



Appeal Decision

Hearing held on 10 January 2023

Site visit made on 13 January 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/K2420/W/22/3308175

Land at Crabtree Farm, Hinckley Road, Barwell

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Barwell Capitol against Hinckley and Bosworth Borough Council.
 - The application Ref 21/00695/FUL, is dated 9 July 2021.
 - The development proposed is erection of 51 plots with associated access and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 51 Plots with associated access and parking at land at Crabtree Farm, Hinckley Road, Barwell, in accordance with the application Ref 21/00695/FUL, dated 9 July 2021 and subject to the schedule of conditions attached to this Decision.

Application for Costs

2. An application for costs has been made by Barwell Capitol against Hinckley and Bosworth Borough Council. This application is the subject of a separate Decision.

Background

3. The Council confirmed that based on its most recent Residential Land Availability Monitoring Statement (April 21-March 22), its Housing Land Supply position is 4.89 years. Subsequently, it has agreed in a published statement of common ground in the context of a recent public inquiry (reference 3301735) that its housing land supply is 4.76 years. Therefore, the Council is unable to demonstrate a 5-year housing land supply.
4. The appeal site and the field to the west of this benefit from an extant planning permission for a mixed use for housing and a burial ground. The housing element of this permission (25 dwellings) is on the appeal site. Another outline planning permission exists for the development of up to 25 dwellings with associated infrastructure, on land to the west of the appeal site.
5. The appeal site forms part of the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge (GW). Policy SP6 of the of the Local Development Framework, Core Strategy, adopted December 2009 ('CS') defines a range of uses which would be acceptable in the GW. Whilst this policy is not explicit in referencing residential development this is not precluded. Even so, the overarching function of the GW is to protect the separation of the settlements, helping to protect their individual identities and provides easy access from the urban areas into

green spaces, contributing towards the quality of life for residents in these urban areas.

6. It is not part of the Council's case that the proposal is contrary to Policy SP6 of the CS. This is because the appeal site already has planning permission for residential development. Also, the Green Wedge Review (April 2020) recommends the removal of the appeal site from the GW and its inclusion into the settlement boundary. Accordingly, in principle, the Council considers the appeal site to be an acceptable location for housing. I have proceeded with the appeal on this basis.

Main Issues

7. Although there is no formal decision from the Council, it has offered putative reasons for refusal. Based on these, the main issues are:
- i) The effect of the proposal on the character and appearance of the area;
 - ii) The effect of the proposal on the living conditions of the occupiers of the development;
 - iii) The effect of the proposal on the occupiers of a neighbouring dwelling, 13 Powers Road;
 - iv) Whether or not the proposal would safeguard protected species and provides a net biodiversity gain; and,
 - v) Whether or not the proposal makes appropriate provision for affordable housing and other infrastructure and facilities necessary to make the development acceptable.

Reasons

Character and appearance

8. The appeal site comprises two rectilinear fields separated by a hedgerow broadly running along a north-south axis of the site and part of a third field to the west.
9. To the north, the appeal site is bound by Hinckley Road and the residential curtilages of the dwellings located on the south side of this road, which are organised in a linear pattern. The site is bounded to the east by a play area known as Tweed River Park and the boundaries of dwellings in Powers Road and Crabtree Road. To the south is open countryside, which is bisected by the A47, and there are open fields to the west.
10. Development along Hinckley Road comprises larger dwellings in spacious plots. Whereas to the east of the site, development is predominantly semi-detached dwellings, occupying smaller plots located off small cul-de-sacs. Therefore, the pattern and character of the surrounding development is varied.
11. Irrespective of whether the density of the proposed development is 22 or 24 dwellings per hectare ('dph'), these densities are characteristic of the area. For example, development on the northern side of Hinckley Road is about 20 dph.
12. Furthermore, Policy 16 of the CS states that proposals for new residential development will be required to meet a minimum net density of at least 40 dwellings per hectare within and adjoining Hinckley, Burbage, Barwell and Earl

Shilton. Even so, quality design is not just about achieving relevant densities. To this end, I have considered the various elements of the proposal which the Council finds unacceptable.

13. The appeal site is constrained due to a sewer easement which runs north to south along the site. The central 'spine road' through the site is broadly based along the sewer easement. This, therefore, dictates the layout of the proposed scheme, which also necessitates the requirement for the main access from Hinckley Road.
14. The layout has been designed with plots fronting Hinckley Road, providing a similar size and pattern of development along the existing build line to ensure a continuation of the street scene. Beyond this, the layout is intended to create its own character through small clusters of dwellings, served off a series of private drives spanning east to west off the spine road.
15. Part of the development would interface with the built forms of the existing development. This is in the form of small terraces, which would be located at the end of Crabtree Road and Powers Road and also accessed via these roads. The proposed terraces would reflect the scale of development along these roads.
16. Although these terraces would be located behind parking areas, this is characteristic of Crabtree Road and Powers Road, where the frontages of some properties incorporate areas of hardstanding used for vehicle parking. In addition, the proposed parking areas would be softened by some existing and proposed landscaping.
17. The proposed dwellings range in size from 2 to 5 bedrooms and the scale of these reflects dwellings found in the area. Indeed, the Council has no objection to the appearance or scale of the individual dwellings proposed and I have no reason to disagree.
18. Nevertheless, the Council has expressed concern about the arrangement of dwellings east of the spine road, which it considers would result in unacceptable living conditions for residents of the development and the occupiers of a neighbouring property. As set out below, I have considered these arrangements and found that they would not result in any unacceptable impacts on living conditions. I, therefore, do not share the Council's conclusion that these arrangements are indicative of a poor and cramped layout.
19. The eastern part of the development incorporates a greater number of smaller properties and the sizes of the gardens and amenity areas associated with these reflect this. Although the properties surrounding the appeal site benefit from larger gardens, there is nothing in the submissions before me, which leads me to conclude that the gardens and amenity areas associated with the proposal fall below the Council's current requirements.
20. The proposed layout incorporates the siting of higher density housing to the east of the site, adjacent to the existing built form of the settlement and lower density development adjacent to open countryside. This arrangement reflects the appeal sites transitional position between development and open countryside.
21. Dwellings along the southern boundary have been orientated towards the green aspect of the countryside beyond this boundary, which is a positive

- feature of the layout. Whilst there is a turning head and drive along here, this serves a limited number of properties and is therefore of a modest size and would feature low boundary fencing. Also, this would be largely screened by the retained landscaping buffer which is to be augmented with new planting.
22. Along the western boundary, the existing hedgerow is to be retained to provide a strong landscaped and verdant boundary which also respects the site's location in bordering the countryside. Together, these landscape buffers would provide considerable screening of the development when viewed from outside of the site.
23. The proposed public open space ('POS') includes an area located centrally within the site which is to incorporate a locally equipped area for play. This would be adjacent to the spine road and therefore easily accessible from the existing development and the land to the west. The layout also allows active surveillance of this area of POS. There would also be areas of grassland around the attenuation basin towards the north-east corner of the site. The retained hedgerows and trees along the boundaries of the site would offer additional amenity and ecological benefits.
24. The signed Unilateral Undertaking ('UU') dated 17 January 2023, includes financial contributions for the provision of casual/informal play space and natural green space at Tweed River Park. Such provision would also enhance the existing open space in the vicinity of the site.
25. To facilitate connectivity between the proposed development and the existing settlement, a footpath link via Powers Road is proposed. Whilst this would be adjacent to parking areas, it would be short and provides direct access to the spine road. Furthermore, there would be landscaping adjacent to this link and it would be afforded surveillance from the dwellings at plots 22 and 26-30. The footpath along the spine road via Hinckley Road would also allow pedestrian access between the existing and proposed developments.
26. A new footpath is shown leading to the land west of the appeal site. This would be centrally located and adjacent to the proposed area of POS, making this attractive and easily accessible via the spine road. The new footpaths and pedestrian link would also be inter-linked via the spine road. The proposed layout also allows for a potential link to the Tweed River Park.
27. Consequently, the level and quality of connectivity associated with the appeal site and neighbouring land would be acceptable and sufficient to promote walking. This would allow residents of the surrounding area to access the proposed POS and the occupiers of the new development to access services and facilities in Barwell.
28. Drawing on the above reasons, the proposed development accounts for site-specific constraints and opportunities, whilst also responding to the site's immediate context in terms of character, density and scale. It also retains key landscape features and provides the required amenity and POS for existing and new residents.
29. In part, the development would also create its own character. This includes landscaped boundaries to the development, the creation of small private drives using shared surfaces for vehicular and pedestrian access, house types which incorporate dual aspects to address corners and landscaping within the

development which would be complemented by the POS. These, along with the accessibility to new POS and improvements to the existing park would enhance the character of the area.

30. For the above reasons, the proposal would not harm the character and appearance of the area. Consequently, I find no conflict with Policy DM10 of the Council's Site Allocations and Development Management Policies DPD (SADMP) which amongst other things requires that a development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials.

Living conditions occupiers

31. Given the Council's concerns about loss of privacy between the side elevation of plot 22 and plots 24 and 25, the appellant has provided a revised house type for Plot 22. This incorporates a blank elevation to plots 24 and 25 and safeguards against loss of privacy. To address similar concerns arising between plots 33 and 34. The house type for plot 34 has also been revised.
32. A side facing first floor window serving a bedroom at plot 26 would face towards two small secondary kitchen windows at plots 27 and 28. Because of the separation achieved (about 15m) and the small sizes of the kitchen windows, this arrangement would not result in any significant loss of privacy between these dwellings or unacceptable overlooking of the rear garden of plot 26.
33. Whilst the proposed separation between plots 39 and 40 would be about 5m, because of the orientation of plot 39 the majority of the habitable windows to this plot either face out onto the street (front) the adjacent private drive (side) or garden (rear). As such, the outlook from Plot 39 would be satisfactory.
34. Although Plot 39 incorporates a blank side elevation this would face a private parking area. Whilst Plot 38 also incorporates a blank elevation, this, however, would be in part screened by Plot 39, which would also provide some surveillance of the private parking area adjacent to plot 38.
35. The mainly blank side elevation of plot 41 is about 4m from the windows in the rear elevation of plot 42. One of these is a secondary bedroom window and the other serves an ensuite and would be obscure glazed. Therefore, this arrangement would not result in any unacceptable impact on the outlook from plot 42. Accordingly, a similar arrangement between plots 50 and 51 would also be acceptable.
36. There is nothing to suggest that any of the above arrangements fall short of the Council's space standards. Therefore, I am satisfied that the proposed arrangements would not compromise the living conditions of residents with regard to unacceptable impacts on outlook and privacy. As such, the proposal accords with Policy DM10 of the SADMP, which along with other matters requires that developments do not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.

Living conditions (neighbours)

37. The proposed scheme includes the siting of a detached house with a double garage (Plot 21) to the side of 13 Powers Road (No 13). The latter is a semi-detached dwelling with a garage/outbuilding to the side, located adjacent

to the eastern boundary of the appeal site. The front and rear windows of this dwelling provide the main outlook from it. Because of this and its orientation, the outlook from the rear of No 13 is mainly towards its rear garden and the countryside beyond.

38. The only proposed first floor window for the new dwelling which faces No 13 serves an ensuite. Although this window would be obscure glazed, the design of this as shown on the drawing for 'house type H' could potentially cause overlooking. To this end, a condition requiring the specific design for this window would be necessary if the scheme is allowed. Subject to this, the new dwelling would not result in any unacceptable overlooking of No 13.
39. The proposed dwelling at Plot 21 would be set back from the side boundary of No 13 and broadly adjacent to the top half of the rear garden of this property. Furthermore, the taller, 2-storey element of the proposed dwelling would only extend part way along the side of the garden of No 13 and, in part, would be screened by existing boundary treatments. Based on this arrangement, whilst the dwelling at Plot 21 would be visible from No 13, the siting and scale of the dwelling at Plot 21 would not introduce a degree of enclosure, whereby this would be unacceptably dominant or oppressive in views from No 13.
40. For the above reasons, the proposal would not result in any unacceptable harm to the living conditions of the occupiers of No 13 and accords with Policy DM10 of the SADMP and its requirements to safeguard the living conditions of the occupiers of adjacent buildings.

Protected species and biodiversity

41. The submitted Ecological Impact Assessment ('EIA') dated, May 2021 provides the results of ecological surveys including relevant protected species surveys completed prior to submission of the planning application. The results of these surveys confirm that the presence of protected species was not a statutory ecological constraint to the development, subject to recommendations for precautionary measures. As such, and based on the discussions at the Hearing, the reference to protected species in the Council's reason for refusal was an oversight.
42. The appellants additional botanical survey for the appeal site undertaken in July 2021, assessing the quality of the grassland against the Local Wildlife Site ('LWS') selection criteria, confirms that the grassland does not have the necessary abundance of grassland indicator species required to meet the LWS selection criteria. In addition, the Biodiversity Net Gain Assessment for the proposal concluded that the proposal would result in a net loss to biodiversity of -2.15 habitat units but there would be a net gain of 1.08 hedgerow units.
43. Because the site does not provide a net gain to biodiversity and in the absence of Council having any secured or registered offsite receptors, the appellant has identified an offsite receptor to compensate for the residual effects arising from development.
44. An updated metric assessment increased the condition assessment applied to the grassland in the development site to 'moderate' (as requested by the County Council Ecologist) and confirmed following enhancement the habitat

units provided on the receptor site provided an overall net gain of 0.11 habitat units (or a net gain of 1.17%)¹.

45. At the Hearing, the main parties agreed that the provision of the receptor site and the delivery of the mitigation scheme, could be secured by a planning condition, if the appeal were to succeed. Because considerable work has been undertaken to identify and survey the receptor site, there is some certainty of this being secured and this matter can be dealt with by a condition. Subject to this and other conditions relating to the safeguarding and management of areas of ecological significance on-site, I am satisfied that the proposal would not harm protected species and that an enhancement in habitats and biodiversity can be achieved.
46. Accordingly, I find no conflict with Policy DM6 of the SADMP which in summary requires that major developments must include measures to deliver biodiversity gains. That on site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term. Also, that the removal or damage of such features shall only be acceptable where it can be demonstrated the proposal will result in no net loss of biodiversity and where the integrity of local ecological networks can be secured.

Provision for affordable housing and other infrastructure and facilities

47. Policy 15 of the CS requires residential development in urban areas to provide 20% affordable housing with a tenure split of 75% social rented and 25% intermediate housing. The completed UU includes a covenant agreeing that the proposed affordable housing would be provided in accordance with the Borough's housing allocation policy.
48. Policy DM3 of the SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities.
49. The provision of an additional 51 dwellings in this location will result in an increase in the local population, with subsequent impacts on local infrastructure and facilities. The UU includes the following.
50. A financial contribution towards the provision to meet the requirements of post 16 education arising from the proposal.
51. A financial contribution to ensure that the local waste facilities can continue to maintain the existing level of service and capacity for the residents of the proposed development.
52. A financial contribution needed for library facilities to provide the additional materials required to meet the needs of the increased population.
53. A financial contribution towards addressing the deficiencies in services at Barwell Medical Centre, to cater for the impact on patient demand in the area arising from the proposal.
54. The proposal is predicated on its accessibility to services and facilities in Barwell. Therefore, residents of the development would benefit from the use

¹ Technical Note – Land at Crabtree Farm Hinckley Road Barwell Leicestershire produced by FPCR on 17 August 2022.

and impact on the public realm in Barwell. As such, a financial contribution towards improvements of the public realm in Barwell is included.

55. Policy 19 of the CS requires developments to provide on-site open space. The requirements are calculated using an average household size of 2.4 based upon the Census 2011 data for Hinckley and Bosworth Borough. The requirements of open space per dwelling are set out on page 225 of the Open Space and Recreation Study October 2016. These include a number of open space typologies, per dwelling.
56. The UU includes the provision of POS in line with the Council's requirements. The UU also includes obligations to secure the delivery and future maintenance and management of this. In lieu of the lack of on-site provision for other open space typologies, the UU includes financial contributions for the provision and maintenance of offsite casual/informal play space, natural green space and outdoor sports provision.
57. The UU also allows for a sum to be paid in respect of the cost of monitoring the planning obligations.
58. Although the Council initially identified the requirement for obligations to secure a Skills Development package and contribution towards Indoor Sports and Leisure Facilities, these have not been pursued because the former was not secured in relation to a previous approval for residential development at the appeal site, and the Council currently lacks an appropriate project to which it can allocate an Indoor Sports contribution. Therefore, I have no strong reason to consider these to be necessary to make the development acceptable.
59. Nevertheless, for the above reasons and having regard to the evidence before me, in particular the Community Infrastructure Levy Compliance Statements provided by the Council and Leicestershire County Council, it has been demonstrated that the obligations in the submitted UU are necessary in order to make the development acceptable in planning terms, directly related to the development, and reasonable in scale and kind. They accord with the tests that are set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations (as amended). I have taken these obligations into account in determining the appeal.
60. Third parties have raised concerns about the lack of infrastructure capacity and facilities in the area to meet the requirements of the proposed housing. However, the requirements arising from the proposal, have been assessed by the Borough Council and Leicestershire County Council and the submitted UU makes provision for these.
61. Therefore, the proposal makes appropriate provision for affordable housing, infrastructure, and community facilities which are necessary to make the development acceptable in planning terms and accords with the above-mentioned policies.

Other Matters

62. In addition to the above matters, third parties have raised a number of concerns, in particular, relating to flooding and drainage and highway safety. These matters were addressed as part of the Council's appeal submission and the conclusions were that based on the appellant's technical submissions, consultee responses and suggested conditions, the proposal raises no

unacceptable issues in respect of these matters. I have also considered these matters in light of the evidence before me and have no strong reasons to conclude otherwise.

63. The appeal site does not include the land previously identified for use as a burial ground. Even so, whilst I note the concerns raised in respect of the limited burial space in the area, it is not part of the Council's case that the appeal site should not be developed in favour of its use as a burial ground. Therefore, any requirement for burial space is not a sufficient reason to withhold planning permission for the proposed development.
64. In the absence of any strong technical evidence, I am not persuaded that the existing sewer capacity is insufficient to meet the demands arising from the proposal.
65. Despite their being new and planned developments in the area which are to deliver considerable new housing, the Council cannot demonstrate a 5-year housing land supply. Therefore, these developments do not weigh against the proposal, which I have found to be acceptable with regard to the development plan.
66. The Council has made comparisons between the previously approved residential development at the appeal site and the scheme before me. Whilst the approved scheme is a consideration in the determination of this appeal, I have determined the proposal before me on its merits.

Conditions

67. Possible suggested conditions were discussed at the Hearing, on a without prejudice basis. In the light of the related advice in the National Planning Policy Framework and the Government's Planning Practice Guidance, I have proposed the standard timescale condition for the implementation of the permission and a condition specifying the relevant plans and drawings as this provides certainty.
68. The submitted Archaeological Evaluation Report: Trial Trenching on land at Crabtree Farm, Barwell Leicestershire suggests a negligible archaeological potential for much of the site, but a focus of possible activity has been identified in the north eastern part of the site, around Trenches 6 and 7, potentially dating to the Anglo-Saxon to medieval periods. Therefore, I have specified a condition requiring an archaeological programme of works.
69. Whilst some information on materials is provided, this lacks sufficient detail. Therefore, in the interest of the appearance of the development, I have specified conditions requiring details of the external facing materials and finishes, including those for roads, drives and parking areas, street furniture and hard landscaping. I have also specified a condition requiring details of land levels and finished floor levels. This is necessary in the interests of the appearance of the area and the living conditions of neighbours.
70. Conditions securing submission of and compliance with an Arboricultural Method Statement, the provision of the submitted landscaping scheme, which I have found to be acceptable and the future maintenance of this are necessary in the interests of protecting landscaping, biodiversity and safeguarding the appearance of the area.

71. To safeguard site operatives and occupants of the development, it is reasonable to require the remediation of the appeal site in accordance with the ground investigations already undertaken and to deal with any unanticipated on-site contamination.
72. Conditions requiring the timely construction of the site access road and internal roads, including the design of private access drives and the provision of vehicle parking, turning areas, along with the requirement for pedestrian and vehicular visibility splays are necessary to ensure accessibility and safety of highway users.
73. Conditions requiring the closure of the existing access to the development site off Hinckley Road and a Construction Traffic Management Plan are necessary in the interests of highway safety.
74. To ensure that the living conditions of neighbours are not adversely affected by the construction activity associated with the development, it is necessary to require a Construction Environmental Management Plan by a condition. For the same reason, I have imposed a condition controlling the days and hours of site preparation construction activity.
75. I have specified conditions requiring infiltration testing, along with specific details for the design and provision of surface water drainage system. A condition is also necessary for the future maintenance of this. I have also specified a condition in relation to the surface water management of the development site during construction. These are all necessary in the interests of securing satisfactory drainage of the site and managing flood risk.
76. In the interests of safeguarding protected species and to enhance biodiversity, I have imposed a condition requiring that the development be carried out in accordance with recommended mitigation measures contained in the submitted ecological survey. This duplicates the requirements of the Council's suggested condition for a Construction Environmental Management Plan (Ecology). As such, the latter is not necessary. Also, to protect and enhance biodiversity, it is necessary to require a Biodiversity Net Gain (BNG) Plan and Landscape and Ecological Mitigation Plan (LEMP). The mechanism for securing the LEMP is the condition itself. Therefore, the Council's additional requirements for the legal and funding mechanism for the LEMP is not necessary.
77. The appellant has suggested that the trigger for the condition requiring a BNG Plan should be prior to the occupation of the development instead of its commencement. As already stated, whilst this can be dealt with by a condition, at the time of the Hearing, the appellant had not legally secured the receptor site which is in separate ownership. Because of this and the requirement of Policy DM6 of the SADMP to deliver biodiversity gains, it is necessary to ensure that the receptor site and BNG Plan are secured prior to the development commencing and my Grampian condition reflects this.
78. For the reasons already given, a condition is necessary in relation to the proposed ensuite window for the dwelling at Plot 21.
79. To ensure essential infrastructure for domestic waste management is provided and accessible, I have specified a condition requiring a scheme of waste and recycling storage and collection.

80. A condition removing permitted development rights for vehicular access gates, barriers, bollards, chains or other such obstructions within 5m of the highway boundary is necessary and justified in the interests of highway safety.
81. A condition relating to external lighting is necessary in the interest of visual amenity and to mitigate disturbance to wildlife.
82. The Council suggested a condition requiring a scheme to remove and relocate or replace the speed cushions on Hinckley Road. As these are outside the appeal site and are due to be re-instated by Leicestershire County Council, I have not been provided with a strong reason why the appellant should undertake these works.
83. I have not imposed the Council's specific condition restricting surface water from draining into the public highway as this would be addressed in the designing of the drainage system and roads. The Council's suggested conditions included a requirement for the access to be completed in accordance with drawing – DWG-03 Rev C. This drawing is not in the evidence before me. In any event Condition 18 addresses this matter.
84. Conditions 3-14 (inclusive) which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

85. For the reasons given above, I conclude that the appeal should be allowed and planning permission granted.

M Aqbal

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and drawings: 2148-03-Location Plan; 2243-03-01 Rev J – Site layout; EML FE 1155 01 REV D – Landscaping Plan – Sheet 1 of 3; EML FE 1155 02 REV D – Landscaping Plan – Sheet 2 of 3; EML FE 1155 03 REV D – Landscaping Plan – Sheet 3 of 3 (for clarification Rev D on all 3 of the landscaping plans is dated 26 September 2002). 2243-TYPE A- Rev A; 2243-TYPE B-01-Rev B; 2243-TYPE B-02-Rev B; 2243-TYPE B-03-Rev B; 2243-TYPE B-04; 2243-TYPE C-Rev A; 2243-TYPE D-Rev B; 2243-TYPE E-Rev A; 2243-TYPE F-Rev B; 2243-TYPE G-Rev A; 2243-TYPE H-Rev C; 2243-TYPE J-01 Rev D; 2243-TYPE J-02; Rev D 2243-TYPE K-01- Rev A; 2243-TYPE L-01-Rev A; 2243-TYPE L-02-Rev A; 2243-TYPE M; 2243-TYPE N; 2243-TYPE P – Rev A; 2243/30/Garage-01 and 2243/31/Garage-02.
3. No development, including groundworks or preparatory work shall take place until a programme of archaeological work, including a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority. The WSI shall:
 - include the statement of significance and research objectives, and
 - a programme and methodology of site investigation, and
 - recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
 - A programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material.

Thereafter on land that is included within the WSI, no development shall take place other than in accordance with the approved WSI. This condition shall not be fully discharged until the approved WSI has been fulfilled in accordance with the programme set out in the WSI.

4. Prior to the commencement of the development hereby permitted, a surface water drainage scheme based on sustainable drainage principles shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved surface water drainage scheme.
5. Prior to the commencement of the development hereby permitted, a scheme of surface water management to manage surface water on site during the construction of the development shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved scheme.
6. Prior to the commencement of the development hereby permitted, details of infiltration testing results (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element shall be submitted to and approved in writing by the local planning authority.

7. Prior to the commencement of the development hereby permitted, a Construction Traffic Management Plan (CTMP) which shall include details of the routing of construction traffic, wheel cleaning facilities, vehicle parking facilities, and a timetable for their provision, shall be submitted to and approved in writing by the local planning authority. Thereafter, the construction of the development shall be carried out in accordance with the approved CTMP.
8. Prior to the commencement of the development hereby permitted, a site wide scheme for waste and recycling storage and collection shall be submitted to and approved in writing by the local planning authority. The scheme shall provide details of accessibility to waste and recycle storage facilities and demonstrate that adequate space is provided at the adopted highway boundary to store and service wheeled containers, along with a timescale for the implementation scheme. Thereafter, the scheme for waste and recycling storage and collection shall be implemented in accordance with approved details and timescale.
9. Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the local planning authority. The CEMP shall detail how, during the site preparation and construction phase of the development, the impact on residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The CEMP shall also detail how such controls will be monitored and provide a procedure for the investigation of complaints. Thereafter, the development shall be carried out in accordance with the approved CEMP.
10. Prior to the commencement of the development hereby approved. A landscape and ecological management plan (LEMP) for the development site shall be submitted to and approved in writing by, the local planning authority. The LEMP shall include the following.
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The plan shall also set out (where results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. Thereafter, the LEMP will be implemented in accordance with the approved details.

11. Prior to the commencement of the development hereby permitted, a Biodiversity Net Gain Plan ('the BNG Plan') shall be submitted to and approved in writing by the local planning authority. The BNG Plan shall be based on the Biodiversity Net Gain metric spreadsheet completed by Phillipa Mahalski (30/03/2020) and shall provide a minimum of 1% net gain on the reported baseline habitat loss. The BNG Plan shall include the following details:
 - a) Location plan of the areas to be used for Biodiversity Net Gain.
 - b) Description of existing habitats on site.
 - c) Description of planned habitat creation/enhancement, including species to be planted/sown.
 - d) Timetable for implementation of habitat creation/enhancement.
 - e) Habitat management and monitoring plan including timetable for management routines and reviews, and strategy for any remedial measures, if and when required.
 - f) Mechanism for securing the implementation of the biodiversity off-setting and its maintenance/management for a period of 30 years in accordance with details approved in the BNG Plan. The BNG Plan shall thereafter be implemented in accordance with the approved details.
12. No development shall take place until an Arboricultural Method Statement for the site, including details of the position, species, size and condition of each existing tree and hedgerow on and adjacent to the site, and identifying those trees and hedgerows to be retained, has first been submitted to and approved in writing by the local planning authority. This shall include full details of measures for the protection of trees and hedgerows to be retained during the course of development. Thereafter, the development shall be carried out in accordance with the approved Arboricultural Method Statement.
13. The development hereby permitted shall not commence until the existing and proposed ground levels and proposed finished floor levels, have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details.
14. No site preparation or construction work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays, public and bank holidays.
15. The approved landscaping scheme (EML FE 1155 01 REV D – Landscaping Plan – Sheet 1 of 3; EML FE 1155 02 REV D – Landscaping Plan – Sheet 2 of 3; EML FE 1155 03 REV D – Landscaping Plan – Sheet 3 of 3) shall be carried out by the developer in the first respective planting and seeding seasons following the occupation of any dwelling or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the landscape planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, and such replacement planting shall be similarly maintained for a five-year period from its planting.
16. Prior to the first occupation of the development hereby permitted, details of the long-term maintenance of the surface water drainage system and

sustainable urban drainage elements shall be submitted to and approved in writing by the local planning authority. The details shall include responsibilities and schedules for routine maintenance, remedial actions and monitoring of the separate elements of the system and should procedures to be implemented in the event of pollution incidents within the development site, Thereafter, the surface water drainage system shall be maintained in accordance with the approved details.

17. The development hereby permitted shall not be occupied until the vehicular visibility splays of 2.4 metres x 59 metres have been provided at the site access along Hinckley Road. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
18. The development hereby permitted shall not be occupied until the site access and site roads, proposed parking and turning facilities have been implemented in accordance with the Site Layout Plan - drawing number 2243-03-01 Rev J. Thereafter, the site access and site roads, parking and turning facilities shall be maintained for their purposes in perpetuity.
19. No dwelling served by a private access drive and any turning spaces associated with it shall be occupied until the private access drive that serves that dwelling has been provided in accordance with Figure DG20 of the Leicestershire Highways Design Guide. The private access drives should be surfaced with a hard bound material (not loose aggregate) for a distance of at least 5m behind the highway boundary and, once provided, shall be so maintained in perpetuity.
20. No part of the development hereby permitted shall be occupied until a 1 metre x 1 metre pedestrian visibility splays have been provided on the highway boundary on both sides of all private accesses with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.
21. Within one month of the vehicular access hereby permitted being brought into use, the existing vehicular access on Hinckley Road that becomes redundant as a result of this proposal shall be closed permanently in accordance with details to be first submitted to and agreed in writing by the local planning authority.
22. Prior to the first occupation of the development hereby permitted, the site remediation shall be undertaken in accordance with the remediation and recommendations of the Land at Crabtree Farm, Barwell (Parcel 1) Phase II Geo-environmental Assessment by Erda Associates Ltd, dated September 2020.
23. If during development, contamination not previously identified is found or suspected to be present at the site, no further development shall take place until a scheme for the investigation of all potential land contamination is submitted to and approved in writing by the local planning authority which shall include details of how the contamination shall be remediated. Thereafter, any remediation works shall be carried out prior to the site first being occupied in accordance with the approved details.

24. The development hereby permitted shall be implemented in accordance with the protection of existing features/species and habitat enhancement and creation measures, detailed in the Biodiversity and Ecological Management Plan report (BWB Consulting, May 2021, ref NTP2073_BEMP).
25. Notwithstanding the approved house type designs and prior to its occupation, the first floor ensuite window along the flank elevation of the dwelling at Plot 21, facing 13 Powers Road shall be fitted with obscured glazing, and any part of the window that is less than 1.7m above the floor of the room in which it is installed shall be non-opening. The window shall be permanently retained in that condition thereafter.
26. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres of the highway boundary.
27. Prior to installation, the details of any external lighting to be provided in association with the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Thereafter, the external lighting shall be installed and operated in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT

David Thornton-Baker	Appellant
Ben Davis	White Ridge Architects
Simon Hawley	Harris Lamb
Keith Lancaster	Gately Legal
Dr Suzanne Mansfield	FPRC

FOR THE LOCAL PLANNING AUTHORITY

Laura Ashton	Hinckley and Bosworth Borough Council.
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THIRD PARTIES

Councillor Michael Gould	Councillor and local resident
Councillor Michelle Nash	Councillor and local resident
Robert Oldham	Local resident

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

1. Copy of signed and completed Unilateral Undertaking, dated 17 January 2023.
2. Hinckley and Bosworth Borough Council CIL Compliance Statement
3. Copy of the approved indicative site layout allowed under appeal reference APP/K2420/W/21/3284379 (Land west of appeal site).