

Erection of up to 400 dwellings with associated roads and service infrastructure, drainage ponds, landscaping and open spaces (outline- all matters other than part access reserved) approved under planning permission 16/01200/VCUM without complying with Condition numbers 4, 7, 9, 10, 15, 17, 27 and 28, so as to allow for a maximum of 150 dwellings to be accessed via Highfield Street, an amended access design to Highfield Street, amendments to proposed culverts, non-compliance with the Code for Sustainable Homes, and removal of the requirement to submit a Design Code Land North Of Standard Hill And West Of Highfield Street Hugglescote Coalville Leicestershire LE67 3BP

**Report Item No
A1**

**Application Reference
22/01140/VCIM**

**Grid Reference (E) 441903
Grid Reference (N) 313425**

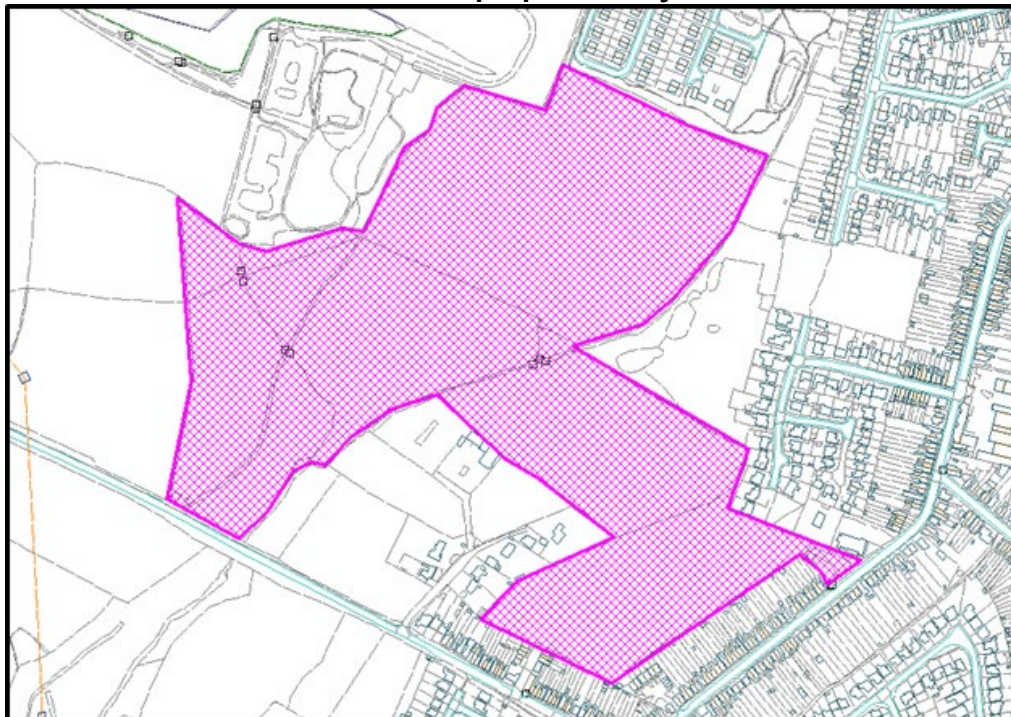
**Date Registered:
12 July 2022
Consultation Expiry:
17 August 2022
8 Week Date:
30 November 2022
Extension of Time:
30 November 2022**

**Applicant:
Mr Mitesh Rathod**

**Case Officer:
Adam Mellor**

**Recommendation:
PERMIT subject to S106 Agreement**

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

RECOMMENDATION - PERMIT, subject to the following condition(s) and Section 106 agreement:

1. Approval of reserved matters.
2. Submission of reserved matters.
3. Time limit for submission of reserved matters.
4. Approved plans.
5. Phasing of development.
6. Pumping station not approved (except vehicular access).
7. Compliance with flood risk assessment.
8. Foul and surface water drainage proposals.
9. Detailed design of mammal passage culvert and mammal guidance fencing.
10. Construction surface water management.
11. Land contamination assessment.
12. Verification investigation.
13. Highfield Street vehicular access delivered before development commences on site.
14. Standard Hill vehicular access delivered before development commences on site.
15. Total number of dwellings served by Highfield Street access.
16. Construction vehicle management plan.
17. Residential travel plan.
18. Archaeological mitigation.
19. Archaeological archive deposition.
20. Ecological and landscape management plan.
21. Breeding birds mitigation.
22. Compliance with breeding bird mitigation.
23. Additional badger and otter surveys.
24. Protection and re-use of existing soils.
25. No more than 400 dwellings constructed.

This application is brought to Planning Committee at the request of Councillor Geary due to the proposals resulting in highway safety concerns.

MAIN REPORT

1. Proposals and Background

This is an application under Section 73 of the Town and Country Planning Act to "vary" conditions 4, 7, 15 and 17 and "remove" conditions 9, 10, 27 and 28 of planning permission 16/01200/VCUM for the erection of up to 400 dwellings with associated roads and service infrastructure, drainage ponds, landscaping and open spaces (outline - all matters other than part access reserved) approved under planning permission 12/00007/OUTM without complying with condition numbers 4, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28, so as to allow for the development to commence on the provision of the site accesses at land to the north of Standard Hill and west of Highfield Site, which was approved on the 15th March 2017, subject to a Section 106 Agreement.

On the 17th April 2015, outline planning permission was granted for the erection of up to 400 dwellings with associated road and service infrastructure, drainage ponds, landscaping and open spaces (outline - all matters other than part access reserved), under application reference 12/00007/OUTM, which was subsequently varied (Section 73 application) by the above permission (16/01200/VCUM). Reserved matters approval for the formation of site accesses to Standard Hill and Highfield Street submitted in respect of the original outline permission (12/00007/OUTM) was approved on the 8th December 2016 under application reference 16/01198/REMM. A subsequent reserved matters approval for the erection of 400 dwellings, submitted in respect of the varied outline permission (16/01200/VCUM) was approved on the 8th March 2022 under application reference 18/00707/REMM.

Section 73 relates to development of land without complying with conditions subject to which a previous planning permission was granted. The Council, in considering this application, is only entitled to consider the question of the conditions subject to which planning permission should be granted. Conditions 4, 7, 15 and 17 which the applicant wishes to vary, and conditions 9, 10, 27 and 28 which the applicant wishes to remove, are associated with the following matters:

Condition 4

Approved Plans.

Condition 7

Compliance with Flood Risk Assessment (FRA).

Condition 9

Detailed Design of 7 Culverts referred to in FRA.

Condition 10

Working Method Statement for Construction of 7 Culverts referred to in FRA.

Condition 15

Delivery of Highfield Street Access Junction.

Condition 17

Only 100 Dwellings served by Highfield Street Vehicular Access.

Condition 27

Compliance with Code for Sustainable Homes.

Condition 28

Design Code.

A letter submitted in support of the application indicates that the changes to the conditions would be as follows:

- Vary conditions 4 and 15 so as to refer to an amended Highfield Street junction design;
- Vary condition 7 to remove the reference to the provision of the 7 additional culverts as identified in the approved FRA;
- Delete conditions 9 and 10 as they would no longer be applicable as the 7 additional culverts would not be constructed;
- Vary condition 17 so as to allow the vehicular access off Highfield Street to serve 150 dwellings; and
- Delete conditions 27 and 28 as they are no longer applicable.

Further details and plans associated with the application can be viewed on the District Council's website including a transport technical note which has been submitted in support of the application. Following the receipt of the consultation response from the County Highways Authority additional information was submitted by the applicant and re-consultation undertaken.

Other relevant planning history associated with the site is as follows:

- 16/00406/REMM - Erection of 79 dwellings and associated roads, infrastructure, drainage ponds, landscaping and open spaces (reserved matters of part access, appearance, landscaping and layout and scale to outline planning permission 12/00007/OUTM) - Withdrawn 18th July 2022.
- 17/00351/NMA - Non-material amendment to reserved matters approved ref. 16/01198/REMM so as to relate to amended outline planning permission 16/01200/VCUM - Approved 4th April 2017.
- 17/00514/CLE - Certificate of Lawful Existing Development for the undertaking of works to Highfield Street road access as approved by planning permission 16/01200/VCUM for the erection of up to 400 dwellings with associated roads and service infrastructure, drainage ponds, landscaping and open spaces (and associated reserved matters approval reference 16/01198/REMM and non-material amendment 17/00351/NMA) - Approved 31st May 2017.
- 22/00598/NMA - Non-material amendment to planning permission ref 16/01200/VCUM to allow for amended trigger points for submission of details in respect of conditions 8 and 12 - Approved 18th May 2022.
- 22/00807/NMA - Non-material amendment to reserved matters approval ref. 18/00707/REMM (outline planning permission ref. 16/01200/VCUM) to allow for phased submission of details in respect of condition 18 - Approved 9th June 2022.
- 22/01141/VCIM - Formation of site accesses approved under reserved matters approval ref. 16/01198/REMM (as amended) (outline planning permission ref. 16/01200/VCUM) without complying with conditions 2 and 3 so as to allow for the implementation of updated landscaping plans - Approved 19th October 2022.
- 22/01315/VCUM - Erection of 400 dwellings approved under reserved matters approval ref. 18/00707/REMM (outline planning permission ref. 16/01200/VCUM) without complying with condition 2 so as to enable implementation of an alternative internal layout (including severing of connecting vehicular through route) - Pending Consideration.

2. Publicity

23 neighbours notified.

Site Notice displayed 20 July 2022.

Press Notice published Leicester Mercury 27 July 2022.

3. Summary of Consultations and Representations Received

The following summary of representations is provided. All responses from statutory consultees and third parties are available to view in full on the Council's website.

Objections from:

Councillor Geary (Ward Member) who has objected on the following summarised grounds:

- I am strongly opposed to the increase in the number of units that will be served from Highfield Street and have serious concerns on Highway Safety grounds and the impact this will have on the quality of life of all residents on not only Highfield Street but all the surrounding streets that this extra traffic will generate.
- Outline planning permission was originally granted in 2012 and varied in 2016, both restricted access from Highfield Street to 100 units. In February this year reserved matters permission was granted with the restriction of 97 units.
- Permission was granted on the information that has been submitted, if the applicant had failed to make sure all their information was complete when they submitted their application then the decision to permit should be cancelled and the process should start again.
- It is outlined in the applicant's report that technical work has demonstrated that the proposed vehicular link cannot be delivered due to topographical constraints. Yet on the reserved matters application plans clearly showed a bus route running through the site across the brook from Standard Hill to Highfield Street. It would appear that the decision on the reserved matters application was made without knowing all the facts given the omission of the technical information.
- The applicant's report also informs us that the omission of the vehicle link will generate 'significant planning benefits' which will result in a higher quality of development but at what cost to local residents that live on and use Highfield Street?
- Whilst the applicant tries to justify that the cost involved in facilitating the 'link' would be disproportionate to the construction of 53 units, they should not be excused from forming a vehicle route to serve the 53 units as they should have priced such works in and therefore would be able to afford such works with the brook originally being bridged so as to provide a bus route. Alternatively the 53 units should not be constructed.
- The applicant's report outlines that residents of Highfield Street who back onto the development will be provided with the opportunity to access rear parking to their properties. This statement is misleading due to 14 homes not being able to gain access to their own land from the proposed road.
- I also object to the removal of condition 27.

No Objections from:

Environment Agency.

Leicestershire County Council - Ecology.

Leicestershire County Council - Highways Authority.
Leicestershire County Council - Lead Local Flood Authority.

Third Party Representations

Four representations have been received objecting to the application with the comments raised summarised as follows:

Highway Safety

- Highfield Street cannot already cope with the amount of 'through traffic' at present with traffic conditions considerably worse than the prevailing road conditions in 2012 and the developer wants to increase the number of dwellings served from Highfield Street by 50%.
- Highfield Street is an unfit route and would be unsafe for existing and new residents with the access being on a 'blind bend'.
- There are no 'passing' laybys to accommodate the additional traffic and parking is present on both sides of Highfield Street for the entirety of its length, removing the existing parking would create insufficient parking for existing residents with double yellow lines also being introduced.
- The exit onto Standard Hill should be reconsidered given the other developments which have occurred in the area which have dramatically altered road conditions since the initial traffic surveys were conducted. Speed checks should also be undertaken, and the introduction of a roundabout considered.
- The estimate of cars exiting and entering Highfield Street is unrealistic as Coalville has no rail service and the nearest bus stops are a 20 minute walk away.
- The traffic survey does not account for the increase in vehicles from the Frearson Road estate and was conducted when Cadent were replacing gas main pipes on a large section of Highfield Street thereby traffic would avoid the highway.

Drainage and Flood Risk

- In winter months much of the site is under water with other areas badly waterlogged. The culverts therefore need to be complied with and the several streams which run through the site should be left open as they all flow into the River Sence.
- The inclusion of the streams (one which flows under Coalville and is the cause of town centre flooding) would add a considerable feature, improve ecological diversification and be less likely to flood thereby improving the quality of life for residents.
- Video evidence has previously been provided to Councillor Geary showing water running down Standard Hill and into the fields where the development is proposed.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2021)

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 8 and 10 (Achieving sustainable development);
Paragraphs 11 and 12 (Presumption in favour of sustainable development);

Paragraph 34 (Development contributions);
Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);
Paragraphs 55, 56, 57 and 58 (Planning conditions and obligations);
Paragraphs 60, 61, 62, 63, 65, 68, 73, 74, 75 and 77 (Delivering a sufficient supply of homes);
Paragraphs 92, 93, 98 and 100 (Promoting healthy and safe communities);
Paragraphs 107, 108, 110, 111, 112 and 113 (Promoting sustainable transport);
Paragraphs 119, 120, 124 and 125 (Making effective use of land);
Paragraphs 126, 128, 129, 130, 131 and 134 (Achieving well-designed places);
Paragraphs 152, 153, 154, 159, 167 and 169 (Meeting the challenge of climate change, flooding and coastal change);
Paragraphs 174, 180, 183, 184 and 185 (Conserving and enhancing the natural environment);
and
Paragraphs 189, 194, 195, 197, 199 and 205 (Conserving and enhancing the historic environment).

Local Policies

Adopted North West Leicestershire Local Plan (2021)

The application site is within Limits to Development and is identified as a housing allocation under Policy H1 (site H1d) of the adopted North West Leicestershire Local Plan. The following policies of the adopted local plan are consistent with the policies of the NPPF and should be afforded full weight in the determination of this application:

Policy S1 - Future Housing and Economic Development Needs;
Policy S2 - Settlement Hierarchy;
Policy D1 - Design of New Development;
Policy D2 - Amenity;
Policy H1 - Housing Provision: Planning Permissions;
Policy H4 - Affordable Housing;
Policy H6 - House Types and Mix;
Policy IF1 - Development and Infrastructure;
Policy IF3 - Open Space, Sport and Recreation Facilities;
Policy IF4 - Transport Infrastructure and New Development;
Policy IF7 - Parking Provision and New Development;
Policy En1 - Nature Conservation;
Policy En3 - The National Forest;
Policy En6 - Land and Air Quality;
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;
Policy Cc2 - Flood Risk; and
Policy Cc3 - Sustainable Drainage Systems.

Other Policies

National Planning Practice Guidance.
Good Design for North West Leicestershire Supplementary Planning Document - April 2017.
Leicestershire Highways Design Guide (Leicestershire County Council).
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).

5. Assessment

The principle of the proposed development was assessed and found to be acceptable under the original outline consent (12/00007/OUTM), and its subsequent variation (16/01200/VCUM), as well as the reserved matters consents granted under application references 16/01198/REMM and 18/00707/REMM. In these circumstances the only matters to consider are whether the proposed variation to conditions 4, 7, 15 and 17 and removal of conditions 9, 10, 27 and 28 would be acceptable in relation to highway safety (conditions 4, 15 and 17), surface water drainage flood risk (conditions 7, 9 and 10) and design (conditions 27 and 28).

Conditions 4 (Approved Plans) and 15 (Delivery of Highfield Street Access Junction)

The applicant's supporting information outlines that as part of the consideration and approval of reserved matters application reference 18/00707/REMM the originally proposed bus gate was omitted from the scheme as there was no prospect of a bus service being provided through the site. In such circumstances the County Highways Authority (CHA) required the Highfield Street site access to be downgraded so as to reflect the fact that it was no longer required to accommodate buses.

Such amendments included reducing the entrance radii and deleting the pedestrian refuge. The applicant therefore considers it necessary for conditions 4 and 15 to be varied so that they refer to amended access drawings for Highfield Street which reflect the alterations required by the CHA.

As part of the consideration of the application the CHA have been consulted and their consultation response has taken into account the recommendations within the Leicestershire Highways Design Guide (LHDG).

The CHA have advised that the amended access design would include waiting restrictions on Highfield Street which would be provided for the full extent of the visibility splays (2.4 metres by 43 metres in both directions), as required by the CHA. It is also noted by the CHA that such waiting restrictions would require a Traffic Regulation Order (TRO), for which a financial contribution was previously secured in a Section 106 agreement, and which would be a separate process dealt with directly by the CHA.

In their original consultation response the CHA also stated that as the Highfield Street access was no longer proposed to be served by buses then it may not be necessary to include waiting restrictions on both sides of Highfield Street. This, however, would need to be demonstrated by the provision of swept path analysis which indicated that the Council's waste vehicles could still enter and exit the site safely.

Subsequent information supplied by the applicant has demonstrated that the Council's waste vehicles would still be able to enter and exit the site safely, even with the presence of parked vehicles on the south-eastern side of Highfield Street opposite the site access, and this is therefore acceptable to the CHA.

The request from the CHA for tactile paving to be provided on the site access road, so as to enable pedestrians to cross the site junction, has also been addressed by the applicant and this is acceptable to the CHA.

Overall the CHA have no objections to the variation of conditions 4 and 15 and in such circumstances it is considered that the proposal would remain compliant with Policy IF4 of the adopted Local Plan, the LHDG and Paragraphs 110 and 111 of the NPPF.

Condition 17 (Only 100 Dwellings served by Highfield Street Vehicular Access)

The applicant's supporting information identifies that the original outline permission (12/00007/OUTM) and its subsequent variation (16/01200/VCUM) were subject to a condition which restricted access via the Highfield Street entrance to 100 units. Such a condition being as required by the County Highways Authority (CHA).

As part of the reserved matters approval under application reference 18/00707/REMM it was indicated that 97 dwellings would be served from Highfield Street.

Whilst technical work to support the delivery of the scheme was ongoing parallel with the reserved matters application such work was not concluded until after the reserved matters permission had been granted. It is, however, the case that such technical work has demonstrated that the proposed vehicular link across the brook is not deliverable due to topographical constraints. Consequently 53 units are left without any means of vehicular access.

The applicant's supporting statement also outlines that in order to provide a gradient on the 'link road' which would meet the standards outlined in the LHDG such a 'link road' would need to be significantly elevated above the level of the brook in the valley (which runs through the middle of the site). Such works would require a significant length of the brook (around 20 metres) to be culverted to a depth of between 2 to 3 metres, and the applicant considers that such engineering works would be disproportionate to facilitate 53 dwellings whilst also adversely impacting on the brook as a wildlife corridor and recreational resource. It would also result in this area of the site being heavily engineered and a largely unusable space.

A transport statement (TS) has also been submitted in support of the application and concludes that an increase from 100 to 150 dwellings being served from Highfield Street would not result in any highway safety or capacity concerns, whilst also advising that no ghost island right turn would be required. The TS also concludes that no issues would arise from the narrow nature of Highfield Street and the presence of parked cars, with it also being emphasised that those residents of Highfield Street who 'back on' to the development would be provided with the opportunity to take advantage of rear access parking to their properties. This would assist in easing parking pressures along Highfield Street.

As part of the consideration of the application the CHA have been consulted and their advice has taken into account the guidance within the LHDG.

In their original consultation response the CHA concluded that the principle of a simple priority junction would be acceptable, subject to the submission of a Stage 1 Road Safety Audit (RSA) and satisfactory accompanying Designers Response. The CHA also required the applicant to give consideration to the impact of the proposal on the Highfield Street junction with Standard Hill and Ashburton Road given that the proposed increase in vehicular activity via the Highfield Street site access (proposed to serve 150 dwellings) would result in an increase in 30 two-way trips in the AM peak period and 35 two-way trips in the PM peak period, when compared with the consented scheme (access serving 100 dwellings).

It was determined by the CHA within their original consultation response that the proposed site

access junction with Highfield Street would operate well within capacity, even with the additional vehicular movements, and that such additional vehicular movements would not exacerbate any existing highway safety concerns given the limited number of personal injury collisions (PICs) within the last five years (a total of four).

A RSA subsequently submitted by the applicant identified a total of five 'problems' which are as follows:

1. Obstruction to junction visibility resulting in side swipes;
2. Northbound bus stop obstructing visibility resulting in side swipes;
3. Insufficient space to manoeuvre in or out of the proposed access;
4. Risk of collisions involving pedestrians; and
5. Risk of collisions involving pedestrians.

In terms of the applicant's designers response to the Stage 1 RSA this seeks to address such 'problems' as follows:

1. The problem arising from on-street parking within the visibility splays was accepted and would be designed out by the provision of waiting restrictions upon Highfield Street for the extent of the visibility splays.
2. The problem arising from stationary buses in close proximity to the proposed access junction at the bus stop to the north-east was not accepted by the designer in the circumstances that the frequency of the 159 bus service, which only stops two times a day Monday to Friday, would lead to the visibility splays only being obstructed on an infrequent basis and for a short period of time, with such a bus service operating outside of peak hours. Consequently the relocation of the bus stop was not considered to be justified as part of the vehicular access arrangement.
3. The CHA recommended that there should be sufficient space for large vehicles to manoeuvre in and out of the site access junction without impeding other turning movements or through traffic on Highfield Street, and which took into account parked vehicles. Vehicle tracking associated with the designers response shows that vehicles do not require the full width of Highfield Street to manoeuvre in and out of the site with the geometry of the site access being fully compliant with the LHDG.
4. The RSA identified that no pedestrian crossing facilities were proposed across the site access road and the omission of such crossing facilities could result in pedestrians crossing at inappropriate locations. This problem is addressed by the provision of pedestrian crossing facilities, including appropriate tactile paving, across the site access road.
5. The RSA identified that there is likely to be increased pedestrian movements to the southbound bus stop located on the opposite side of Highfield Street and in the absence of any pedestrian crossing facilities it could result in pedestrians crossing at inappropriate locations (i.e. between parked vehicles). Whilst pedestrian crossing facilities were recommended by the RSA this problem is not accepted within the designers response given that the frequency of the bus service serving the southbound bus stop (as identified under point 2 above) would lead to the demand for pedestrian crossing facilities being low. The designers response also identified that providing pedestrian crossing facilities along the desire line would be limited due to existing driveways and the bus stop itself, with such a crossing point also impacting on the existing on-street parking provision.

Following a review of the RSA and designers response the CHA have advised that they agree with the recommendations and have no objections.

A junction capacity assessment (JCA), for the Highfield Street junction with Standard Hill and

Ashburton Road, has also been submitted by the applicant which is based on the 2027 future year with development scenario.

The JCA demonstrates that the Highfield Street junction with Standard Hill and Ashburton Road would continue to operate within capacity in the future assessment year, and consequently the CHA have no objections to the variation of condition 17 so as to enable 150 dwellings to be served from the Highfield Street access.

In the circumstances that the variation of condition 17 would not result in any unacceptable impacts on highway safety, with the cumulative impacts with other development on the highway network not being severe, it is considered that the proposal would remain compliant with Policy IF4 of the adopted Local Plan, the LHDG and Paragraphs 110 and 111 of the NPPF.

It is also considered that some 'benefits' arise as a result of the omission of the 'link road' as it would remain possible to ensure cycle/footpath connectivity between the Standard Hill and Highfield Road sites, given that such access could be accommodated by using an existing small culvert, and would enable more of the existing tree cover to be retained. It would also enable the creation of a more extensive area of usable public open space between the two sites and enable the approved locally equipped area of play (LEAP) to be set away from any main roads. Such a proposal would also not require significant alterations to the ground levels around the brook course, thereby avoiding negative impacts on wildlife. From the perspective of ecology the County Council Ecologist has advised that the omission of the 'link road' would benefit biodiversity.

In terms of the suitability of the design alterations associated with the omission of the 'link road' this is a matter to be considered and assessed as part of application reference 22/01315/VCIM.

Conditions 7 (Compliance with Flood Risk Assessment (FRA)), 9 (Detailed Design of 7 Culverts referred to in the FRA) and 10 (Working Method Statement for Construction of 7 Culverts referred to in the FRA)

The applicant's supporting information highlights that condition 7 requires the development to be carried out in accordance with the Flood Risk Assessment (FRA) submitted as part of the original outline application (12/00007/OUTM) but also sets out 4 specific criteria which needs to be addressed. The third criterion references the provision of 7 additional 450mm diameter culverts under Standard Hill.

Originally such culverts were required to address a problem of flooding on the western corner of the site adjacent to Standard Hill. However, additional work undertaken in this area of the site, including the 'clearing out' of the existing Standard Hill culvert and the upstream and downstream drainage ditches, has enabled efficient water flow through the existing system. Revised modelling work undertaken has consequently identified that the additional 7 culverts are no longer required and the omission of the culverts forms part of the drainage design submitted to discharge condition 8 (foul and surface water drainage schemes) of 16/01200/VCUM.

The applicant therefore proposes that condition 7 be varied so as to remove reference to the need to provide the additional 7 culverts. Should the omission of the additional 7 culverts be accepted then the applicant also indicates that conditions 9 and 10 should be removed as they would no longer be necessary.

As part of the consideration of the application the Environment Agency (EA) and Lead Local

Flood Authority (LLFA) have been consulted and no objections are raised by either organisation to the proposed variation to condition 7 and the removal of conditions 9 and 10.

It is also the case that the discharge of condition 8 has been approved, on the 19th August 2022, under discharge of condition application reference 22/00921/DIS.

In the circumstances that the acceptance of the removal of the 7 culverts has been considered acceptable as part of the overall surface water drainage strategy, with it being the case that neither the EA or LLFA have any objections to this application, it is considered that the variation to condition 7 and removal of conditions 9 and 10 would be acceptable and would ensure the development remains compliant with Policies Cc2 and Cc3 of the adopted Local Plan as well as Paragraphs 167 and 169 of the NPPF.

Conditions 27 (Compliance with Code for Sustainable Homes) and Condition 28 (Design Code)

The applicant's supporting information outlines that whilst the Code for Sustainable Homes was in place when the original outline planning permission (12/00007/OUTM) was granted this code was subsequently withdrawn by the Government on the 22nd April 2015. In such circumstances condition 27 no longer has any relevance and should be deleted.

In terms of condition 28, the applicant highlights that this condition was applied at the outline stage so as to essentially cover a situation whereby the detailed design for the development might have been brought forward in phases and at different times. Consequently the design code would ensure that all future applications were guided by the aspirations of the design code. In this circumstance, however, the detailed design of the site has been developed through a single reserved matters application (18/00707/REMM) and consequently the requirement for a design code has fallen away. In such circumstances the applicant requests that condition 28 be deleted.

Paragraph 56 of the NPPF highlights that planning conditions should be *"kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."*

Given that the Code for Sustainable Homes is no longer applicable Government guidance it is considered that the removal of condition 27 would be acceptable as such a condition is no longer necessary or reasonable.

It is also considered that condition 28 would no longer be necessary or reasonable in the circumstances that the detailed design of the scheme has been approved under a single reserved matters application (18/00707/REMM) and whereby it was ensured that the development was compliant with the aims of Policy D1 of the adopted Local Plan as well as Paragraphs 126 and 130 of the NPPF.

On this basis the removal of conditions 27 and 28 is considered acceptable.

Conclusion

The site has the benefit of planning permission for residential development which remains extant. It is considered that the variation of conditions 4 (approved plans), 7 (compliance with flood risk assessment), 15 (delivery of Highfield Street access junction) and 17 (number of dwellings served by Highfield Street access), along with the removal of conditions 9 (detailed

design of 7 culverts referred to in FRA), 10 (working method statement for construction of 7 culverts referred to in FRA), 27 (code for sustainable homes) and 28 (design code), would be acceptable for the reasons outlined above. There are no other material planning considerations that indicate a variation to the approved permission should not be granted and accordingly the proposal, subject to relevant conditions and securing of a deed of variation (legal agreement), is considered acceptable for the purposes of the above mentioned policies.

It is therefore recommended that the application be permitted.

The proposed changes will require alterations to conditions 4, 7, 15 and 17 (which would now be conditions 4, 7, 13, 15) and the deletion of conditions 9, 10, 27 and 28 to reflect the approved changes.

Conditions 8, 11, 12, 13, 18, 19, 20, 21, 22, 23, 25 and 26 (now conditions 8, 9, 10, 11, 16, 17, 18, 19, 20, 21, 23 and 24) have been updated to reflect that they have been discharged under application reference 22/00921/DIS with conditions 1, 2, 3, 5, 6, 14, 16, 24 and 29 (now conditions 1, 2, 3, 5, 6, 12, 14, 22 and 25) remaining the same as imposed on planning permission 16/01200/VCUM.