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**The erection of 18 dwellings (100% affordable housing),  
access, landscaping and associated works**

**Report Item No  
A1**

**Land to the north of Southworth Road, Breedon On The Hill,  
Leicestershire DE73 8LU**

**Application Reference  
24/00007/FULM**

**Grid Reference (E) 440260  
Grid Reference (N) 322682**

**Date Registered:  
3 January 2024**

**Applicant:  
Bowsall Developments Ltd and EMH Group**

**Consultation Expiry:  
11 September 2024**

**Case Officer:  
Adam Mellor**

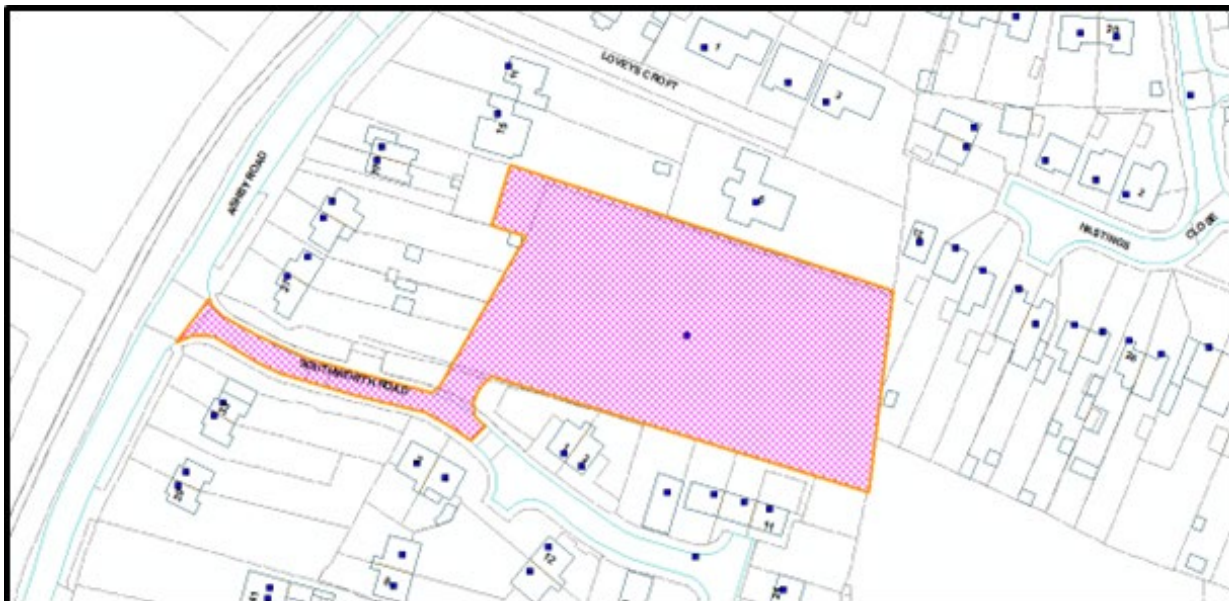
**13 Week Date:  
3 April 2024**

**Recommendation:  
PERMIT SUBJECT TO SECTION 106**

**Extension of Time:  
2 October 2024**

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**Site Location - Plan for indicative purposes only**



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## Reasons the case is called to the Planning Committee

This application is brought to the Planning Committee at the request of Councillor Morris as in his opinion the proposal would be an overdevelopment of the site; there would be a loss of neighbour amenity and overshadowing of adjacent properties; there would be highway safety issues due to inadequate access; the layout is poor and not in accordance with the Council's adopted Good Design SPD; the policies of the submission Breedon on the Hill Neighbourhood Plan have been disregarded; and that 100% social housing on a single site is unacceptable.

## **RECOMMENDATION – PERMIT, subject to the following conditions and the securing of a Section 106 agreement to deliver the following;**

- (a) Affordable Housing – all dwellings on site.
- (b) Education - £53,735.26.
- (c) Libraries - £543.56.
- (d) Highways – £19,671.30 (as well as a construction traffic routing agreement).
- (e) Health - £13,939.20.

Total Financial Contribution - £87,889.32.

1. Standard time limit (3 years).
2. Approved plans.
3. Construction hours.
4. Biodiversity Offsetting Management Plan (BOMP) prior to the development commencing (including any ground works or vegetation clearance) to be submitted, approved and implemented.
5. Finished ground and floor levels delivered in accordance with submitted details.
6. Scheme of external materials prior to dwellings being built above damp proof course level to be submitted, approved and implemented.
7. Design detailing of dwellings (including precise details of protruding windows frames to be installed and precise design detail to the verges) prior to dwellings being built above damp proof course level to be submitted, approved and implemented.
8. External meter boxes and rainwater goods to be finished black.
9. First floor bathroom, water closet and landing windows in side elevations to be obscure glazed with an opening at a height of no less than 1.7 metres above the internal floor level.
10. No foul pumping station or substation to be constructed unless precise details of any pumping station and/or substation (if required) are submitted and approved.
11. Development to be undertaken in accordance with scheme of tree and hedge protection measures and method statement detailed within the submitted Arboricultural Impact Assessment (AIA) and Method Statement (MS).
12. Arboricultural Method Statement (AMS) outlining precise works to retained trees and hedges prior to the development commencing to be submitted, approved and implemented.
13. No construction work to be undertaken within the root protection areas (RPAs) of retained trees and hedges unless a Construction Method Statement (CMS) for any development within the RPAs of retained trees and hedges is first submitted and approved.
14. Soft landscaping scheme (including details of tree pits for trees within hard surfacing, means of protecting soft landscaping located between off-street parking spaces and timetable for implementation) prior to dwellings being built above damp proof course level to be submitted, approved and implemented and requirement for replacement of failed soft landscaping.
15. Landscape, Ecological, and Biodiversity Management Plan (LEBMP) prior to the dwellings being built above damp proof course level to be submitted, approved and implemented.

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16. Retained hedgerows to northern and eastern site boundaries to be maintained at a height of 2 metres.
17. Hard landscaping scheme (including timetable for implementation) prior to hard landscaping being installed to be submitted, approved and implemented.
18. Boundary treatment scheme (including elevational details and timetable for implementation) prior to boundary treatments being installed to be submitted, approved and implemented and removal of permitted development rights for alternative boundary treatments.
19. No retaining walls to be constructed above 0.2 metres in height unless details (including elevation detail) are first submitted and approved.
20. Delivery of access arrangements (including visibility splays) in accordance with submitted plans.
21. Delivery of off-street parking and turning arrangements in accordance with submitted plans.
22. Surface water drainage scheme during the construction phase prior to commencement to be submitted, approved and implemented.
23. Surface water drainage scheme prior to commencement to be submitted, approved and implemented.
24. Surface water drainage maintenance scheme prior to any dwelling being occupied to be submitted, approved and implemented.
25. Scheme of water butts to each dwelling prior to dwellings being built above damp proof course level to be submitted, approved and implemented.
26. External lighting scheme (including a lighting strategy for bats and nocturnal wildlife and timetable for implementation) prior to occupation to be submitted, approved and implemented.
27. Bin storage points to be provided in accordance with the submitted plans prior to the first occupation of the relevant plot to be occupied.
28. No bin storage point(s) to be provided to the frontage of any dwelling unless precise details of an enclosed bin storage point(s) (if required) are submitted and approved.
29. Programme of archaeological work prior to commencement to be submitted, approved and implemented.

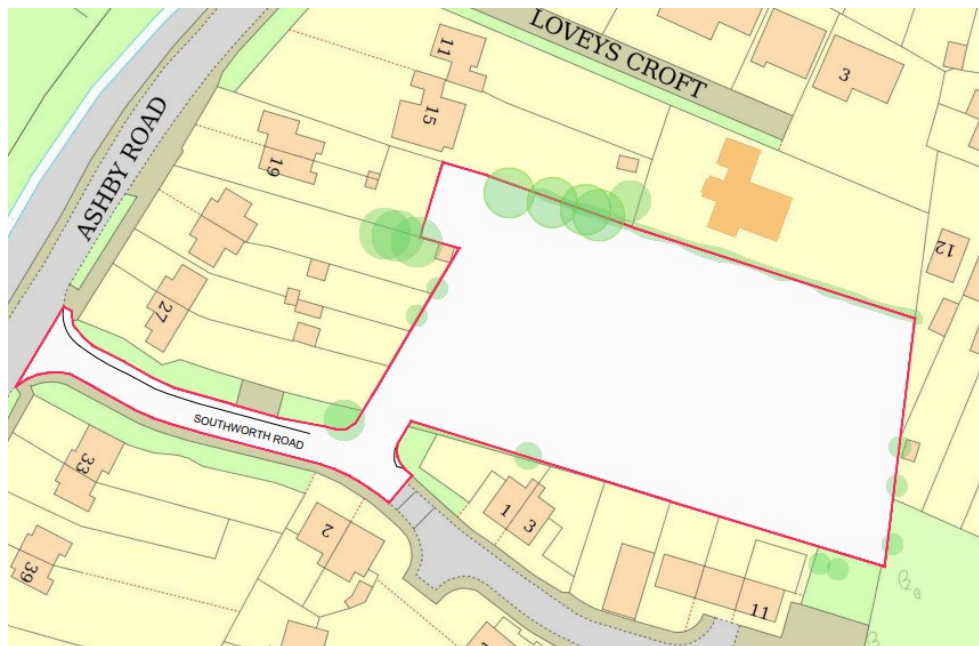
## MAIN REPORT

### 1. Proposals and Background

***The mandatory requirement for 10% Biodiversity Net Gain (BNG) for major development as required by the Environment Act came into force on the 12<sup>th</sup> of February 2024. However, this requirement would only be applicable to those applications received on or after the 12<sup>th</sup> of February 2024 and is not to be applied retrospectively to those applications already under consideration before this date and subsequently determined after this date. On this basis the proposed development would not be required to demonstrate a 10% BNG.***

Planning permission is sought for the erection of 18 dwellings (100% affordable housing), access, landscaping and associated works at land north of Southworth Road, Breedon on the Hill. The 0.53 hectare site (as identified below) is situated on the northern side of Southworth Road and is within the defined Limits to Development based on both the adopted Local Plan and the submission Breedon on the Hill Neighbourhood Plan (BotHNP). The surrounding area comprises residential properties of varying types and designs.

### Site Location Plan





**Aerial Image of Site Location**



The proposed site layout of the development is as shown in the image below.

**Proposed Site Layout**



All the dwellings to be created are proposed to be Social Rented affordable dwellings consisting of 12 two-storey semi-detached properties and six two-storey terraced properties.

In terms of vehicular access, a simple priority-controlled junction onto Southworth Road would be formed.

The plans and all other documentation associated with the application are available to view on the District Council's website.

### **Relevant Planning History**

- 9601032/PC – Erection of two dwellings and six single storey dwellings – Approved 3<sup>rd</sup> February 1998 (*this planning application only relates to the part of the application site (outlined in red in the image above) from the junction of Ashby Road to the proposed access into the site*).

## **2. Publicity**

23 neighbours initially notified on the 15<sup>th</sup> of January 2024, with 30 neighbours notified on the 2<sup>nd</sup> of August 2024 following the receipt of amended plans.

A site notice was displayed on the 19<sup>th</sup> of January 2024.

A press notice was published in the Derby Evening Telegraph on the 24<sup>th</sup> of January 2024.

## **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:**

Breedon on the Hill Parish Council who object to the application on the following grounds:

#### *Flooding*

The report submitted does not deal with fluvial run-off from the site with the area of the site being some 70% hard paved in one form or another. Stormwater run-off cannot be accommodated in the stream running through the village which has been illustrated by the culvert under the village green flooding as it was unable to cope with the water flow emerging down Ashby Road. Such water flow resulted in the culvert being overran and flooding occurred in four properties on Main Street. This reason alone should be enough to stop development of this site as it severely affects downstream residents.

#### *Overdevelopment of the Site*

There is significant overdevelopment in this area to the detriment of neighbouring properties resulting in loss of neighbour amenity and overshadowing of adjacent properties.

*Highway Safety*

The proposed access arrangements are unsuitable and inadequate for the number of houses proposed.

*Site Layout*

Poor layout not in accordance with the Council's adopted Good Design SPD.

*Emerging Neighbourhood Plan*

The application takes no account of the policies in the emerging neighbourhood plan.

*Social Housing*

100% social housing on a single site is unacceptable and against policy and there is no evidence of local demand on this scale.

Following the receipt of amended plans, Breedon on the Hill Parish Council reiterated that their original comments still stood but have provided further comments against the following:

*Flood Risk*

The earlier comments of Breedon on the Hill Parish Council are borne out by the Lead Local Flood Authority (LLFA) report outlining the importance of not allowing discharge of rainwater to the village watercourse and this remains paramount.

*Site Layout*

The previous comments of Breedon on the Hill Parish Council refer to the loss of amenity by way of overlooking neighbouring properties and that the minor changes to the layout have not changed their view with the neighbouring properties being significantly affected.

**No Objections from:**

NWLDC – Conservation Officer.

**No Objections, subject to conditions and/or informatives, from:**

East Midlands Airport Safeguarding.  
Leicestershire County Council – Archaeology.  
Leicestershire County Council – Developer Contributions.  
Leicestershire County Council – Ecology.  
Leicestershire County Council – Lead Local Flood Authority.  
Leicestershire County Council – Highways Authority.  
NHS Leicester, Leicestershire and Rutland.  
NWLDC – Affordable Housing Enabler.  
NWLDC – Environmental Protection.  
NWLDC - Tree Officer.  
NWLDC – Urban Designer.  
NWLDC – Waste Services.  
Police Architectural Liaison Officer.

### Third Party Representations

12 letters of representation have been received objecting to the application with the comments raised summarised as follows:

Grounds of Objections	Description of Impact
<p><b>Principle of Development</b></p>	<p>There are insufficient services within the settlement to support further development.</p>
	<p>There is no requirement for further housing to be constructed given the amount already consented in the immediate area.</p>
<p><b>Design</b></p>	<p>The provision of 18 dwellings would be an overdevelopment of the site and would exceed the 11 suggested by the Breedon on the Hill Neighbourhood Plan.</p>
<p><b>Residential Amenity</b></p>	<p>The proximity of the dwellings to residential receptors will result in adverse overbearing, overshadowing and overlooking impacts. There would also be noise disturbance from the use of garden spaces.</p>
	<p>An increase in vehicular movements and the placement of parking will result in noise detriment to residential receptors along with issues from car headlights and fumes.</p>
	<p>The lack of boundary treatments to the site boundaries with existing residential receptors will result in adverse overlooking impacts arising.</p>
<p><b>Highway Impacts</b></p>	<p>There will be an increase in vehicular movements on Main Street including on the speed control measures which create a noise nuisance.</p>
	<p>There will be an increase in traffic associated with the proposed development when combined with that of the development undertaken at the former Breedon Priory Nurseries.</p>
<p><b>Ecology</b></p>	<p>The proposal would impact adversely on the natural</p>



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	<p>environment with such impacts not being mitigated by the limited tree planting.</p>
	<p>The proposal will impact on native hedgerows which should not be removed to facilitate the development given their benefits to wildlife.</p>
<p><b>Landscaping</b></p>	<p>The plans indicate the removal of trees and parts of hedgerows which are not within the ownership of the applicant and have been subject to maintenance by existing neighbours.</p>
<p><b>Flood Risk and Drainage</b></p>	<p>The existing surface water drainage infrastructure is insufficient, and flooding incidents have occurred along Main Street (including in January 2024). Proposed development should be obligated to significantly improve and design out this issue.</p>
	<p>How is it ensured that developers comply with their requirements in relation to surface water drainage management and maintenance?</p>
	<p>The submitted drainage documentation does not account for climate change and the increased regularity of rainfall.</p>
	<p>The application site already contributes to surface water flooding in the settlement with surface water from the site draining to Ashby Road and subsequently flooding Main Street.</p>
	<p>New build developments in the settlement have contributed to issues with surface water flooding given the lack of mitigation provided.</p>
<p><b>Other Matters</b></p>	<p>The position of the site boundary does not reflect that agreed with both the previous and current landowner which is as denoted by a post and wire fence.</p>

One representation has been received neither objecting to nor supporting the proposed development with the comments raised being as follows:

*“Yet another housing development initiative with no corresponding or supporting upgrades to local infrastructure such as flooding, shops and schools. In general I support the need for more housing BUT we need these upgrades too.”*

#### **4. Relevant Planning Policy**

##### **National Policies**

##### **National Planning Policy Framework (2023)**

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 54, 55, 56 and 57 (Planning conditions and obligations);  
Paragraphs 60, 61, 63, 64, 66, 70, 75, 79 and 81 (Delivering a sufficient supply of homes);  
Paragraph 96 (Promoting healthy and safe communities);  
Paragraphs 108, 111, 112, 114, 115 and 116 (Promoting sustainable transport);  
Paragraphs 123, 124, 128, 129 and 130 (Making effective use of land);  
Paragraphs 131, 133, 135, 136 and 139 (Achieving well-designed places);  
Paragraphs 157, 158, 159, 165, 173 and 175 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraphs 180, 186, 187, 188, 189, 190, 191 and 194 (Conserving and enhancing the natural environment);  
Paragraphs 195, 200, 203, 205 and 211 (Conserving and enhancing the historic environment);  
and  
Paragraphs 218 and 223 (Facilitating the sustainable use of minerals).

##### **Local Policies**

##### **Adopted North West Leicestershire Local Plan (2021)**

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 H4 – Affordable Housing;  
Policy H6 – House Types and Mix;  
Policy Ec5 – East Midlands Airport  
Policy IF1 – Development and Infrastructure;  
Policy IF3 – Open Space, Sports and Recreation Facilities;  
Policy IF4 – Transport Infrastructure and New Development;  
Policy IF7 – Parking Provision and New Development;  
Policy En1 – Nature Conservation;  
Policy En6 – Land and Air Quality;

Policy He1 – Conservation and Enhancement of North West Leicestershire’s Historic Environment;  
Policy Cc2 – Water – Flood Risk; and  
Policy Cc3 – Water – Sustainable Drainage Systems.

### **Submission Breedon on the Hill Neighbourhood Plan (2024)**

On the 16<sup>th</sup> of July 2024, public consultation commenced on the Breedon on the Hill Neighbourhood Plan. Consultation was for a period of six weeks and closed on the 27<sup>th</sup> of August 2024.

The following draft Neighbourhood Plan policies are considered relevant to this application, however, in view of the early stage to which the Neighbourhood Plan has progressed, only very limited weight can be attributed to its policies at this stage in line with the requirements of Paragraph 48 of the NPPF (as explained below under the section titled ‘*Weight to be Afforded to the Policies of the Submission BotHNP*’):

Policy BotH5 – Ecology and Biodiversity;  
Policy BotH6 – Trees and Hedgerows;  
Policy BotH7 – Water Management;  
Policy BotH9 – Ultrafast Connectivity;  
Policy BotH10 – Infrastructure;  
Policy BotH12 – Design;  
Policy BotH14 – Housing Requirement;  
Policy BotH15 – Breedon on the Hill – Windfall Housing Development;  
Policy BotH16 – Land North of Southworth Road, Breedon on the Hill;  
Policy BotH19 – Housing Mix; and  
Policy BotH20 – Affordable Housing.

### **Other Policies**

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

## **5. Assessment**

### **Weight to be Afforded to the Policies of the submission BotHNP**

Paragraph 48 of the NPPF (2023) outlines that Local Planning Authorities may give weight to relevant policies in emerging plans according to:

- a) *The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) *The degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

Public consultation on the submission Breedon on the Hill Neighbourhood Plan (BotHNP) commenced on the 16<sup>th</sup> of July 2024 with the six week period concluding on the 27<sup>th</sup> of August 2024.

It is the view of officers that at this stage *limited weight* can be given to the policies of the submission BotHNP given that the extent of unresolved objections is currently unknown. Relevant to this application, the Council has maintained an objection to Policy BotH20 and this is an objection which would not be resolved until the submission BotHNP has been examined by an independent examiner.

### **Principle of Development and Sustainability**

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance comprises the adopted North West Leicestershire Local Plan (2021) and submission Breedon on the Hill Neighbourhood Plan (BotHNP) (2024).

The site is located within the defined Limits to Development where the principle of residential development is acceptable subject to compliance with relevant policies of the adopted Local Plan and other material considerations. Within the NPPF there is a presumption in favour of sustainable development and proposals which accord with the development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

For the purposes of the submission BotHNP the application site would be within the defined Limits to Development, with Policy BotH15 supporting residential development within such Limits. The application site is also allocated for residential development under Policy BotH16 of the submission BotHNP.

In respect of social sustainability, it is noted that the third party representations received have commented that the settlement of Breedon on the Hill is not socially sustainable. Although third parties are of this view, Policy S2 of the adopted Local Plan outlines that Breedon on the Hill is a Sustainable Village which is defined as a settlement which has a limited range of services and facilities. It is also the case that the Planning Inspector in an appeal decision, dated 14<sup>th</sup> of July 2017, associated with a scheme of 27 dwellings on Worthington Lane, Breedon on the Hill (ref: 16/00360/OUTM appeal ref: APP/G2435/W/17/3167167) did not consider the settlement to be socially unsustainable.

Services which are available include a shop (incorporating a post office), primary school, public houses, church and a recreation ground, with the development approved under application reference 18/02198/FULM providing a village hall. An infrequent bus service operating between Castle Donington to Leicester (Via Coalville and Bradgate Park) (Diamond Bus Service 125 – Monday to Saturday) is also available. Given the location of the application site such services would be accessible via foot on raised footways and consequently future occupants of the properties would not necessarily be dependent on the private car to access the most basic of services. The dwellings would also assist in sustaining these services which is a key intention of Paragraphs 82 and 83 of the NPPF.

Also from a social perspective, the provision of 18 affordable dwellings with a mix of 2 and 3 bedroomed properties would support and contribute to the housing needs of different groups in the community.

It is also the case, in accordance with Policy IF1 of the adopted Local Plan, that the level of proposed development (i.e. a major application) is required to mitigate its impact to infrastructure (such as schools and doctors' surgeries) by the provision of relevant developer contributions. The 'Developer Contributions and Infrastructure' section of this report below outlines in more detail the contributions which would be secured, but in brief these would include monetary contributions towards education, libraries, doctors' surgeries, travel packs and bus passes. The scheme also comprises 100% affordable housing. Overall, the securing of such contributions within a Section 106 agreement would further ensure that the development is socially sustainable.

The provision of the housing would result in development on a greenfield site which is not allocated in the adopted Local Plan for such a form of development. As is outlined above, however, the site is allocated under Policy BotH16 of the submission BotHNP. On this basis a presumption has been made, should the submission BotHNP be made, that the greenfield site would be lost to facilitate development of the nature proposed (i.e. residential) and as such there would not be significant conflict with the environmental objective enshrined within the NPPF.

To conclude, there would be no substantial harm to the built and natural environment, with any harm being outweighed by the economic benefits associated with the construction of the dwellings and the positive social sustainability aspects of the scheme. As a result the proposal is considered sustainable in accordance with Policy S2 of the adopted Local Plan and Policy BotH15 of the submission BotHNP, as well as the core objectives of the NPPF.

The principle of the development is therefore considered to be acceptable, subject to all other material planning matters being addressed.

Assessment of objections in relation to the principle of the development

Objection	Officer Response
<p><b>There are insufficient services within the settlement to support further development.</b></p>	<p>Policy S2 of the adopted Local Plan outlines that Breedon on the Hill is a 'Sustainable Village' with the services available including a shop (incorporating a post office), primary school, public houses, church and recreation ground. An infrequent bus service operating between Castle Donington and Leicester also exists. The development permitted under application reference 18/02198/FULM (at the former Breedon Priory Nurseries) also delivered a village hall.</p> <p>When accounting for such service provision and the status of the settlement under Policy S2 of the adopted Local Plan, it is considered that there would be no justification to refuse the application on sustainability grounds.</p>

<p><b>There is no requirement for further housing to be constructed given the amount already consented in the immediate area.</b></p>	<p>The housing figures required for the District in the Local Plan are only minimum figures, not maximum figures, and consequently the provision of housing in appropriate locations (i.e. within the Limits to Development and within appropriate settlements as outlined in Policy S2 of the adopted Local Plan) will remain acceptable in principle.</p>
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### **Five Year Housing Land Supply**

The applicant has referred to the implications for the Council’s Housing Land Supply because of the proposed reforms to the NPPF and other changes to the planning system. As a live consultation document, the applicant is correct in stating that it can only be afforded limited weight in the determination of planning applications at this time.

It remains the position of the Council that a supply of housing in excess of five years can be demonstrated (the minimum supply being 6.4 years).

### **Building the Homes we Need (Written Ministerial Statement, 30<sup>th</sup> July 2024)**

The applicant has also referred to the above document, with Paragraph 6 of the NPPF stating that Written Ministerial Statements (WMS) may be material when deciding planning applications.

In the view of officers the section of the above statement on delivering more affordable homes would be a material consideration which weighs in favour of the application, but this would not outweigh any major conflict with the development plan on the matters of design, access, amenity and flooding (*should such conflicts arise*).

### **Assessment Against Policy BotH16 of the submission BotHNP**

Policy BotH16 of the submission Breedon on the Hill Neighbourhood Plan (BotHNP) states that land north of Southworth Road (being the application site) will be allocated for residential development. Such residential development will be supported subject to compliance with criteria (a) to (d).

The assessment against this criterion would be as follows:

- (a) *The development shall provide approximately 13 dwellings.*

It is proposed that 18 dwellings would be provided on the site which would be 5 more than the ‘approximate’ number stipulated by criterion (a). Given the ‘limited weight’ to be afforded to the policies of the submission BotHNP, it is considered that a reason to refuse the application based on the proposed number of dwellings being greater than that stipulated by criterion (a) could not be justified.

Also Paragraph 49 of the NPPF outlines that “*arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:*



- a) *The development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and*
- b) *The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”*

Paragraph 50 states that “*refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination, or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.*”

When accounting for the terms of Paragraphs 49 and 50 of the NPPF, it is also considered that a reason to refuse the application based on the development being ‘premature’ in relation to the terms of Policy BotH16 of the submission BotHNP could not be justified.

*(b) Access should be off Southworth Road.*

As assessed in the ‘*Highway Impacts*’ section of this report below, the proposed vehicular access to serve the residential development would be off Southworth Road and there are no objections from the County Highways Authority (CHA) to the access arrangements.

On this basis the proposed development would be compliant with criterion (b).

*(c) The residential amenities of neighbouring properties shall be protected.*

For the reasons as assessed in the ‘*Residential Amenities*’ section of this report below, it is considered that the proposed development would be compliant with criterion (c).

*(d) A sustainable drainage strategy for the site in accordance with Policy BotH7 to include an improvement in run-off water rates overall.*

As assessed in the ‘*Flood Risk and Drainage*’ section of this report below, the Lead Local Flood Authority (LLFA) is satisfied with the principles of the proposed surface water drainage strategy to be implemented on the site which is in line with the terms of Policy BotH7 of the submission BotHNP. Subject to the imposition of a condition on any permission granted to secure the precise surface water drainage strategy, the proposed development would be compliant with criterion (d).

In line with best practice any surface water drainage scheme to be approved by the LLFA would be required to demonstrate an improvement to the surface water run-off rate from the site, as well as accounting for climate change.

Overall the development would be considered compliant with criteria (b), (c), and (d) of Policy BotH16 of the submission BotHNP with the only conflict being with criterion (a) due to the proposed number of dwellings being 5 higher than that stipulated by criterion (a). As is outlined above only ‘limited weight’ can be afforded to the policies of the submission BotHNP and consequently there would be no justification to refuse the application based on the conflict with criterion (a) of Policy BotH16.

A refusal of the application against Paragraphs 49 and 50 of the NPPF, on the basis the development is premature in relation to Policy BotH16 of the submission BotHNP, could also not be substantiated for the reasons outlined above.

Assessment of objections in relation to the assessment against Policy BotH16 of the submission BotHNP

Objection	Officer Response
<p><b>The provision of 18 dwellings would be an overdevelopment of the site and would exceed the 11 suggested by the Breedon on the Hill Neighbourhood Plan (BotHNP).</b></p>	<p>Notwithstanding that criterion (a) of Policy BotH16 would allow the creation of 13 dwellings (and not 11), it is outlined above that only limited weight could be afforded to the policies of the submission BotHNP and consequently it is considered that to refuse the application based on 5 additional dwellings being proposed to that recommended by Policy BotH16 could not be justified.</p> <p>It is also concluded in the <i>'Design, Housing Mix and Impact on the Character and Appearance of the Streetscape'</i> section of this report below that the proposal would not be an 'overdevelopment' of the site.</p>

**Design, Housing Mix and Impact on the Character and Appearance of the Streetscape**

Policy D1 of the adopted Local Plan (2021) requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal. It also requires that new residential developments must positively perform against Building for a Healthy Life (BfHL) (formerly Building for Life 12 (BfL12)) and that developments will be assessed against the Council's adopted Good Design SPD.

Policy BotH12 of the submission BotHNP outlines that to *"support the creation of high quality, beautiful and sustainable buildings and places, development should reflect the Breedon on the Hill Design Code (Appendix 2). Development that is not well designed will not be supported, especially where it fails to reflect the Breedon on the Hill Design Code and government and local guidance on design."*

As part of the consideration of the application the Council's Urban Designer has been consulted.

Density

The proposed development would provide for a net density of approximately 34 dwellings per hectare. Paragraph 128 of the NPPF requires development to make efficient use of land and it is considered that this density would, when having regard to the location of the development and the implications of meeting relevant design policies, be considered reasonable in this location.

Such a density of development would also not be significantly higher than the density of development consented under application reference 12/01030/FULM (Erection of 10 new dwellings (affordable housing units)) on land adjacent to 12 Southworth Road of 28.4 dwellings per hectare.

Site Layout

The proposed development would be undertaken on land which is bordered by residential properties, and their associated curtilages, to all sides and when accounting for such a location it is considered that the development would not impact adversely on the visual amenities of the Southworth Road streetscape or the wider area.

*Proposed Site Layout*

The proposed site layout of the residential development (for 18 dwellings) is as outlined in the image below.

**Proposed Site Layout**



Section information has also been provided to show how the dwellings would appear within the internal streetscape, and this is demonstrated in the below images.

## Section 1

Section 1 shows the northern view of the streetscape running west to east.



## Section 2

Section 2 shows the southern view of the streetscape running east to west.



The amended site layout resulted in a reorganisation of the plots to the northern side of the internal highway which enabled plots 1 and 2 to offer surveillance at the entrance into the site off Southworth Road. The continuous alignment of plots along the northern side of the internal highway also offered a greater sense of enclosure to the street whilst enabling the introduction of trees which is positive and in line with the requirements of Paragraph 136 of the NPPF. Details of how the trees would be planted (including tree pit specification), the type of trees planted, and the future management and maintenance of such trees would be subject to condition on any permission granted.

Landscaped strips have also been introduced between the off-street parking spaces associated with plots 11 to 15 to ensure compliance with the Council's adopted Good Design SPD with the applicant outlining that kerb edging would be used as a vertical marker to avoid damage to the proposed landscaping infrastructure. Again a condition imposed on any permission granted could secure the kerb edging detail.

Management of the grassland amenity areas would be via a contractor appointed by the applicant and the plans have been amended to provide boundary treatments adjacent to the off-street parking associated with plots 10 and 16 to 18 to ensure that private vehicles do not encroach into these areas.

Whilst the Council's Urban Designer requested the relocation of what the plans identified as public open space (POS) to the east of plot 10 the applicant has advised that this would not be possible when accounting for the technical requirements associated with the layout (including distances between buildings, length of gardens, highways infrastructure, off-street car parking and drainage infrastructure). It is also outlined by the applicant that the amenity grassland areas contribute towards the applicant's biodiversity net gain (BNG) delivery on site (which is discussed in more detail in the 'Ecology' section of this report below) and was not necessarily

proposed as POS. The applicant also indicated that a loss of units, to accommodate POS, would impact on the delivery of the scheme which would make a significant contribution to the Council's delivery of affordable homes (this being as discussed in the '*Housing Mix*' sub-section below).

Policy IF3 of the adopted Local Plan outlines that POS, be it on-site or off-site, is only applicable to schemes of 50 dwellings or more and consequently it is not mandatory for a scheme of 18 dwellings to deliver POS. If it is the case that the area to the east of plot 10 is utilised for POS, with such an area being subject to active surveillance following the amendment to the design of the house type to plot 10, then this would be seen as benefit given that it is not a requirement of policy. Even if the area was not used as POS a reason to refuse the application could not be substantiated for the above reason.

Overall the Council's Urban Designer is generally supportive of the proposed layout of the development.

### Garden Sizes

Paragraph 11.31 of the Council's adopted Good Design SPD states that "*rear private garden spaces must be at least equal to the footprint of the property. This is a minimum required standard.*"

Based on the site layout, as depicted in the image above, the dwellings to be created would have rear garden sizes which would be at least equal to the footprint of the properties and therefore would be compliant with the terms of the Council's adopted Good Design SPD.

### House Types

In commenting on the house types previously proposed the Council's Urban Designer made specific comments in relation to the following:

#### *House Types Layout*

The Council's Urban Designer commented whether grouping the doors together would allow better active windows to the side, as whilst this may result in a 'loss' of natural light to the stairs, the benefit would be a side kitchen window and bathroom that did not rely solely on mechanical ventilation. It was, however, accepted that this may be dictated by the levels on the site.

#### *Plots 11 to 13*

The Council's Urban Designer outlined that the roof form felt 'awkward' due to the step between the roof heights of these plots seeming marginal but being exacerbated by the hipped roof at either end and therefore it was not possible to gauge what may be visible where the 'hip' met the central portion of the roof.

The Council's Urban Designer also indicated that the front elevation run of these plots was important and that as designed the left hand corner, being the most important part of the elevation, was devoid of any visual interest.

*Window Cladding*

The Council's Urban Designer outlined that for plots 10 to 13 and 14 to 16 further details of the projecting cladding would be required to understand how the window would sit within such cladding, how the edges are treated and what occurred on the roof of the cladding.

*Plots 17 and 18*

It was indicated by the Council's Urban Designer that the arrangement of the two roof forms against each other was 'awkward' and was exacerbated by the fact that plots 17 and 18 were semi-detached and therefore the join and contrast between them was magnified (when compared with the terraced plots). It was therefore requested that the hipped roof be removed.

A selection of the amended proposed house types to be used within the development are as shown in the following images.

**House Type A – Plots 3, 4, 5, 6, 7 and 8**





House Type A – Plots 11, 12 and 13



House Type B – Plots 9, 10, 17 and 18



It is considered that the approach to the design of the house types follows a traditional form, in terms of the use of a rectangular block and pitched tiled roof, but with contemporary styled openings and use of projecting boxed cladding to provide interest. The Council's Urban Designer is supportive of the approach to the house types but has outlined that the success of the contemporary styled openings would be entirely dependent on how such openings are detailed and this would be secured by condition on any permission granted.

Amendments made to the drawings have also addressed the comments of the Council's Urban Designer in relation to the design approach and roof forms of plots 11 to 13 and 17 and 18, with the applicant advising that details of the proposed window cladding could be secured by condition on any permission granted.

In terms of the grouping of doors, the applicant has outlined that the front doors are located so that future occupants can take access from the car parking levels and allows the plots to be stepped up the slope at the party wall position. If the doors were subsequently grouped together the plots could not be stepped and the car parking gradients would become too steep, consequently there would be a need for retaining walls to the front between the entrances which the applicant has sought to avoid. Following further consideration of this matter, the Council's Urban Designer has accepted the applicant's position.

Amendments have also been made to ensure that where off-street parking is located to the side of a dwelling at least one of the plots has a surveillance window within a habitable room or hallway to provide overlooking of such parking, this being in line with Paragraph 11.12 of the Council's adopted Good Design SPD. Plots 10, 11, 16, and 27 also have elevations which are designed to appropriately address the streetscape given that such plots are 'dual fronted' (this being in line with Paragraph 11.29 of the Council's adopted Good Design SPD).

To ensure that the design quality anticipated by the elevational information of the dwellings is achieved conditions would be imposed on any permission granted which would require the following:

- (a) Precise details of the protruding window frames to be installed;
- (b) Precise colour finish and construction material of the front entrance doors;
- (c) Precise details of the finish to the verges;
- (d) Delivery of grey (RAL 7016) windows and other external doors;
- (e) Delivery of cantilevered timber canopies finished in grey (RAL 7016);
- (f) Delivery of the reveal depths and window cill arrangements;
- (g) Delivery of the corbelled eaves detail;
- (h) Delivery of grey uPVC soffits and fascias to the eaves;
- (i) Delivery of black uPVC guttering and downpipes; and
- (j) Delivery of external meter boxes in the positions shown with such meter boxes being painted black.

At this time the precise external materials to be utilised have not been specified but the submitted details suggest the use of concrete interlocking grey roof tiles and smooth red bricks. It is considered that whilst such materials would be consistent with those used in the area a condition would be imposed on any permission granted to secure precise details.

Overall the proposed house types are supported by the Council's Urban Designer and have been positively designed in line with the requirements of the Council's adopted policies and Good Design SPD.

### Boundary Treatments

The plans submitted in support of the application outline that the boundary treatments to be utilised would include the following:

- (a) 1.8 metre high brick walls to those boundaries with visibility within the streetscape;
- (b) 1.8 metre close boarded fencing to define boundaries between gardens as well as to define the site boundary with nos. 1 to 11 Southworth Road (odd numbers inclusive);
- (c) 0.9 metre high railings to the frontage of plots 1 to 10, as well as to prevent encroachment onto the amenity grassland area around plots 10 and 14 to 18;
- (d) 0.9 metre high post and rail fencing (with wire infill) around plot 1 as well as to the rear of plots 2 to 10; and
- (e) Hedgerow planting to demarcate between the public and private domain around plots 17 and 18, as well as plots 1 to 10.

Whilst such information has been provided the plans do not clarify the boundary treatment to the rear of plots 11 to 13, i.e. whether a boundary treatment would co-exist with the retained hedgerow, with it also not being clear whether the proposed close boarded fencing to the site boundary with nos. 1 to 11 Southworth Road (odd numbers inclusive) would be in addition to any existing boundary treatments to nos. 1 to 11. This would be notwithstanding the fact that such fencing, in certain locations, would have visibility within the public domain which should be avoided. The proposed railings to plot 10 would also prevent maintenance access to the amenity grassland area to the east of plot 10.

Given such issues, a condition would be imposed on any permission granted which would require the submission of an alternative and precise boundary treatment scheme.

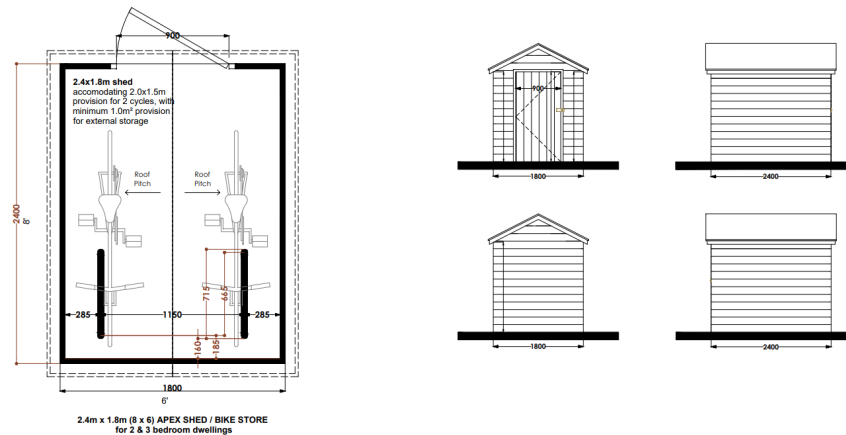
Whilst the plans indicate the need for retaining walls it is unclear what the overall height of such retaining walls would be, as well as their overall appearance. On this basis a condition would also be imposed which would require the submission of precise details associated with the retaining walls.

### Other Infrastructure

The submitted plans do not suggest the need for a foul drainage pumping station or substation to be provided. Notwithstanding this, a condition would be imposed on any permission granted which would require precise details to be submitted should there be a requirement for such infrastructure in the future.

A shed would be provided within each garden with the design of such a shed, which is considered acceptable, being as shown in the image below.

**Proposed Shed Design**



*Policy BotH12 of the submission BotHNP*

In terms of Policy BotH12 of the submission BotHNP, appendix 2 to the submission BotHNP provides the Breedon on the Hill Design Code.

As proposed the development would lie within the ‘Breedon on the Hill – Development Beyond Conservation Area’ focus area and the below table highlights what would be expected in terms of design, layout and materials for a development in this particular focus area.

Focus Area	Building Blocks and Building Line			Building Heights and Skyline		Materials	Density and Housing Layout
	Informal	Formal	Linked	Uniform	Varied		
<b>Breedon on the Hill – Development Beyond Conservation Area</b>	✓	✓	✓	✓	✓	✓	✓

In terms of ‘Building Blocks and Building Line’ the proposed layout of the development would create a uniform building line which would be consistent with the approach to that established elsewhere on Southworth Road and is deemed acceptable in the focus area.

With regards to ‘Building Heights and Skyline’ there would be variance to the roof line because of the site’s topography but again this approach would be acceptable in the focus area of the development.

In terms of ‘Materials’, the design code outlines that red brick is suitable for elevations and that roofing materials should comprise either plain clay tiles, pantiles or slate. In terms of boundary treatments these could comprise red brick, hedging or stone. The only conflict arising in relation

to this element of the design code would be the use of interlocking concrete roof tiles.

With regards to '*Density and Housing Layout*' it is assessed in the relevant sub-sections above ('*Density*' and '*Site Layout*') that the approach proposed would be acceptable.

When accounting for the above it is considered that the proposed development would be largely compatible with the Breedon on the Hill Design Code, and consequently Policy BotH12 of the submission BotHNP, with the only exception being the use of concrete interlocking roof tiles.

A condition is to be imposed on any permission granted to secure precise details of the roofing materials and therefore consideration could be given to the use of an alternative roofing material with pantiles being used to other existing dwellings on Southworth Road (such a roofing material being acceptable under the Breedon on the Hill Design Code). Notwithstanding this, there would be no justification to refuse the application based on any conflict with Policy BotH12 given the limited weight to be afforded to this policy.

### *Design and Impact on the Character and Appearance of the Streetscape Conclusion*

Overall, the Council's Urban Designer is supportive of the proposals and subject to the imposition of conditions, it is considered that the density, design, appearance and scale of the development would be acceptable and enable it to successfully integrate into the environment in which it is set. On this basis the proposal would be compliant with Policy D1 of the adopted Local Plan, the Council's adopted Good Design SPD, Policy BotH12 of the submission BotHNP, and Paragraphs 131, 135 and 136 of the NPPF.

### *Housing Mix*

With regards to housing mix, Policy H6 of the adopted Local Plan outlines that a mix of housing types, sizes and tenures is expected on residential developments proposing 10 dwellings. When determining an appropriate housing mix the information contained within the Housing and Economic Development Needs Assessment (HEDNA) is one of the factors to take into account alongside other criteria as outlined in Part (2) of Policy H6. The range of dwelling sizes (in terms of number of bedrooms) identified as appropriate in the HEDNA for affordable housing are as follows:

- 1 bed – 30-35%;
- 2 bed – 35-40%;
- 3 bed – 25-30%; and
- 4 bed – 5-10%.

Policy BotH19 of the submission BotHNP outlines that on development of five or more dwellings, no more than 16% of market housing should be of four or more bedrooms, unless informed by more up to date evidence of housing need. Within such a housing mix, provision should be made for bungalows and other provision designed to meet the housing needs of older households.

The submitted scheme proposes the following (%):

- 1 bed – 0%;
- 2 bed – 66.7%;
- 3 bed – 33.3%; and
- 4 bed+ - 0%.

Given that the proposed scheme is a 'wholly' affordable scheme, the Council's Affordable Housing Enabler (AHE) has been consulted and they have stated that the applicant has indicated that the tenure mix will provide 100% Social Rented properties.

Such a tenure mix is supported by the Council's AHE given the current identified affordable housing need and the historic over provision of affordable home ownership (AHO) products.

It is outlined by the Council's AHE that the adopted Local Plan was underpinned by a viability assessment which tested the viability, in part, on the following affordable housing mix:

- 81% Social/Affordable Rent (split evenly); and
- 19% Shared Ownership.

The expectation from the viability assessment was that 40.5% of the affordable housing delivered in the district would be provided as Social Rented. Since the Local Plan was originally adopted in 2017, the following tenures have been provided as part of the affordable homes' requirement.

- Social Rented – 13 units (1.4%);
- Affordable Rented – 652 units (72.7%); and
- AHO – 232 units (25.9%).

AHO includes Shared Ownership, Discounted Open Market, First Homes etc.

Overall, affordable housing delivery from those schemes receiving full or reserved matters approval since adoption shows delivery of AHO at an even higher level (1.9% Social Rent; 69.4% Affordable Rent; and 28.9% AHO).

The delivery of AHO properties is higher than the 19% assumed in the viability assessment. This has ultimately reduced the provision of all rented affordable tenures needed to meet the demands from the housing register. Furthermore, changes to the NPPF will see the overall proportion of rented units fall further as the following are applied:

- 1) The NPPF expects that at least 10% of the total number of dwellings on a site should be for AHO (provided the site is large enough to trigger an affordable housing requirement). This requirement is applied to application proposals prior to the consideration of the local affordable threshold.
- 2) The Written Ministerial Statement (WMS) (24<sup>th</sup> May 2021) specified that at least 25% of the affordable housing requirement on a site should be First Homes. The NPPG states that *"once a minimum of 25% of First Homes has been accounted for, social rent should be delivered in the same percentage as set out in the Local Plan. The remainder of the affordable housing tenures should be delivered in line with the proportions set out in the adopted Local Plan policy."*

The provision of both 10% AHO at the outset, coupled with 25% of the affordable housing requirement, will increase the level of AHO beyond that required by the adopted Local Plan. Wholly affordable sites, and specifically wholly rented affordable sites, which are NPPF and WMS exempt, become even more important in assisting the Council to meet the needs of the housing register.



Social Rented is the cheapest rented tenure and therefore the most affordable with the national rent formula being based on the following factors: 30% of the rent is based on relative property values; 70% of the rent is based on relative local earnings and the number of bedrooms in the property. Property rent levels are capped at 80% of Private Rented Sector rents and as such, will increase when rents in the Private Rented Sector increase. In areas with expensive and rising private rents, they are less affordable. Given that Breedon is a high cost rented area, the provision of Social Rented properties to aid affordability is welcomed by the Council's AHE.

The draft NPPF (2024) published for consultation also highlights the intention of the new Government to prioritise the delivery of Social Rented housing by stating:

*“While we want to promote a mix of tenures on developments, we also acknowledge that there will be circumstances where developments that are predominantly (or exclusively) single tenure will be appropriate and should be supported. In particular, we want to make clear that development that delivers a high percentage of Social Rent (or other affordable housing tenures) should be supported.”*

HEDNA mix is one of several factors to have regard to when assessing a housing development of 10 or more dwellings with regard also being given to the *“mix of house types and sizes already built and/or approved when compared to the available evidence”* (criterion (b) of Part (2) of Policy H6) as well as the *“nature of the local housing sub-market”* (criterion (d)) and the *“needs and demands of all sectors of the community”* (criterion (e)). Furthermore the supporting text to Policy H6 outlines at paragraph 7.48 that *“1 bed properties are generally not regarded as providing sufficient flexibility for changing household composition and are therefore not considered sustainable in the long term”* with paragraph 7.49 indicating that there needs to be a focus on *“delivering 2 and 3 bedroom properties in order to provide a better balance in the housing market.”*

In respect of the property mix the Council's AHE has outlined that the proposal to provide a wholly Social Rented scheme will outweigh, in part, the consistent over provision of AHO and Affordable Rented units in the district over the last decade. This will assist the Council in meeting the needs of the housing register and the discharge of its statutory duties in relation to affordable housing.

On the basis that the Council's AHE is supportive of the tenure and property mix, and considering the guidance within Policy H6, the housing mix proposed would be acceptable and compliant with the aims of criterion (3) of Policy H4 and Part (2) of Policy H6 of the adopted Local Plan.

Part (3) of Policy H6 of the adopted Local Plan indicates that schemes of 50 dwellings or more should provide a proportion of dwellings suitable for occupation by the elderly (criterion (a)) as well as dwellings which are suitable for occupation, or easily adaptable, for people with disabilities (criterion (b)).

Given the proposed level of development, being 18 dwellings, there would be no requirement to meet the terms of Part (3) of Policy H6. Notwithstanding this, the Council's AHE has outlined that four of the properties would be designed to the higher standards of optional requirement M4(2) (accessible and adaptable) dwellings of the Building Regulations and therefore would exceed the requirements of Part (3) of Policy H6.

In terms of Policy BotH19 of the submission BotHNP, the proposed development would not deliver market dwellings nor would the number of bedrooms in an individual dwelling exceed 3.

On this basis the first part of Policy BotH19 would not be applicable. Whilst no bungalows are proposed, four of the dwellings would be designed to be accessible and adaptable to meet the housing needs of older households and consequently the development is broadly compatible with the terms of Policy BotH19 of the submission BotHNP. In any event only limited weight could be afforded to policies of the submission BotHNP in the overall assessment of the application.

Overall, the proposal would be considered compliant with Policy H6 of the adopted Local Plan, Policy BotH19 of the submission BotHNP, and Building for a Healthy Life (BfHL) criteria relating to 'Homes for Everyone'.

Assessment of objections in relation to design, housing mix and the impact on the character and appearance of the streetscape

Objection	Officer Response
<p><b>100% social housing on a single site is unacceptable and against policy and there is no evidence of local demand on this scale.</b></p>	<p>When accounting for the advice from the Council's Affordable Housing Enabler (AHE) it is considered that there is evidence available which supports the demand for the proposed development with it not being a requirement of policy that such demand should be at the 'local' level.</p> <p>Criterion (b) of Paragraph 64 of the NPPF outlines that where a need for affordable housing is identified this would be expected to be met on site provided the agreed approach contributes to the objective of creating mixed and balanced communities.</p> <p>Whilst a wholly affordable scheme, which would integrate with other wholly affordable developments off Southworth Road, it is considered that when considered with other developments permitted within Breedon on the Hill (including those at the former Breedon Priory Nurseries site, Pear Tree Mews and Church View Lane) a mixed and balanced community would still be established with affordable housing not being the dominant house type in the settlement.</p> <p>The draft NPPF also acknowledges that there are circumstances where a development of a single tenure will be appropriate and supported, and that schemes delivering Social Rented properties should be supported.</p> <p>It is also the case that it was resolved by the Planning Committee at its meeting on the 4<sup>th</sup> of June 2024 that planning permission be granted for a wholly affordable development at land off Standard Hill, Coalville and where no concerns were raised in this respect.</p>

<p><b>Poor layout not in accordance with the Council’s adopted Good Design SPD.</b></p>	<p>When accounting for the above assessment there is no objections to the application from the Council’s Urban Designer who is supportive of the layout of the development as well as the simplistic approach to the design of the dwellings (which are enhanced by specific design detailing that is to be secured via conditions).</p> <p>Despite not being required by policies of the adopted Local Plan, given the overall number of dwellings proposed, green space would also be incorporated into the layout (albeit not in a location which is favoured by the Council’s Urban Designer).</p> <p>Overall, the design of the scheme is compliant with the Council’s adopted Good Design SPD as well as relevant planning policy.</p>
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**Residential Amenity**

Policy D2 of the adopted Local Plan (2021) outlines that development proposals will be supported where they do not have a significant adverse effect on the living conditions of existing and new residents through loss of privacy, excessive overshadowing, and overbearing impacts, which is supported by the Council’s Good Design SPD. Paragraph 191 of the NPPF states that planning policies and decisions should also ensure that new development is appropriate for its location considering the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

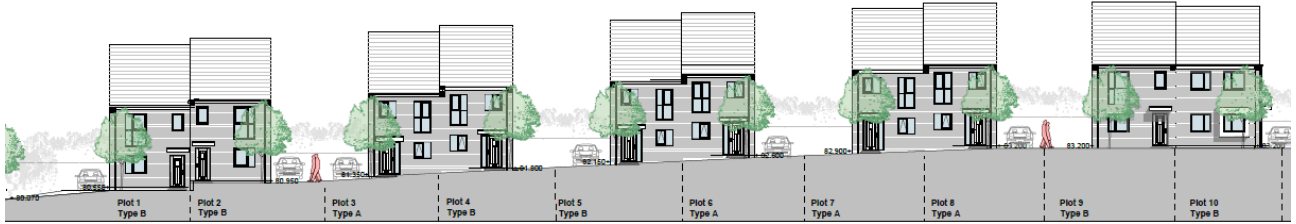
The properties most immediately impacted by the proposed development would be nos. 15 to 27 (odd numbers inclusive) Ashby Road, situated to the north-west, The Orchard (no. 4) Loveys Croft, situated to the north/north-east, nos. 12 and 14 Hastings Close, situated to the east, nos. 1 to 9 (odd numbers inclusive) Southworth Road, situated to the south, and nos. 2 and 4 Southworth Road, situated to the south-west.

*Impact to Existing Residential Amenities*

Land levels on the site rise by around 3 metres from west to east and around 2.5 metres from north to south, section details have been provided in support of the application which are shown in the following images.

### Section 1

Section 1 shows the northern view of the streetscape running west to east.



### Section 2

Section 2 shows the southern view of the streetscape running east to west.



Based on the proposed layout the separation distances between elevations and relevant garden boundaries would be as shown in the image below.

### Separation distances between the proposed dwellings and relevant residential receptors on Ashby Road, Southworth Road, Loveys Croft, and Hastings Close



The Council's adopted Good Design SPD specifies that where the principal elevation of a proposed dwelling faces the side elevation of a neighbouring dwelling ('front to side' relationship) the separation distance is required to be 12 metres with 'back to back' separation distances of 20 metres being deemed acceptable. There is no specified distance for a 'side to side' relationship, albeit the '45 degree rule' is generally utilised to ensure such a relationship is appropriate, nor is there a specified distance where the principal elevation of a proposed dwelling faces the rear elevation of an existing dwelling.

In terms of the 'back to back' separation distance, it would generally be considered that the separation distance to a shared boundary would be 10 metres (being the mid-point between 20 metres).

*Relationship between plots 1, 17, and 18 and nos. 15 to 27 Ashby Road (odd numbers inclusive)*

The minimum separation distance between the elevations of plots 1, 17, and 18 and nos. 21 to 27 Ashby Road would be more than 42 metres (being the side elevation of plot 1 with no. 21 Ashby Road) with plots 17 and 18 being more than 10 metres from the rear boundaries of nos. 25 and 27.

Whilst plot 1 would only be around 3.9 metres from the rear boundary of no. 21 Ashby Road the rear garden associated with no. 21 is significant in length (being more than 40 metres).

The garden associated with plot 1 would lie adjacent to the rear boundaries of nos. 17 and 19 Ashby Road with the rear elevation of plot 1 being set more than 11.5 metres from the boundary with no. 15 Ashby Road.

When accounting for such separation distances, and that at first floor level only a first floor bathroom window would be provided in the side elevation of plot 1, it is considered that no adverse overbearing, overshadowing or overlooking impacts would arise to the amenities of nos. 15 to 27 Ashby Road (odd numbers inclusive).

*Relationship between plots 2 to 4 and no. 15 Ashby Road*

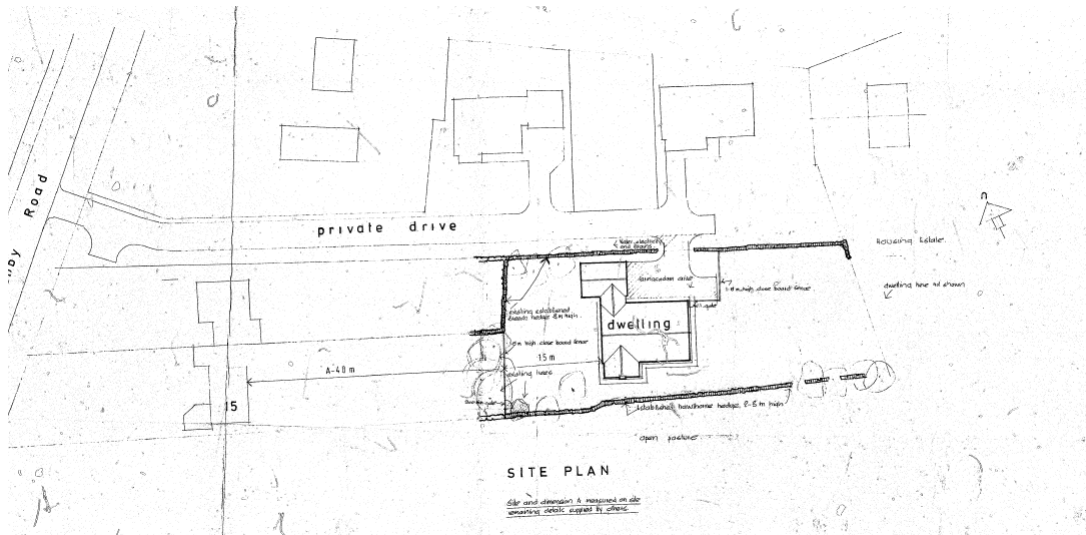
The rear elevations of plots 2 to 4 would be set a minimum of 11.5 metres from the boundary with no. 15 Ashby Road and such a separation distance would ensure that no adverse overbearing or overshadowing impacts would arise within the amenity area associated with no. 15.

It is also considered that such a separation distance would ensure that no adverse overlooking impacts would arise to the amenity area associated with no. 15, particularly when accounting for retained trees within the garden of no. 15 (being a Norway Maple of 13 metres in height, and two Wild Cherries of 9 and 14 metres in height) restricting and filtering any views.

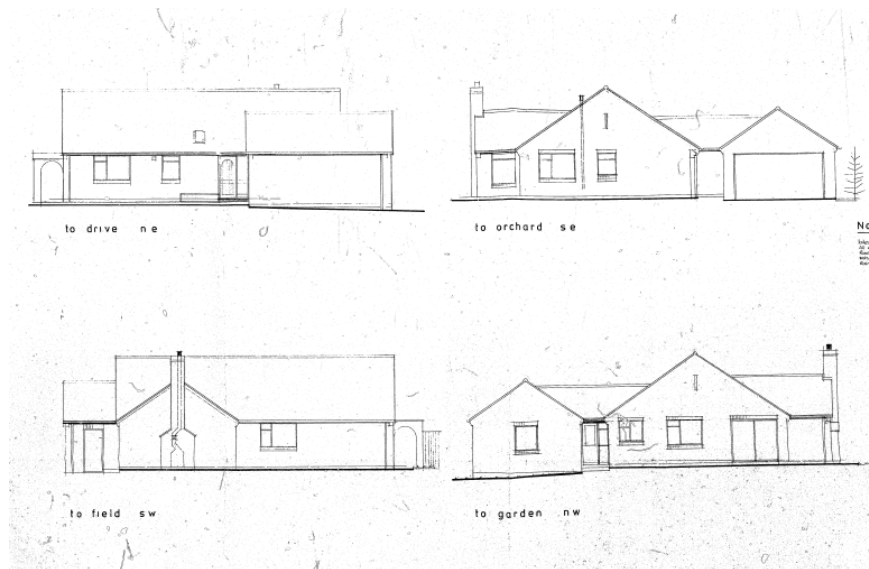
*Relationship between plots 5 to 10 and The Orchard (no. 4) Loveys Croft*

Planning permission was granted, on the 3<sup>rd</sup> of September 1992, for the erection of a single storey dwelling under application reference 92/0620. This dwelling is now known as The Orchard (no. 4) Loveys Croft and plans associated with the permission granted are shown in the images below.

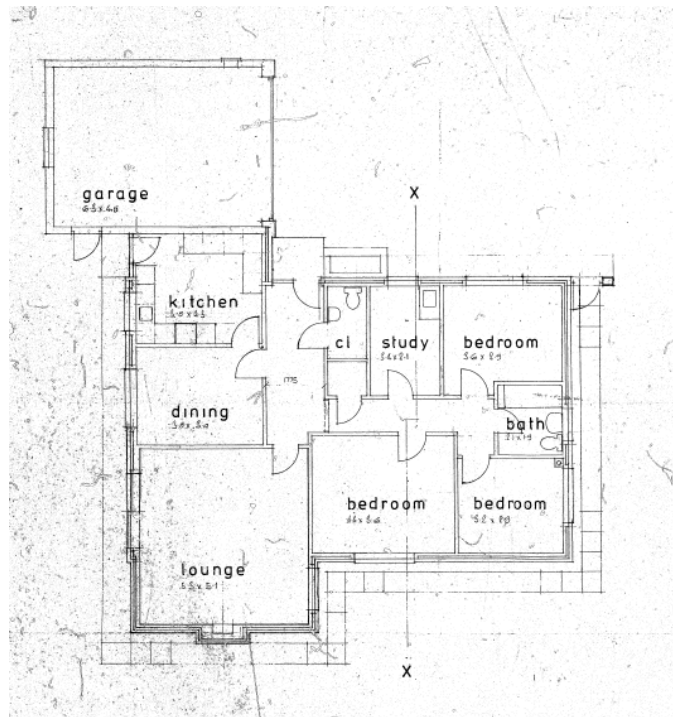
Approved Site Plan of The Orchard (no. 4) Loveys Croft



Approved Elevations of The Orchard (no. 4) Loveys Croft



**Approved Floor Plans of The Orchard (no. 4) Loveys Croft**

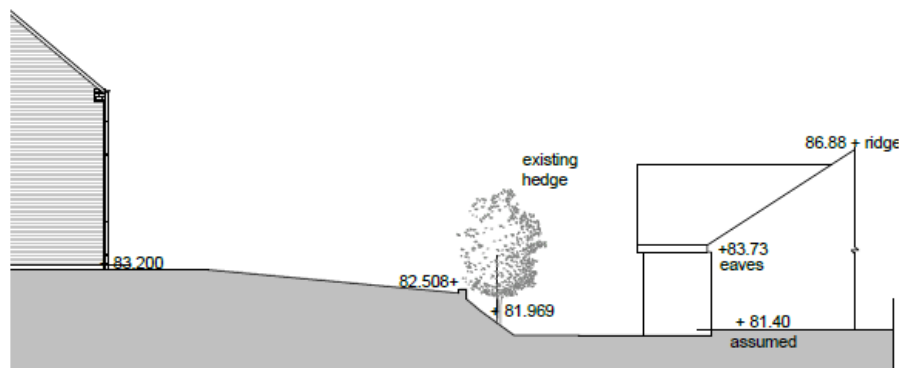


The elevation referenced 'to field s.w' is that which is presented to the application site and based on the approved floor plan one window exists in this elevation which serves a bedroom. When accounting for the information on the approved elevations and floor plans it is considered that such an elevation would be categorised as a side elevation.

As proposed the rear elevation of plot 6 would be around 15.9 metres from this side elevation, with plot 7 set around 17.4 metres from the same elevation. Such elevations of plots 5 to 10 would also be more than 10 metres from the boundary with The Orchard (no. 4).

The section showing the relationship between plot 6 and The Orchard (no. 4) Loveys Croft is as represented in the image below.

**Section showing the relationship between plot 6 and The Orchard (no. 4) Loveys Croft**





Whilst plots 5 to 10 are located to the south-west of The Orchard (no. 4), and would have finished floor levels greater than the land levels associated with this property, it is considered that the separation distances to be established would be sufficient in ensuring that any overbearing or overshadowing impacts arising, either within the property itself or the associated amenity area, would not be so adverse that a reason to refuse the application could be justified. This is considered to be the case given that principally the windows serving habitable rooms are located in the north-western and south-eastern elevations of The Orchard (no. 4) as well as the property benefitting from substantial sized amenity areas to its north-west and south-east.

In terms of overlooking impacts it is considered that there would be no direct overlooking into The Orchard (no. 4) itself given that this property is single storey in height and is set at a lower land level. Whilst it is accepted that plots 5 to 10 would have first floor windows serving one bedroom (in the case of plots 5 to 9 – being two windows serving the same bedroom) and two bedrooms (in the case of plot 10), the separation distance to be established accords with the Council's adopted Good Design SPD and consequently the extent of overlooking to the amenity areas associated with The Orchard (no. 4) would not be so adverse that a reason to refuse the application would be warranted.

*Relationship between plots 10 and 11 and nos. 12 and 14 Hastings Close*

The separation distance between the rear elevation of plot 10 and that of no. 12 Hastings Close would be more than 20 metres with the separation distance between the side elevation of plot 10 and the rear elevation of no. 14 Hastings Close being more than 28 metres. The separation distances from plot 11 to the rear elevations of nos. 12 and 14 would be significantly greater than those of plot 10.

A separation distance of more than 10 metres would be established between the side elevation of plot 10 and the boundary with no. 12, with a separation distance of more than 11 metres between the same elevation and the boundary with no. 14. The rear elevation of plot 11 would be more than 9 metres from the boundary with no. 14.

It is considered that the separation distances between elevations, as well as those between elevations and boundaries, would be acceptable in ensuring that no adverse overbearing or overshadowing impacts.

In terms of overlooking impacts it is noted that the 'side' elevation of plot 10 acts as the 'principal' elevation to the dwelling given that it contains the front entrance door. As proposed first floor windows serving two bedrooms and a bathroom would be provided in the side elevation of plot 10. Whilst this is the case the 'views' from such windows would be predominantly onto the amenity grass area proposed to the east of plot 10 before then being onto the latter part of the residential gardens associated with nos. 12 and 14. When accounting for the minimum separation distance to the boundary being in excess of 10 metres, and the above assessment, it is considered that no adverse overlooking impacts would arise to the amenities of nos. 12 and 14 within their rear amenity areas.

Whilst the rear elevation of plot 11 would be less than 10 metres from the boundary with no. 14, any direct views would be to the latter extent of the rear amenity area associated with no. 14 and would be partially obscured by a retained tree (being a Silver Birch of 7 metres in height). Views from first floor windows in the side elevation of plot 11 (which acts as the 'principal' elevation) would be at an oblique angle towards the latter parts of the rear amenity areas associated with nos. 12 and 14. When accounting for the above, it is again considered that no adverse overlooking impacts would arise to the amenities of nos. 12 and 14 within their rear



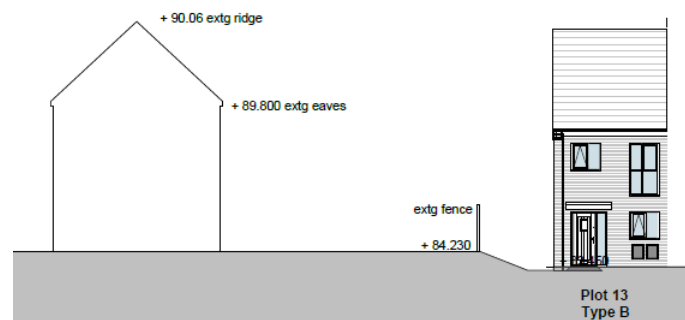
amenity areas.

*Relationship between plot 13 and no. 11 Southworth Road*

The side elevation of plot 13 would more than 12.7 metres from the rear elevation of no. 11 Southworth Road and around 1.9 metres from its boundary.

When accounting for the guidance within the Council's adopted Good Design SPD the separation distance between the side elevation of plot 13 and the rear elevation of no. 11 would be compliant, with the submitted section information (as shown in the image below) demonstrating that the finished floor level of plot 13 would be lower than the garden level associated with no. 11. When accounting for plot 13 being set to the north-east of no. 11, and that plot 13 would not cover the entire extent of the rear elevation of no. 11 or its associated rear amenity area, it is considered that any overbearing or overshadowing impacts would not be so adverse that a reason to refuse the application could be justified.

**Section showing the relationship between plot 13 and no. 11 Southworth Road**



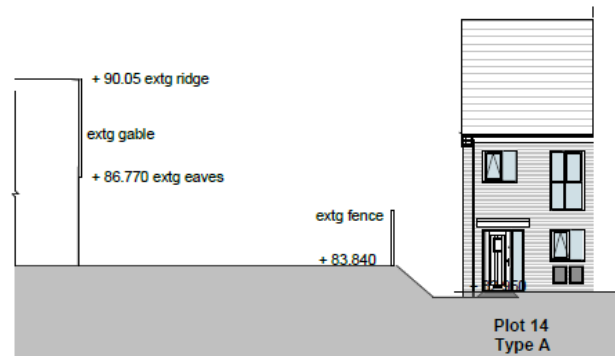
In terms of overlooking impacts a first floor window serving a landing would be provided in the side elevation of plot 13 but subject to such a window being obscure glazed with a restricted opening it is considered that no adverse overlooking impacts would arise to the amenities of no. 11, either within the property itself or its associated rear amenity area.

*Relationship between plot 14 and nos. 3 and 5 Southworth Road*

The side elevation of plot 14 would be more than 12.7 metres from the rear elevation of no. 5 Southworth Road and around 1.5 metres from its boundary.

Based on the Council's adopted Good Design SPD the separation distance between the side elevation of plot 14 and the rear elevation of no. 5 would be compliant, with the submitted section information (as shown in the image below) demonstrating that the finished floor level of plot 14 would be lower than the garden level associated with no. 5. Whilst the overall eaves and ridge height of plot 14 would be greater than those associated with no. 5 (which would be expected as no. 5 is a single storey dwelling), it is considered that as plot 14 would be set to the north-east any overbearing or overshadowing impacts would not be so adverse that a reason to refuse the application could be substantiated.

**Section showing the relationship between plot 14 and no. 5 Southworth Road**



In terms of overlooking impacts a first floor window serving a landing would be provided in the side elevation of plot 14 but subject to such a window being obscure glazed with a restricted opening it is considered that no adverse overlooking impacts would arise to the amenities of no. 5, either within the property itself or its associated rear amenity area.

With regards to no. 3 Southworth Road it is proposed that no part of plot 14 would be positioned behind no. 3 or its associated amenity area, and on this basis no adverse overbearing or overshadowing impacts would arise. It is also considered that no adverse overlooking impacts would arise given that only an oblique angle of view would be established from windows at first floor level in the rear elevation of plot 14 towards the rear elevation and amenity area of no. 3.

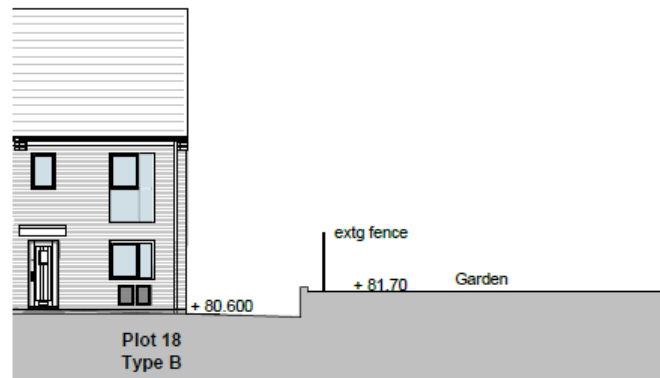
*Relationship between plot 18 and no. 1 Southworth Road*

The side elevation of plot 18 would be set more than 10.7 metres from the side elevation of no. 1 Southworth Road and in excess of 3 metres from the boundary.

Plot 18 would not be positioned directly behind no. 1, with this property being angled so that the rear elevation faces in a north-eastern direction whereas plot 18 would be to the north-west. When accounting for this it is considered that no adverse overbearing or overshadowing impacts would be experienced within no. 1.

In terms of the amenity area associated with no. 1 it is proposed that the finished floor level of plot 18 would be lower than the land associated with no. 1, as is demonstrated on the section image below. When accounting for the positioning of plot 18 to the north-east, as well as the overall size of the amenity area associated with no. 1, it is considered that no adverse overbearing and overshadowing impacts would arise.

**Section showing the relationship between plot 18 and the garden of no. 1 Southworth Road**



In terms of overlooking impacts only an oblique angle of view would be established from windows at first floor level in the rear elevation of plot 18 towards the rear elevation and amenity area of no. 1, with the first floor window in the side elevation of plot 18 serving a bathroom. On this basis it is considered that no adverse overlooking impacts would arise to the amenities of no. 1.

*Proposed Sheds*

The proposed sheds (serving each dwelling) would be minor in scale, covering a ground area of 4.32 square metres and having an overall height of around 2 metres, and would be positioned away from the boundaries with existing residential receptors. On this basis such sheds would not result in detriment to the amenities of existing residential properties.

*Residential Amenities of Future Occupants of the Proposed Development*

Based on the above assessments it is considered that the proposed dwellings would have acceptable relationships with existing residential dwellings, with the most sensitive relationship being between plot 14 and no. 3 Southworth Road albeit the separation distance would ensure that no adverse overlooking impacts would arise within the amenity area associated with plot 14.

It is also considered that the relationship between the plots themselves would be acceptable with suitable 'back to back' distances being established between plots 17 and 18 with plots 14 to 16, and plots 3, 4 and 5 having acceptable distances to the boundaries of plots 16 and 17 (and their associated amenity areas). In any event any future occupants of plots 14 to 18 would be aware of the relationships with other plots prior to their occupation.

Trees of a mature stature would be retained near to plots 1 to 4 but given that such trees are to the north-east and lie within the amenity area associated with no. 15 Ashby Road, it is considered that no adverse shadowing impacts would arise with there being no objections from the Council's Tree Officer to the proposed layout in this respect. As is the case above, future occupants of these plots would be aware of the relationship with the trees prior to their occupation.

### Other Residential Amenities Impacts

The other aspect to consider in respect of residential amenity is any potential impacts arising from noise, dust and fumes with Part 2 of Policy D2 of the adopted Local Plan outlining that development proposals will only be supported where *“they do not generate a level of activity, noise, vibration, pollution or unpleasant odour emissions, which cannot be mitigated to an appropriate standard and so, would have an adverse impact on amenity and living conditions.”* This is compliant with the terms of Paragraph 191 of the NPPF as outlined above.

Paragraph 194 of the NPPF outlines that the focus of planning decisions *“should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.”*

As part of the consideration of the application the Council's Environmental Protection Team has been consulted and they have raised no objections to the application subject to the imposition of a condition on any permission granted which would require the submission of a Construction Environmental Management Plan (CEMP). Whilst noting this request, the Department for Levelling Up, Housing and Communities (DLUHC) and Planning Aid's *'Material Planning Considerations'* checklist, as referenced on the District Council's website, stipulates that *“problems arising from the construction period of any works, e.g. noise, dust, construction vehicles”* constitutes a non-material planning consideration. This is because separate legislation (such as the Control of Pollution Act 1974 (as amended)) can control issues arising from construction activity.

On this basis it is considered unreasonable to impose a condition requiring the submission of a Construction Environmental Management Plan (CEMP) given that it would not be necessary to make the development acceptable in planning terms.

Notwithstanding the above, a condition limiting the construction hours of the site is proposed to help protect the living conditions of the nearest occupiers as this type of condition is considered to meet the tests for conditions as outlined at Paragraph 56 of the NPPF.

It is also the case that if any statutory nuisance issues were to arise as a result of the development, then the Council's Environmental Protection Team would be able to investigate such issues and take appropriate action, where required, under separate Environmental Protection Legislation.

The Council's Environmental Protection Team has also requested the imposition of a condition which would require the provision of an appropriate external lighting scheme which should be designed to prevent adverse impacts to existing and future residential amenities arising. Such a condition would be imposed on any permission granted.

No representation has been received from the Council's Air Quality Officer raising concerns or objections in relation to the impacts of the development to air quality and any associated impacts to residential amenities.

### Residential Amenities Conclusion

Based on the above assessment it is considered that no adverse impacts to existing and future residential amenities would arise because of the development, subject to the imposition of

relevant conditions, and as such the proposal would be considered compliant with Policy D2 of the adopted Local Plan as well as Paragraphs 191 and 194 of the NPPF.

Assessment of objections in relation to residential amenities

Objection	Officer Response
<p><b>The proximity of the dwellings to residential receptors will result in adverse overbearing, overshadowing and overlooking impacts. There would also be noise disturbance from the use of garden spaces.</b></p> <p><b>There is significant overdevelopment in this area to the detriment of neighbouring properties resulting in loss of neighbour amenity and overshadowing of adjacent properties.</b></p> <p><b>The previous comments of Breedon on the Hill Parish Council refer to the loss of amenity by way of overlooking neighbouring properties and the minor changes to the layout have not altered this view with the neighbouring properties being significantly affected.</b></p>	<p>Based on the above assessment it is considered that the separation distances to be established to existing residential properties would be compliant with the Council's adopted Good Design SPD and consequently would not result in any significantly adverse overbearing, overshadowing or overlooking impacts to existing residential amenities which would warrant a refusal of the application.</p> <p>A residential use is also not considered to be a noisy use and any noise/disturbance arising from the use of a residential garden would not be at a level where the impact would be of such significance that detriment to residential amenity would arise.</p>
<p><b>An increase in vehicular movements and the placement of parking will result in noise detriment to residential receptors along with issues from car headlights and fumes.</b></p>	<p>There are no objections to the proposed development from the Council's Environmental Protection Team or Council's Air Quality Officer and thereby any impacts in this respect are not considered to be at a level where significant harm would arise.</p> <p>Amendments to the layout have also removed off-street parking away from the boundaries with most of the existing residential receptors.</p>
<p><b>The lack of boundary treatments to the boundaries with existing residential receptors will result in adverse</b></p>	<p>A scheme of boundary treatments would be conditioned on any permission granted and it is considered that suitable treatments could be provided which would ensure that detriment to existing residential receptors would not arise.</p>

<p><b>overlooking impacts.</b></p>	<p>The retention of the existing hedgerow to the northern and eastern site boundaries would also act as a suitable screen in filtering and restricting views from the use of the rear amenity areas associated with the proposed dwellings.</p> <p>In the above respect the part of the hedgerow to the northern boundary with The Orchard (no. 4) Loveys Croft is required to be maintained at a height of 2 metres in line with the requirements of condition 6 of the planning permission granted under application reference 92/0620. A similar condition could be imposed on any permission granted which would be extended to cover the entirety of the hedge to the northern boundary, as well as the hedge to the eastern boundary.</p>
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### Highway Impacts

Policy IF4 of the adopted Local Plan requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses, and employees. Policy IF7 of the adopted Local Plan requires that development incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

As part of the consideration of the application the County Highways Authority (CHA) has been consulted and their consultation response considers the requirements of the Leicestershire Highways Design Guide (LHDG).

A Transport Assessment (TA) was originally submitted in support of the application with a Transport Technical Note (TTN) subsequently being provided following the consultation response from the CHA.

### Access

The CHA has outlined that access to the site would be proposed from Southworth Road which is an unadopted private road.

In their original consultation response, the CHA outlined that the applicant was required to confirm whether the site was to be put forward for adoption given that if the site was to be adopted then it would also be necessary for the existing private road to be adopted. The applicant has subsequently confirmed in the TTN that the site would not be put forward for adoption.

When accounting for this the focus of the CHA has been in relation to the junction of Southworth Road where it meets the adopted highway of Ashby Road. Given that the development would result in the intensification of the use of this junction a speed survey was required to determine the length of the visibility splays required.

It is outlined in the TTN that a seven day speed survey was undertaken in the vicinity of the existing junction, along with a further speed survey on Southworth Road. Based on the speed

survey results, visibility splays of 2.4 metres x 65 metres would be required at the junction of Southworth Road with Ashby Road in accordance with the LHDG.

The submitted drawings specify that visibility splays of 2.4 metres by 73 metres would be provided at this junction which is acceptable to the CHA.

Whilst swept path analysis of the movements of the Council's waste vehicle at the junction of Southworth Road with Ashby Road have not been submitted, it is noted that the consultation response from the Council's Waste Services Development Officer (WSDO) indicates that the Council's waste vehicles already access Southworth Road. As such movements are existing, the CHA is satisfied that no swept path analysis is required.

In terms of the access into the site off Southworth Road this would be 5 metres in width, with 6 metre junction radii, and would be provided with visibility splays of 2.4 metres by 25 metres. A footway would be delivered on one side of the internal highway. Such access dimensions and visibility splays would be in accordance with the LHDG.

Swept path analysis of a fire tender vehicle at both the site access, and the junction of Southworth Road with Ashby Road, has also been provided with the details being acceptable to the CHA.

Overall the CHA has no objections to the site access subject to the imposition of conditions to secure the access and vehicular and pedestrian visibility splays.

#### *Highway Safety*

It is outlined by the CHA that there has been one Personal Injury Collision (PIC) recorded to have taken place within 500 metres proximity of the site upon the public highway in the most recent five-year period. This incident occurred on Ashby Road and unfortunately resulted in a fatality.

Whilst the PIC is noted the CHA is satisfied that a safe and suitable site access has been suitably demonstrated and there is no evidence to suggest that the proposed development would result in a detrimental impact to highway safety.

#### *Highway Network*

The CHA has outlined that the submitted TA has used the Trip Rate Information Computer System (TRICS) database to show the trip rates and proposed trip generation for the development during the AM and PM peak periods.

Such trip generation is identified to be 12 two-way trips in the AM peak (08:00 to 09:00) and 10 two-way trips in the PM peak (17:00 to 18:00). Given that the proposed level of development is significantly below that which would require any assessment of trip generation, the CHA is satisfied that there would be no material impact on the highway network because of the development.

#### *Internal Layout and Off-Street Parking*

The layout of the development has been amended from that originally submitted and although the layout would not be adopted the CHA has specified that it would accord with the LHDG and therefore would be acceptable.

It is also outlined by the CHA that the quantum of off-street parking would be in accordance with the LHDG, as well as the Council's adopted Good Design SPD, given that a minimum of two off-street parking spaces would be delivered for each dwelling. The CHA did, however, specify that the dimensions of the parking spaces should be 5.5 metres in length by 2.4 metres in width with additional width added should the parking space be bound by a vertical obstruction to either, or both, of its sides. The plans have subsequently been amended to accommodate this request of the CHA.

The submitted plans also identify that electric vehicle (EV) charging points would be provided to each dwelling and this would encourage the use of electric vehicles. This is notwithstanding that Requirement S1 of Approved Document S (Infrastructure for the Charging of Electric Vehicles) of the Building Regulations would also require EV charging points to be provided for new dwellings.

A Stage 1 Road Safety Audit (RSA), and associated Designers Response (DR), was included in the TTN which identified on problem which related to the wheels of the Council's waste vehicle slightly protruding over the end of the turning head whilst manoeuvring. Whilst this problem was not accepted within the DR, the CHA recommended that any overhang should be limited to the body of the Council's waste vehicle.

Whilst acknowledging this issue, the frequency of such a movement by the Council's waste vehicle would be limited and consequently would not be considered to have a profound impact on pedestrian safety within the internal layout. The Council's WSDO also has no objections to the application (as discussed in the '*Waste Collection*' section of this report below) with an indemnity agreement being entered into by the applicant to ensure that the Council is not liable should any damage occur to the internal highway because of the movement of the Council's waste collection vehicle.

Notwithstanding the above, it has been demonstrated that both the Council's waste vehicle and a fire tender vehicle can manoeuvre within the site and exit in a forward direction which is acceptable to the CHA.

Overall the CHA is satisfied that the internal layout is acceptable subject to the imposition of conditions to secure the off-street parking provision and turning facilities.

### *Transport Sustainability*

The CHA has outlined that the site is located at the southern edge of the village of Breedon on the Hill and that within 1000 metres walking distance of the proposed site access there is a selection of limited local amenities and services including a primary school, and a convenience store. The nearest bus stops would be approximately 350 metres north from the site at The Green for buses travelling northbound towards Castle Donington. For buses travelling southbound towards Leicester, the nearest stop is 550 metres north-east of the site on Main Street. Such bus stops would be served by the number 125 Diamond Bus East Midlands service which operates four buses a day in either direction between Castle Donington and Leicester.

As is concluded in the '*Principle of Development and Sustainability*' section of this report above, the application site is considered to be in a sustainable location.

Contributions would also be sought by the CHA towards sustainable travel including travel packs and six month bus passes. These are as discussed in the '*Developer Contributions and*



*Infrastructure'* section of this report below.

Highway Impacts Conclusion

Paragraph 115 of the NPPF outlines that development should only be refused on highway grounds where *“there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

In the circumstances that there are no objections to the application from the CHA, subject to the imposition of conditions and securing of relevant contributions, it is considered that the proposed development would be compliant with Policies IF4 and IF7 of the adopted Local Plan as well as Paragraphs 111, 114, 115 and 116 of the NPPF.

Assessment of objections received in relation to the highway impacts.

Objection	Officer Response
<p><b>There will be an increase in vehicular movements on Main Street including on the speed control measures which create a noise nuisance.</b></p>	<p>Given the overall scale of the development the amount of associated vehicular movements would not be significant and would not create a material impact in respect of this issue. This is particularly pertinent when the number of vehicular movements which can be undertaken on Main Street is not limited, as well as the fact that Main Street is a principal route through the settlement of Breedon on the Hill.</p> <p>There are also no objections from the Council's Environmental Protection Team to the application in this respect.</p>
<p><b>There will be an increase in traffic associated with the proposed development when combined with that of the development undertaken at the former Breedon Priory Nurseries.</b></p>	<p>On the basis that the development at Breedon Priory Nurseries is a 'committed' development (i.e. the planning permission has been implemented) the vehicular movements connected with this development have been accounted for when assessing the highway impacts of the proposed development.</p> <p>Given the conclusion reached in the '<i>Highway Network</i>' sub-section above, the CHA does not consider that there would be a material impact on the highway network given the limited scale of the development proposed.</p>
<p><b>The proposed access arrangements are unsuitable and inadequate for the number of houses proposed.</b></p>	<p>When accounting for the conclusion reached in the '<i>Site Access</i>' sub-section above, the CHA has no objections to the access arrangements which are compliant with the LHDG.</p>

## Ecology

Vegetation, in the form of trees and other shrubs, are present on the site. Such features could be used by European Protected Species (EPS) or national protected species. As EPS may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions.

Part (1) of Policy En1 of the adopted Local Plan states that proposals for new development will be supported which conserve, restore or enhance the biodiversity in the district.

Policy BotH5 of the submission BotHNP states that development should conserve, restore and enhance the network of local ecological features and habitats, including Local Wildlife Sites, Geology Sites and Wildlife Corridors. New development is also expected to secure measurable net gains for biodiversity.

The County Council Ecologist has reviewed the submitted Preliminary Ecological Appraisal (PEA) and whilst they have indicated that some nicer plant species are present, these are generally isolated in extent and their loss to facilitate the proposed development would be acceptable. On this basis there are no objections from the County Council Ecology subject to the imposition of a condition on any permission granted which would secure a Landscape, Ecological, and Biodiversity Management Plan (LEBMP).

In line with Policy BotH5 of the submission BotHNP, it is considered that the LEBMP could secure the integration of features such as bat boxes, bird boxes and hedgehog highways, along with hedgerow and tree planting and creation of meadow and grassland habitats.

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for major development as required by the Environment Act came into force on the 12<sup>th</sup> of February 2024. However, this requirement would only be applicable to those applications received on or after the 12<sup>th</sup> of February 2024 and is not to be applied retrospectively to those applications already under consideration before this date and subsequently determined after this date. On this basis the proposed development would not be required to demonstrate a 10% BNG. Notwithstanding this, Paragraphs 180(d) and 186(d) of the NPPF set out a requirement for developments to minimise their impacts on and provide net gains for biodiversity. In this case it is noted that the development would be undertaken on a greenfield site.

In commenting on the Biodiversity Net Gain Assessment (BNGA) and Biodiversity Net Gain Metric Calculations (BNGMC) originally submitted (based on the original site layout which has since been amended), the County Council Ecologist outlined that created hedgerows located within private residential gardens, as well as retained hedgerows located within residential gardens, should be omitted from the calculations given that there would be no guarantee that such hedgerows would be managed by residents or that they would be retained. Notwithstanding this, the County Council Ecologist was satisfied that given the hedgerow creation in public open space a net gain in hedgerow units could be achieved on site.

Following amendments to the layout, an amended BNGA and amended BNGMC have been submitted and re-consultation undertaken with the County Council Ecologist.

It is concluded by the amended BNGA that the baseline value of the site has been calculated as 3.10 habitat units and 0.51 hedgerow units. As a result of the development the habitat units

onsite would decrease by 1.66 units and hedgerow units will increase by 0.37 units. To achieve a net gain there would be a requirement of a minimum of 1.86 units of medium distinctiveness grassland, and 0.25 habitat units of medium distinctiveness heathland and shrub, to be created. This would be predominantly off-site.

Whilst noting the loss, the County Council Ecologist has raised no objections subject to the imposition of a condition requiring the provision of a Biodiversity Offsetting Management Plan (BOMP) prior to the development commencing (including any ground works or vegetation clearance) which would include the following details:

- (a) Description and location plan of the area to be used for off-setting;
- (b) Description and evaluation of the features to be managed/created;
- (c) Aims and objectives of management;
- (d) Appropriate management options for achieving aims and objectives;
- (e) Prescriptions for management actions;
- (f) Work schedule;
- (g) Seed mixes/species to be sown/planted;
- (h) Ongoing monitoring and remedial measures; and
- (i) Details on the mechanism by which the BOMP would be legally secured for an appropriate period.

The proposed BOMP would need to be based on the amended BNGA, and include associated BNGMCs, with it being ensured that the BOMP achieves a 'net gain'.

In conclusion, the County Council Ecologist has no objections to the application subject to the imposition of conditions to secure a LEBMP and BOMP, as well as an informative recommending that the applicant be aware of the legislation around nesting birds.

Overall, and subject to the imposition of the relevant conditions and informative, the proposed development would not result in conflict with Policy En1 of the adopted Local Plan, Policy BotH5 of the submission BotHNP, Paragraphs 180 and 186 of the NPPF and Circular 06/05.

Assessment of objections in relation to ecology

Objection	Officer Response
<p><b>The proposal would impact adversely on the natural environment with such impacts not being mitigated by the limited tree planting.</b></p>	<p>For the reasons as outlined above the County Council Ecologist has no objections to the application with the securing of a Landscape, Ecological and Biodiversity Management Plan (LEBMP) and Biodiversity Offsetting Management Plan (BOMP) enabling ecological enhancements to be delivered as part of the development.</p> <p>Any impacts in this respect would also be outweighed by the positive economic and social benefits of the proposed development.</p>
<p><b>The proposal will impact on native hedgerows which should not be removed to</b></p>	<p>The plans as submitted do not propose the removal of the hedgerows to the northern and eastern site boundaries which are to be retained, subject to some management</p>

<p><b>facilitate the development given their benefits to wildlife.</b></p>	<p>(trimming back works) being undertaken to the hedgerows to the northern and eastern site boundaries.</p>
	<p>A condition could be imposed on any permission granted requiring the submission of an Arboricultural Method Statement (AMS) which would outline the precise works to the retained hedgerows and trees.</p>

## Landscaping

Part (1) of Policy En1 of the adopted Local Plan outlines that proposals for development will be supported which conserve, restore or enhance the biodiversity of the district.

Policy Both6 of the submission BothNP outlines that existing trees and hedgerows should be retained where possible and integrated into new developments. Development which results in damage to, or the loss, or deterioration of ancient trees, hedgerows or trees of good arboricultural and amenity value will not be supported. The policy also outlines that applications should be accompanied by a tree survey (TS) which establishes the health and longevity of any affected trees and hedgerows, indicating replanting where appropriate.

### *Impact to Existing Trees and Hedgerows*

An Arboricultural Impact Assessment (AIA) and Method Statement (MS) were originally submitted in support of the application with an amended AIA and MS subsequently being submitted following the amendment to the layout of the development. The AIA and MS are compliant with BS 5837:2012 *'Trees in Relation to Design, Demolition and Construction – Recommendations'*.

It is outlined within the amended AIA and MS that there are 19 individual trees (12 of which are rated Category B (*'Trees of Moderate Quality'*), two group of trees (both rated Category C (*'Trees of Low Quality'*) and hedgerows to the northern and eastern boundaries (rated Category C). Such trees and hedges are either on the site, to the boundaries of the site, or on land outside the site but close to the site boundaries.

In order to accommodate the development, the AIA and MS outlines that two individual trees (an Ash tree rated Category U (*'unsuitable for retention irrespective of development'*) and Silver Birch rated Category B) as well as one group of trees (English Oak (rated Category C)) would be removed.

As part of the consideration of the application the Council's Tree Officer has been consulted and following a review of the submitted information, they consider that the proposed tree removals would not have a significant impact on the local tree cover and therefore have no arboricultural objections to the application. The Council's Tree Officer also considers that the existing trees to be retained have been given appropriate space within the proposed layout to ensure they would not be subjected to undue pressures for removal. It is recommended by the Council's Tree Officer that any permission granted is subject to a condition which requires a scheme of tree/hedge protection measures to be provided before the development commences to ensure retained trees, as well as the hedgerows, are appropriately protected during the construction works.

### Soft Landscaping

The proposed soft landscaping scheme is as shown in the image below.

### Proposed Soft Landscaping Scheme



Notwithstanding that the proposed soft landscaping scheme would retain most of the existing soft landscaping infrastructure, including the hedgerows, it would also include for the planting of 31 new trees, 246 metres of new hedgerow planting (which includes 163 metres of mixed native hedgerow), along with shrub planting and species rich grassland.

Whilst such a soft landscaping scheme is broadly acceptable there is a need for further details to be provided around how trees would be planted within areas of hard surfacing (including tree pit details) and how soft landscaping would be protected where located between parking spaces. On this basis a soft landscaping scheme would be subject to condition on any permission granted. A Landscape, Ecological and Biodiversity Management Plan (LEBMP) would also be conditioned on any permission granted to secure the ongoing future maintenance and management of the soft landscaping infrastructure to be delivered.

### Street Trees

Paragraph 136 of the NPPF outlines that planning decisions should ensure that streets are tree lined, although footnote 63 associated with Paragraph 136 states *“Unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate.”*

Following amendments to the layout of the development a tree lined street would now be created which is supported by the Council’s Urban Designer and is considered to ensure compliance with Paragraph 136 of the NPPF.

*Hard Landscaping*

The submitted external works plan indicates the predominant use of tarmac to the internal access road, as well to the off-street parking areas, with Brindle block paving being utilised to the turning head within the vicinity of plots 7 to 11 and plot 16 and grey paving slabs to the pathways around the plots.

It is considered that improvements could be made to the hard landscaping scheme to ‘soften’ the surfaces proposed, albeit the internal highway would need to be constructed to an ‘adoptable’ standard to enable the District Council’s waste vehicle to access the site for waste collection purposes (this being discussed further in the ‘Waste Collection’ section of this report below).

To address the above, a condition would be imposed on any permission granted to secure an appropriate hard landscaping scheme.

Landscaping Conclusion

Overall, and subject to conditions, it is considered that the proposed development would be compliant with Policies D1 and En1 of the adopted Local Plan, Policy BotH6 of the submission BotHNP and Paragraph 136 of the NPPF.

Assessment of objections in relation to landscaping

Objection	Officer Response
<p><b>The plans indicate the removal of trees and parts of hedgerows which are not within the ownership of the applicant and have been subject to maintenance by existing neighbours.</b></p>	<p>As submitted the plans indicate the removal of a group of trees (identified as G2 – English Oak) which are situated to the boundary with The Orchard (no. 4) Loveys Croft.</p> <p>Whilst the representations received from the occupants of The Orchard (no. 4) Loveys Croft identify that G2 is within their ownership this has not be substantiated by any evidence (except for photos showing the positioning of G2).</p> <p>Notwithstanding this, land ownership records are held by Land Registry with land ownership not being a material planning consideration. If there is a dispute over land ownership, and where trees are located, then this would be a civil matter between the affected parties.</p> <p>If it is subsequently established that G2 is within the ownership of the occupants of The Orchard (no. 4) Loveys Croft, then permission would be required before G2 could be removed. The potential retention of G2 would not have any implications to the proposed development given that it</p>

	<p>lies within what would be the amenity areas associated with plots 7 and 8.</p> <p>A condition would be imposed on any permission granted to secure a landscape, ecological and biodiversity management plan (LEBMP), this would enable suitable future maintenance and management of the soft landscaping infrastructure to be undertaken.</p>
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### Drainage and Flood Risk

Policy Cc2 of the adopted Local Plan outlines that the risk and impact of flooding will be minimised through directing new development to areas with the lowest probability of flooding; ensuring that new development addresses the effective management of all sources of flood risk; ensuring that development does not increase the risk of flooding elsewhere and ensuring wider environmental benefits of development in relation to flood risk. It also identifies the circumstances where development will be supported.

Policy Cc3 of the adopted Local Plan outlines that where it is necessary to manage surface water drainage than Sustainable Urban Drainage Systems (SuDS) should be incorporated into developments unless it is clearly demonstrated that SuDS are not technically, operationally, or financially viable and that surface water drainage issues from the development can be alternatively mitigated; or that the SuDS scheme itself will adversely affect the environment or safety.

Policy BotH7 of the submission BotHNP outlines that development sites should be designed to manage surface water, and utilise resources, sustainably during use. It also indicates that major development in Breedon on the Hill, comprising residential development, should accord with criterion A to D.

The application site comprises land which is within Flood Zone 1 (low risk of fluvial flooding) and is at a very low risk of surface water flooding (pluvial flooding), as defined by the Environment Agency's (EA's) Surface Water Flood Maps.

A Flood Risk Assessment (FRA) and Drainage Strategy (DS) have been submitted in support of the application, and notwithstanding the fluvial and pluvial flood risk to the site, the FRA also concludes that the site is not at risk of flooding from the sea (tidal flooding), canals, or reservoirs and waterbodies, whilst being at very low risk of flooding from sewers and a low risk of flooding from groundwater.

Given that the application site is predominately at a very low risk of flooding from any source, the terms of Paragraph 168 of the NPPF would not be applicable as sequentially an alternative site only has to be found if the risk of flooding to the site from any source is medium to high.

With regards to the proposed surface water drainage strategy, the submitted DS outlines that under the Sustainable Urban Drainage Systems (SuDS) hierarchy the first point of discharge should be via infiltration, however following percolation tests infiltration would not be viable given the ground conditions. The second point of discharge would be to a watercourse, and whilst a watercourse is present to the west of the site a connection would not be possible without crossing over third party land. Consequently, surface water discharge from the site would be directed to Severn Trent Water's (STW) surface water sewer in Southworth Road

which connects to the watercourse to the west of the site. STW has agreed in principle that a connection can be made to their surface water sewer.

Criterion B of Policy BotH7 of the submission BotHNP outlines that surface water discharges should be carried out in accordance with the drainage hierarchy, “*such that discharge to the public sewerage systems is avoided, where possible*” (*my emphasis*). It is concluded above that the SuDS hierarchy has been followed and in this instance a connection to the surface water sewer is the only viable option, albeit such a surface water sewer does subsequently discharge to the watercourse. Compliance with criterion B of Policy BotH7 is therefore demonstrated.

As proposed surface water discharge would match that of the current greenfield run-off rate, of 2.5 litres per second (l/s), with this being achieved using oversized pipes and the use of a Hydrobrake to restrict flows. In addition, each dwelling would be provided with a water butt to allow for rainwater harvesting and permeable paving would be utilised to the private drives associated with the dwellings.

The LLFA has acknowledged that the use of water butts can provide significant benefits in terms of additional storage and mitigation of flood risk and that permeable paving provides benefits in terms of water quality treatment and providing additional storage to reduce the strain on downstream drainage systems. They did, however, outline that as some SuDS features would be incorporated into individual plots there would be a requirement for them to be excluded from the attenuation calculations given that they may not be maintained by the individual occupant(s).

It has subsequently been outlined by the applicant that the calculations used to support the drainage strategy do not account for any SuDS features within the individual plots which means that the drainage strategy is not reliant on them. The applicant has also stated that whilst some SuDS features would be within individual plots given that the scheme is 100% affordable housing the long-term maintenance and management of the SuDS features (including those within individual plots) would be the responsibility of the Registered Provider (RP). On this basis the prospect of such SuDS features being replaced or altered is significantly reduced, with the exclusion of such features from the drainage calculations resulting in them providing further benefits.

Following consideration of this additional information, the LLFA has outlined that they have no objections to the application subject to the imposition of conditions on any permission granted to secure details of the precise surface water drainage scheme which would be implemented, along with a surface water drainage scheme for the construction phase of the development. Whilst not requested by the LLFA a management and maintenance schedule for the implemented surface water drainage scheme would also be conditioned in line with the requirements of criterion A of Policy BotH7 of the BotHNP.

In terms of the other criteria of Policy BotH7, criterion C requires surface water drainage proposals to incorporate water efficient designs and technology. When accounting for the advice of the LLFA it is considered that Criterion C of Policy BotH7 would be complied with.

Criterion D states that existing drainage systems should be protected, with proposed development not preventing the continuation of existing natural or manmade drainage features. Criterion D also stipulates that where watercourses or dry ditches are present within a site then such features should be retained and, where possible, enhanced. A dry ditch runs alongside the northern site boundary, and this would not be impacted by the proposed development nor would any existing drainage systems. Compliance with criterion D of Policy BotH7 is therefore



demonstrated.

Notwithstanding the assessment undertaken against Policy BotH7 of the submission BotHNP, it is acknowledged that only limited weight would be afforded to the policies of the submission BotHNP and therefore any deemed conflict would not warrant a refusal of the application.

Overall, and subject to the imposition of conditions, the proposed development would accord with Policies Cc2 and Cc3 of the adopted Local Plan, Policy BotH7 of the submission BotHNP, and Paragraphs 173 and 175 of the NPPF.

Foul drainage would be discharged via a proposed connection to the STW foul drainage network with such a connection being agreed with STW under separate legislation outside of the planning process. In agreeing a connection STW would have an opportunity to determine whether capacity exists in the foul drainage network to accommodate the development before enabling the connection with it being noted that no representation has been received from STW objecting to the application. On this basis there would not be an increased risk of pollution discharge from the foul drainage network and the proposal would be compliant with Paragraph 191 of the NPPF.

Assessment of objections in relation to flood risk and drainage

Objection	Officer Response
<p><b>The existing surface water drainage infrastructure is insufficient, and flooding incidents have occurred along Main Street (including in January 2024). Proposed development should be obligated to significantly improve and design out this issue.</b></p> <p><b>The earlier comments of Breedon on the Hill Parish Council are borne out by the Lead Local Flood Authority (LLFA) report outlining the importance of not allowing discharge of rainwater to the village watercourse and this remains paramount.</b></p>	<p>It is not for the development to address deficiencies in the existing surface water drainage infrastructure which is either subject to management by Seven Trent Water (STW) (should surface water be discharged via the sewer), the Lead Local Flood Authority (should surface water be discharged via a watercourse) or individual landowners.</p> <p>A development is required to mitigate its own impacts and thereby ensure that the risk of surface water flooding (or any other source of flooding) is not increased. As proposed surface water run-off from the site would not exceed that of its current greenfield run-off rate with the infrastructure delivered as part of the surface water proposals (being oversized pipes) accommodating the need to take account of climate change. Betterment is also provided to the surface water run-off by the provision of water butts and permeable paving which will attenuate the surface water flows.</p> <p>On this basis, and subject to the imposition of conditions on any permission granted to secure the surface water drainage infrastructure and its subsequent maintenance, the proposed surface water drainage proposals would not create or exacerbate any localised surface water flooding impact.</p> <p>It is also considered that surface water flows to the watercourses could not be prevented given that existing</p>

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	<p>flows to such watercourses are not subject to any restrictions from other existing land uses (with the potential exception of those discharged by STW's surface water sewer). On the basis that the surface water flows from the development site would be no greater than those which already exist, and in many respects would be reduced by virtue of the additional attenuation features, there would be no justification to restrict surface water flows being discharged to the watercourse via the STW surface water sewer.</p>
<p><b>How is it ensured that developers comply with their requirements in relation to surface water drainage management and maintenance?</b></p>	<p>A condition would be imposed on any permission granted which required the surface water drainage infrastructure to be subject to management and maintenance by the applicant (or a management company on their behalf) for the lifetime of the development. If the terms of this condition were breached, then the Local Planning Authority (LPA) would have the ability to take enforcement action.</p>
<p><b>The submitted drainage documentation does not account for climate change and the increased regularity of rainfall.</b></p> <p><b>The report submitted does not deal with fluvial run-off from the site with the area of the site being some 70% hard paved in one form or another. Stormwater run-off cannot be accommodated in the stream running through the village which has been illustrated by the culvert under the village green flooding as it was unable to cope with the water flow emerging down Ashby Road. Such water flow resulted in the culvert being overran and flooding occurred in four properties on Main Street. This reason alone should be enough to stop development of this site as it severely affects downstream residents.</b></p>	<p>The submitted documentation has been subject to review by the Lead Local Flood Authority (LLFA) who has no objections to the application subject to the imposition of conditions on any permission granted.</p> <p>It is also the case that the submitted documentation has accounted for climate change, as well as pluvial run-off. Fluvial run-off would not occur as fluvial flooding is associated with rivers and seas and is therefore not applicable.</p>
<p><b>The application site already contributes to surface water</b></p>	<p>Any surface water run-off from the undeveloped site would be restricted to its current greenfield run-off rate but there is</p>

<p><b>flooding in the settlement with surface water draining to Ashby Road and subsequently flooding Main Street.</b></p>	<p>no attenuation in place should the ground become saturated. Also, no evidence has been provided to demonstrate that the application site has contributed to the surface water flooding to Ashby Road and Main Street.</p> <p>Notwithstanding this, whilst the proposed development would be undertaken on a greenfield site it is intended that the proposed surface water drainage infrastructure would ensure that the run-off rate does not exceed that of the current greenfield run-off rate with betterment being provided in the form of water butts and permeable paving to better attenuate surface water run-off. Consequently, the overall discharge rate of surface water run-off would be reduced, thereby not increasing the risk of such surface water flooding incidents occurring.</p>
<p><b>New build development in the settlement has contributed to issues with surface water flooding given the lack of mitigation provided.</b></p>	<p>It is for the development to mitigate its own risk in relation to the potential to increase the risk of surface water flooding and therefore the new build development undertaken in the settlement would have been required to address their impacts to surface water flooding as part of the determination of any planning application.</p> <p>It is noted that significant surface water drainage attenuation proposals were provided in connection with the development permitted at the former Breedon Priory Nurseries site off Ashby Road to mitigate their impact.</p>

**Developer Contributions and Infrastructure**

A request has been made for Section 106 contributions towards affordable housing, education, libraries, highways, and health services. These requests have been assessed against the equivalent legislative tests contained within the Community Infrastructure Levy (CIL) Regulations (CIL Regulations) as well as Policy IF1 of the adopted Local Plan and Paragraphs 34, 55 and 57 of the NPPF.

*Affordable Housing*

Policy H4 of the adopted Local Plan supports the provision of mixed, sustainable communities and that the Council will seek the provision of affordable housing on new developments when thresholds are met.

Policy BotH20 of the submission Breedon on the Hill Neighbourhood Plan (BotHNP) outlines that on a greenfield site, developments of 10 or more homes, or where the site has an area of 0.5 hectares or more, at least 30% of the total number of homes should be available as affordable homes. Unless informed by more up to date evidence of local affordable housing need, 25% of this affordable housing shall be rented, with the remainder providing affordable home ownership (which shall include at least 25% First Homes). It also states that affordable housing will be subject to conditions, or a planning obligation will be sought, to ensure that when homes are allocated, priority is given to people with a local connection to the BotHNP area (i.e.

including living, working or with close family ties in the Area).

As part of the consideration of the application the Council's Affordable Housing Enabler (AHE) has been consulted and they have outlined that a wholly affordable housing scheme would be delivered which is more than the minimum 30% required under Part (1) of Policy H4 of the adopted Local Plan.

Given that the scheme is wholly affordable the NPPF requirement for 10% of the homes to be provided as Affordable Home Ownership (AHO) is not applicable.

As of the 9<sup>th</sup> of August 2024, the housing register need for those who require rented accommodation, and who have indicated a preference for Breedon on the Hill and surrounding villages as well as Castle Donington, would be as follows:

<b>Beds</b>	<b>Level Access</b>	<b>General</b>	<b>Wheelchair</b>	<b>Total</b>
<b>1</b>	21	70	0	91
<b>2</b>	10	47	1	58
<b>3</b>	1	19	0	20
<b>4</b>	0	4	0	4
<b>Total</b>	32	140	1	173

It is considered that this information demonstrates a demand for rented accommodation in the area and therefore the proposal to provide 18 Social Rented properties would clearly reflect the level of housing need and would assist the Council in meeting such needs. On this basis the Council's AHE is supportive of the proposed property and tenure mix. This is discussed in more detail in the 'Housing Mix' sub-section of the 'Design, Housing Mix and Impact on the Character and Appearance of the Streetscape' section of this report above.

On the basis that the site is within the defined Limits to Development the Council's AHE has outlined that it would be expected that the Social Rented homes would meet the wider District needs and not be restricted to those with a local connection. This is due to the Council's adopted Allocation Policy not containing a general Local Lettings Policy, as such the Council do not operate local lettings and would only seek to restrict allocations to those with a local connection on Rural Exception Sites in line with Policy H5 of the adopted Local Plan. The Council's AHE will therefore ensure, via a Section 106 agreement, that the affordable properties are allocated through the Council's housing register.

In terms of Policy BotH20 of the submission BotHNP the proposed level of affordable housing would exceed that required by this policy (being 30% of the total number of dwellings). However, it is stated within Policy BotH20 that such affordable housing, when allocated, should be prioritised to those people with a local connection to the BotHNP area (i.e. including living, working or with close family ties in the Area).

Whilst there is conflict with the approach of Policy BotH20 to that of the Council's AHE, it is outlined within this report that only limited weight can be given to the policies of the submission BotHNP with even less weight attributed to Policy BotH20 given that the Council has an unresolved objection to the terms of this policy. On this basis there would be no justification to refuse the application based on the proposed affordable dwellings being allocated to those individuals on the Council's housing register.

The Council's AHE has also outlined that four of the proposed dwellings would be designed to the higher standards of optional requirement M4(2) (accessible and adaptable) dwellings of the Building Regulations and therefore would exceed the requirements of Part (3) of Policy H6 which only applies to schemes of 50 or more dwellings. This approach is also supported by the Council's AHE.

As discussed in the '*Design, Housing Mix and Impact on the Character and Appearance of the Streetscape*' and '*Highway Impacts*' sections of this report above, the proposed garden sizes of the dwellings would meet the requirements of the Council's adopted Good Design SPD with sufficient levels of off-street parking also being provided.

Overall, the proposal would be compliant with Policy H4 of the adopted Local Plan and Paragraphs 64 and 66 of the NPPF.

### *Education*

Leicestershire County Council (Education) has requested a secondary education (11 – 16) sector contribution of £53,735.26 for Castle Donington College, Mount Pleasant, Castle Donington. No requests have been made for the primary, post-16, or Special Education and Disabilities (SEND) school sectors.

The applicant has confirmed their acceptance to the payment of the education contribution.

### *Libraries*

Leicestershire County Council (Library Services) has requested a contribution of £543.56 for improved stock provision (i.e. books, audio books, newspapers, periodicals for loan and reference use) at Castle Donington Library, 101 Bondgate, Castle Donington, or to enable the reconfiguration of the internal space within the library to enable additional uses of the building (i.e. resident meetings including book readings and activities).

The applicant has confirmed their acceptance to the payment of the library contribution.

### *Highways Contributions*

Leicestershire County Council Highways Authority has indicated that the following developer contributions would be requested which are required in the interests of encouraging sustainable travel to and from the site, reducing private car use and mitigating a severe impact upon the highway network.

- (i) A construction traffic routing agreement;
- (ii) Travel packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area. These can be supplied by Leicestershire County Council (LCC) at a cost of £52.85 per pack or whereby an administration charge of £500.00 is payable for LCC to review any sample travel pack to be supplied by the applicant; and
- (iii) Two six month bus passes per dwelling (2 application forms to be included in the Travel Pack and funded by the developer) to encourage new residents to use bus services, establish changes in travel behaviour from first occupation and promote the usage of sustainable travel modes other than the car (can be supplied through LCC at a cost of £520.00 per pass).

The applicant has confirmed their acceptance to the payment of the highways contributions as well as the construction traffic routing agreement.

#### *Health Services*

The Leicester, Leicestershire and Rutland Integrated Care Board (ICB) has requested a contribution of £13,929.20 which would be utilised to increase and improve primary care services at Manor House Surgery on Long Lane, Belton.

The applicant has confirmed their acceptance to the payment of the health services contribution.

#### *Other Contributions*

Leicestershire County Council has outlined that no contributions will be required to mitigate the impacts of the development to civic amenities.

#### *Open Space, Sport and Recreation Facilities*

Policy IF3 of the adopted Local Plan outlines that open space, sport and recreation facilities should be sought on development proposals of 50 dwellings or more.

On the basis that the proposal only relates to the construction of 18 dwellings there would be no requirement for the development to provide any on-site open space, sport and recreational facilities nor would any off-site contributions be required. As such there is no conflict with Policy IF3 of the adopted Local Plan.

#### *Policy BotH10 of the submission BotHNP*

Policy BotH10 of the submission BotHNP outlines that new development will be supported by the provision of new or improved infrastructure, together with financial contributions for the following off-site infrastructure requirements where appropriate:

- A. *The improvement, remodelling or enhancement of St Hardulph's Church of England Primary School;*
- B. *Countryside access improvements in accordance with Policy BotH4; and*
- C. *Community infrastructure improvements including the provision of parish notice boards, seats, children's play equipment, bus shelters, litter bins.*

It also outlines that to ensure the viability of housing development, the costs of the Plan's requirements may be applied flexibly where it is demonstrated that they are likely to make the development undeliverable.

As part of their consultation response Breedon on the Hill Parish Council has not requested any contributions in line with the terms of Policy BotH10, albeit contributions in relation to A would be dictated by the requirements of Leicestershire County Council (LCC) as the education authority and who have not requested a financial contribution towards St Hardulph's Church of England Primary School. In terms of C, improvements to bus shelters would be informed by LCC as the highways authority with Policy IF3 of the adopted Local Plan only requiring children's play equipment to be delivered on schemes of 50 dwellings or more.

Policy BotH4 of the submission BotHNP indicates that development should protect Rights of Way and wherever possible create new links to the network including footpaths and cycleways, and that an improved footpath/cycle link between Breedon on the Hill and National Cycle Route 6 via Doctor's Lane/Public Footpath M16 is encouraged.

The proposed development would not impact on any Rights of Way with the application site being bound on all sides by existing residential development, consequently the terms of Policy BotH4, as well as criterion B of Policy BotH10 would not be directly applicable.

Notwithstanding the above, only limited weight could be attributed to the terms of Policy BotH10 of the submission BotHNP and consequently any deemed conflict would not warrant a refusal of the planning application.

*Section 106 Total Contributions:*

Based on the above the following contributions would be secured within a Section 106 agreement:

- (a) Affordable Housing – All dwellings on site.
- (b) Education - £53,735.26.
- (c) Libraries - £543.56.
- (d) Highways - £19,671.30.
- (e) Health - £13,939.20.

Total Financial Contribution - £87,889.32

Overall, and insofar as the developer contributions are concerned, the view is taken that the proposed contributions would accord with the principles of relevant policy and legislative tests outlined in Policies IF1 and IF3 of the adopted Local Plan, Circular 05/95, the CIL Regulations and the NPPF.

**Impact on the Historic Environment**

Policy He1 of the adopted Local Plan and the advice in the NPPF requires heritage assets to be preserved and enhanced. Where development results in harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposed development must also be considered against Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that special regard shall be had to the desirability of preserving the setting of a listed building and the character and appearance of the conservation area.

In terms of heritage assets the application sites lies to the south of the Breedon on the Hill Conservation Area, whilst also being to the south of The Bulwarks (Ancient Monument), Church of St Mary and St Hardulph (Grade I listed), headstone to Francis Doleman, at Church of St Mary and St Hardulph (Grade II listed), Tomb chest to Dawson Family at Church of St Mary and St Hardulph (Grade II listed), and a Milepost on Ashby Road (Grade II listed). Therefore, the impact of the development on the fabric and setting of these heritage assets should be given special regard by the 1990 Act.

As part of the consideration of the application the Council's Conservation Officer has been consulted and they have no objections and agree with the conclusions reached in the submitted Heritage Statement (HS) which state that no harm to the significance of the setting of any heritage assets would arise.

In the circumstances that *no harm* arises to the significance of the setting of the identified heritage assets an assessment in the context of Paragraph 208 of the NPPF is not required.

The lack of harm would also ensure that the setting of the identified heritage assets would be preserved.

On this basis the proposal would be compliant with Policy He1 of the adopted Local Plan, Paragraphs 203 and 205 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Archaeology**

The Leicestershire and Rutland Historic Environment Record (HER) indicates that the application site lies within an area of archaeological interest. As part of the consideration of the application the County Council Archaeologist outlined that whilst the submitted Desk-Based Assessment (DBA) showed that the site had historically been used for agriculture, there was potential for iron age and/or Anglo-Saxon remains to be located beneath the ridge and furrow earthworks which could be impacted by the proposed development. On this basis, the County Council Archaeologist advised that an Archaeological Impact Assessment (ARIA) prior to determination would need to be submitted comprising a Geophysical Survey Report (GSR) and a field evaluation by appropriate techniques. The undertaking of such assessments would enable any archaeological remains of significance to be identified and located, and consequently suitable treatments to avoid or minimise damage by the development could be secured if necessary.

A Written Scheme of Investigation (WSI) and GSR were subsequently submitted by the applicant. Following consideration of these reports the County Council Archaeologist has concluded that although the reports provide sufficient archaeological details to enable the application to be determined, there is a potential that ridge and furrow remains, or debris are obscuring earlier remains. On this basis the results of the GSR would need to be confirmed by trial trenching as well as an earthwork survey to mitigate against the loss of the ridge and furrow earthworks.

Overall, there are no objections to the application from the County Council Archaeologist subject to the imposition of conditions on any permission granted to secure the further archaeology investigations and relevant mitigation measures. On the basis such conditions are imposed, the proposed development would be compliant with Policy He1 of the adopted Local Plan, insofar as it relates to archaeology, and Paragraph 211 of the NPPF.

### **Aviation Safety**

Part (1) of Policy Ec5 of the adopted Local Plan outlines that development which would adversely affect the operation, safety or planned growth of East Midlands Airport will not be permitted.

As part of the consideration of the application East Midlands Airport Safeguarding (EMAS) has been consulted and they have raised no objections to the application subject to the imposition of a condition on any permission granted to secure an external lighting scheme, as well as an informative to make the applicant aware of their crane and tall equipment notification procedure.



On this basis, and subject to the imposition of the condition and informative, there would be no conflict with Policy Ec5 of the adopted Local Plan.

### **Waste Collection**

The applicant has outlined that whilst the internal highway serving the proposed development would not be formally adopted by Leicestershire County Council (LCC), as the highway authority, it would be built to an adoptable standard. Southworth Road itself is also not an adopted highway.

The Council's Waste Services Development Officer (WSDO) required confirmation from the applicant that the internal highway would be constructed to an adoptable standard to ensure that the applicant could enter into an indemnity agreement with the Council's Waste Services Team. Such an agreement would ensure that the Council's Waste Services Team would be indemnified against any damage which may be caused to the unadopted internal highway because of the movement of waste collection vehicles.

In the circumstances that the indemnity agreement is entered into, future occupants of the plots would be able to present their waste receptacles by the kerbside for collection and there would be no requirement for a bin collection point (BCP). It is advised by the Council's WSDO that the requirement to present waste receptacles adjacent to the kerbside should be written in the plot deeds and an informative on any permission granted could advise the applicant of this requirement.

The Council's WSDO is also satisfied that the swept path analysis of the Council's waste services vehicle demonstrates that suitable movements could be undertaken within the site to ensure that the vehicle exits in a forward direction. The County Highways Authority (CHA) are also satisfied with the swept path analysis and sufficient levels of off-street parking would be provided (this is as outlined in the '*Highway Impacts*' section of this report above).

As submitted the plans also indicate that the waste receptacles would be stored at the rear of the plots, thereby not having visibility from the public domain or within the site itself. Notwithstanding this a condition would be imposed on any permission granted which would require the provision of an enclosed waste receptacle storage solution should waste receptacles subsequently be stored on the frontage of any of the plots. This would ensure that the storage of the waste receptacles would not result in visual detriment to the streetscape.

### **Other Matters**

Policy BotH9 of the submission Breedon on the Hill Neighbourhood Plan (BotHNP) outlines that new development should incorporate open access ducting to industry standards, to enable all new premises and homes to be directly served by fibre optic broadband technology. Exceptions would only be considered where it is demonstrated that making such provision would render the development unviable.

It is considered that the responsibility of ensuring that fibre optic broadband technology is delivered to the proposed dwellings would be a matter to be addressed by the relevant service provider outside of the planning process. Notwithstanding this, and in line with Policy BotH9, an informative would be imposed on any permission granted to make the applicant aware of the need to engage with relevant service providers to ensure that fibre optic broadband can be delivered to the application site.

Assessment of objections in relation to other matters

Objection	Officer Response
<p>The position of the site boundary does not reflect that agreed with both the previous and current landowner which as denoted by a post and wire fence.</p>	<p>Land ownership records are held by Land Registry with land ownership not being a material planning consideration. If there is a dispute over land ownership, or where the boundary lies, then this would be a civil matter between the affected parties.</p>
<p>The application takes no account of the policies in the emerging neighbourhood plan.</p>	<p>The applicant has provided an assessment of the application against the policies of the submission Breedon on the Hill Neighbourhood Plan (BotHNP), and particularly Policy BotH16.</p> <p>It is also the case that this report has considered such policies, albeit only limited weight would be afforded to them in the decision making process due to the status of the submission BotHNP.</p>

**Conclusion and Contribution to Sustainable Development**

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2021) and the submission Breedon on the Hill Neighbourhood Plan (BotHNP) (2024). The application site lies within the defined Limits to Development and comprises a greenfield site within Breedon on the Hill which is defined as a ‘Sustainable Village’. On this basis the principle of the development would be considered acceptable.

In addition to the need to determine the application in accordance with the development plan, regard also needs to be had to other material considerations (and which would include the requirements of other policies, such as those set out within the National Planning Policy Framework (NPPF) (2023)). The NPPF contains a presumption in favour of sustainable development and when having regard to the three objectives of sustainable development, it is concluded as follows:

*Economic Objective:*

This objective seeks to ensure that sufficient land of the right types is available in the right places and at the right time to support growth, innovation, and improved productivity, and that the provision of infrastructure is identified and coordinated. It is accepted that, as per most forms of development, the scheme would have some economic benefits including those to the local economic during the construction stage. The applicant has also confirmed that the contributions as set out in the ‘Developer Contributions and Infrastructure’ section of this report above would be made and these would be secured in connection with the scheme.

*Social Objective:*

The economic benefits associated with the proposed development would, by virtue of the social effects of the jobs created on those employed in association with the construction of the development, also be expected to provide some social benefits. The NPPF identifies, in respect of the social objective, the need to ensure that a sufficient number and range of homes can be provided to meet the needs of present and future generations, and by the fostering of a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.

Subject to the extent of the contribution being secured in a Section 106 obligation, the scheme would deliver a level of affordable housing greater than that required by Policy H4 of the adopted Local Plan with the range and types of houses meeting an identified need.

In terms of the social objective's stated aim of fostering a well-designed and safe environment, it is considered that, subject to the imposition of conditions to secure suitable design detailing and landscaping, that the scheme would be of an appropriate design which would successfully integrate into, and enhance, the environment in which it is set.

As per the economic objective above, the scheme would provide for the necessary infrastructure to support the development and perform well in terms of the need to provide accessible services.

*Environmental Objective:*

The scheme would also, it is considered, perform relatively well in terms of several aspects of the environmental objective, and including in respect of the impacts on the built and historic environment, making an effective use of land, and mitigating and adapting to climate change. Given the location of the development in Breedon on the Hill, the ability to access services would be achievable via means other than the private car which would enable the development to contribute positively towards the movement to a low carbon economy.

In terms of issues relating to protecting and enhancing the natural environment, and as set out in the report above, the development would be undertaken on a greenfield site. Such development on a greenfield site result in a net gain in biodiversity not being delivered on the application site. However, it would be possible to deliver a biodiversity net gain (BNG) by the purchase of statutory credits or at an off-site habitat bank and conditions on any permission granted could secure this (including the Biodiversity Offsetting Management Plan (BOMP) requested by the County Council Ecologist who has no objections to the application – as discussed in the 'Ecology' section of this report above). This approach would ensure that a 'net gain' would be delivered in line with Paragraphs 180 and 186 of the NPPF, with the report acknowledging that the mandatory 10% BNG would not be applicable to the proposal given the timing of its submission.

It also must be accepted that from an environmental perspective the submission Breedon on the Hill Neighbourhood Plan (BotHNP) seeks to allocate the site for residential development (Policy BotH16) which provides an acceptance that the site would be built upon in the future.

Having regard to the three objectives of sustainable development, therefore, and having regard to the conclusions in respect of various technical issues as outlined above, it is considered that

**PLANNING APPLICATIONS- SECTION A**

subject to the imposition of conditions and the securing of a Section 106 agreement the overall scheme would represent sustainable development and approval is recommended.