlier in relation to visual impact, any harm to the visual appearance of the Green Wedge would be minimal.
25. To conclude on this issue overall, the residential element proposed would cause some harm through the loss of a small part of the land of the landscape character type identified. However, given the visual containment of the site, and with the use of conditions to constrain residential development to the eastern part of the site combined with re-enforcement of the existing boundary planting, the development would not be readily perceived in views across the adjacent countryside, including on the approach along Hinckley Road and on the various footpath approaches to this side of the settlement. As such, the harm would be limited. Nevertheless, there would be some conflict with policy DM4 which seeks, among other things, to ensure that development complements or enhances the character of the surrounding area.
26. There was some discussion as to whether policy DM4 is consistent with the Framework, inasmuch as it sets out at the start that it seeks to *protect* the intrinsic character, beauty, open character and landscape character of the countryside. However, it is clear that it is protection from unsustainable development that is sought, rather than a blanket protection of all countryside. In that regard, I find no conflict with the Framework, which sets out a presumption in favour of sustainable development. However, the matter of whether a development can be considered sustainable or not is a product of the overall planning balance, a matter to which I return later. The matter of whether there is any conflict with policy DM1 will also depend on the outcome of the planning balance, since it largely reiterates the presumption in favour of sustainable development.
27. Although I have found there is unlikely to be any perception of harm to the role or function of the Green Wedge, there would, as a matter of fact, be a physical incursion which would result in some harm, bringing the residential element of the scheme into conflict with policies 6 and 20 of the Core Strategy.

### **Benefits of the scheme**

28. The appeal scheme includes a burial ground. The evidence before me was that the existing burial ground in Barwell is likely to reach capacity in some 2/3-5 years' time. Whilst the appeal scheme is not bound to deliver the cemetery, a burial ground is nonetheless part and parcel of the development for which permission is sought, with the planning obligation ensuring that the land would

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<sup>12</sup> Ibid. A suggested condition in the event that the appeal was to succeed, requires that the Reserved Matters comply with the general principles shown on that Plan.



be transferred to the Parish Council for the said purpose. In light of the identified need, I consider that the provision of land for a burial ground to be a benefit of the scheme and is a consideration to which I afford modest weight.

29. The provision of up to 25 dwellings at a time of pressing need, up to 5 of which would comprise affordable homes, on a site that is conveniently and sustainably located in terms of accessibility to local services and facilities, is a consideration that carries substantial weight.
30. In addition, although not quantified anywhere, the development would bring benefits in terms of construction expenditure, employment and consumer expenditure. These economic benefits carry significant positive weight.
31. Whilst existing residents would be able to access the proposed open space within the residential development proposed, I am not persuaded that that attracts more than very limited weight. There was no suggestion in the evidence before me, for instance, that there is a shortfall in public open space/play areas in the area.

### **Other Matters**

#### *Local residents' concerns*

32. Local residents raised a number of concerns, including effects in terms of highway safety, living conditions, wildlife and flooding.
33. The planning application was accompanied by a Transport Statement, the findings of which were not challenged by any substantiated evidence from other parties. The burial ground and the residential element would each be served by a separate dedicated access in the form of simple priority controlled T-junctions with Hinckley Road, each designed in accordance with the highway Authority's design criteria. A study of accident data demonstrates that there are no particular safety concerns on the highway network in the vicinity of the site that warrant mitigation as part of the scheme.
34. The residential element of the development scheme is forecast to generate 15-16 two-way vehicle trips in the AM and PM peak hours, equating to less than one additional trip on the network every four minutes. That level of trip generation would have a negligible impact on the operation and safety of the adjacent highway network, including the junction of Hinckley Road with Ashby Road.
35. Although no traffic figures are available for the burial ground, it is reasonably anticipated that a number of funeral goers would potentially car-share. Moreover, burials would be likely to take place outside the peak periods on the highway network, as they would usually follow on from a service, with mourners then attending wakes or going back to the family's house. Car parking would be provided on the site, subject to details that would be secured by condition were the appeal to succeed. I have no reason to suppose in this regard, that an appropriate number of spaces could not be provided, or that mourners would necessarily seek to park on the highway. The Highway Authority is content with proposed arrangements in terms of safety and I have no reason to take a different view.
36. There was some suggestion that access to the residential site should be taken off Crabtree Road/Powers Road, both being culs-de-sac that terminate close to

- the eastern site boundary. However, the red line boundary of the site does not abut directly the highway there. In any event, the proposal stands to be determined on its own merits. As set out above, the development is acceptable in highway safety terms – the possibility of some hypothetical alternative access arrangement is not a material consideration of any weight.
37. Local residents also raised concerns about proximity to properties on the opposite side of Hinckley Road with regard to disruption to the use of private access drives and noise and disturbance. The positioning of a priority T-junction opposite dwellings on a carriageway is a typical feature of many highway layouts. Examples local to the appeal site include the junctions of St Mary's Avenue with Hinckley Road, Moat Way with Mill Street, Crabtree Road and Powers Road with St Mary's Avenue. There is nothing inherently unsafe about such arrangements in this location and there is nothing to suggest that their operation results in significant issues for existing residents. The existing houses opposite the appeal site are set back from the main road, behind front gardens, the distance separation being such that noise and disturbance, including from headlights, would be minimal and does not amount to good reason to withhold permission.
38. With regard to wildlife, surveys undertaken for the appellant in February and July 2018 confirm that the site does not contain any habitats or botanical species that may merit designation as a Local Wildlife Site. Moreover, all seven of the tested ponds, including one on the appeal site, returned negative eDNA results for great crested newts. It is therefore unlikely that they would be using the site and surrounding area as a breeding habitat. Subject to conditions, I am content that there would be no material harm to wildlife interests as a consequence of the development proposed. Any wildlife interest could be protected by condition in the event that the appeal was to succeed.
39. The application was accompanied by a flood risk assessment. The appeal site lies within Flood Zone 1, with the report demonstrating that, subject to appropriate conditions, the development would not be at significant risk of flooding and neither would it be likely to increase the risk of flooding elsewhere. Whilst local residents refer to a high water table locally, the investigations undertaken suggest that groundwater flood risk is considered to be low for the site. In addition, in relation to the proposed burial ground, a report commissioned by the Parish Council in 2011<sup>13</sup> confirms that provided the small glaciofluvial deposit located on the northern boundary of the largest of the three fields is avoided, the site is suitable for interment purposes.

#### *Planning Obligation*

40. As mentioned at the outset, the appeal is accompanied by a planning obligation in the form of a unilateral undertaking. Together, the Community Infrastructure Levy (CIL) Regulations 2010 (Regulation 122) and paragraph 56 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms; directly related to the development; and be fairly and reasonably related in scale and kind to the development. In addition, CIL Regulation 123(3) currently restricts the use of pooled contributions. Should I determine that any obligation provided for does not comply with CIL Regulations 122 or 123 and so attach no weight to that obligation in determining the appeal, then the Undertaking

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<sup>13</sup> Core Document C3



includes a provision whereby that obligation would not be enforceable and would cease to have effect.

41. Subject to the usual contingencies, the Undertaking sets out covenants that would be imposed on the owners in favour of the Borough Council. It makes provision in this regard, for 20% of the dwellings to be constructed as affordable homes, also stipulating the details of the affordable housing units, phasing and occupancy, mix and location. It also binds the owners to transferring the burial ground area to the Parish Council and to providing and then transferring the on-site open space area to a management company, together with a maintenance contribution or, in the alternative, requesting that either the Borough Council or the Parish Council maintain it. In the latter eventuality, the open space area would be transferred to the relevant authority together with a maintenance contribution.
42. Covenants would also be imposed on the owners in favour of Leicestershire County Council, including provision for the payment of a travel pack contribution or, in the alternative, provision of travel packs to future occupiers directly, and for the payment of financial contributions for bus passes, civic amenity, primary education, library facilities and monitoring.
43. Both the Borough Council and the County Council submitted CIL compliance statements setting out the justification for the arrangements secured and the contributions sought.<sup>14</sup>
44. Although the Borough Council is supportive of the requested bus passes contribution, the appellant contests their provision. The County Council's Planning Obligations Policy Document (3 December 2014) appended to its Statement, sets out that in relation to highways and transportation matters, the type of development that may trigger provision is that which would lead, among other things, to a material increase in traffic on the road network or has inadequate access to walking, cycling and public transport.<sup>15</sup> The undisputed evidence of the appellant in relation to highways matters was that the traffic generated by the development proposed would have a negligible impact on the operation and safety of the adjacent highway. It was also a matter of agreement between the parties that Barwell has a good range of shops, services and facilities, including an infant and primary school, within 1 kilometre of the site, which are accessible by walking and cycling and are sufficient to meet the everyday needs of future occupiers. In addition, employment opportunities are available on an industrial estate just to the north of the site, with higher order shops, services and facilities and employment opportunities, along with secondary school provision, in Hinckley, some 2 kilometres to the south of Barwell. The closest bus stops lie within 200 metres of the site, with services operating for a large part of the day, including weekends, linking to Hinckley and beyond. As such, the site is well situated in terms of convenient access to services and facilities by means other than the private car.
45. In light of the forgoing, the development proposed is not one, in my view, that triggers the highway and transportation provisions referred to in the County Council's Document. Whilst I recognise that the Framework requires that

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<sup>14</sup> The County Council's statement was submitted as a freestanding document by Mr Tyrer. The Borough Council's statement is at Section 10 of the Council's evidence folder.

<sup>15</sup> The first 'box' at the top of page 38 in Appendix 5 of the County Council's Statement.



appropriate opportunities to promote sustainable transport modes can be/have been taken up, bus pass provision is not necessary in this instance to mitigate any adverse impact of the development proposed. As such, the related contribution does not meet the relevant tests for obligations and I afford it no weight in my determination of this appeal. The same can be said for the provision of travel packs. I recognise that their provision was not contested by the appellant and that they might be desirable in light of the general need to promote sustainable means of transport. However, given the accessibility credentials of the site they are not necessary in this instance and, having regard to the types of development impacts that might justify their provision as set out in the County Council Statement, the related contribution and/or direct provision attracts no weight in my determination of this appeal.

46. At the request of the County Council the Undertaking includes a monitoring fee. Section 7 of the Planning Obligations Policy Document refers to monitoring, suggesting that a fee should be levied on every individual contribution/planning obligation. However, that document is post-dated by a High Court judgement which I drew to the attention of the parties during the case management conference.<sup>16</sup> The judgement is clear that there is nothing in statute, regulation or guidance which suggests that authorities could, or should, claim administration and monitoring fees as part of planning obligations. The judge found that an Inspector is entitled to consider that such fees would be met from a Council's core budget. She also noted that the application in that case was 'routine' and for a 'relatively small development' of up to 25 dwellings, and that no individualised assessment of special costs liable to be incurred had been provided by the Council with, for the most part, monitoring being part of the Authority's day to day function. That is a matter of planning judgement.
47. At up to 25 dwellings, the scheme before me can also be considered as modest, with nothing to indicate that the housing element would need, for instance, to be delivered in phases. I have no reason to suppose, in this regard, that the monitoring likely to be required would be so exceptional that the payment of a related contribution is needed to make the development acceptable in planning terms and so does not meet the relevant tests. I therefore afford the obligation no weight in my determination of this appeal.
48. In relation to other obligations secured, the Borough Council is of the view that the contributions requested by the County Council towards civic amenity provision and library facilities are not CIL compliant, on the basis that any increase in demand would be small given the size of development proposed.
49. I recognise that the modest scale of the development means that any corresponding increase in use of the civic amenity site in Barwell would be modest. However, the evidence of the County Council is that the facility already struggles to cope with existing demand, especially at peak times, and that a new canopy is required to facilitate an increase in the waste storage area. To accommodate the increase in demand, I consider that a contribution towards the necessary works is justified in this case, as set out in the County Council's Statement. Only one other contribution has been secured since 2010 towards that specific project.
50. In relation to the library contribution, the County Council Statement advises that it would be used to enhance the provision of research and study resources

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<sup>16</sup> *Oxfordshire County Council v SSCLG* [2015] EWHC 186

at Earl Shilton library. To be justified, a financial contribution must assist in mitigating the impact of unacceptable development to make it acceptable in planning terms - it cannot be used as a tariff on development. Whilst the development proposed would clearly have the potential to increase demand on library services, the evidence before me does not demonstrate that the existing research and study resources are not sufficient to accommodate that, or that there would be any harm in this regard. Accordingly, the requested contribution is not justified and I afford it no weight.

51. The other provisions, namely the provision of affordable housing, arrangements relating to the open space area and the burial ground, and contributions towards primary education are all fully justified as set out in the County Council's submission and the CIL compliance statement and meet the relevant tests. I have therefore taken them into account in coming to my decision.

### **Overall Planning Balance and Conclusions**

52. For the purposes of this appeal, the most relevant development plan policies are contained in the Core Strategy and the DPD. Whilst the Council is in the process of preparing a replacement Local Plan, it is still at a relatively early stage such that only very limited weight can be afforded to it. Neither party relied on it in making their respective cases.
53. Paragraph 11 of the National Planning Policy Framework recites the presumption in favour of sustainable development, setting out what it means for decision-taking. That is reflected in DPD policies DM1 and, to some extent, in DM4. In relation to applications for the provision of housing, Framework paragraph 11 confirms, through its footnote 7, that the policies most important for determining the application are to be considered as out-of-date in situations where the Council cannot demonstrate a five year supply of housing land. In such circumstances, permission should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits.
54. There is an agreed significant shortfall in housing land supply. The homes would be located in an accessible location and would bring economic and other benefits. To be weighed against that is the harm that I have found in relation to the character and appearance of the area and to the role and function of the Green Wedge. In my view, that harm would be limited in the wider context and would not outweigh the significant benefits of the proposal, let alone significantly and demonstrably outweigh them when assessed against the Framework as a whole. In these circumstances, I consider that the appeal scheme would comprise sustainable development and the presumption in favour of such, as set out in the Framework, and the development plan, applies. That is a significant material consideration that outweighs any conflict with some elements of the development plan. Therefore, for the reasons set out above, I conclude on balance that the appeal should succeed.
55. The circumstances of this scheme are very different from those considered by Inspector Robins in relation to a proposal for up to 185 dwellings on a site comprising a number of fields the southeast of Barwell.<sup>17</sup> In that case, the Inspector concluded that whilst the development would be relatively well contained, the incursion of a large area of built development into the landscape would nevertheless be clearly perceived, eroding its current nature and its role

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<sup>17</sup> APP/K2420/W/17/3188948 Land east of The Common, Barwell.



in the setting of Barwell, especially when seen from adjacent roads and footpaths. He also found that the development would also represent a significant incursion into the Green Wedge, resulting in a perception of the town extending southwards towards the A47 increasing coalescence and reducing its green lung function. I confirm, in this regard, that I have considered the development before me on its own merits, including the physical context of the site which is very different from that the subject of the earlier appeal.

### Conditions

56. Possible conditions were discussed in detail at the Inquiry, on a without prejudice basis, in the light of the related advice in the Framework and the Government's Planning Practice Guidance. The conditions and wording set out in the attached schedule reflect that discussion and are based on the wording in Inquiry Document 9.<sup>18</sup>
57. Conditions 1, 2 and 3 relate to the submission of reserved matters and commencement of development. The shortened period for submission of the reserved matters and commencement was agreed given that part of the reason to allow the appeal is a response to an identified need to boost the supply of housing in the absence of a five year supply. To provide certainty, it is necessary to identify the plans to which the decision relates, but only insofar as they relate to the matter of access, which is not reserved for subsequent approval (condition 4). Whilst all matters other than access are reserved for further approval, it is necessary for the outline permission to define the maximum capacity of development (5).
58. In the interest of protecting the established character and appearance of the area and the role and function of the Green Wedge, it is necessary to ensure that development of the site is in general accordance with the Landscape Strategy Plan (6).
59. Conditions 7-16 are necessarily worded as pre-commencement conditions.
60. Since the site is likely to be developed in two stages (residential and burial ground) a Phasing Plan is required to ensure that the necessary infrastructure is delivered at an appropriate stage of development (7). Historically, a farmstead occupied part of the site. Taking a precautionary approach, conditions 8 and 9 are necessary to ensure that any site contamination, or the potential for such, is detected and remediated accordingly in accordance with DPD policy D7.
61. In order to minimise disruption during construction for local residents and those travelling through the area in the interest of highway safety and to protect the environment, condition 10 secures a Construction Environmental Management Plan, with condition 11 controlling hours of working, in accordance with policies DM7 and DM17 of the DPD. In order to avoid pollution and to prevent increased risk from flooding, condition 12 is necessary to secure details of a sustainable surface water drainage scheme, together with details for ongoing management which are essential to ensure that the scheme continues to perform as intended, in accordance with DPD policy DM 7.

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<sup>18</sup> The numbers that follow reflect the numbering in the schedule below, not the numbering in ID9.

62. A condition securing submission of and compliance with an Arboricultural Method Statement is necessary for the site as a whole, in order to ensure that trees and hedgerows on or adjacent to the site are protected during the construction period in the interest of visual amenity and biodiversity in accordance with DPD policy DM6 (13).
63. Details of existing and proposed ground levels and proposed finished floor levels are necessary in the interest of visual amenity and to mitigate against any residual risk of flooding in accordance with DPD policy DM10 (14). An Ecological Mitigation Plan is necessary in order to protect wildlife and nature conservation interests in accordance with DPD policy DM6 (15).
64. The appellant's desk-based archaeological assessment identifies a low potential for archaeological remains to be encountered on the site, which does not preclude its development. Since a geophysical survey has already been undertaken, a limited trial trenching evaluation is required, in accordance with DPD policy DM13 (16).
65. Conditions 17-19 are to be complied with prior to first occupation of any dwelling or the burial ground being brought into use, as appropriate. They are required in the interest of highway and pedestrian safety in accordance with policies DM17 and DM18 of the DPD.
66. Lastly, a condition relating to external lighting is necessary in the interest of visual amenity and to mitigate disturbance to wildlife, in accordance with policies DM7 and DM10 of the DPD (20).

*Jennifer A Vyse*  
INSPECTOR



## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Hugh Richards, of Counsel

Instructed by the Borough Council

He called

Kate Ahern

MSc, CMLI

Helen Nightingale

DipEP, MRTPI

Sharron Wilkinson

DipUP, MRTPI

Director of LUC (Land Use Consultants)

Principal Planning Officer with the Borough Council (Major Projects)

Senior Planning Officer with the Borough Council

### **FOR THE APPELLANT:**

Ian Ponter, of Counsel

Instructed by Harris Lamb Limited

He called

James Byrne

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Robert Hughes

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Simon Hawley

BA(Hons), MA, MRTPI

Patrick Downes

BSc(Hons), MRICS

Associate at mode transport planning

Landscape Partner at Tyler Grange LLP

Director at Harris Lamb Limited (Planning Department)

Director and Head of Planning at Harris Lamb Limited

### **INTERESTED PARTIES**

Andrew Tyrer

BA(Hons), MRTPI

Development Contributions Officer,  
Leicestershire County Council

### **DOCUMENTS HANDED UP DURING THE INQUIRY**

- ID1 List of appearances for the appellant
- ID2 Addendum to the Statement of Common Ground: Housing Land Supply
- ID3 Draft Unilateral Undertaking
- ID4 Letter from Barwell Parish Council to Harris Lamb (7 June 2019)
- ID5 Opening submissions on behalf of the local planning authority
- ID6 Opening submissions on behalf of the appellant
- ID7 Copy of LCC response to the planning application No 19/00393/FUL (change of use of land to new burial ground, new access, landscaping and car parking)
- ID8 Agreed Note updating the parties' housing land supply figures following the related round table discussion
- ID9 Agreed suggested conditions
- ID10 Closing submissions on behalf of the local planning authority
- ID11 Closing submissions on behalf of the appellant

### **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

- ID 12 Completed Unilateral Undertaking

## **Schedule of Conditions**

### **Appeal APP/K2420/W/19/3222850**

#### **Land at Crabtree Farm, Hinckley Road, Barwell Leicestershire**

#### **Reserved Matters**

- 1) Details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') relating to each phase of development shall be submitted to and approved in writing by the local planning authority before any development begins in respect of that phase. Development shall be carried out in accordance with the approved details.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

#### **Plans**

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans received by the local planning authority on 1 August 2019, but only insofar as they relate to access to the site:

Access Proposals – Residential Access J32-2417-PS-001 rev F

Access Proposals – Burial Ground and Residential Scheme J32-2417-PS-007 rev

#### **Development Parameters**

- 5) No more than 25 dwellings shall be constructed on the site.
- 6) All reserved matters applications shall be in general accordance with the Landscape Strategy Plan (Drawing No 11976/P13) at page 32 of the Tyler Grange Landscape and Visual Appraisal dated 15 February 2019.

#### **Pre-Commencement Conditions**

- 7) Development shall not begin, including works of site clearance and preparation, unless and until a Phasing Plan for the whole of the application site, identifying the housing and burial ground phases of development, has been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in full accordance with the approved Phasing Plan.
- 8) Development shall not begin in any phase, including works of site clearance and preparation (other than as required to be carried out as part of an approved scheme of remediation) until a scheme for the investigation of any potential land contamination in respect of that phase has been submitted to and approved in writing by the local planning authority. The scheme shall include details of how any contamination is to be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be completed prior first use of that part of the site for the intended purpose.
- 9) Any contamination that is found during the course of development on any phase that was not previously identified, shall be reported immediately to the local planning authority. Development on the affected part of the site shall be suspended until an addendum to the scheme for the investigation of all potential land contamination and implementation pursuant to condition 8 above is submitted to and approved in writing by the local planning authority, which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out in accordance with the agreed implementation period before development on that part of the site is resumed or continued.



- 10) Development shall not begin in any phase, including works of site clearance and preparation, unless and until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in full accordance with the approved CEMP which shall remain in force for the construction period for that phase. The CEMP shall detail how, during the site preparation and construction phase, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from traffic, dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored and a procedure for the investigation of complaints.
- 11) Works of site preparation and/or construction shall not take place in any phase other than between 0730 to 1800 hours Monday to Friday and between 0800 to 1300 on Saturdays. There shall be no working on Sundays or on Bank or Public Holidays.
- 12) No development shall take place in any phase, including works of site clearance, until a surface water drainage scheme for that phase, including a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed in accordance with the approved details. The submitted scheme shall include infiltration testing to assess the potential for disposing of surface water by means of a sustainable drainage system, should ensure that surface water does not drain onto the public highway and should include the management of surface water on site during construction. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters, including ensuring that no surface water drains onto the public highway;
  - ii) include a timetable for implementation of the scheme in relation to each phase of the development; and,
  - iii) provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 13) No development shall take place in any phases, including works of site clearance and preparation, unless and until an Arboricultural Method Statement for the site as a whole, including details of the position, species, size and condition of each existing tree and hedgerow on and adjacent to the site, and identifying those trees and hedgerows to be retained, has been submitted to and approved in writing by the local planning authority, together with details of measures for the protection of trees and hedgerows to be retained during the course of development. Development shall be carried out at all times in accordance with the approved Arboricultural Method Statement.
- 14) No development shall commence on any phase of development, including works of site clearance and preparation, until such time as the existing and proposed ground levels and, where relevant, proposed finished floor levels, for that phase of development have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 15) No development shall begin on any phase, including works of site clearance and preparation, unless and until an Ecological Mitigation Plan for that phase has been submitted to and approved in writing by the local planning authority. The

Plan to be submitted shall include full details of measures to mitigate the impact of the development on ecology at the site and provide biodiversity enhancements within the development. The mitigation and enhancement measures shall be undertaken in accordance with the recommendations of the Preliminary Ecological Appraisal undertaken by BWB (February 2018) and the BWB Botanical Assessment and Great Crested Newt eDNA Survey (July 2018) .

- 16) Development shall not begin in any phase, including works of site clearance and preparation, unless and until a programme of archaeological work has been implemented in accordance with a written scheme of investigation in respect of that phase which shall have previously been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
- i) the programme and methodology of site investigation and recording;
  - ii) the programme for post investigation assessment;
  - iii) the provision to be made for analysis of the site investigation and recording;
  - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v) the provision to be made for archive deposition of the analysis and records of the site investigation; and
  - vi) the nomination of a competent person or persons/organisation to undertake the works.

#### **Pre-Occupation/Commencement of Use Conditions**

- 17) No part of the residential phase shall be occupied until such time as the associated site access and footway link and crossings have been provided in accordance with the details shown on mode transport drawing Nos J32-2417-PS-001 Rev F and J32-2417-PS-007 Rev E.
- 18) No part of the burial ground phase shall be brought into use until such time as the speed cushions have been re-located and the associated site access and footway crossings have been provided in accordance with the details shown on mode transport drawing numbers J32-2417-PS-004 Rev D and J32-2417-PS-007 Rev E.
- 19) The burial ground phase shall not be brought into use for its intended purpose unless and until car parking provision has been laid out and made available for use in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The car parking spaces shall be retained thereafter for the intended purpose.

#### **Lighting**

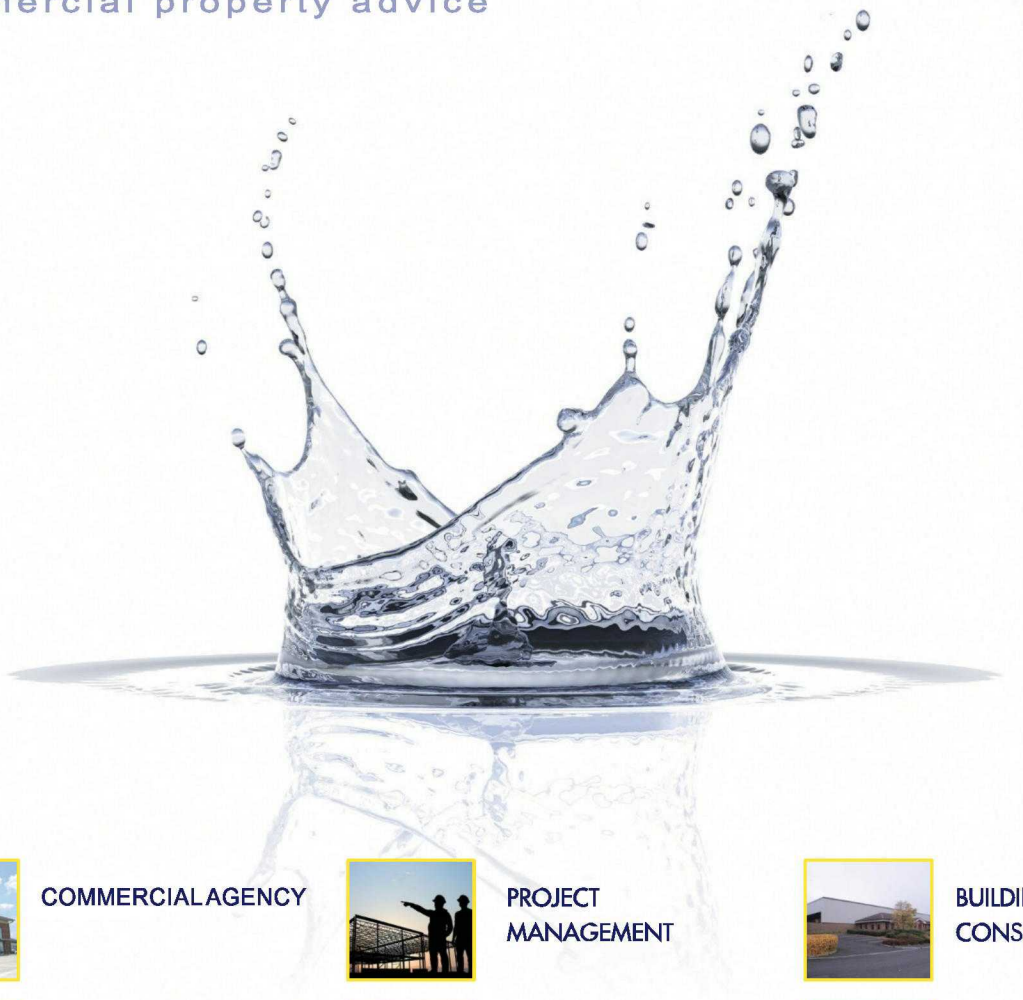
- 20) No external lighting of any phase of the development (excluding that in residential curtilages relating to domestic properties) shall be installed other than in accordance with details that have previously been submitted to and approved in writing by the local planning authority.

-----END OF SCHEDULE-----



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