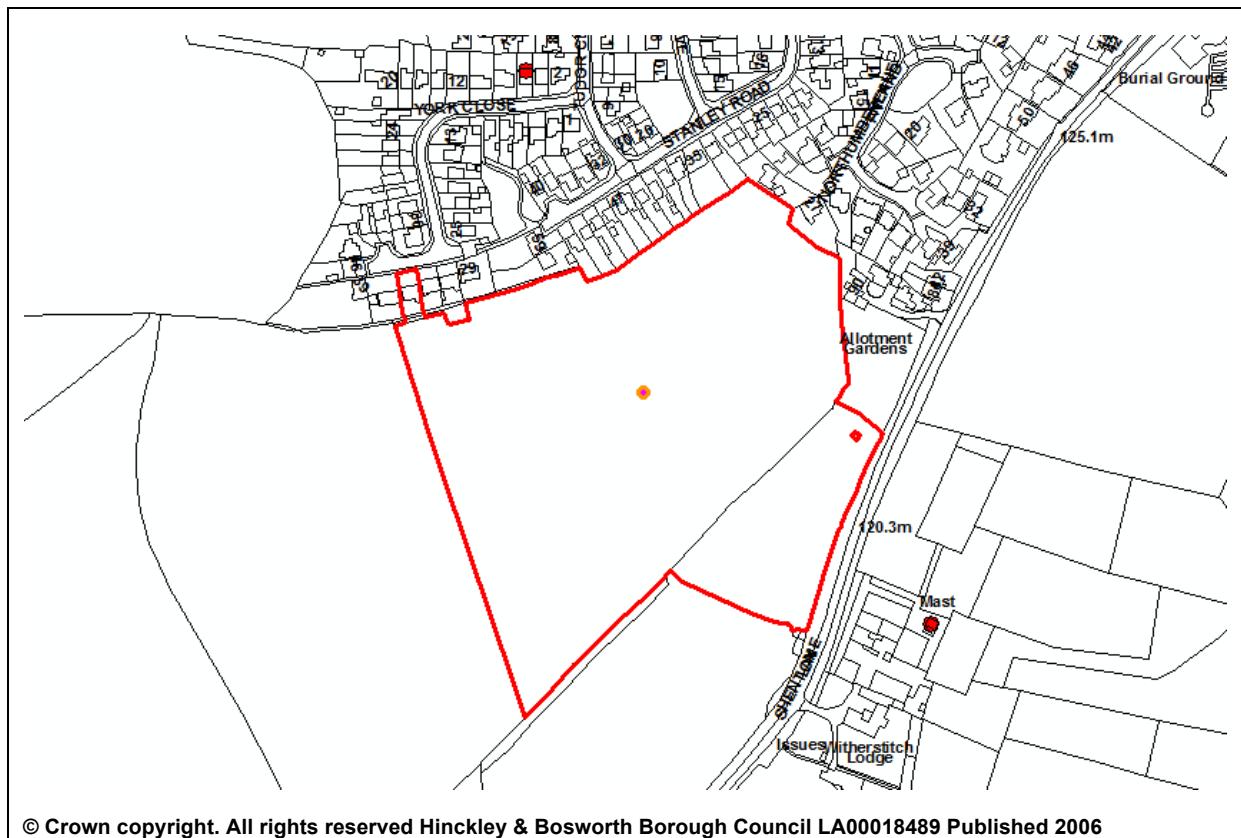




Planning Ref: 24/00831/OUT
Applicant: Gladman Developments
Ward: Cadeby, Carlton, Market Bosworth and Shackerstone

Site: Land North of Shenton Lane, Market Bosworth, Leicestershire

Proposal: Outline planning application for the erection of up to 100 dwellings (including 40% affordable housing) with public open space, landscaping, sustainable drainage system (SuDS), a vehicular access point and the demolition of one residential dwelling. All matters reserved except for means of access (re-submission of 22/00167/OUT)



1. Recommendations

- 1.1. **That the application be refused** for the reasons set out at the end of this report.

2. Planning Application Description

- 2.1. The application seeks outline permission for the erection of up to 100 dwellings (including 40% affordable housing), public open space and associated infrastructure that includes vehicular access, landscaping, sustainable drainage system (SuDS), a vehicular access point from York Close and the demolition of an existing dwelling (35 York Close) with all matters reserved except for access. The application is a resubmission of application 22/00167/OUT which sought permission for up to 125

dwellings on the site with an access from Shenton Lane and which was refused at appeal in August 2023 (APP/K2420/W/23/3317090).

- 2.2. While the application is in many respects a re-submission of the application previously refused at appeal there are some key differences which are outlined below:
 - Reduction from 125 to 100 dwellings
 - Vehicular access to the site moved from Shenton Lane to York Close
 - Dwellings moved away from the field closest to Shenton Lane
 - Dwellings moved away from the rear boundary of gardens on York Close and Stanley Road
 - Pedestrian and cycle access only on to Shenton Lane
 - No highway works on Shenton Lane
 - Creation of a new walking and cycling route between York Close and Shenton Lane
- 2.3. The illustrative masterplan submitted with the application shows the dwellings being located in the centre of the site where it would back on to the gardens of just two existing dwellings, 25 and 27 Northumberland Avenue, with landscaped buffers to the rest of the site boundaries. An area of equipped children's play space is shown adjacent to the retained hedgerow dividing the larger field at the bottom of the site from the smaller field closer to Shenton Lane. The remainder of the field closer to Shenton Lane would be given over to pedestrian routes and informal open space. Further informal open space is shown to the western boundary of the site beyond which is existing farmland. Attenuation ponds and further informal open space is then shown on the northern boundary of the site. The illustrative masterplan indicates that the vast majority of the existing trees and hedgerows on the site being retained with removal only being required in two places to provide pedestrian access to the smaller field and then on to Shenton Lane.
- 2.4. The new access is in the north-western corner of the site. On leaving the site vehicles would turn right on to York Close and then an immediate left turn to follow the road up and round to the right to a currently unmarked T junction with Tudor Close. At Tudor Close vehicles could turn left or right. The shorter route to Station Road would mean a left turn on to Tudor Close to another unmarked T junction with Lancaster Avenue and then a right turn on to Lancaster Avenue to a third unmarked T junction with Weston Drive. From Weston Drive there would be a further choice with drivers being able to continue to the junction of Weston Drive with Station Road or turn right on to Haven Road and then turn left on to Southfield Way to its junction with Station Road closer to the centre of the town.
- 2.5. The site covers an area of approximately 5.6 hectares with over 2.7 hectares of formal and informal open space and attenuation ponds being provided comprising just under half of the total site area.
- 2.6. The application is accompanied by the following reports and documents:
 - Planning and Affordable Housing Statement
 - Development Framework Plan
 - Socio-economic Report
 - Statement of Community Involvement
 - Transport Assessment
 - Travel Plan
 - Foul Drainage Analysis
 - Flood Risk Assessment

- Air Quality Assessment
- Noise Screening Assessment
- Waste Management Statement
- Heritage Assessment
- Landscape and Visual Impact Assessment
- Arboricultural Impact Assessment
- Ecological Impact Appraisal
- Biodiversity Net Gain Calculator
- Phase 1 Site Investigations
- Minerals Resource Assessment
- Demolition Statement

3. Description of the Site and Surrounding Area

3.1. The application site is located to the south-west of Market Bosworth, which is identified as a Key Rural Centre in the Council's Core Strategy. The site is bordered by Shenton Lane to the east as well as by the existing allotments and the gardens of properties on Shenton Lane and on Northumberland Avenue. To the north the site backs on to the rear gardens of properties on Stanley Road and York Close. To the east and south is open farmland and isolated farms. The access to the site is through an existing suburban residential estate and is far from direct. The access to the site is approximately 520 metres from Station Road, the key route out of Market Bosworth to the west. The nearest bus stop is on Market Place, approximately 670 metres from the centre of the site. As a result of the approved development to the south of Station Road a bus service will start again on Station Road but given the nearest houses are set back some way from the access to the site on York Close, the closest bus stop would still be in excess of 550 metres from the closest proposed dwellings.

3.2. The site currently comprises two agricultural fields that are used for pasture, one of which forms the boundary of the site with Shenton Lane, and which is much smaller than the larger field to the north and west that backs on to neighbouring dwellings. The two fields are separated by a hedgerow and are bordered by hedgerows and mature trees, particularly on the Shenton Lane frontage. The site is on a north-west facing slope that has a fall of approximately 10 metres to the lowest point in the north-west corner. The site includes the existing detached dwelling at 35 York close which is to be demolished to provide vehicular access to the site.

3.3. The application site is located within flood zone 1. A public footpath (PRoW S72/6) runs westwards from York Place close to the north-west corner of the site.

4. Relevant planning history

4.1. 22/00167/OUT – Outline planning application for the erection of up to 125 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point (All matters reserved except for means of access). Appeal against non-determination dismissed August 2023.

4.2. The above application was refused for five reasons:

- Highways and the failure to demonstrate that a safe and suitable access route to the site could be provided for all users
- The effect on the character and appearance of the area particularly the important view along Shenton Lane

- The effect of the highway works on Shenton Lane on the setting of the Market Bosworth Conservation Area
- The loss of the ridge and furrow earthworks on the site
- The lack of a signed legal agreement regarding contributions to infrastructure

4.3. Importantly the Inspector made some key findings in their decision to dismiss the appeal. These are:

- The development would have significantly harmed the rural character and appearance of Shenton Lane and of Warwick Lane
- The houses in the larger field did not have an effect on the significance of the Conservation Area, those in the smaller field did have a slight effect on the significance of the Conservation Area
- Significant weight was given to the benefits of the proposal
- The loss of the ridge and furrow was not a factor leading to dismissal of the appeal
- Highway matters did not lead to dismissal of the appeal

5. Publicity

5.1. The application has been publicised by sending out letters to the occupiers of 83 neighbouring properties. Site notices were also posted within the vicinity of the site and a notice was displayed in the local press.

5.2. A total of 246 objections have been received from the occupiers of 211 properties, raising the following concerns and points:

- Putting the access through York Close is ridiculous and would have a significant effect on highway safety for both drivers and pedestrians – there is a dangerous blind spot due to hedge round a property on York Close
- This would be an accident waiting to happen
- The access would have a detrimental effect on the amenity of local residents
- York Close changing from a quiet cul-de-sac to a through road would have a significant detrimental effect on the character of the wider area and particularly York Close
- Traffic surveys were conducted during the school holidays
- Traffic is already bad on Station Road and this will make it much worse – there would be traffic chaos
- The access is not wide enough

Officer comment: The County Highway Authority accepts that a 2m wide pavement will only be provided on the eastern side of the carriageway

- Construction traffic would have an immense and significantly detrimental effect on residents' lives – it is absurd to use York Close as a construction route
- There would be a significant reduction in road safety, particularly changing York Close from a quiet cul-de-sac to a through road for 100 new dwellings
- There would be a fundamental change in the character of a well-established, quiet residential area
- Many residents of York Close bought properties as it was a quiet, peaceful environment and not a through road – there is a huge difference between buying a house knowing further development is happening and finding out after 50 years living on a quiet cul-de-sac that it is to become a through road
- There would be a significant detrimental effect on air quality
- There is insufficient public transport
- Having pedestrian and cycle links to Shenton Lane would be dangerous without improvements to the highway

- This devalues the quality of life for everyone and would be a nightmare for residents
- Market Bosworth no longer feels like a country village
- The site lies in the countryside and is not allocated for development in the Neighbourhood Plan and is contrary to Policy DM4
- The development would put significant pressure on local services which are already oversubscribed and struggling to cope
- New development has already been approved and there is no need for additional dwellings when there are so many houses not selling
- This would have a significant negative impact on the environment and would increase noise and light pollution leading to a hugely negative effect on the health and wellbeing of local residents – the thought that this could be approved is causing stress to local residents
- Housing would be visible from Shenton Lane which would have an unacceptable effect on its character
- This would affect views and vistas and destroy part of the natural environment that surrounds the town that has been identified as a very important aspect of the town's character
- The development would result in the loss of ridge and furrow changing the historic environment to the detriment of residents and the nature of the town
- Loss of green space
Officer comment: There are no public footpaths that cross the site
- Loss of wildlife
- Approving the application results in the loss of valuable agricultural land
- Development of the site has already been rejected by an Inspector at appeal and so should be refused
Officer comment: The appeal was rejected for specific reasons that the Application addresses
- The development will lead to loss of privacy
- There would be a loss of views of the countryside
Officer comment: The loss of a view is not a material planning consideration that can be taken into account in the determination of a planning application
- This is an overdevelopment of the area
- Market Bosworth is a tourist destination, and tourists will be put off if roads are constantly congested
- This will lead to an increase in flooding
- The Parish Council has been proactive in developing a sustainable neighbourhood plan with local residents that meets and exceeds housing requirements whilst protecting the countryside, vistas and the historic importance of the village – this would be contrary to all that work
- This would have an adverse effect on property values
Officer comment: This is not a material planning consideration that can be taken into account in the determination of any planning application
- Crime levels will increase
- It is not ethical to demolish a perfectly good house

5.3. No representations in support of the proposed development have been received.

6. Consultation

6.1. **Market Bosworth Parish Council** – Objects to the proposal for the following reasons summarised below:

The development is outside of the settlement boundary – as such it is contrary to Policy DM4 and Policy CE5 of the Market Bosworth Neighbourhood Plan (MBNP).

Development in open countryside – contrary to Policy DM4 and contrary to MBNP Policies DC1, CE3 and CE5 as the scheme detrimentally affects key views and vistas and fails to safeguard the countryside.

Character and heritage – the application sits in open countryside between Stanley Road and Shenton Lane which provides an open vista of Ambion Hill and the symbolic flags of the site of the Battle of Bosworth. Shenton Lane is one of the few characteristic narrow rural lanes that help define the character of the area and provide a genuine feel and flavour of the rural way of life on approaching and leaving the town. The development would have a significant urbanising effect as the development would encroach on land towards the edge of Shenton Lane and intrude into the visual amenity from priory Lane, thus changing the character and important and hitherto unspoilt area of the parish.

Character approach into the conservation area – the site sits in very close proximity to the conservation area. Whilst the development does not propose any access or egress to Shenton Lane the development sits on land which is eminently visible from several approaches to the town. The approach towards the town along Shenton Lane quintessentially represents the unique transition from countryside to town centre and which is a key feature in the HBBC Landscape and Character Assessment and in the MBNP. The proposed development would be at odds with the context, rationale and strategic approach to planning policies in respect of open countryside in all relevant documents relating to Market Bosworth.

Unwarranted and unsustainable development – the proposed development does not demonstrate a sustainable approach at a time of significant climate change and appears to conflict with the HBBC Climate Change Strategy. There is no effective sustainable solution demonstrated by the application which simply relies on paragraph 11 of the NPPF without defining how the development can do this.

Highway matters, traffic and transport concerns – The current proposal requires vehicle movements from Station Road via Weston Drive, Lancaster Avenue, Tudor Close and then York Close – this is inappropriate. These access roads swerve a small and compact early 1970s housing development and these small roads in a quiet residential estate will be impacted significantly by the proposed development. The proposals would create significant disturbance to existing residents and cause significant harm to the character of this low density area of the existing estate which currently has a quiet rural setting. There would be significant disturbance to residents during the demolition of the existing house and throughout the construction process. The proposals would have a significant effect on highway safety.

Existing and planned development in Market Bosworth – the MBNP has allocated land for new housing and has supported development proposals, and the town has met and exceeded its housing targets. Market Bosworth has seen a significant increase in tourism development and as a tourism centre the town has many thriving attractions and tourism related development such as the marina, the hotels and the holiday lodges all have similar impacts on the town as dwellings do. This speculative application is unwarranted and excessive when total growth is considered as an overall total.

The Planning Application – Many of the associated ‘evidence based’ documents submitted with the application are inaccurate and out of date. Market Bosworth is not well resourced with local services and public transport and the documents reference shops and services such as the butchers and bank that closed years ago. The documents are full of promises that are unachievable.

6.2. **Dadlington and Sutton Cheney Parish Council** – Objects to the proposal. The highway infrastructure cannot cope with the additional vehicles that the development would generate. There is an existing problem with flooding. Additional building will add pressure onto the local parishes without providing additional infrastructure. The parish council is already reporting major traffic issues to the County, to the police and to other authorities on a regular basis and this will make the situation worse. A core issue is the lack of maintenance and management of the drainage system by Severn Trent and already stretched system cannot take any more water without major improvements to sewerage and drainage systems.

6.3. **Carlton Parish Council** – Objects to the application on the grounds that the site is not allocated for development in the Market Bosworth Neighbourhood Plan.

6.4. **LCC Highway Authority** – Following the submission of further information the Local Highway Authority (LHA) advice is that the impacts of the development on highway safety would not be unacceptable and that when considered cumulatively with other developments, the impacts on the road network would not be severe.

More detailed matters are set out below in the section relating to the impact on highway safety. A total of eight conditions are recommended along with contributions towards bus passes, travel packs and a Traffic Regulation Order consultation process for the installation of parking restrictions in the vicinity of the site access on York Close.

6.5. **LCC Minerals and Waste** – The site is identified as being within a mineral safeguarding area for sand and gravel. Whilst this is an important resource, Policy M11 of the Leicestershire Minerals and Waste Local Plan allows for development where there is an overriding need for the incompatible development. Given that the application is for housing the Minerals Planning Authority are satisfied that it is a matter for the Borough Council to determine whether there is an overriding need in this instance.

6.6. **LCC Tree Officer** – No comments to make.

6.7. **LCC Archaeology** – In response to the previous application the applicant submitted a desk-based Assessment, geophysical survey and undertook a trial trenching evaluation. It can be confirmed that the evaluation did not identify any significant archaeological buried remains and it is advised that no further mitigation is required in this respect.

The loss of the extant ridge and furrow earthworks on the site, which represents further depletion of an already greatly diminished archaeological resource, is regretted but it is considered that from a purely archaeological perspective the loss does not represent an especially robust reason for refusal.

It is essential though that adequate mitigation is provided to mitigate the loss of the ridge and furrow’s evidential and historical significance, and that the residual impact, the loss of the communal and aesthetic values of the earthworks, is balanced by an appropriate/equivalent public benefit achieved by the scheme. This

is a judgement for the planning balance that cannot be made by the Archaeology Team.

In response to the previous application the applicant undertook a topographic survey of the earthworks which presents a positive movement in off-setting aspects of the development impact on the evidential and historical interest of the non-designated heritage asset. The report does, however, highlight a number of issues that remain unresolved, particularly in relation to the earthwork monument's dating and overall form (partly due to modern truncations of the visible earthworks). With this in mind it is recommended that further archaeological mitigation should be undertaken consisting of targeted trial trenches to address the issues and provide supplementary information to support an updated topographic survey report. Conditions are therefore recommended.

- 6.8. **LCC Ecology** – Although there are issues with the information submitted there are no objections subject to conditions including mandatory biodiversity net gain and bat mitigation.
- 6.9. **LCC Planning Obligations** – The following contributions totalling £556,920.02, are required as a result of this development:
 - Waste – Barwell HWRC - £4,953
 - Libraries – Market Bosworth Library - £3,019.77
 - Primary Education – St Peters Primary Academy - £106,464.80
 - Secondary Education – The Market Bosworth School - £166,228.92
 - Post 16 Education – Bosworth Academy - £63,779.10
 - SEND Education – Dorothy Goodman School - £56,448.43
 - Early Years Education – St Peters Primary Academy - £156,026
- 6.10. **Environment Agency** – No comments to make.
- 6.11. **Coal Authority** – No comments to make.
- 6.12. **Leicestershire Police** – No objections but provides advice and sets out justification for a S106 contribution of £20,861.31.
- 6.13. **NHS England** – Housing developments put pressure on healthcare infrastructure and the local GP surgery will be required to increase their facility to maintain healthcare services to the increased population. A contribution of £77,440 is required and this should be released prior to first occupation.
- 6.14. **HBBC Conservation** – Agrees with the submitted Heritage Statement which concludes that due the very modest change of the view from Shenton Lane, the proposed development is anticipated to cause less than substantial harm to the market Bosworth Conservation Area at the very lowermost end of the spectrum.

The proposal would result in the total loss of most of the ridge and furrow earthworks throughout the site. This would represent the removal of a small part of the overall non-designated heritage asset, representing a minor level of harm to the significance of the non-designated heritage asset.

The Conservation Officers comments are included in greater detail below in the section on the impact on heritage assets.

6.15. **HBBC Affordable Housing** – As this site lies in a rural area the affordable housing requirement is 40%, or 40 properties, which should be split between 75% social rented and 25% intermediate tenure. To comply with guidance there should be 10 First Homes, 23 for affordable rent and 7 for shared ownership. The preference would be for the rented dwellings to provide a mix of 12 two-bed four-person homes and 7 three-bed five-person homes. Property sizes should meet the Nationally Described Space Standards for the larger bedroom sizes for each property. Affordable housing should be spread in small clusters across the site. A cascade should be included in any S106 Agreement requiring that the affordable housing is provided first to people with a local connection to Market Bosworth.

6.16. **HBBC Compliance and Monitoring** – An equipped area of play would be welcomed and would be better located towards the centre of the site, and this should be secured via S106 Agreement. A minimum of £65,494.80 should be spent on the play area.

6.17. **HBBC Drainage** – No objections subject to conditions regarding surface water drainage.

6.18. **HBBC Environmental Health** – No objections subject to conditions regarding contamination and a Construction Environmental Management Plan.

6.19. **HBBC Waste Services** – No objections subject to a condition

6.20. **Market Bosworth Society** – The Society is greatly concerned about this latest attempt to build north of Shenton Lane. The fields adjacent to Shenton Lane need greater protection that is afforded by this development. The application is in conflict with the Neighbourhood Plan and therefore the Local Plan. The site lies outside the settlement boundary which warrants refusal of the application. Adding more traffic to the network of roads needed to provide access will be dangerous as many houses on the access have no off road parking and for much of its length Weston Drive is reduced to a single carriageway due to parked vehicles. Resulting congestion will be a misery for local residents and the wider community. The increase in traffic will add to pollution levels.

7. Policy

7.1. Market Bosworth Neighbourhood Plan 2014-2026 (2015 with minor update March 2021)

- Policy CE1: Character and Environment
- Policy CE3: Important Views and Vistas
- Policy CE4: Trees
- Policy CE5: Landscape and the Wider Parish
- Policy CE6: Building and Development
- Policy BD1: Affordable Housing

Referendum version (2025)

- Policy CE1: All new development within Market Bosworth
- Policy CE3: Important Views and Vistas and Landscape Character
- Policy CE4: Trees and Hedgerows
- Policy CE5: Landscape of the wider Parish
- Policy CE6: Provision for wildlife in new development
- Policy BD1: Affordable housing
- Policy BD4: Heritage Asset Protection

7.2. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 11: Key Rural Centres Stand Alone
- Policy 14: Rural Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 17: Rural Needs
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 23: Tourism Development
- Policy 24: Sustainable Design and Technology

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

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

7.4. National Planning Policies and Guidance

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

7.5. Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (2024)
- Landscape Character Assessment (2017)
- Landscape Sensitivity Study (2017)
- The Green Infrastructure Strategy (2020)
- Open Space and Recreation Study (2016)
- Heritage Strategy (2020)
- Housing Needs Study (2019)
- Affordable Housing SPD (2011)
- Leicestershire Minerals and Waste Local Plan
- Market Bosworth Conservation Area Appraisal (2014)
- Leicestershire and Rutland Historic Environment Record

8. Appraisal

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

- Principle of Development
- Housing Land Supply

- Housing Mix and Supply
- Impact upon Highway Safety
- Impact on the Character and Appearance of the Area
- Impact on Heritage Assets
- Design and Layout
- Residential Amenity
- Flood Risk and Drainage
- Ecology and Biodiversity
- Archaeology
- Trees
- S106 Heads of Terms
- Conclusions and Planning Balance

Principle of Development

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS), the Site Allocations and Development Management Policies DPD (2016) (SADMP) and the Market Bosworth Neighbourhood Plan (MBNP), an updated version of which is currently subject to a referendum. The NPPF states at paragraph 12 that where a planning application conflicts with an up-to date neighbourhood plan, permission should not usually be granted.

8.4. The Emerging Local Plan is due to cover the plan period 2024-2045. The previous public consultation on the Regulation 18 Draft Local Plan ran from Wednesday 31 July to Friday 27 September 2024. The latest Local Development Scheme (LDS) was published on 06 March 2025. The update revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a further Regulation 18 consultation scheduled for September/October 2025, and the Regulation 19 consultation scheduled for around March/April 2026. Given the early stage of the Emerging Local Plan and outstanding evidence still to be undertaken, the emerging policies are attributed very limited weight.

8.5. The Core Strategy (CS) sets out the settlement hierarchy for the Borough. The application site is located adjacent to the settlement of Market Bosworth but is on land which is designated as countryside. As such Policies DM4 of the SADMP and CE5 of the MBNP are of most relevance with regard to the principle of development.

8.6. Market Bosworth is identified as a Key Rural Centre (Stand Alone) and Policy 7 of the CS states that the Council will support housing development within settlement boundaries.

8.7. The Market Bosworth Neighbourhood Plan (MBNP) was made in September 2015 but was updated and modified in 2021 to take account of the then most recent housing needs assessment. A further update of the Plan has recently been through examination and is currently due to be put to referendum on 10 July 2025.

8.8. Policy CE5 of the made MBNP sets out that in the open countryside outside the settlement boundary, new development will only be permitted:

- Where it contributes to the local economy
- For the re-use or extension of an existing building or
- For sport or recreation or
- For new dwellings where special circumstances apply such as homes for rural workers; where the development represents the optimal viable use of a heritage asset; where the development re-uses redundant buildings or where the design of the dwellings is of exceptional quality or is of innovative design.

In all cases the development will only be permitted where it does not cause harm to the landscape or biodiversity of the countryside that cannot be effectively mitigated.

8.9. The referendum version of Policy CE5 revises the policy to add support for single dwellings that comply with paragraph 84 of the NPPF and adds that any housing proposal adjacent to the existing settlement boundary will be considered positively providing it is accompanied by an up-to-date housing needs assessment and providing any adverse impacts do not outweigh the benefits of the development.

8.10. Policy DM4 of the SADMP states “that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:

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

And

- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside and
- It does not undermine the physical and perceived separation and open character between settlements and
- It does not create or exacerbate ribbon development
- If within a Green Wedge it protects its role and function in line with Core Strategy Policy 6 and 9 and
- If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21.

8.11. The proposed development does not relate to any of the criteria above in either Policy DM4, but this does not mean that the development is not sustainable. The referendum version of Policy CE5 of the MBNP offers support in principle for sites adjacent to the settlement boundary. The application seeks to justify why development in this location might be deemed to be sustainable; its follows on from

a public inquiry into a previous application for development of 125 homes on the same site but that had an access from Shenton Lane to the south of the site and puts forward a reasonable assessment of how the proposal would contribute to sustainable development as required by the NPPF. The thrust of the justification for the proposal is that it responds positively to the lack of a five-year housing land supply in the Borough. The urbanising effects of the proposal are acknowledged by the applicant, but these are said to be minimised and acceptable and the applicant considers that the development is not out of character within its settlement edge location. The proposal is also supported by a Landscape Visual Impact Assessment (LVIA) setting out the impact on the wider landscape character.

- 8.12. The decision of the Inspector on the previous appeal was that the appeal proposal was in conflict with the locational policies of the development plan.
- 8.13. It is considered that the proposed development fails to comply with policies DM4 and CE5. To the extent that Policy DM4 seeks to implement the Core Strategy through its approach to the countryside and settlement boundaries it is out of date. In terms though of the weight that should be afforded to Policy DM4 the emphasis of the policy is to promote sustainable development proposals within the countryside and protect it from unsustainable proposals. In that regard Policy DM4 is considered to be consistent and in accordance with the aims and thrust of the NPPF.
- 8.14. The Council considers that the proposal is offered no support by Policy DM4 of the SADMP and does not comply with the exception criteria set out in the made version of Policy CE5 of the MBNP. As such the application does not accord with development plan policy and is unacceptable in principle.
- 8.15. The proposal though must be assessed against the material planning considerations set out in the sections below.

Housing Land Supply

- 8.16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.17. The Council's Planning Policy team are currently reviewing the revised NPPF (2024) implications for the Council's Five Year Housing Land Supply. A revised position is expected to be published by the end of June 2025 once the monitoring for the 2024/25 year has been completed. It is however very likely that, with the revised housing need figure of 682 dwellings per annum from the Dec 2024 NPPF (649dpa + 5% buffer as per Para 78a), the Council will be unable to demonstrate a Five Year Housing Land Supply once the revised position is published.
- 8.18. For decision taking, a 5yr housing land supply is a material consideration in all relevant applications for dwellings in the Borough. In accordance with paragraph 11d) of the NPPF, the Council should grant permission for housing unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.19. Paragraph 11d) of the NPPF states that, for decision makers:

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

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

8.20. Paragraph 61 of the NPPF sets out that “it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”.

8.21 Paragraph 79 of the NPPF sets out that *“To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below the local planning authority’s housing requirement over the previous three years, the following policy consequences should apply:*

- where delivery falls below 95% of the requirement over the previous three years, the authority should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years;*
- where delivery falls below 85% of the requirement over the previous three years, the authority should include a buffer of 20% to their identified supply of specific deliverable sites as set out in paragraph 77 of this framework, in addition to the requirement for an action plan.*
- where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8 of this Framework, in addition to the requirements for an action plan and 20% buffer.”*

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

8.22. Paragraph 14 of the NPPF states that:

“In situations where the Paragraph 11d applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the Neighbourhood Plan is likely to significantly and demonstrably outweigh the benefits provided all of the following apply:

- the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made and*
- the neighbourhood plan contains policies and allocations to meet its identified housing requirement”*

8.23. The Market Bosworth Neighbourhood Plan (MBNP) was originally made in 2015 and while it was updated in 2021 the 2024 version of the NPPF has considerable consequences for the way in which the Council must calculate its housing land supply figure. In addition Leicester City Council’s ongoing Local Plan examination

and issues with unmet needs have had an impact on the progression of our own Local Plan and on our overall housing figures. The Council therefore does not consider that the MBNP fulfils the requirement set out in paragraph 14 of the NPPF.

8.24. Given that the Council is unable to demonstrate that it has a five-year housing land supply the provision of up to 100 dwellings, a proportion of which is to be Affordable Housing, is therefore considered to be a benefit to which significant weight should be given in the planning balance.

Housing Mix and Supply

8.25. Policy 16 of the CS requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings, taking account of the type of provision that is likely to be required, based upon table 3 in the CS and informed by the most up to date housing needs data. A minimum density of 30 dwellings per hectare is required in rural areas, a lower density may be required where individual site circumstances dictate and are justified. The Good Design Guide SPD advocates the use of the Building for Life assessment.

8.26. Paragraph 63 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. The above policy allows for the most recent evidence to be taken into account in decisions and thus policy 16 is considered up to date in this regard.

8.27. A final number and mix of dwellings would be determined at Reserved Matters stage, but the illustrative layout shows that a mix of types and sizes can be accommodated. The development is for up to 100 dwellings and the appropriate layout and density would be determined at Reserved Matters stage. The applicant has not undertaken a Building for Healthy Life Assessment (the replacement for Building for Life). A detailed assessment could be provided at Reserved Matters stage and could be required as a condition.

8.28. The Borough has an unmet affordable housing need, and this is given significant weight in the planning balance. It is considered important to note though that the delivery of affordable homes is dependent on many issues and on this same agenda is application 24/00560/HYB for a mixed scheme of 225 dwellings and 0.6 hectares of employment uses where Committee approved a scheme that included a 40% (54 dwellings) affordable home provision in February, but the applicant has failed to attract any interest from any Registered Affordable Housing Provider in taking on the scheme. An alternative form of provision in the form of 16 gifted units has been agreed by officers which is considered to represent a very good outcome for the Council, it is not though the 40% provision that is set out in Core Strategy Policy 15 as being required.

8.29. The housing officer has requested 40% of units on the site to be affordable, with a mix of 75% of those to be social or affordable rented and 25% intermediate tenure/shared ownership. The greatest need for affordable rented housing in the Borough and in Market Bosworth is for smaller units of accommodation to assist single people or childless couples, and for small families with one or two children.

8.30. The applicant has indicated that the site will provide the policy-compliant requirement of 40 affordable homes. The preferred mix of property types for rent would be of smaller properties comprising 1, 3 and 3 bedrooms – the greatest local need is for one-bed properties. The intermediate tenure should be a mix of 2 and 3 bedroomed houses, and all should meet the Nationally Described Space Standards.

- 8.31. As this site is in the rural area, the Section 106 Agreement requires that the affordable housing is first provided to those with a connection to Market Bosworth as set out in the Council's Housing Allocations Policy.
- 8.32. Subject to these requirements being met through completion of a Section 106 legal agreement, this proposal is deemed to be acceptable with respect to housing mix and affordable housing.

Impact upon Highway Safety

- 8.33. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.34. Paragraph 115 of the NPPF states that it should be ensured that sustainable transport modes are prioritised, taking account of the vision for the site, the type of development and its location and that safe and suitable access to the site can be achieved for all users. Paragraph 116 of the NPPF outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.35. The applicant has been in discussions with the Local Highway Authority (LHA) to overcome a number of initial concerns that were raised and additional technical information has been submitted.
- 8.36. It is the view of LHA that the impacts of the development on highway safety would not be unacceptable and that when considered cumulatively with other developments, the impacts on the road network would not be severe. Given that paragraph 116 of the NPPF is clear that development can only be prevented on highway grounds if there is an unacceptable impact on highway safety the LHA is equally clear that that high bar has not been reached in this instance. In coming to this decision regarding its concerns regarding parked cars along the access route the LHA was mindful of the Inspectors comments at the previous appeal that there was no substantive evidence that a Traffic Regulation Order could not be made, given the improvement to highway safety that would result.
- 8.37. The LHA was also mindful that all properties in the immediate vicinity of the point of access to the site appear to have off-street parking available. Therefore in these site specific circumstances it would be difficult to resist the proposals on the grounds of whether or not a Traffic regulation Order could be delivered. Similarly a 2 metre wide footway would normally be required on both sides of the site access carriageway whereas in this instance a 2 metre wide footway is only provided on the side of the carriageway most useful to pedestrians. The LHA considers though that the lack of a second footway would not be a reason to resist the proposals in these site specific circumstances.
- 8.38. Highway concerns have been raised by many local residents, by Market Bosworth Parish Council and by Dadlington and Sutton Cheney Parish Council. The choice is access has been forced on the applicant given the Inspector's clear rejection of the use of Shenton Lane to provide access due to the effect that the consequent

highway works would have had on the setting of the Market Bosworth Conservation Area and on the character and appearance of Shenton Lane itself. The access from Station Road to the site is convoluted and had there not been alternative routes provided by Stanley Road, Haven Road and Southfield Way the LHA might have rejected the proposals due to the length of the cul-de-sac created.

- 8.39. Given that the estate through which the access is taken is one that was primarily constructed in the 1970s it is not believed that there are any dwellings that do not have, or that are not capable of providing, off-road parking. The few residents to the west of the access on York Close already have to navigate the same roads that any future occupants of the development would have to navigate and while it may not be entirely safe or convenient it is the professional view of the LHA that the proposals cannot be resisted on highway safety grounds.
- 8.40. The application is submitted in outline and the internal highway layout is a matter for reserved matters. Emergency access by vehicles is not required from Shenton Lane and while pedestrians, and emergency workers accessing the site on foot, are able to access Shenton Lane, no alterations to that highway are proposed or required by the LHA. The proposal is therefore considered to accord sufficiently with the requirements of Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document, with the requirements of the National Planning Policy Framework and with the Leicestershire Highway Design Guide.

Impact on the Character and Appearance of the Area

- 8.41. Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and it does not undermine the physical and perceived separation and open character between settlements; and it does not create or exacerbate ribbon development. The site is located within open countryside, outside of the settlement boundary and is therefore considered contrary to this policy.
- 8.42. Point c) of Policy DM10 of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.43. The Council's Landscape Character Assessment states that the site falls within Landscape Character Area C: Bosworth parkland within the more general Agricultural Parkland landscape type, comprising rolling farmland and estate parkland with scattered trees and woodland around former agricultural villages. Two key characteristics of this landscape include "a rural and peaceful character with development limited to scattered farm buildings and historic settlements well integrated into the landscape by vegetation and small scale of buildings", "a good network of public footpaths and routes popular with cyclists. Destinations include Market Bosworth and the Battlefield Visitor Centre."
- 8.44. Key sensitivities and values noted in the Assessment include "the rural character and relative sense of tranquillity" and "the quintessential East Midlands landscape of mixed farming with pasture, arable and ridge and furrow providing a strong sense of place... Market Bosworth and its landscape setting of fields and trees". Three of the landscape strategies outlined in the Assessment include "maintaining the rural character of the landscape", "retaining features such as open roadsides with grass verges" and "maintaining rural views and setting of Market Bosworth".

8.45. Key characteristics of the Urban Character Area 6 that comprises the majority of the town include “setting provided by open countryside and farmland which lends a rural and peaceful character and permeates the town”. Key sensitivities and values include “the distinctive character and historic value of the market place and the historic link between the town, Bosworth Hall and parkland and the surrounding agricultural landscape and Bosworth Battlefield” and “green spaces which penetrate the historic core...which create a transition to the surrounding landscape”, the rural setting which lends a distinctive character as well as recreational and visual amenity value” and views to and from the surrounding landscape are important to the character of the town”.

8.46. Townscape strategies for Urban Character area 6 include “prioritising local distinctiveness in every element of change and future development” and “encouraging opportunities to enhance safe pedestrian / cycling connections”.

8.47. Policy CE5 of the made MBNP states that in the open countryside outside the settlement boundary, new development will only be permitted in certain circumstances, none of which apply to the proposed development. It goes on to states that in all cases development will only be permitted where it does not cause harm to the landscape and biodiversity of the countryside that cannot be effectively mitigated.

8.48. Policy CE3 of the MBNP relates to important views and vistas and states that development that harms important views onto or vistas out of Market Bosworth will be resisted and that new development will not be supported if it has a significantly adverse impact on an important view or vista.

8.49. The location of the views and vistas referred to in Policy CE3 are set out on the map on page 34 of the MBNP and includes the view along Shenton Lane towards Market Bosworth as one of nine key views. The commentary on page 31 states that this key view starts from a point next to Witherstitch Lodge Stables. This group of agricultural buildings lies directly to the south and opposite the southernmost corner of the site on the Shenton Lane frontage.

8.50. At this point anyone walking or driving towards the settlement will be on relatively high ground with limited but clear views of open fields to the west and wider and more open views of farmland to the east. Shenton Lane remains narrow allowing two cars to pass with care. There are wide grassed verges to both sides of the lane with the occasional telegraph pole being the only urbanising feature with the stables being one of the naturally occurring agricultural related building typically encountered within the countryside.

8.51. The stables complex of agricultural buildings is set at a lower level to the lane which further reduces their impact, and all appear single storey in character. A telecommunications mast to the rear of the site appears uncharacteristic in this setting. Beyond the stables the telegraph poles no longer run along Shenton Lane, heightening the very rural characteristics of the highway at this point. Hedgerows on both sides of the road are sparse and unmanaged and feature a significant number of trees, no doubt accounting for the difficulty in easily managing the hedgerows. This though allows pedestrians or people on bicycles or in vehicles to readily appreciate the fields on both sides of the road.

8.52. Once past the stables the first existing dwelling is viewed, framed by the trees on both sides of the lane. The Development Framework indicates that dwellings will be easily viewed to the west. At this point Market Bosworth remains barely appreciable

but the proposed dwellings will be very apparent, and the introduction of the footway and the road widening will be clearly visible in the foreground marking a distinct change in the character of the lane.

- 8.53. The commentary on page 31 of the MNP, as part of paragraph 6.1p, states that as you move along, local allotments are located on the left, then residential dwellings, including the remains of the original Poor House, become apparent. The Development Framework indicates that the most prominent dwellings on the site will be behind you given that an area of open space is shown north of the vehicular access and south of the allotments.
- 8.54. The commentary states that this is an important view as it is the location of rural business and reminders of the past in the form of the Poor House. It is an example of the unique setting of Market Bosworth with the close proximity of farmed countryside and grazing land so close to the historic core. The key characteristic of the setting to the town provided by open countryside and farmland which lends a rural and peaceful character and permeates into the town is referred to in the Landscape Character Assessment where it refers to Urban Character Area 6, which comprises the majority of the town.
- 8.55. Paragraph 187 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystems services.
- 8.56. The distinctive character of Market Bosworth is derived from four key factors:
 - Location as a ridge top settlement
 - Agricultural economy
 - The manorial tradition based on Bosworth Hall and its parkland setting
 - Gateways and views
- 8.57. In response to the dismissal of the appeal proposals for 125 dwellings the current proposal has been reduced by 20% to provide up to 100 dwellings. This has allowed all dwellings to be removed from the fields closest to Shenton Lane where previously they were readily apparent to users of Shenton Lane. The Inspector's view of the previous proposals in this regard was that the previous scheme would have resulted in housing facing Shenton Lane, albeit behind existing and proposed trees and other vegetation and that despite that vegetation this would have the effect of extending built development along Shenton Lane into the open countryside surrounding the town.
- 8.58. The Inspector went on to say that in terms of visibility from public vantage points, while there were glimpsed views of the site from between the dwellings on York Close and Stanley Road, the main public view of the houses on the site would be from Shenton Lane. Importantly the Inspector considered that the land form sloped down from the smaller field closer to Shenton Lane and that the majority of the previous site would be well contained within the landscape and would not be visible from Shenton Lane although there would be glimpsed views from the public footpath to the west and longer views from Priory Lane but that these would be read against the backdrop of the existing houses and through trees and vegetation.
- 8.59. The applicant has clearly been mindful of the Inspector's comments in removing proposed dwellings from the field closest to Shenton Lane and the proposed development area is now that described by the Inspector as being well contained

within the landscape and where it, according to the Inspector, would not be visible from Shenton Lane.

8.60. A Landscape and Visual Impact Assessment (LVIA) has been submitted as part of the application. The LVIA is less certain than the Inspector on the previous scheme regarding the visibility of the proposed development from Shenton Lane. At paragraph 3.30 it notes the made MBNP's Important View 9, looking north along Shenton Lane and in the following paragraph states that views along Shenton Lane towards the settlement would be screened therefore preserving Important View 9. At paragraph 6.44 the LVIA points out that there will be views of construction activities from Shenton Lane. Paragraph 6.56 confirms that users of PRoWS55/1 which links Shenton Lane to Sutton Lane is likely to have views of the proposals, albeit that they would be limited. Paragraph 6.60 confirms that people travelling along Shenton Lane in vehicles would have potential views of the proposed development. Paragraph 6.62 states that people travelling north along Sutton Lane, which lies to the south and east of Shenton Lane and is considerably further from the site are only 'unlikely' to perceive new built form within the site. Finally, paragraph 7.10 concludes that the majority of visual effects resulting from the development will be experienced by residents of housing on roads surrounding the site and that the effects are likely to be Major / Moderate Adverse and that for "*the other main receptors including road users of Shenton Lane, Tinsel Lane/Priory Lane, Weston Drive and Sutton Lane; pedestrian users of PRoW S72/6, the visual effects at completion are likely to be Moderate / Minor Adverse over the short term and long term. Although new planting proposed to the site boundaries and within adjacent areas of public open space will serve to soften and screen views of new housing within the view as experienced by these receptors.*"

8.61. The applicant's own LVIA clearly therefore contradicts the Inspectors view expressed at paragraph 17 of the decision letter that the majority of the appeal site would not be visible from Shenton Lane.

8.62. At paragraph 18 of the appeal decision letter though the Inspector states that overall, the development of the larger field would result in development that is well contained and would not intrude significantly into the countryside surrounding the town and that the development of the larger field would have a negligible effect on the character and appearance of Market Bosworth.

8.63. It is considered that the findings of the LVIA are not inconsistent with the findings of the Inspector as expressed at paragraph 18 of the appeal decision letter. There are now no off-site highway works proposed, which previously officers were so concerned about, and which would have changed the character of Shenton Lane.

8.64. It is material to note that the area is not a 'valued landscape' for NPPF purposes. Indeed there are no landscape or environmental designations or sensitivities or note for the site and its immediate surroundings.

8.65. The LVIA submitted as part of the application assesses the proposal's impact on the landscape and on neighbouring receptors and finds that the development has a number of Major / Moderate Adverse impacts, mainly from dwellings that surround the site but also from users of Shenton Lane although these fall to the Moderate / Minor Adverse level. The site sits within a landscape area with a particularly distinctive sense of place and character that is described above but built development has been wisely removed from the field closest to Shenton Lane. The fact remains though that the effect on users of Shenton Lane is considered by the

applicant to be Moderate / Minor Adverse and that these effects will continue for the long term.

8.66. It is considered therefore that the proposed development results in a detrimental effect on the character and appearance of the site and surrounding area and in particular of Shenton Lane, contrary to Policies DM4 and DM10 of the SADMP, Policies CE3 and CE5 of the MBNP and the requirements of the NPPF. These effects though are not considered to be at a significant level that requires refusal of the application on these grounds. These adverse effects are though considered to weigh to a limited to moderate extent against the application in the planning balance.

Impact on Heritage Assets

8.67. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention must be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

8.68. Section 16 of the NPPF provides national policy on conserving and enhancing the historic environment. In determining planning applications, paragraph 197 of the NPPF advises local planning authorities to take account of

- a. The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b. The positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability; and
- c. The desirability of new development making a positive contribution to local character and distinctiveness.

8.69. Paragraphs 212-215 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.

8.70. Paragraph 216 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

8.71. Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment and heritage assets. Policy DM11 states that the Borough Council will protect, conserve and enhance the historic environment throughout the borough. This will be done through the careful management of development that might adversely impact both designated and non-designated heritage assets. All development proposals which have the potential to affect a heritage asset, or its setting will be required to demonstrate:

- a. an understanding of the significance of the heritage asset and its setting; and
- b. the impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts; and
- c. how the benefits of the proposal will outweigh any harm caused; and
- d. any impact on archaeology in line with Policy DM13.

8.72. Policy DM12 requires all development proposals to accord with Policy DM10 and states that development proposals should ensure that the significance of a

conservation area is preserved and enhanced and that development proposals should make every effort to retain the significance of locally listed heritage assets.

- 8.73. The Market Bosworth Conservation Area lies approximately 300 metres to the north-east of the site and contains a large number of listed buildings including the Grade II* Listed Church of St Peter which has a spire that is a prominent feature in the surrounding landscape. The boundary of the Conservation Area lies alongside the eastern side of Warwick Lane and the northern side of Shenton Lane beyond its junction with Warwick Lane. There are no listed buildings or non-designated locally important buildings within close proximity of the site itself. There are extensive areas of ridge and furrow earthworks within the site which are dealt with in greater detail in the section below on archaeology.
- 8.74. Paragraph 4.1 of the Market Bosworth Conservation Area Appraisal (MBCAA) points out that all routes into Market Bosworth converge on the Market Place which is the centre of the Conservation Area. Shenton Lane is one of these routes. The Appraisal goes on to state that the historic relationships between the town, the Church of St Peter, Bosworth Hall and park and the agricultural landscape are clearly apparent and define the setting of the Conservation Area and hugely contribute to its unique sense of place.
- 8.75. Paragraph 4.6 of the MBCAA describes how Shenton Lane also approaches the Conservation Area through pleasant countryside which is interrupted only by clumps of trees and shrubs. Closer to the Conservation Area, Shenton Lane is bordered by a short length of residential development before entering the settlement proper adjacent to the new cemetery with properties set back behind mature trees in large front gardens. Paragraph 4.11 sets out that green spaces create a special ambience in the town and that wide grass verges add to the character. Paragraph 7.5 describes how Shenton Lane reflects the development of the village with existing development emphasizing the rural qualities of the lane.
- 8.76. The Council's Conservation Officer has assessed the submitted Archaeology and Built Heritage Desk-Based Assessment and considers that it is proportionate and meets the requirements of paragraph 207 of the NPPF and Policy DM11 of the SADMP.
- 8.77. It is agreed that there are no listed buildings or scheduled monuments affected by the proposed development. Also the Conservation Area is not discernible from the site itself and barely perceptible in direct views when adjacent to the site on Shenton Lane.
- 8.78. Whilst not being contiguous with the Market Bosworth Conservation Area, the undeveloped nature of the site as appreciable from Shenton Lane makes a very small contribution to the significance of the Conservation Area through setting, through illustrating its rural surrounds.
- 8.79. Built form is no longer proposed in the south-eastern field of the site, which will instead be meadow with structural planting. Officers agree with the impact assessment contained within the submitted Heritage Statement (section 2.27), in that due to the very modest change of the view from Shenton Lane, the proposed development is anticipated to cause less than substantial harm at the very lowermost end of the spectrum for the Market Bosworth Conservation Area.
- 8.80. In accordance with the summary contained within the Heritage Statement, the above assessment is considered to be in line with the Inspector's Decision for the

previous scheme, where he was explicit that development in the larger ('north-western') field would not be harmful (paragraph 36), and that the then proposed residences within the smaller field adjacent to Shenton Lane would 'have a slight effect on the significance of the Conservation Area as they would dilute the rural/countryside approach to it as outlined in the Conservation Area Appraisal' (paragraph 39). The change from agricultural land within this area of the site to public open space with meadow/structural planting proposed in the current scheme, and the loss of the view from the gateway, would result in a far lesser degree of harm. This would comprise the lowermost level of less than substantial harm.

- 8.81. In accordance with local and national policies as the proposal causes harm to designated and non-designated heritage assets this harm should be weighed against the public benefits of the proposal.
- 8.82. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the NPPF (paragraph 8). Public benefits may include heritage benefits as specified in the Planning Practice Guidance (Conserving and enhancing the historic environment – paragraph 20), such as:
 - Sustaining or enhancing the significance of a heritage asset and the contribution of its setting
 - Reducing or removing risks to a heritage asset
 - Securing the optimum viable use of a heritage asset in support of its long term conservation
- 8.83. It is considered that the proposal can demonstrate no particular heritage benefits. There are some social and economic (non-heritage) benefits demonstrated by the proposal including the provision of a number of dwellings, including affordable housing, towards the future housing supply of the borough, some short-term employment offered by the construction of the dwellings and the potential contribution future occupants may make to the local economy and community.
- 8.84. The Inspector on the previous appeal noted at paragraph 43 of the decision letter that seeking to place the degree of less than substantial harm to a designated heritage asset on a spectrum was not required as it could introduce an unnecessary degree of complexity to the judgement. It is considered though that the revised scheme now for consideration largely addresses the concerns that officer had regarding the heritage implications of the proposals in terms of the magnitude of change to the appearance of Shenton Lane and thus on the setting of the Conservation Area.
- 8.85. It is considered therefore that the less than substantial harm caused by the development is outweighed by the public benefits of the proposal such that refusal of the application is not justified on heritage grounds. It is considered though that the identified heritage harms do weigh in the planning balance against the scheme and that limited to moderate weight should be given to that harm in this regard.

Design and Layout

- 8.86. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.

8.87. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment.

8.88. This is an outline application with all matters reserved except for access and therefore detailed layout and appearance considerations are not being assessed at this stage - however, they will form details at the Reserved Matters stage. Notwithstanding this, the indicative plans illustrate that the development will comprise up to 100 dwellings with access into the site from York Close with development being located towards the centre of the site with no dwelling located in the field closest to Shenton Lane. It provides a reasonable approach to the scheme that would flow through into the detailed plans submitted at Reserved Matters stage and indicate that a suitable form of development could be brought forward in accordance with Policy DM10 of the SADMP and the Good Design Guide SPD.

Impact upon Residential Amenity

8.89. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.

8.90. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. It also states that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.

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

8.92. Paragraph 187 states that planning decisions should contribute to and enhance the local environment by preventing new development from contributing to unacceptable levels of noise pollution and that development should wherever possible, help to improve local environmental conditions such as air quality.

8.93. It is considered that the proposed dwellings, subject to the detailed matters to come forward at Reserved Matters stage, could be designed such to have a suitable relationship with nearby residential units with regard to interface distances, overlooking and loss of privacy.

8.94. Additional information with respect to contamination and a Construction Environmental Management Plan could be appropriately sought via condition.

8.95. Concerns raised by the neighbours to the scheme, in particular those on the route that would be taken by vehicles accessing and egressing the site, are noted. The proposal provides access to the site at its far north west corner where traffic would need to travel along four different roads and would have to navigate five separate highway junctions after leaving Station Road.

8.96. The development proposes the demolition of a single dwelling in order to provide access to the site and provides distance of just 2.7 metres from the carriageway to the private rear garden of 37 York Close and just 2.3 metres from the back of pavement to the private rear garden of 33 York Close. While boundary treatment improvement could be secured via condition the environment of those two rear gardens would change significantly and it is considered that this would result in a permanent and long term significant loss of amenity to the residents of these two dwellings.

8.97. It is considered that the proposals would bring about a very significant change in the character of York Close which would change from a quiet cul-de-sac on the edge of the countryside to a through road accessing up to 100 additional properties. This change would be particularly felt by those neighbours that live closest to the proposed access. While the change in the character of York Close would not be unsafe, it is considered that the noise and disturbance caused by the increased traffic movements would have a material and significantly detrimental change on the existing quiet and peaceful character of the close.

8.98. It is acknowledged that these are subjective assessments of the impacts rather than ones based on technical noise reports which it is considered could not accurately reflect the underlying change to the residential environment as it would be experienced by the residents of York Close.

8.99. It is considered that the proposed development fails to accord with the requirements of Policy DM10 of the SADMP as it would have a significant adverse effect on the amenity of nearby residents. The proposal is also considered to be contrary to paragraph 135f) of the NPPF and to the Council's Good Design Guide. The level of harm to those residents most affected is considered to be very significant and therefore attracts very significant weight against the scheme in the planning balance.

Flood Risk and Drainage

8.100. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.

8.101. Paragraph 181 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 182 states that applications that could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce volumes of run-off, and which are proportionate to the nature and scale of the proposal. It also states that these should provide multifunctional benefits wherever possible, through facilitating improvements in water quality and biodiversity, as well as benefits for amenity.

8.102. The site lies within Flood Zone 1 on the Environment Agency Flood Maps for Planning. A small part of the site, predominantly in the north-west corner and along the northern boundary, is subject to surface water flooding. The development

framework plan submitted with the application indicates that three attenuation ponds would be located in this north-west corner of the site to the rear of dwellings on York Close and Stanley Road.

8.103. The HBBC Drainage Officer advises that the proposals are acceptable subject to conditions to secure a surface water drainage scheme, management and maintenance of surface water and infiltration testing. No objections have been received from Severn Trent or from the Environment Agency. Subject to the suggested conditions, it is considered that the proposed development would satisfy Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document and the NPPF.

Ecology and Biodiversity

8.104. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.

8.105. The ecology information submitted with the application states that the mandatory 10% increase in biodiversity on the site can be achieved. comprises poor semi-improved grassland with mature boundary treatments. The County Ecologist has assessed the information and has no objections to the proposal subject to the mandatory 10% biodiversity net gain and a condition regarding bats.

8.106. Subject to the condition requirements this application is considered be acceptable with respect to ecology and biodiversity matters and complies with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document.

Archaeology

8.107. Policy DM13 of the SADMP states that where a proposal has the potential to impact a site of archaeological interest developers should provide an appropriate desk based assessment and where applicable a field evaluation. Paragraph 207 of the NPPF also reiterates this advice and requires an applicant to describe the significance of any heritage asset affected, including any contribution made to its setting.

8.108. In line with the NPPF Section 16, the planning authority is required to consider the impact of the development upon any heritage assets, taking into account their particular archaeological and historic significance.

8.109. Paragraph 216 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that in weighing applications that directly affect non-designated assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

8.110. Paragraph 218 states that local planning authorities should require the developer to record and advance understanding of the significance of any heritage asset to be lost in a manner proportionate to their importance and the impact and to make this evidence publicly available. It also states though that the ability to record evidence

of our past should not be a factor in deciding whether such loss should be permitted.

- 8.111. There are legible ridge and furrow earthworks present across the majority of the application site. Those in the east of site (which also extend further south) are identified as a record on the Leicestershire and Rutland Historic Environment Record. The earthworks in both fields are identified in the local heritage asset list that accompanies the Market Bosworth Neighbourhood Plan, with the document describing them as the best example of medieval curved ridge and furrow near to the town. The ridge and furrow earthworks are considered to be of archaeological and historic interest, and as agreed within the Heritage Statement, the extant ridge and furrow earthworks within the site should be considered to form part of a heritage asset comprising the surviving ridge and furrow across the parish of Market Bosworth, as they are part of one former open field system. Collectively, these are considered to be of a significance commensurate to a non-designated heritage asset of lower significance.
- 8.112. A considerable amount of archaeological work has already taken place as a result of the previous application on the site.
- 8.113. The County Archaeologist has commented that the loss of the extant ridge and furrow earthworks on the site is regretted and that this represents further depletion of an already greatly diminished archaeological resource. The County Archaeologist does not feel though that from a purely archaeological perspective the loss represents an especially robust reason for refusal.
- 8.114. Due to the extent and siting of the proposed residential development this would result in the total loss of the most of ridge and furrow earthworks throughout the site (although depending on the level of earthworks required to form the play area and meadow some extent of those on the south-eastern field could possibly be preserved in situ). Given that the earthworks should be considered holistically 'as part of the other ridge and furrow present around the town' (as per the Inspector's conclusion for the appeal) the loss of the extant ridge and furrow within the site would represent the removal of a small part of the overall non-designated heritage asset. In agreement with the impact assessment contained within the submitted Heritage Statement (section 3.19), it is that the proposals are anticipated to result in a minor level of harm to the significance of this non-designated heritage asset.
- 8.115. It is not considered that the proposed development can demonstrate any particular heritage benefits. While the loss is mitigated with regard to the evidential and historic significance through the existing and proposed recording works, a minor residual impact upon the significance of the non-designated heritage asset will remain and the recording work does not adequately offset the impact of their loss particularly in respect of their aesthetic and communal value.
- 8.116. Whilst, in the light of the Inspector's decision on the previous appeal, it is considered that refusal of the application is no longer justified on archaeological grounds, it remains the case that the loss of the ridge and furrow earthworks results in a minor level of harm to the significance of this non-designated heritage asset. In the planning balance it is considered limited to moderate weight against the proposals should be given in this regard.

Trees

- 8.117. Policy DM6 of the SADMP sets out that on site features should be retained, buffered and managed favourably to maintain their ecological Value, connectivity and functionality in the long term.
- 8.118. Policy CE4 of the MBNP states that mature trees should be protected wherever possible. Development that would result in the loss of or damage to protected trees will not be permitted unless a satisfactory scheme for the replacement of lost trees or mitigation of any damage to the landscape is agreed.
- 8.119. In this instance both the Country and Borough Tree Officers have commented on the proposals and do not have significant concerns. In addition the proposals provide for significant new tree planting.
- 8.120. It is considered therefore that the proposal is acceptable with regard to the requirements of policies DM6 and CE4.

Other Matters

- 8.121. The loss of agricultural land is not considered significant given the sites use as grazing land rather than for crops.
- 8.122. The site lies within a Sand and Gravel Mineral Consultation Area. Given the proximity of the site to the settlement, it is considered that it would not realistically be quarried for mineral resources.

S106 Heads of Terms

- 8.123. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016 updates these standards and also identifies the costs for off-site and on-site contributions.
- 8.124. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations and paragraph 57 of the NPPF state that planning obligations must only be sought where they meet all of the following tests:
 - A) Necessary to make the development acceptable in planning terms;
 - B) Directly related to the development; and
 - C) Fairly and reasonably related in scale and kind to the development.
- 8.125. The contributions sought are detailed below:
 - Equipped On-site Play Space (On-site provision to the value of £65,494.80 and Maintenance (£63,216) to be provided)
 - Outdoor Sports Contribution £34,752 and maintenance of £16,512
 - Casual Play Space – 1680sq.m with maintenance of £18,144
 - Accessible Natural green Space – 4000sq.m with maintenance of £56,800
 - Affordable Housing – 40% (75% social or affordable rented and 25% intermediate tenure/shared ownership).

- Library Services £3,019.77
- LCC Waste Management £4,953
- Healthcare £77,440
- Primary Education £106,464.80
- Secondary Education £166,228.92
- Post 16 Education £63,779.10
- SEND Education £56,448.43
- Early Years Education £156,026
- Traffic Regulation Order £7,500
- Travel packs for all new residents (one per dwelling) £52.85 per pack and £500 administration charge
- Two x 6 month bus passes per dwelling to encourage new residents to use bus services and make behavioural changes £510 per pass

The total S106 financial contribution resulting from the development and not including open space provision and maintenance or affordable housing is £800,909.02.

8.126. All of the above contributions are considered to meet the tests for planning obligations and should therefore form part of the Section 106 legal agreement to be formulated should the application be approved. No such S106 agreement has been completed and as such the application is not considered to comply with the requirements of Policy DM3 of the SADMP and Policy 19 of the Core Strategy and is therefore a reason for refusal of the application.

Conclusions and Planning Balance

8.127. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.128. The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. The MBNP has been updated and is now subject to a referendum. As such its policies can be given significant weight. It's housing needs assessment though, understandably, does not take account of any wider Borough wide need. It is necessary therefore to consider that the 'tilted' balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.129. The provision of up to 100 dwellings, 40% of which are to be affordable units, is considered to be a benefit of the proposal to which significant weight in favour of the scheme is attached.

8.130. Other benefits of the scheme apart include the provision of play space and open space that would benefit existing residents, the likely increase in biodiversity on the site and the economic and social benefits through the construction of dwellings and from subsequent activities of future residents in the local area. These benefits are considered to attract limited to moderate weight.

8.131. The Council considers that the proposal is offered no support by Policy DM4 of the SADMP and does not comply with the exception criteria set out in Policy CE5 of the MBNP. As such the application does not accord with development plan policy and is unacceptable in principle. These policies are considered to be broadly consistent with the overall aims of the NPPF and that significant to moderate weight should be attached to the fact that the proposal is contrary to the development plan and would undermine the plan led approach endorsed by the Framework.

8.132. The proposed development has a harmful effect on the character and appearance of the countryside. It would be contrary to Policy DM4 of the SADMP and Policy CE5 of the MBNP and to the environmental protection aims of the NPPF. This matter attracts moderate to significant weight.

8.133. The proposal would result in less than substantial harm to the designated Market Bosworth Conservation Area and while the benefits of the proposal outweigh that harm when considered against the requirements of paragraph 215 of the NPPF, that harm still weighs in the final planning balance and limited to moderate weight is afforded to this aspect of the proposals.

8.134. Due to the extent and siting of the proposed residential development this would result in the total loss of the majority of the ridge and furrow earthworks on the site. This would have a minor adverse impact upon the archaeological and historic interest and thus significance of this non-designated heritage asset. It is not considered that the proposed development can demonstrate any particular heritage benefits but, given the other ridge and furrow earthworks around the town and the advice of the County Archaeology Team, moderate to limited weight is given to this matter.

8.135. Significant weight is given to the lack of a S106 Agreement. It is acknowledged though that the applicant has expressed no unwillingness to enter into such a legal agreement.

8.136. The effects on the amenity of residents of York Close are considered to attract very significant weight. Consequently, even taking into account the housing land supply position, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole. The proposal would not therefore represent sustainable development.

9. Equality implications

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

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

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

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

10. Recommendation

- 10.1 **That the application be Refused** for the reasons set out below:

1. The proposed access results in very significant harm to the residential amenity of residents of York Close which, when afforded very significant weight alongside the other negative impacts of the development, significantly and demonstrably outweighs the benefits of the development. The development is contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document and chapter 12 of the National Planning Policy Framework (2024).
2. The applicant has not entered into a Section 106 contributions for the delivery of Affordable Housing and public open space or contributions towards health, education, waste services and libraries. As such the application is considered contrary to Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.