



Appeal Decision

Inquiry held on 12, 13, 14 and 15 September 2023

Site visits made on 11, 13 and 15 September 2023

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 5 October 2023

Appeal Ref: APP/K2420/W/23/3320601

Land at Ashfield Farm, Kirkby Road, Desford LE9 9JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Davidsons Development Limited against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 22/01227/OUT, dated 19 December 2022, was refused by notice dated 28 March 2023.
 - The development proposed is described as, 'outline planning application for residential development of up to 120 dwellings, all matters reserved, except for access'.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 120 dwellings at Land at Ashfield Farm, Kirkby Road, Desford LE9 9JF in accordance with the terms of the application, Ref 22/01227/OUT, dated 19 December 2022 subject to the attached schedule of conditions.

Preliminary Matters

2. I have altered the description of development above to exclude wording that are not acts of development.
3. The application was made in outline with all matters reserved except for access. I have considered the Illustrative Masterplan on an indicative but informative basis.

Main Issues

4. The main issues are:
 - the effect of the proposal on highway safety and the local road network;
 - the living conditions of neighbouring occupiers with regard to noise;
 - the effect of the proposal on the character and appearance of the area; and
 - in the planning balance whether any harm would significantly and demonstrably outweigh the benefits of the scheme.

Reasons

Highway safety and the local road network

5. The site effectively lies at the end of Kirkby Road which continues past the site to the southwest and becomes a single track lane that is unmade in parts and serves farmland.
6. As well as serving the site, Kirkby Road provides access to a network of residential roads and direct access to some dwellings and shops in the centre of Desford to the north east and the primary school.
7. The highway safety concerns of the Council and Desford Parish Council (DPC) relate principally to the effect of the proposal on highway safety in the vicinity of the primary school on Kirkby Road.
8. The footway along the school frontage has a useable width of around 0.5m such that only a single person can walk along it. This results in children and carers walking along the carriageway to access the school at drop off and pick up times.
9. To the south of the school lies a small field with a wooden boundary fence along the Kirkby Road frontage that is owned by DPC. Adjacent to this lies a recreation ground with play area. The recreation ground is grassed up to the edge of the carriageway such that there is no pavement separating the play area from the carriageway.
10. The opposite side of Kirkby Road benefits from 2m wide pavements and the junction with St Martins Drive opposite the school entrance has a wide area at the corners that can accommodate small groups of people. There is tactile paving on either side of St Martins Drive at the junction with Kirkby Road that indicates crossing points for pedestrians accessing the school.
11. Given the narrowness of the pavement along the school frontage, the existing situation presents a risk of collisions between pedestrians and vehicles as pedestrians walk to and from the school as well as between the school and recreation ground. Similarly, the narrowness of the pavement along the school frontage results in parents and carers sometimes meeting in the carriageway outside school. This also results in risk of collision with vehicles.
12. There is limited off street parking available at the school for carers dropping off and collecting children. There is a small car parking area adjacent to the recreation ground. Therefore, carers arriving by car generally park on the street along the kerbside on the north side of Kirkby Road near the school with instances of obstructive parking across driveways and on white lines. This narrows the usable carriageway and restricts visibility for pedestrians crossing the road resulting in further risk of pedestrian-vehicle conflict. As noted by the DPC, an incidence of 'near-miss' was recorded where a child attempted to cross Kirkby Road from between two parked vehicles.
13. Notwithstanding the above, there are a limited number of vehicles approaching the site from the south given the relatively low numbers of dwellings in that direction. In addition, a number of safety measures have been put in place around the school including an advisory 20mph speed limit, signage, road markings, mandatory 'keep clear' markings, dropped kerbs, tactile paving, raised speed tables and bollards at the junction of St Martins Drive with Kirkby

Road. I am also mindful that no personal injury collisions have been recorded on Kirkby Road in the last 8 years.

14. The proposal would add up to around 40 students to the primary school. It is likely that this number of students together with accompanying adults, some with push chairs would walk to and from the appeal site to the school. The proposal would also result in around 74 two-way vehicular trips during the morning peak hour. This would equate to around 1 vehicle per minute during the school peak which is estimated to be around 20 minutes and would be a moderate increase.
15. Children from the development travelling to school in the morning would be likely to use the proposed footway along the north side of Kirkby Road which joins the existing footway. They would then use the existing crossing point at the junction of St Martins Drive with Kirkby Road which benefits from a range of existing safety measures such as bollards and tactile paving. Therefore, although the proposal would result in greater vehicular and foot traffic, there would not be an unacceptable impact on highway safety with respect to this particular journey.
16. As the recreation ground lies between the site and the school, pupils may use the play area before or after school. Children from the development intending to use the play area would be likely to cross the road near the junction of Kirkby Road with Cambridge Drive. The proposal includes a 2m wide footway along the frontage of the recreation ground and crossing points from Cambridge Drive. Therefore, despite the additional foot and vehicular traffic, existing pedestrians and pedestrians from the development would be safer than present with regard to journeys between the site and recreation ground.
17. However, it is likely that the proposal would also add to the numbers of people travelling along the narrow footpath and carriageway between the school and recreation ground. Having observed the activities around the school both during morning drop off and afternoon pick up times on numerous days, I find it is unlikely that children and carers would cross Kirkby Road twice to avoid using the narrow footway. An increase in the number of pedestrians and vehicles arising from the development would increase the number of pedestrians using the carriageway between the school and recreation ground.
18. Therefore, the proposal would increase the existing risk of vehicle-pedestrian conflict along the narrow footway between the school and recreation ground. Accordingly, if the pavement remained at the current width, the proposal would result in an unacceptable impact on highway safety.
19. The Council confirmed that without an additional condition securing a 2m footway along the full distance to the school along the southern side of Kirkby Road, the appeal scheme would, in their view, be contrary to the development plan as a whole.
20. During the Inquiry the Appellant proposed a condition prohibiting the commencement of the development until a scheme is submitted for a continuous 2m footway either along the southern edge of Kirkby Road between the site and the existing access into the school; or to the south of Kirkby Road between the site and school, connecting with a new gated access to the school on the southwestern boundary of the school site.

21. A continuous 2m footway along the southern edge of Kirkby Road between the site and the existing access into the school would allow two people, including parents accompanying their children, to walk side by side between the recreation ground and the main school gate. This option would replace the existing narrow footway.
22. The Leicestershire Design Guide recommends a 3m width for pedestrian only routes outside schools. However, it also recommends 1.2m minimum width past an obstacle. From my observations during the site visit there is a mature tree and a monopole which may encroach into a 1.2m width. However, the tree is not subject of a Tree Preservation Order and arrangements could be made to relocate the monopole.
23. Given the crossing points and other safety measures in the vicinity of the school, I consider that a 2m wide footway along the school frontage would adequately mitigate against the risk of pedestrian-vehicle conflict that would arise as result of the development.
24. The other option provided by the suggested condition is a continuous 2m footway connecting the proposed footway in front of the recreation ground to a new gated access to the school on the southwestern boundary of the school site. This would allow pedestrians from the development to travel along the proposed footpath fronting the recreation ground, then access a new school entrance via the open field without having to use the existing narrow footpath along the school frontage.
25. This option would reduce the number of residents from the development as well as existing pedestrians travelling between the school access and the recreation ground via the narrow footway which would remain unchanged. However, as the section of footway along the school frontage would remain narrow, the risk of pedestrian/vehicle conflict in front of the school would not be fully mitigated. Nonetheless, the risk would be reduced compared with the present situation as I consider the new route would be more attractive to pedestrians travelling between the recreation to the school, and the impact on highway safety would not be unacceptable.
26. Either option in such a condition would require works on land that is not controlled by the appellant. The narrow footway is largely within land controlled by the Highway Authority. However, widening the footway would require works to land within the school. As discussed during the Inquiry, the land within the school is controlled by the freeholder education authority, Leicestershire County Council (LCC), and the school which leases it. The widening of the footway that lies to the front of the field and a route to the southwestern boundary of the school would involve land owned by DPC.
27. The Planning Practice Guidance states that conditions worded in a negative form (a Grampian condition) – ie prohibiting development authorised by the planning permission until a specified action has been taken (such as the provision of supporting infrastructure) should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.
28. The Council and Appellant agree that there is a reasonable prospect that if planning permission is granted then the school will engage and make available a strip of land on the school frontage in order to secure the delivery of a

footway or to agree to a new side gate to facilitate a new pedestrian access to the school.

29. However, schemes for a 2m wide footway across the school frontage and to the southwestern boundary of the school have not been subject to consultation with either the Highway Authority, LCC or the school. Furthermore, the schemes have not been subject to any technical feasibility study or road safety audit. The potential impacts of a 2m wide footway along the school frontage on the mature tree has also not been assessed.
30. Notwithstanding the above, given the existing risk of pedestrian-vehicle conflict that arises from the narrow footway, I cannot find that there is no prospect that the LCC and school would make the land in front of the school available to achieve a wider footway to alleviate the risk of pedestrian-vehicle conflict in front of the school. The imposition of such a condition is therefore reasonable and would meet the tests in the National Planning Policy Framework (2023) (Framework).
31. Turning to the local road network, it is common ground between the Council and Appellant that the proposal would not result in a severe residual cumulative impact on the road network and that the location of the development is a sustainable one. However, DPC consider that the width of footways from the development to the centre of Desford would mean that walking from the development to services and facilities would not be attractive to future occupiers, resulting in greater numbers of vehicles using the local road network and the development would be highly car-dependent.
32. There are instances particularly along High Street where features such as steps project into the footway reducing the usable width. However, from the evidence and my observations during the site visit, these instances are relatively few compared with the overall length of Kirkby Road from the site to the centre of Desford. Moreover, the majority of the length of the road benefits from a 2m wide footway on at least one side of the street. Therefore, the width of footways in Desford would not dissuade future occupiers from walking to services and facilities.
33. The services and facilities in Desford appear to have limited cycle parking spaces. Nonetheless, Kirkby Road provides a direct link from the site to services and facilities in the centre of Desford. In addition, there are shops including a post office on St Martins Drive that could be accessed either by walking or cycling through the site or via Cambridge Drive.
34. Although there were no personal injury collisions on Kirkby Road itself, collisions were recorded in the Appellant's Transport Assessment involving a number of vulnerable road users. A small number of these were on High Street with others a greater distance from the appeal site. Given the small number of accidents recorded and the distance from the appeal site, albeit this includes one fatal accident, it is unlikely that this issue would dissuade future occupiers from accessing services and facilities by bicycle.
35. The services and facilities are generally at the further end of the 800m guidance for distances that people would be likely to walk. However, they are nonetheless within that distance and accessible via fairly direct routes. A new footpath to a development at Griffen Park that is under construction was discussed at the Inquiry. However, details of the surface treatment are

unknown and it is therefore unclear whether future occupiers of the proposal would use the footpath for access to this employment site. Notwithstanding this, as other services and facilities would be accessible by foot or bicycle, the site is in a sustainable location in this respect.

36. I note the capacity issues experienced by the primary school, secondary school and medical centre. However, a signed and dated S106 agreement (the S106) has been submitted which requires, among other things, financial contributions to be paid to LCC towards the improvement/remodelling or enhancement of educational facilities at Desford Primary School, Dorothy Goodman School and Bosworth Academy. The S106 also requires a financial contribution to be paid to the Council for the provision and/or improvement of facilities at the Desford Surgery.
37. I acknowledge that there may be initial pressures on these facilities arising from the development, and some future occupiers may travel further by car to access such facilities. However, given the financial contributions that would be secured by the S106 agreement, the proposal in the long term would not result in a significant increase in vehicular traffic for these purposes.
38. I note evidence from DPC that development in the east of the village would be far less impacting in traffic terms. However, the suitability of an alternative location in the east of the village is not a matter for me to assess.
39. In any event, given the close proximity of the primary school to the site and that services and facilities are within walking and cycling distance of the site, I find that the site lies in a sustainable location with respect to services and facilities. Accordingly, the proposal would not result in severe residual cumulative impacts on the road network or result in undue reliance on private motorised transport.
40. Consequently, the proposed development would not have an unacceptable impact on highway safety and would not have a severe residual cumulative impact on the local road network and would not result in undue reliance on private motorised transport. Therefore, it would not conflict with Policies DM10 and DM17 of the Site Allocations and Development Management Policies DPD Local Plan 2006 - 2026 Adopted July 2016 (SADMP), Policy T1 of the Desford Neighbourhood Plan 2018-2036 Made May 2021 (DNP) and the requirements of Paragraph 111 of the Framework.

Living conditions

41. The proposal would increase the number of vehicles arriving and leaving the site. As such, there would be an increase of noise resulting from the movement of vehicles along Kirkby Road. The Noise Assessment September 2019 identifies the measured noise levels approximately 5m from Kirkby Road and suggests mitigation measures for the proposed dwellings as recommended noise levels would be exceeded at the site in areas near Kirkby Road.
42. As there are existing properties facing Kirkby Road, it is likely that neighbouring occupiers would experience higher noise levels than existing and higher than the levels recommended by BS8223:2014. However, this standard relates to new dwellings and is therefore not strictly relevant in this case. In any event, it is likely, given that the area is not a tranquil one and that vehicles travel slowly along Kirkby Road, that the noise levels resulting from the

additional traffic generated by the development would not be significant as required by SADMP Policy DM10.

43. Consequently, the proposal would not result in a significant impact on the living conditions of neighbouring occupiers with regard to noise. Therefore, the proposal would not conflict with SADMP Policy DM10 which seeks, among other things, development that would not have a significant adverse effect on the amenity of nearby residents including matters of noise.

Character and appearance

44. The site lies at the edge of Desford and consists of an agricultural field with some trees and hedges at the periphery. The scheme would introduce up to 120 dwellings, driveways and residential gardens that would urbanise the site and adversely affect the spacious semi-rural character of the area.
45. SADMP Policy DM4 states that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. It then sets out a number of circumstances where development in the countryside will be considered sustainable. As the circumstances do not include market or affordable housing, the proposal would conflict with this Policy.
46. Consequently, the proposed development would harm the character and appearance of the area. Therefore, it would conflict with SADMP Policy DM4.
47. However, since the site is bound on two sides by existing development and that there would be limited long range views of the scheme, any harm in this respect would be limited and localised.

Planning balance

48. The Council are unable to demonstrate a five year housing land supply. As stated in the Statement of Common Ground, the supply lies in the region of 4.7 years and I have no reason to disagree. In accordance with the Framework, the policies which are most important for determining the application are therefore out-of-date. Consequently, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (the 'tilted balance').
49. Paragraph 14 of the Framework states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided that all of a number of circumstances apply. These include where the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made.
50. It is the case that, had a decision been made prior to May 2023, the provisions of paragraph 14 of the Framework would have been engaged that could have altered the planning balance of the consideration of this scheme.
51. I note the evidence regarding Government consultations on a revised Framework that may include altering paragraph 14 to include neighbourhood plans that became part of the development plan five years or less before the

date on which the decision is made. However, as such a revised Framework has not been published, I can attach no weight to this matter as a material consideration. In any event, as the DNP was made in May 2021 paragraph 14 is not relevant to this appeal.

52. DNP Policy H3 includes the site as one of two reserve sites. The policy states that planning applications for residential development on one or both of these sites will be supported (and to the extent necessary) by the replacement Local Plan. In the event of only one site being needed, planning permission will be supported of the site that, having considered applicable plan policies and other material considerations at the relevant time is more appropriate. In the event of no replacement Local Plan being in place by 31st December 2022, the matter should be determined on the evidence available at the time.
53. The supporting text to the Policy states that two reserved sites adjacent to the settlement boundary are allocated so that one or both of them will come forward if required during the Plan period should a need for further housing in the parish arise.
54. In the absence of a housing requirement figure for the neighbourhood area, the Desford Needs Assessment (DNA) was commissioned by DPC which indicates that there is a need for new dwellings in Desford. It identifies an overall Housing Need Figure of some 265 dwellings. When accounting for housing commitments and an appropriate windfall allowance, the total housing requirement up to 2041 is around 51 dwellings.
55. The proposal would contribute up to 120 dwellings to the housing supply. The scheme would provide more dwellings than the need identified in the DNA. However, since there is no replacement Local Plan in place, there is a Borough-wide shortfall in housing land supply. In addition, the DNA has not been approved by the Council. Therefore, I consider that the release of the site as a Reserve Site in the DNP is justified. The proposal would therefore be in accordance with DNP Policy H3.
56. DNP Policy H1 states that land outside the defined Settlement Boundary will be treated as open countryside, where development will be carefully controlled in line with local and national strategic planning policies. As the proposal would comply with DNP Policy H3, DNP Policy H1 would also be satisfied.
57. As discussed above, the proposal would not conflict with SADMP Policy DM17 or with DNP Policy T1 in terms of highway safety and the local road network. In addition, there would be no conflict with SADMP Policy DM10 in terms of the living conditions of neighbouring occupiers with respect to noise.
58. However, as there would be some harm to the landscape character of the area, the scheme would conflict with SADMP Policy DM4. As the harm would be limited and localised, I attribute limited weight to the conflict with this policy.
59. The DPC considers there to be further harm in terms of the impact on localism and the future of neighbourhood planning. A DNP Review is in preparation. While I recognise the work and dedication of the community in developing the DNP Review, given the early stage of the review and lack of formal consultation of the document as a whole, I attribute very little weight to the DNP Review.

60. The provision of up to 120 dwellings to the local housing supply weighs in favour of the scheme. The proposed market homes would be in excess of the housing requirement for Desford identified in the DNA.
61. The Core Strategy Adopted December 2009 identified a housing requirement for the district of 450 dwellings per annum based on the now revoked East Midlands Regional Strategy rather than on the standard method. There is no evidence to indicate that a new local plan would be submitted for examination in the near future. As such speculation about the requirement to deliver unmet housing requirements from Leicester can be given very little weight.
62. As the housing shortfall is modest and given the number of dwellings proposed, I attach moderate weight to the provision of market homes.
63. The scheme would provide 40% affordable homes. There are currently some 56 households in Desford Parish unable to access affordable rented homes suitable to their needs. A number of other developments in the parish were either completed or under construction at the time of the Inquiry. As such it is possible that the immediate need has been at least partially met.
64. However, the Leicester and Leicestershire Housing and Employment Needs Assessment June 2022 identified a Borough-wide need of around 498 affordable homes a year. As such there is a significant need for affordable housing across the plan period which the proposal would contribute to alleviating. I therefore attribute significant weight to the provision of affordable homes.
65. There would be economic and social benefits from the contribution of future occupiers to the local community and services. There would also be temporary economic benefits during the construction phase. I attach moderate weight to these benefits.
66. A condition was suggested during the Inquiry that would secure a minimum of 25% biodiversity net gain in area habitat value. I see no reason why such a condition would not meet the tests set out in the Framework and attribute moderate weight to this benefit.
67. A number of appeal decisions were submitted by all parties which further their respective cases. However, given the particular circumstances regarding highway safety around the school, and the current housing supply situation, those cases are not directly comparable to this appeal and have not altered my overall decision.
68. Having regard to the 'tilted balance', the localised and limited harm to landscape character would not significantly and demonstrably outweigh the benefits identified above.

Other Matters

69. Local residents have raised a number of other matters. These include concerns regarding the effect of the proposal on local schools, medical practice and on wildlife. Given my findings above, these matters could be dealt with via suitably worded conditions and the S106 legal agreement.

Conditions

70. Conditions specifying time limits and the approved drawings are necessary in the interests of certainty.
71. The conditions relating to an Ecological Constraints and Opportunities Plan, and biodiversity net gain are necessary in the interests of ecology. As biodiversity net gain would be informed by landscaping, it does not need to be a pre-commencement condition. In order to safeguard the living environment of future occupiers, conditions relating to contamination and noise are necessary.
72. Conditions regarding a Construction Environmental Management Plan, hours of site preparation and construction and construction traffic management plan are necessary to safeguard the living conditions of neighbouring occupiers.
73. In the interests of flooding, conditions relating to surface water drainage including infiltration testing and its long-term maintenance are necessary. The conditions regarding access arrangements and off-site works and footpath scheme are necessary for highway safety.
74. In the interests of the character and appearance of the area, a condition regarding the retention of trees and hedges during construction is necessary and the conditions relating to a pedestrian link and a travel plan are necessary in the interests of sustainable travel.
75. The conditions regarding the footpath scheme, Construction Environmental Management Plan and construction traffic management plan are pre-commencement conditions as they are likely to affect the early stages of construction.

Planning Obligation

76. The S106 secures provisions relating to: affordable housing; off site open space contribution; on site open space area; health facilities contribution; monitoring costs; education contribution; library contribution; highway improvements contribution; bus pass contribution and travel packs and waste management contribution.
77. I am satisfied that in each case the obligations meet the three tests set out in Paragraph 57 of the Framework for planning obligations, which reflect those set out in Regulation 122 of the Community Infrastructure Levy (2010). As a result, I have taken the S106 into account.

Conclusion

78. Consequently, there are material considerations to warrant a decision other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

R Sabu

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than [3] years from the date of this permission and shall take place not later than [2] years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) Unless otherwise amended under the conditions below the development hereby permitted shall be carried out in accordance with the following details insofar as they relate to the matter of access:
Site Location Plan P17-1428_08
Access Junction Layout ADC1969-DR-001-P6
Proposed Pedestrian Enhancements ADC1969-DR-002-P5
- 4) Notwithstanding the details provided on drawing ADC1969-DR-002-P5 (Proposed Pedestrian Enhancements), no commencement of the scheme shall be undertaken until a scheme ("the footpath scheme") has been submitted to the local planning authority for either:
 - a. A continuous 2m footway along the southern edge of Kirkby Road between the appeal site and the existing access into Desford Community Primary School; or
 - b. A continuous 2m footway/footpath to the south of Kirkby Road between the appeal site and Desford Community Primary School, connecting with a new gated access to the school on the south-western boundary of the school site.No part of the development hereby permitted shall be occupied until such time as the footpath scheme has been approved and has been implemented in full.
- 5) With or before the submission of Reserved Matters an Ecological Constraints and Opportunities Plan (ECOP) shall be submitted to and approved in writing by the local planning authority. The ECOP should identify the following, in accordance with BS 42020:2013 Clause 5.4:
 - Areas and features including appropriate buffer areas that, by virtue of their importance, should be retained and avoided by both construction activities and the overall footprint of the development.
 - Areas and features where opportunities exist to undertake necessary mitigation and compensation.
 - Areas and features with potential for biodiversity enhancement, in line with the submitted Defra metric.
 - Areas where ongoing ecological management is required to prevent deterioration in condition during construction/implementation.
 - Areas needing protection on site and/or in adjacent areas (e.g. from physical damage on site or pollution downstream) during the construction process.

- Areas where biosecurity measures are necessary to manage the risk of spreading pathogens or non-native invasive species.

The development hereby permitted shall be carried out in accordance with the approved details and in accordance with any approved timeframes.

- 6) With or before the submission of Reserved Matters a scheme that demonstrates a Biodiversity Metric 3.1 calculation achieving a minimum 25% net gain in area habitat value shall be submitted to and agreed in writing by the local planning authority. The approved scheme shall be implemented in accordance with the agreed details.
- 7) Development shall not begin until a scheme for protecting the proposed dwellings from noise from the nearby road network has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.
- 8) Prior to commencement of development a Construction Environmental Management Plan shall be submitted to and agreed in writing by the LPA. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination and include details in relation to the management of surface water on site during construction. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development.
- 9) With or before the submission of Reserved Matters a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include evidence to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element. The development must be carried out in accordance with these approved details and completed prior to first occupation.
- 10) No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
- 11) With or before the submission of Reserved Matters a scheme for the investigation of any potential land contamination on the site has been submitted in writing to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.
- 12) If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected

- contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied.
- 13) No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.
 - 14) No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on ADC drawing number ADC1969-DR001-P6 have been implemented in full.
 - 15) No part of the development shall be occupied until such time as the offsite works shown on ADC drawing number ADC1969-DR-002 Rev P5 have been implemented in full.
 - 16) Site preparation and construction shall be limited to the following hours;
 - Monday - Friday 07:30 - 18:00
 - Saturday 08:00 - 13:00
 - No working on Sundays and Bank Holidays
 - 17) During the construction period, none of the trees or hedges indicated to be retained in the Tree Retention Plan 9140-T-02 Rev A shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as maybe specified in writing by the Local Planning Authority.
 - 18) Any reserved matters relating to layout and landscaping shall include detail of a pedestrian link within the site, adjoining to the north boundary in broad conformity with the illustrative masterplan P17-1428 003 01 Rev G dated 23/02/18.
 - 19) The Travel Plan shall be in accordance with the details contained within reference ADC1969-RP-B (Version 5 dated 24 November 2022). A Travel Plan Co-ordinator shall be appointed from commencement of development until 5 years after first occupation. The Travel Plan Co-ordinator shall be responsible for the implementation of measures in the Travel Plan as well as monitoring and implementation of remedial measures.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Thea Osmund Smith of No5 Chambers Instructed by Gary Lees BA(Hons)
DipTP MRTPI

She called:

David Cummins BEng (Hons) MSc CEng MCIHT MCILT	Founder, ADC Infrastructure (Highways)
Gary Lees BA(Hons) DipTP MRTPI	Executive Director and Chairman of Pegasus Group (Planning)
Mr Hunt	Partner, Howes Percival LLP (S106 roundtable only)

FOR THE LOCAL PLANNING AUTHORITY:

Hugh Richards of Counsel Instructed by Hinckley and Bosworth
Borough Council

He called:

David Roberts, IEng FIHE FCIHT	Managing Director of SCP, Transportation Planners and Infrastructure Designers (Highways)
Jonathan Weekes, BSc (Hons) MA MRTPI	Regional Director at Aitchison Raffety (Planning)

FOR THE RULE 6 PARTY – DESFORD PARISH COUNCIL:

Odette Chalaby of No 5
Chambers Instructed by Andrew Towlerton, BA (Hons), MA
MRTPI

She called:

Ian Taylor, IEng, MICE	Highway Consultant APRICA LTD (Highways)
Gary Kirk, BA (Hons) MA	Managing Director, Yourlocale (Neighbourhood Plan)

INTERESTED PARTIES:

Andrew Norton	Chair of Desford Neighbourhood Plan Committee
Cllr Joyce Crooks	Chair of planning committee at Hinckley and Bosworth Borough Council
Colin Craig	Local resident
Robert Ford	Local resident

DOCUMENTS SUBMITTED AFTER THE OPENING OF THE INQUIRY

- ID1 The appellant's opening submissions.
- ID2 The Council's opening submissions.
- ID3 The Desford Parish Council's opening submissions.
- ID4 List of Appearances for the Appellant
- ID5 Suggested additional conditions
- ID6 Proposed BNG condition
- ID7 List of possible planning conditions
- ID8 Closing statement for Council
- ID9 Closing statement for DPC
- ID10 Closing statement for the Appellant
- ID 11 S106 Planning Agreement dated 28 September 2023