

# Agenda

<b>Meeting name</b>	<b>Planning Committee</b>
<b>Date</b>	<b>Thursday, 6 June 2024</b>
<b>Start time</b>	<b>6.00 pm</b>
<b>Venue</b>	<b>Parkside, Station Approach, Burton Street, Melton Mowbray, Leicestershire, LE13 1GH</b>
<b>Other information</b>	<b>This meeting is open to the public</b>

Members of the Planning Committee are invited to attend the above meeting to consider the following items of business.

**Edd de Coverly**  
**Chief Executive**

## Membership

<b>Councillors</b>	A. Thwaites (Chair)	J. Mason (Vice-Chair)
	P. Allnatt	I. Atherton
	S. Atherton	R. Browne
	P. Cumbers	M. Glancy
	M. Gordon	L. Higgins
	D. Pritchett	

**Quorum:** 6 Councillors

<b>Meeting enquiries</b>	Democratic Services
<b>Email</b>	democracy@melton.gov.uk
<b>Agenda despatched</b>	Wednesday, 29 May 2024

No.	Item	Page No.
1.	<b>APOLOGIES FOR ABSENCE</b>	
2.	<b>MINUTES</b> To confirm the Minutes of the meeting held on 14 May 2024.	1 - 8
3.	<b>DECLARATIONS OF INTEREST</b> Members to declare any interest as appropriate in respect of items to be considered at this meeting.	9 - 10
4.	<b>SCHEDULE OF APPLICATIONS</b>	
4.1	<b>APPLICATION 23/00479/FUL</b> Field OS8695, Brooksby Road, Hoby	11 - 34
5.	<b>URGENT BUSINESS</b> To consider any other business that the Chair considers urgent	

# Minutes

<b>Meeting name</b>	<b>Planning Committee</b>
<b>Date</b>	<b>Tuesday, 14 May 2024</b>
<b>Start time</b>	<b>6.00 pm</b>
<b>Venue</b>	<b>Parkside, Station Approach, Burton Street, Melton Mowbray, Leicestershire, LE13 1GH</b>

## Present:

**Chair** Councillor A. Thwaites (Chair)

**Councillors**

P. Allnatt	I. Atherton
S. Atherton	R. Browne
P. Cumbers	M. Glancy
M. Gordon	L. Higgins
D. Pritchett	M. Brown (Substitute)

**Officers**

Assistant Director for Planning  
Planning Development Manager  
Legal Services Manager  
Planning Officer (MK)  
Planning Officer (HW)  
Senior Democratic Services and Scrutiny Officer  
Democratic Services Officer (SE)

Minute No.	Minute
PL76	<p><b>Apologies for Absence</b></p> <p>An apology for absence was received from Councillor Mason. Councillor Mike Brown was appointed as his substitute.</p>
PL77	<p><b>Minutes</b></p> <p><b>Minute PL73.2 - Application 23/00633/FUL - The Chestnuts, 12 Belvoir Road, Redmile</b></p> <p>An amendment was requested to add the word 'not' into the following sentence:</p> <p><i>The National Planning Policy states that developments should create environments that are safe and accessible and the fear of crime should <b>not</b> undermine the quality of life.</i></p> <p><b>Minute PL73 - Application 21/01318/FUL – Ashby Folville Manor, Gaddesby Lane, Ashby Folville</b></p> <p>A Member raised that their comment had not been included in the Minutes and the comment related to there being a precedent set.</p> <p>The Chair advised as that the application had been refused, there was no precedent set and also each application was judged on its own merits.</p> <p>Subject to the foregoing amendment, the Minutes of the meeting held on 4 April 2024 were approved as a true record.</p>
PL78	<p><b>Declarations of Interest</b></p> <p><b>Application 22/01014/FUL - Land South of Cedarwood, Lag Lane, Thorpe Arnold</b></p> <p>Councillor Ronan Browne declared a personal interest in the above application due to being an acquaintance of the applicant who was also the Chair of the Melton and Syston Conservative Association and as Leader of the Conservative group he had considered the perception of his participation and decided to leave the meeting for this item.</p> <p><b>Application 14/00777/OUT DOV – Land behind 38-48 High Street, Waltham on the Wolds</b></p> <p>Councillor Ronan Browne declared a personal interest in the above application as he worked for a housing association and had had a business relationship with Platform Housing being the applicant for this application. Therefore he advised that he would leave the meeting for this item.</p> <p>It was agreed to change the order of the agenda so that the above two items could be taken together to allow the Councillor to leave the meeting after having taken</p>

part in the other applications on the agenda.

**Application 23/01159/FUL – Land off Ashby Road, Twyford**

Councillor Higgins advised that he had intended to speak as Ward Councillor but had taken advice and had changed his mind on this position and would remain in the meeting and wished to raise some general concerns regarding flooding at a later point.

PL79

**Schedule of Applications**

PL80

**Application 22/00063/FUL**

**Location: Land OS 481195 338112, Castle View Road, Easthorpe**

**Proposal: Change of use of agricultural land to accommodate 2no. gypsy and travellers pitches for a total of 2no. mobile homes, 3no. touring caravans, 1no. utility block, 1no. sewage treatment plant and area of hardstanding**

The Planning Officer (MK) addressed the committee and provided a summary of the application. Following the presentation, Members asked questions for clarification.

Pursuant to Chapter 2, Part 9, Paragraphs 2.8-2.28 of the Council's Constitution in relation the public speaking at Planning Committee, the Chair allowed the following to give a three minute presentation:

Ben Wills, 360 Rural Limited, Objector

In relation to a point raised by the speaker regarding a tenancy agreement, the Legal Services Manager advised that the Planning Team did not have proof of tenancy. However, if there was a tenancy agreement already in place then any decision made would be invalidated.

Members were concerned at the legal position in this case and a deferral was discussed.

Councillor Glancy proposed that the application be deferred for the reasons given below. Councillor Cumbers seconded the motion.

**RESOLVED**

**That the application be deferred for the reasons given below.**

(Unanimous)

**REASONS**

The reasons for deferral were to establish the legality of the tenancy and enable the court judgement to be brought forward as well as the history to the arrangement which may involve a sworn affidavit.

**Application 22/01373/OUT****Location: Land Between 9 And 15 Navigation Close, Melton Mowbray****Proposal: Outline permission sought for a detached dwelling with associated vehicular access (Detailed approval sought for means of access to the site; all other matters reserved for subsequent approval)**

The Planning Officer (MK) addressed the committee and provided a summary of the application. Following the presentation, Members asked questions for clarification.

Pursuant to Chapter 2, Part 9, Paragraphs 2.8-2.28 of the Council's Constitution in relation the public speaking at Planning Committee, the Chair allowed the following to give a three minute presentation:

- Iain Garnell, Agent
- Councillor Sarah Cox, Ward Councillor

During the debate, the following points were raised:

- Members were of the opinion the site would be better retained as community open space
- The original developer had not designated the site as amenity space however residents had used it as such and had planted trees there
- The nearest play area at Vulcan Close was a half mile walk around the road network as there was no cut through
- The application was considered to be an opportunist development
- The Planning Development Manager advised that this land was owned privately by an individual who could fence the land if they wished
- Several policies were considered for refusal
- It was considered that it sent the wrong message for the Council to agree to build a house on this site
- There was concern for protecting the ancient monument on the neighbouring site
- The Committee had strived on all new developments to include green space to enhance the lives of those that lived there so for this green area to be removed was against all those policies
- It was felt that this decision was made more difficult in having to go against the recommendation
- There were other windfall sites that could be developed rather than this one
- The loss of green space, loss of amenity for neighbours, over-intensification of the site, not in-keeping with the area, building on a green area, adverse impact on the area and sense of place, damage to wildlife habitats and loss of wildlife routes were all concerns and listed for reasons for refusal

Councillor Glancy proposed that the application be refused contrary to the officer recommendation. Councillor Allnatt seconded the motion.

## RESOLVED

**That the application be refused for the reasons given below.**

(Unanimous)

## REASONS

In the opinion of the local planning authority, the proposal represents an over-intensification of the site that is not sympathetic to the character of the area, in particular in respect of the impact on the amenity of the neighbouring dwellings and damage to the wider context of the estate, contrary to policy D1 (a) and (c) of the Melton Local Plan. The sense of place within the Navigation Close development would be eroded, and the development does not contribute to the character of the settlement by developing out a green space, contrary to policies EN1 and EN6 of the Melton Local Plan and paragraph 135 of the NPPF. Furthermore, by removing the openness of the site, the contribution that the site makes to the provision of coherent wildlife networks would be removed, causing damage to habitats to the detriment of local wildlife and protected species, contrary to policy EN2 of the Melton Local Plan.

At 8:15pm, the meeting was adjourned for five minutes.

PL82

### **Application 23/01159/FUL**

**Location: Land off Ashby Road, Twyford**

**Proposal: New Barn and sheep pens under cover lairage**

The Planning Officer (HW) addressed the committee and provided a summary of the application. Following the presentation, Members asked questions for clarification.

It was noted that the applicant is a member of staff and therefore the Constitution requires that the application is determined by the Planning Committee.

Pursuant to Chapter 2, Part 9, Paragraphs 2.8-2.28 of the Council's Constitution in relation the public speaking at Planning Committee, the Chair allowed the following to give a three minute presentation:

- Councillor Mick Jones, Twyford & Thorpe Satchville Parish Council

As the meeting was approaching 3 hours in duration, in accordance with the Constitution, there was a proposal to extend the meeting beyond 3 hours. On being taken to the vote it was unanimously carried to continue the meeting.

During debate the following points were raised:

- Members were supportive of the Parish Council's concerns regarding the risk of flooding
- It was stated that for one small barn, the risk of impact on flooding may be

negligible

- The Assistant Director advised this was a very minor development, 400m from Twyford and there was no flood risk as a result
- It was reiterated that the only reason for it being presented to the Committee was due to being a member of staff's application

Councillor Ian Atherton proposed that the recommendation within the report be approved. Councillor Siggy Atherton seconded the motion.

### **RESOLVED**

**That the application be approved subject to conditions detailed in Section 10 of the report.**

(7 for, 3 abstentions, 1 against)

Councillors Cumbers and Higgins requested that their abstentions be recorded.

### **REASONS**

The reasons for approval were as outlined in the report.

Upon the conclusion of this item, Councillor Browne left the meeting due to his interests declared at Minute PL78.

PL83

### **Application 22/01014/FUL**

**Location: Land South Of Cedarwood Lag Lane, Thorpe Arnold**

**Proposal: One replacement dwelling (demolition of existing dwelling), three new dwellings, new access road, public vehicle passing place, turning head and associated highways works**

The Planning Officer (HW) addressed the committee and provided a summary of the application. The Planning Officer advised that two letters in support of the application had been received since the report had been circulated. Following the presentation, Members asked questions for clarification.

Pursuant to Chapter 2, Part 9, Paragraphs 2.8-2.28 of the Council's Constitution in relation the public speaking at Planning Committee, the Chair allowed the following to give a three minute presentation:

- Councillor Chris Gray, Waltham & Thorpe Arnold Parish Council
- Jane Breddy, Objector
- Richard Cooper, HSSP Architects, Agent

Councillor Higgins proposed that the recommendation within the report be approved. Councillor Siggy Atherton seconded the motion.

### **RESOLVED**



	<p><b>That the application be approved subject to planning conditions detailed in Section 10 of the report.</b></p> <p>(Unanimous)</p> <p><b>REASONS</b> The reasons for approval were as outlined in the report.</p>
PL84	<p><b>Application 14/00777/OUT DOV</b> <b>Location: Land behind 38 – 48 High Street, Waltham on the Wolds</b> <b>Proposal: Deed of Variation to Section 106 Agreement</b></p> <p>The Planning Development Manager addressed the committee and provided a summary of the application. Members asked questions for clarification.</p> <p>Pursuant to Chapter 2, Part 9, Paragraphs 2.8-2.28 of the Council's Constitution in relation the public speaking at Planning Committee, the Chair allowed the following to give a three minute presentation:</p> <ul style="list-style-type: none"> <li>• Councillor Chris Gray, Waltham &amp; Thorpe Arnold Parish Council</li> <li>• Val White, Objector</li> </ul> <p>Councillor Ian Atherton proposed that the recommendation within the report be approved. Councillor Siggy Atherton seconded the motion.</p> <p><b>RESOLVED</b></p> <p><b>That the request for a Deed of Variation be AGREED in full:</b></p> <ul style="list-style-type: none"> <li>• <b>Tenure mix agreed in full</b></li> <li>• <b>Nomination provision agreed in full</b></li> <li>• <b>Removal of local connection for Rent to Buy and Shared Ownership units agreed in full</b></li> <li>• <b>Mortgage clause agreed in full</b></li> </ul> <p>(9 For, 0 Against, 1 Abstention)</p> <p>(Councillor Higgins requested that his abstention be recorded.)</p> <p><b>REASONS</b> The reasons for approval were as outlined in the report.</p>
PL85	<p><b>Urgent Business</b> There was no urgent business.</p>

The meeting closed at: 10:14 pm

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## MEMBER INTERESTS

### Do I have an interest?

#### 1 DISCLOSABLE PECUNIARY INTERESTS (DPIs)

A “Disclosable Pecuniary Interest” is any interest described as such in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and includes an interest of yourself, or of your Spouse/Partner (if you are aware of your Partner's interest) that falls within the following categories: Employment, Trade, Profession, Sponsorship, Contracts, Land/Property, Licences, Tenancies and Securities.

A Disclosable Pecuniary Interest is a Registerable Interest. Failure to register a DPI is a criminal offence so register entries should be kept up-to-date.

#### 2 OTHER REGISTERABLE INTERESTS (ORIs)

An “Other Registerable Interest” is a personal interest in any business of your authority which relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority; or
- b) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

#### 3 NON-REGISTRABLE INTERESTS (NRIs)

“Non-Registrable Interests” are those that you are not required to register but need to be disclosed when a matter arises at a meeting which directly relates to your financial interest or wellbeing or a financial interest or wellbeing of a relative or close associate that is not a DPI.

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**In each case above, you should make your declaration at the beginning of the meeting or as soon as you become aware. In any other circumstances, where Members require further advice they should contact the Monitoring Officer or Deputy Monitoring Officer in advance of the meeting.**

# Declarations and Participation in Meetings

## 1 DISCLOSABLE PECUNIARY INTERESTS (DPIs)

- 1.1 Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests which include both the interests of yourself and your partner then:
- a) you must disclose the interest;
  - b) not participate in any discussion or vote on the matter; and
  - c) must not remain in the room unless you have been granted a Dispensation.

## 2 OTHER REGISTERABLE INTERESTS (ORIs)

- 2.1 Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests i.e. relating to a body you may be involved in:
- a) you must disclose the interest
  - b) may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and
  - c) must not remain in the room unless you have been granted a Dispensation.

## 3 NON-REGISTRABLE INTERESTS (NRIs)

- 3.1 Where a matter arises at a meeting, which is not registrable but may become relevant when a particular item arises i.e. interests which relate to you and /or other people you are connected with (e.g. friends, relative or close associates) then:
- a) you must disclose the interest;
  - b) may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and
  - c) must not remain in the room unless you have been granted a Dispensation.

## 4 BIAS

- 4.1 Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias. If you have been involved in an issue in such a manner or to such an extent that the public are likely to perceive you to be biased in your judgement of the public interest (bias):
- a) you should not take part in the decision-making process
  - b) you should state that your position in this matter prohibits you from taking part
  - c) you should leave the room.

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**In each case above, you should make your declaration at the beginning of the meeting or as soon as you become aware. In any other circumstances, where Members require further advice they should contact the Monitoring Officer or Deputy Monitoring Officer in advance of the meeting.**

6 June 2024

Report of: Assistant Director for Planning

### Proposal: 23/00479/FUL One detached dwelling with associated access and landscaping

**Site:** Field OS 8695 Brooksby Road Hobby

**Applicant:** Mr Jack Wilkins

**Planning Officer:** Ms Amy Smith

<b>Report Author:</b>	<b>Amy Smith</b> , Planning Development Officer
<b>Report Author Contact Details:</b>	01664 502417 amysmith@melton.gov.uk
<b>Chief Officer Responsible:</b>	<b>Sarah Legge</b> , Assistant Director for Planning
<b>Chief Officer Contact Details:</b>	01664 502418 slegge@melton.gov.uk

<b>Corporate Priority:</b>	Delivering sustainable and inclusive growth in Melton
<b>Relevant Ward Member(s):</b>	Ronan Browne (Frisby on the Wreake)
<b>Date of consultation with Ward Member(s):</b>	18 April 2024
<b>Exempt Information:</b>	No

#### Reason for Committee Determination:

Letters of objection have been received from more than 10no. households, contrary to the Officer recommendation.

#### Web Link:

<https://pa.melton.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RUWRNBK00HZ00>

#### What 3 words:

<https://what3words.com/ringside.rosette.hugs>

#### Previous committee report:

<https://democracy.melton.gov.uk/ieListDocuments.aspx?CId=134&MIId=1345&Ver=4>

## RECOMMENDATION(S)

1. It is recommended that the Planning Application be APPROVED subject to conditions, as listed in detail at section 10 of this Report.

### 1 Executive Summary



- 1.1 The application seeks full planning permission for the erection of one detached dwellinghouse. The scheme includes associated landscaping and a new vehicular access from Brooksby Road.
- 1.2 The current application has been amended since it was first submitted to omit a proposed second dwellinghouse on land to the south of the site.
- 1.3 The application site is located to the immediate south of the rural settlement of Hoby. The site formerly included a children's play area; the play equipment is no longer on the site and the site is no longer in use for public recreation. Public Right of Way ref. H58/b runs along the southern boundary through the site east-west.
- 1.4 The site was subject to a refused planning permission in May 2022 for two dwellings, on the grounds of being located outside of the settlement within open countryside, and its design.

- 1.5 The decision was subsequently appealed, and the Planning Inspector dismissed the appeal on the grounds that the development would adversely affect the character and appearance of the area contrary to Policy D1 of the Melton Local Plan and Policy 1 of the Hoby with Rotherby Neighbourhood Plan.
- 1.6 Whilst the overall decision was to dismiss the appeal (i.e. refuse planning permission), as set out within the appeal decision the Inspector considered the application site to be an appropriate location for development in accordance with Policy 14 of the Hoby with Rotherby Neighbourhood Plan. The principle of development is therefore considered acceptable by virtue of this appeal decision for the development subject to this application. Taking into consideration the Inspector's reason for dismissing the recent appeal, the main matter for consideration now is the impact of the proposed development upon the character and landscape of the surrounding area.

## **Main Report**

### **2 The Site**

- 2.1 The application site comprises a 0.1ha greenfield site to the immediate south of the settlement boundary of Hoby. The site was formerly used for recreation including a children's play area, which has now been removed from the site.
- 2.2 Public right of way footpath H58/b is located along the southern boundary of the site, running east to west. The proposed development does not affect the existing route of the footpath.
- 2.3 The boundaries of the site are delineated by timber post and rail fencing. There are various species of trees along the boundaries of the site.
- 2.4 According to the Environment Agency flood maps, the application site is located in Flood Zone 1. Flood Zones 2 and 3 are present approximately 12m to the west and south of the site.
- 2.5 Neighbouring residential properties are situated to the north of the site, and a Severn Trent pumping station is located to the south.

### **3 Planning History**

- 3.1 19/01113/FUL – Planning application for four dwellings and the relocation of a children's play-area – refused and dismissed at appeal.
  - 3.1.1 21/00899/FUL – Two self-build dwellings and relocation of children's play-area (resubmission of planning application ref 19/01113/FUL) – refused and dismissed at appeal.

### **4 Proposal**

- 4.1 The proposed development comprises the erection of one detached, three bedroomed dwelling with attached double garage.
- 4.2 The site would be accessed via a new vehicular access from Brooksby Road.
- 4.3 The proposed dwelling would have a dual pitched, gabled roof, with a ridge height of 7.1m from finished floor level, and eaves to approximately 4m. The attached double garage would have a dual pitched roof, 5.9m to the ridge and 2.2m to the eaves.

- 4.4 A small number of existing trees are proposed to be felled where necessary to ensure a safe and suitable vehicular access into the site, and where appropriate arboricultural management is necessary. Most of the existing trees are proposed to be maintained and are included in the detailed landscape scheme for the proposed development.

## **5 Amendments**

- 5.1 The planning application as originally submitted proposed the erection of two dwellings on the wider site, which included the parcel of land to the direct south of the application site. This land is under the same ownership of the applicant, and the parcels of land would be divided by the Public Right of Way.
- 5.2 Following assessment of the proposed development (including consideration of the appeal decisions), it was considered that this proposal was not acceptable due to the impact of the two dwellinghouses upon the character of the settlement.
- 5.3 The applicant has now amended the proposal to omit the proposed development on the southern parcel of land. The application now refers to the erection of one dwellinghouse on the northern parcel of land only, and the red line boundary on the site location plan has been updated accordingly.

## **6 Planning Policy**

### **6.1 National Policy**

6.2 National Planning Policy Framework (NPPF)

6.3 National Planning Policy Guidance (NPPG)

### **6.4 Melton Local Plan**

6.5 The Melton Local Plan (LP) 2011-2036 was adopted on 10<sup>th</sup> October 2018 and forms part of the Development Plan for the area.

6.6 The Local Plan is up to date and consistent with the latest revised versions of Government Guidance as contained in the National Planning Policy Framework.

- Policy SS2 Development Strategy
- Policy SS3 Sustainable Communities
- Policy C9 Healthy Communities
- Policy EN1 Landscape
- Policy EN2 Biodiversity and Geodiversity
- Policy EN3 The Melton Green Infrastructure Framework
- Policy EN4 Areas of Separation
- Policy EN6 Settlement Character
- Policy EN8 Climate Change
- Policy EN11 Minimising the Risk of Flooding
- Policy EN12 Sustainable Drainage Systems
- Policy IN2 Transport, Accessibility and Parking
- Policy D1 Raising the Standard of Design



## 6.7 **Neighbourhood Plan**

6.8 The Hoby with Rotherby Neighbourhood Plan was made on 23<sup>rd</sup> June 2021 and forms of the Development Plan. As the more 'up to date' policy document, the Neighbourhood Plan takes precedence over non-strategic policies contained within the Local Plan.

- Policy 1 Design of New Development
- Policy 3 Public Rights of Way
- Policy 8 Biodiversity Nature Conservation and the Environment
- Policy 9 Sustainable Transport
- Policy 10 Highway Safety and Capacity
- Policy 13 Community Facilities
- Policy 14 New Residential Development

## 6.9 **Other**

6.10 The Design of Development Supplementary Planning Document (SPD) was adopted on 24 February 2022.

# 7 **Consultation Responses**

## 7.1 **Summary of Technical Consultation Responses**

### 7.1.1 **LCC Highways 8<sup>th</sup> May 2024**

- a) The Local Highway Authority advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other development, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 115 of the National Planning Policy Framework (December 2023), subject to the conditions and/or planning obligations outlined in this report.
- b) Conditions are suggested for the following
  - Access implemented prior to occupation
  - Visibility splays to be provided prior to occupation
  - Parking (and turning facilities) to be implemented prior to occupation
  - Removal of kissing gate at Brooksby Road entrance
  - Footpath to be provided with a 2m wide stoned surface

### 7.1.2 **LCC Ecology 10<sup>th</sup> May 2024**

- a) No further comments to add, however the report referenced in the recommended condition should be revised to reflect the updated version of the ecology report (i.e. JM Ecology, February 2024).

### 7.1.3 LCC Ecology 1<sup>st</sup> August 2023

- a) We have reviewed the Preliminary Ecological Appraisal produced by JM Ecology (May 2023). The report and recommendations are acceptable as the habitats within the area of works are low value, however, the adjacent habitats are of higher value which should be protected.
- b) The following conditions are recommended
  - No development shall take place until a mitigation and enhancement strategy has been submitted to and approved in writing by the LPA.
  - The development hereby approved shall be implemented in strict accordance with the measures stated in the Preliminary Ecological Appraisal report (now JM Ecology, February 2024).

### 7.1.4 Lead Local Flood Authority 22<sup>nd</sup> April 2024

- a) Leicestershire County Council as LLFA advises the LPA that the proposed development is not considered a major application and therefore the LLFA is not a statutory consultee for this application and offers **no comment**. Please refer to the enclosed standing advice.
- b) Advice to the Local Planning Authority
  - Standing Advice – National Planning Policy Framework
  - Standing Advice – Consent
  - Standing Advice – Maintenance
  - Standing Advice – Ground Floor Levels
  - Standing Advice – Overland flow routes
  - Flood Resilient Construction

## 7.2 Summary of Representations

### 7.2.1 Ward Member(s)

- a) No comments received.

### 7.2.2 Parish Council 10<sup>th</sup> May 2024

- a) The Cllrs have looked at this element with regards to the ongoing flooding problem in Hoby. All comments raised in their previous correspondence with MBC on July 15 2023 remain.
- b) Comments received in relation to flooding are as submitted in the previous letter of July 15 2023 (with some minor changes). The additional paragraph and the important and most recent information is contained in section 2.6.
- c) 2.6 – The piece of land where this amended application relates to has flooded three times this winter, the most recent being on April 28 2024 when three other properties were flooded in the village of Hoby from the stream flooding.
- d) The application site was badly flooded and the footprint of the development which is set back from the front of the site was under water.

- e) To build on this site would affect any house built here adversely, and we strongly encourage the case officer to turn the application down on these grounds to avoid an occupant living in a house on the site from being flooded in the future.

### 7.2.3 **Parish Council 15<sup>th</sup> July 2023**

- a) Significant number of communications from residents who are concerned and trouble by this resubmission, as are the Parish Council.
- b) Cllrs oppose this resubmitted third attempt to obtain planning application in the strongest possible terms.
- c) The Parish Council is not against development where it responds well to its setting and the needs of the Parish.
- d) The application is contrary to National Planning Policy specifically paragraph 78 (rural exception), paragraph 80 (isolated homes in the countryside) and paragraph 159 (residential development within areas at high risk from flooding).
- e) The application is contrary to the Melton Local Plan where development is proposed in an unsustainable community and has no proved need, and would not offer infrastructure or services to the wider community. This is contrary to policies SS1, SS2 and SS3.
- f) The application is contrary to and at odds with the NDP. In particular Policy 1 (part), Policy 4, Policy 8 (part), Policy 9 (part), Policy 10 and Policy 14.
- g) Self-Build properties are not part of the NDP and this application has not identified a proven need.
- h) The land relating to this application has not been allocated for housing
- i) We have a 30% increase in the housing stock in the parish over the next couple of years (which is huge for our small parish). There clearly is not the demand.
- j) There is no timetable Bus Service
- k) We will be adding up to 4 more private motor vehicles to the road.
- l) It says nothing in the design about becoming Carbon Neutral.
- m) It does not assist efforts facing our planet and the Climate Emergency.

### 7.2.4 **Neighbours**

7.2.5 38 letters of representation have been received from 16 households, 35 objections, 3 supporting comments and one neutral letter stating no objection.

#### **Objections**

- a) Significant negative effect on flooding in the area
- b) Prudent to await the outcome of the current work on studying the options for flood defence and management being conducted by the Parish Council.
- c) No fundamental change to previous development dismissed at appeal
- d) Highway safety of new access
- e) Increase of traffic
- f) Outside of village envelope

- g) Not in accordance with Neighbourhood Plan
- h) The area should remain as green space
- i) No need for this type of housing
- j) Development would set precedent for future houses
- k) No evidence submitted for self-build
- l) Site prone to effluent from adjacent sewage pumping station
- m) Maintenance of access to the public footpath
- n) Development within designated green wedge
- o) Legal right of access over land to adjacent field
- p) Appearance will spoil entrance into the village

### **Support**

- a) Tasteful development
- b) Development is vital to introduce younger generation to the village
- c) Site is not within a registered flood zone
- d) The site sits within the curtilage of the village
- e) Concerns of villagers are understandable but this development will not impact on their future flood risk - ground works and surface water drainage is all that will be required
- f) Planning Inspector stated the site to be suitable for development
- g) Site is not a protected green area, however the landscaping and planting of trees hedging and wildflowers will enhance local biodiversity and shielded the same as neighbours houses.
- h) Important to support self-build by younger people for whom it is the only affordable way to get on the local property ladder

## **7.3 Response to Consultations and Representations**

- 7.3.1 It is noted that the site has been subject to previous planning applications for residential development, as well as subsequent appeals to the Planning Inspectorate. Whilst each application is considered on its own merits, the relevance of the outcomes of those previous decisions are discussed in the Planning Analysis below.
- 7.3.2 The principle of development and whether it is in accordance with the Development Plan is considered in the Planning Analysis below.
- 7.3.3 The site is located within Flood Zone 1. Other sources of flood risk are considered in the relevant section in the Planning Analysis below.
- 7.3.4 The proposed new vehicular access has been assessed by the Local Highways Authority. The assessment of highway safety and impact of the development upon the highway network is discussed in the relevant section of the Planning Analysis below.

7.3.5 The site is not designated as a Local Green Space in the Development Plan (both the Local Plan and the Neighbourhood Plan). The site is no longer in use for recreational space as the Parish Council's short term lease of the land expired in 2019 and they vacated the site in April 2023. The play equipment has been removed from the site. The site is in private ownership of the applicant and is not publicly accessible, except for the Public Right of Way which runs along the southern boundary of the site.

7.3.6 Private rights of access are not for consideration under the planning system, and should be considered by relevant parties outside of the planning forum.

## **8 Planning Analysis**

### **8.1 Main Considerations**

8.1.1 Principle of Development including previous appeal decisions

8.1.2 Highways Impact

8.1.3 Impact upon the Public Right of Way

8.1.4 Flooding and Drainage

8.1.5 Ecology

8.1.6 Impact on residential amenity

8.1.7 Design and Impact upon the Character of the Area

### **8.2 Principle of Development, including previous appeal decisions**

8.2.1 The application site is located on the edge of the rural settlement of Hoby and is not identified as a site for residential development in the Development Plan.

8.2.2 Policy SS2 of the Melton Local Plan states that rural settlements will accommodate a proportion of the Borough's housing need to support their role in the Borough through planning positively for new homes as 'windfall' sites within and adjoining settlements by 2036. The development should meet the needs and enhance the sustainability of the settlement in accordance with Policy SS3.

8.2.3 Policy SS3 provides the opportunity for small scale development within or on the edge of rural settlements provided it is in keeping with the scale and character of the host settlement, and where it meets an identified local need. It states: "The development provides housing which meets a proven local need as identified by substantive evidence, for example within in a Neighbourhood Plan".

8.2.4 As part of the Neighbourhood Plan process for the Hoby and Rotherby Plan, a housing need survey was undertaken by Midlands Rural Housing (MRH). The survey identified a need for 4 market houses in Hoby with Rotherby Parish, for people with a local connection. It does not specifically identify a need for market housing in Hoby itself.

8.2.5 The Hoby with Rotherby Neighbourhood Plan Policy 14 'New Residential Development' provides a local dimension to Policy SS3 for the Neighbourhood Plan Area. It defines the settlement boundaries for the existing settlements within the Neighbourhood Plan area, including Hoby, and is permissive of new residential development on the edge of Hoby subject to certain criteria being met including its impact upon the character of the area and residential amenity.

- 8.2.6 Consequently, there is a conflict between the Local Plan and Neighbourhood Plan in terms of the principle of development. However, where approved plans are in conflict the most recent plan carries more weight as set out in section 38(5) of the Planning and Compulsory Purchase Act. As the more up to date policy in the Development Plan, Neighbourhood Plan Policy 14, takes precedence in decision-making. It is considered that Policy 14 outweighs the conflict of the development with the Local Plan policies SS2 and SS3.
- 8.2.7 The Planning Inspector for the most recent appeal against the Council's decision to refuse planning permission for two self-build dwellings at the application site (see Appendix 1), made clear that the site would be an appropriate location for new housing in accordance with Neighbourhood Plan Policy 14. For clarity, the appeal was dismissed on grounds of design and impact upon the character of the settlement, and not on the grounds of principle of the development.
- 8.2.8 Neighbourhood Plan Policy 14 supports new residential development within and on the edge of the settlement boundary. The Inspector states in their decision that "whilst beyond the built form and despite the presence of the access road it is apparent to me, that the site has a visual and physical relationship with the village and in my view is located on its edge".
- 8.2.9 Therefore, in the absence of evidence to the contrary, the officer's professional opinion is to agree with the Inspector's opinion that the location of the development accords with the initial provision of Neighbourhood Plan Policy 14, subject to the listed criteria being met.
- 8.3 Highways Impact**
- 8.3.1 Policy IN2 of the Melton Local Plan states that all new development shall provide a safe and suitable access, and appropriate and effective parking provision.
- 8.3.2 Furthermore, Policy 10 of the Neighbourhood Plan states that new development should not lead to an unreasonable increase in the volume of traffic that would compromise highway safety and detract from the rural character of the Parish. The Policy also states that development should include off-street parking provision and where practicable, should incorporate measures to reduce the speed of traffic on local roads.
- 8.3.3 The Highways Authority have confirmed that they are satisfied that a safe and suitable access can be achieved to the site. The proposed access to serve the site would be created from Brooksby Road, and adequate visibility splays of 2.4 x 43m can be achieved.
- 8.3.4 The layout of the proposed development allows for two off-street car parking spaces within the curtilage of the site. The double garage could also allow for an additional two car parking spaces if required. The proposed parking provision accords with the car parking standards as set out in the Leicestershire Highways Design Guide which requires for two off-street car parking spaces for three-bedroom dwellings in rural areas.
- 8.3.5 The proposed development of one three-bedroom house is not considered to generate a significant number of trips which would compromise highway safety or unreasonably increase the volume of traffic in the local area.
- 8.3.6 The proposed development would therefore comply with the provision of Neighbourhood Plan Policy 10, and Melton Local Plan Policy IN2.
- 8.4 Impact upon the Public Right of Way**
- 8.4.1 Public footpath H58/b runs along the southern boundary of the application site.

- 8.4.2 Policy 3 of the Neighbourhood Plan states that development proposals should contribute towards the protection, enhancement and provision of the new public rights of way. This is echoed in Policy EN3 of the Melton Local Plan which seeks for new development to retain and enhance important green infrastructure elements, which includes public rights of way.
- 8.4.3 The proposed development would not impact the alignment, and the use and enjoyment of the footpath by the public would not be significantly affected.
- 8.4.4 Furthermore, the Highways Authority do not object to the proposed development. Two planning conditions [see 10.7 and 10.8 in the relevant section below] are recommended to be attached to a positive decision relating to the removal of the kissing gate at its junction with Brooksby Road, and for the PROW to be resurfaced in an appropriate material prior to the first occupation of the dwelling.
- 8.4.5 The development of one dwellinghouse in close proximity to the public right of way would not significantly impact upon the public's use and enjoyment of the footpath. The footpath will be maintained in its current form, and the development would impact only a short section of the footpath which runs near to the built form of the rural settlement of Hoby; ultimately the enjoyment of the footpath as a whole would be unaffected.
- 8.4.6 Therefore, it is considered that the proposed development accords with Policy EN3 of the Melton Local Plan and Policy 3 of the Neighbourhood Plan.

## 8.5 **Flooding and Drainage**

- 8.5.1 Policy EN11 of the Melton Local Plan aims to locate development on land with the lowest risk of flooding (Flood Zone 1 and outside of surface water flood risk).
- 8.5.2 The scale of the development does not require a flood risk assessment to be provided as it is located within Flood Zone 1, and the site area is less than one hectare.
- 8.5.3 The Lead Local Flood Authority have not provided specific comments on the application as the development is not major in accordance with the Town and Country Planning (Development Management Procedure) Order 2015. They have however referred the decision maker to standing advice.
- 8.5.4 The application site is located approximately 18m from the watercourse to the south-east of the site boundary. Policy EN11 of the Local Plan states that no buildings shall be constructed within 8m of the banks of watercourses to allow for access for maintenance and to provide an ecological corridor. In addition, it stated that proposals should not result in the loss of open water features. The proposed development would not affect the existing watercourse given the distance between the banks of the watercourse and the boundary of the application site. The watercourse itself is not within the application site nor the proposed curtilage of the dwelling.
- 8.5.5 The application site itself is wholly located within Flood Zone 1. Flood Zones 2 and 3 exist to the south and west of the site covering the area of an existing watercourse which runs parallel to the western boundary of the site. Flood Zones 2 and 3 are located approximately 12m from the western and southern boundaries of the application site. Flood Zone 1 is the preferred location for new residential development as it is considered a 'more vulnerable' use.
- 8.5.6 The Environment Agency's Flood Map for Planning does not identify the site as being at risk of flooding in relation to flood event of rivers or the sea.

- 8.5.7 The site is identified as being a medium risk to surface water flooding. The Local Planning Authority have received numerous objections to the proposed development in relation to the recent flood events that have affected land on or adjacent to the application site.
- 8.5.8 With regards to site drainage, Local Plan Policy EN12 'Sustainable Drainage Systems' states: "All developments will be expected to be designed to achieve, where appropriate, a net decrease in surface water run-off rates, including through green infrastructure provision such as the planting of native trees and bushes and the consideration of using 'green roofs'. All developments on greenfield sites will be expected to achieve greenfield run-off rates. All developments will be required to manage surface water through keeping to a minimum the creation of non-permeable areas." Therefore, as a greenfield site, the Applicant should demonstrate that greenfield run-off rates can be achieved. Given the scale of the proposed development it is considered appropriate for this information to be secured via a suggested planning condition [see suggested wording at 10.14 below], with details to be agreed prior to the commencement of development on the site.

## 8.6 Ecology

- 8.6.1 Policy EN2 of the Melton Local Plan proactively seeks to protect and enhance biodiversity, and ecological networks. Policy 8 of the Neighbourhood Plan also states, where practicable, development proposals should promote preservation, restoration and re-creation of Local Wildlife Sites, ecological networks and the protection of priority species recommendations.
- 8.6.2 The site does not have any international or national ecological designations, nor are there any such designations within 1km of the site.
- 8.6.3 The applicant has submitted a Preliminary Ecological Appraisal with the application which confirmed the habitats within the site are of low value. It is noted that sites adjacent to the site are of higher value and should be protected.
- 8.6.4 The County Ecologist has requested that two relevant conditions are attached to a positive decision for a mitigation and enhancement strategy to be submitted and agreed prior to any development commencing, and for the development to be implemented in accordance with the measures stated in the Preliminary Ecological Appraisal.
- 8.6.5 Policy 8 of the Neighbourhood Plan also states that development proposals should demonstrate that there is no unnecessary loss of, or damage to, healthy trees, woodlands or hedgerows. An Arboricultural Impact Assessment is submitted with the application and identifies 10 individual and 4 groups of trees on site. The Assessment confirms two groups of trees will be partially felled [G2 and G3] on the northern and eastern boundaries of the site adjoining Brooksby Road to allow for an opening to create a vehicular access. Both groups of trees are confirmed to have low arboricultural merit and are classified as Category C value; having little arboricultural and landscape benefit. As only part of the groups of trees is to be removed, it is considered the visual amenity of the trees along the northern and eastern boundaries is to be maintained for the benefit to screen and soften the appearance of the development in the wider area.
- 8.6.6 Further to the partial felling of the above groups of trees, it is also proposed to fell tree T2 (common ash) on the western boundary of the site as part of a sound arboricultural management of the existing trees. This tree is classified as Category U, being unsuitable for retention and the felling of the tree is considered not to significantly impact the visual amenity of the character of the surrounding area.



8.6.7 The proposed development is therefore considered to enhance and protect the natural environment where practicable, and is therefore in accordance with Policy EN2 of the Melton Local Plan and Policy 8 of the Neighbourhood Plan.

## 8.7 Impact on residential amenity

8.7.1 Policy D1 of the Melton Local Plan seeks for all new developments to be of a high quality design, and assesses proposals against a range of criteria including the protection of neighbour amenity. Policy 14 of the Neighbourhood Plan also makes specific reference to the impact of new development upon private amenity of adjacent residential properties.

8.7.2 The nearest residential property to the application site is 20 Brooksby Road to the immediate north. The sites' boundaries are separated by the access road to The Croft 22 Brooksby Road to the west of the site, allowing a separation distance of approximately 9 metres between plot boundaries. The layout and orientation of the proposed development means that there is no element of overlooking to 20 Brooksby Road or any other dwelling to the north of the site as there are no windows which are north-facing.

8.7.3 The proposed dwelling is positioned centrally within its plot, resulting in a greater separation distance to neighbouring dwellings to the north and west. The separation distance of rear elevation of the closest residential property, 20 Brooksby Road, to the proposed dwelling is approximately 25m. There would therefore be no element of overshadowing and the development would not result in an overbearing form of development to the detriment of neighbouring amenity. The existing vegetation on the northern boundary of the site and additional planting proposed through the detailed landscape strategy also ensures the development is well-screened from existing development to the west and north.

8.7.4 As such, it is considered the proposed development would have no adverse effect on the amenity of neighbouring properties and is in accordance with Policy D1 of the Melton Local Plan and Policy 14 of the Neighbourhood Plan.

## 8.8 Design and Impact upon the Character of the Area

8.8.1 Policy D1 of the Melton Local Plan seeks for new development to be sympathetic to the character of the area and meet basic urban design principles. Furthermore, Policy EN6 of the Melton Local Plan states that development proposals will be supported where they do not harm open areas which contribute positively to the individual character of the settlement, the setting of historic built form and features including conservation areas, and form a key entrance and/or gateway to a settlement.

8.8.2 The provisions of the above policies are echoed in the more recently adopted Policy 14 of the Neighbourhood Plan. This policy states that new residential development will be supported within and on the edge of Hoby settlement boundary, where a list of criteria are met. The criteria includes;

- Small-scale development of no more than 3 dwellings;
- Scale of the development proportionate to existing development surrounding the site;
- It does not unacceptably harm the appearance of the built character of the settlement;
- It does not unacceptably harm the character and appearance of the surrounding countryside;
- It does not create unacceptable environmental or highway safety problems;

- Sustainable, low carbon design and construction techniques to meet standards for energy and water efficiency;
- It does not cause unacceptable negative impact to private amenity of neighbours;
- Provision of appropriate garden amenity space;
- It does not generate unacceptable flood risk issues in the settlement.

8.8.3 In response to Policy 14, the proposed development seeks for permission for one dwelling only and as discussed above in this report, does not create unacceptable environmental or highway safety problems which cannot be mitigated and controlled by way of planning condition. It is considered the proposal would not result in unacceptable harm to private amenity of neighbouring properties and is appropriately located in Flood Zone 1. The other criteria relating to the impact of the design and appearance of the development and sustainable low carbon construction techniques are considered below.

8.8.4 The Appeal Inspector noted in the recent appeal design that “when approaching Hoby along Brooksby Road, open countryside is the prevailing characteristic of the area. Despite existing development on the eastern side of the road the combination of mature landscaping and green open spaces including the appeal site contribute to the rural character of the surrounding area”. The Inspector raised particular concern of the undue prominence of that development.

8.8.5 The application is supported by a Design and Access Statement which identifies site constraints and opportunities which have led the design approach for the proposed development. The Statement provides an overview of the local context of the settlement and the nearest existing development.

8.8.6 The site is located to the southern edge of the rural settlement of Hoby. Policy EN4 of the Melton Local Plan requires new development proposals to avoid the coalescence of settlements by maintaining the principle of separation between them. In addition, Policy 4 of the Neighbourhood Plan identifies ‘green wedges’ of undeveloped agricultural land to be safeguarded from development between the settlements in the Neighbourhood Plan area. The site lies outside of the identified green wedge between Hoby and the settlements of Brooksby and Rotherby to the south and south-east respectively.

8.8.7 The land within the site is fairly level, and is of a similar level to the group of existing dwellings to the north of the site, set back from Brooksby Road. This built form along the western edge of Brooksby Road, on the approach from the south into Hoby, is characterised by large two-storey detached dwellings, predominantly red-brick in appearance with dual pitched, gabled roofs. The dwellings are set back from the edge of Brooksby Road, in large plots with established hedgerows and mature trees. The eastern edge of Brooksby Road is characterised by open countryside and is in agricultural use.

8.8.8 The proposed dwelling has been designed to be of a similar appearance to the existing dwellings to the north of the site. An illustration of the proposed dwelling submitted by the applicant is provided for reference at Figure 1 below. The dwelling is proposed to be constructed of traditional red-facing brick, with natural slate roof. It would be two storey, with single storey double garage attached to its northern elevation. The property would have three bedrooms. The scale of the proposed dwelling would be consistent with other development in close proximity to the application site. The private amenity space designed and provided within the application site is appropriate for the size and scale of the proposed three bedroom dwelling.



Figure 1 - Visual illustration of the east facing, principal elevation of the proposed dwelling

- 8.8.9 The proposal provides a soft edge to the village and a continuation of the gradual and well-managed transition from countryside to village setting. After raising concerns with the originally submitted scheme, the applicant has amended the proposed scheme from that originally submitted to re-orientate the dwelling on the plot to reduce the impact of the appearance of the built-form upon the character of the open countryside. The siting of the dwelling parallel with Brooksby Road ensures that the appearance of the dwelling is less prominent by setting it well-within the boundaries of the site with the side elevation facing the approach into the village. The principal elevation of the dwelling is set back approximately 12m from the edge of the highway on Brooksby Road.
- 8.8.10 Appendix B of the Neighbourhood Plan states the “villages display soft, green, verdant edges that merge seamlessly with the adjoining rural landscape” with “mature tree planting that tends to dominate and define the skyline of these settlements”. The trees within the application site are located along the site boundaries. The existing boundary hedges would be predominantly retained, other than for those noted at paragraphs 8.6.5 and 8.6.6 above to allow for the creation of the new vehicular access. A detailed landscape proposal has also been submitted which introduces the additional planting of trees and shrubs within the site to screen and soften the appearance of the development. The proposed detailed landscape scheme improves the natural landscape buffer to the edges of the application site, therefore reducing the visual impact bulk and mass of the built form of the development upon the wider setting.
- 8.8.11 In response to Policy EN6, the proposed development is not located within the Hoby Conservation Area nor is it located near to historic features of the settlement or the wider area. The site is situated on the southern edge of the settlement boundary, and whilst the site is currently open, the landscape-led design approach to the proposed scheme demonstrates that the development would provide an attractive entrance into the settlement, creating a soft edge and continuing the gradual and well-managed transition

from countryside to village setting which already exists with the existing residential development to the north of the site.

- 8.8.12 Policy 14 of the Neighbourhood Plan and Policy EN9 of the Local Plan support development proposals where it can be demonstrated that it can provide energy efficient and low carbon development in response to climate change. The Applicant intends to incorporate sustainable low carbon design and construction techniques through the development, which may include use of high-performance insulation, energy efficient glazing in windows, installation of PV panels and electric car charging points. Given the scale of the development, it is reasonable for the specific details of how the proposed development would meet this specific criteria of Policy 14 of the Neighbourhood Plan to be submitted and agreed under a planning condition, prior to the commencement of the development on site. The suggested condition is provided at 10.13 below.
- 8.8.13 For the reasons outlined above it is considered that the scale of the proposed development would be proportionate to the existing development surrounding the site, particularly the existing development to the north. On balance the scheme represents good design in accordance with Local Plan Policies EN6 and D1 and Neighbourhood Plan Policy 1 and would not unacceptably harm the appearance of the built character of Hoby or its rural setting in accordance with Neighbourhood Plan Policy 14.

## 9 Conclusion

- 9.1 The principle of the development at the application site was found to be acceptable in the opinion of the Planning Inspector for the recent appeal ref. APP/Y2430/W/22/3300525, dated 17<sup>th</sup> January 2023.
- 9.2 The appeal was dismissed on the grounds that the development would adversely affect the character and appearance of the area contrary to Policy D1 of the Melton Local Plan and Policy 1 of the Hoby with Rotherby Neighbourhood Plan. It is considered that the current application for the development of one dwelling with detailed soft landscaping proposals, overcomes the previous concerns of development on the site.
- 9.3 The proposed development does not create unacceptable environmental or highway safety problems which cannot be mitigated and controlled by way of planning condition. It is considered the proposal would not result in unacceptable harm to private amenity of neighbouring properties and being located in Flood Zone 1, is an appropriate location for residential development.
- 9.4 The Hoby with Rotherby Neighbourhood Plan is the most up to date document of the Development Plan. The proposed development accords with Policies 1, 3, 8, 10 and 14 of the Neighbourhood Plan, as well as the relevant policies of the Melton Local Plan. It is therefore recommended that planning permission be granted.

## 10 Planning Conditions

- 10.1 The development shall be begun before the expiration of three years from the date of this permission.

**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.

- 10.2 The development hereby permitted shall be carried out in accordance with the following drawings received by the Local Planning Authority on 17<sup>th</sup> April 2024:
- Location Plan 5582/JW/23/001 Revision P3;
  - Proposed Site Plan 5582/JW/23/003 Revision P4
  - Plot 1 – Proposed Plans & Elevations 5582/JW/23/004 Revision P1
- Reason:** For the avoidance of doubt
- 10.3 The development hereby permitted must not proceed above damp-proof course level until details of the type, texture and colour of the materials to be used in the construction of the exterior of the development have been submitted to and approved in writing by the Borough Council. The development shall be carried out in strict accordance with the approved details.
- Reason:** To ensure a satisfactory standard of external appearance.
- 10.4 No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Corporate Architecture Ltd drawing number 5582/JW/23/003 Rev. P4 have been implemented in full.
- Reason:** To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (December 2023).
- 10.5 No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 43 metres have been provided at the site access. 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.
- Reason:** To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with the National Planning Policy Framework (December 2023).
- 10.6 The development hereby permitted shall not be occupied until such time as the parking (and turning facilities) have been implemented in accordance with Corporate Architecture Ltd drawing number 5582/JW/23/003 Rev. P4. Thereafter the onsite parking (and turning) provision shall be kept available for such use(s) in perpetuity.
- Reason:** To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).
- 10.7 Notwithstanding Corporate Architecture Ltd drawing number 5585/JW/23/0003 Rev. P4, the kissing gate at Brooksby Road entrance to Footpath H58b should be removed prior to the first occupation of the dwelling.
- Reason:** To improve ease of access to the Footpath in the interests of protecting and enhancing Public Rights of Way and access in accordance with Paragraph 104 of the National Planning Policy Framework (December 2023).
- 10.8 Notwithstanding Corporate Architecture Ltd drawing number 5582/JW/23/003 Rev. P4, the Footpath should be provided with a 2m wide stoned surface with timber edging specification to be agreed in writing with the Local Planning Authority.

**Reason:** To provide an all-weather route in the interests of protecting and enhancing Public Rights of Way and access in accordance with Paragraph 104 of the National Planning Policy Framework (December 2023).

- 10.9 The soft landscaping of the development shall be carried out in accordance with drawing 'Soft Landscape Proposals' no. 23-15-PL1-01 Revision B received by the Local Planning Authority on 17th April 2024. The scheme shall be implemented to a reasonable standard in accordance with the relevant provisions of appropriate British Standards or other recognised codes of good practice.

Any trees or plants which, within a period of five years after planting are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of similar species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

**Reason:** To ensure the development creates a visually attractive environment and to safeguard against significant adverse effects on the landscape character of the area.

- 10.10 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected and the finishing treatment to all hard ground surfaces. The boundary treatment and hard ground surfaces shall be carried out in accordance with the approved details and completed before the dwelling is first occupied.

**Reason:** To ensure the development creates a visually attractive environment and to safeguard against significant adverse effects on the landscape character of the area.

- 10.11 No development shall take place until a mitigation and enhancement strategy has been submitted to and approved in writing by the Local Planning Authority. As a minimum, this should detail:

- a. The reasonable avoidance measures for protected species such as great crested newts, nesting birds, bats and water voles;
- b. Construction methods to avoid impacts to the adjacent watercourse; and
- c. Enhancement measures such as bird and bat boxes and native planting.

Any enhancement measures need to be shown on all relevant plans and elevations. All works are to proceed strictly in accordance with the approved scheme.

**Reason:** To mitigate harm to protected species which may be present within the site in accordance with Policy EN2 of the Melton Local Plan and Policy 8 with the Hoby with Rotherby Neighbourhood Plan.

- 10.12 The development hereby approved shall be implemented in strict accordance with the measures stated in Section 6 (Recommendations) of the Preliminary Ecological Appraisal report (JM Ecology, February 2024) unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To mitigate harm to protected species which may be present within the site in accordance with Policy EN2 of the Melton Local Plan and Policy 8 with the Hoby with Rotherby Neighbourhood Plan.

- 10.13 Prior to the commencement of development, details demonstrating how the proposed dwelling will incorporate sustainable low carbon design and construction techniques for energy and water efficiency, shall be submitted to and approved in writing by the Local

Planning Authority. The approved sustainable building measures shall be completed in full, in accordance with the agreed scheme, prior to the first occupation of the dwelling hereby permitted.

**Reason:** To ensure the development mitigates and adapts to climate change in accordance with Policy 14 of the Hoby with Rotherby Neighbourhood Plan and Policy EN9 of the Melton Local Plan.

- 10.14 Prior to the commencement of the development hereby permitted a scheme for the disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority. The development must not be occupied or first brought into use until the drainage scheme has been implemented and completed in accordance with the approved details.

**Reason:** To ensure a satisfactory standard of development in terms of the disposal of foul water and to ensure that the development increases water attenuation/storage on the site and minimises the risk of flooding elsewhere, in accordance with Policy EN11 of the Melton Local Plan.

## 11 Informative

- 11.1 Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to change commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>.
- 11.2 Prior to construction, measures should be taken to ensure that users of the Public Footpath are not exposed to any elements of danger associated with construction works.
- 11.3 The Public Footpath must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.
- 11.4 If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, application should be made to [networkmanagement@leics.gov.uk](mailto:networkmanagement@leics.gov.uk) at least 12 weeks before the temporary diversion is required.
- 11.5 Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.

## 12 Financial Implications

- 12.1 None

**Financial Implications reviewed by: N/A**

## **13 Legal and Governance Implications**

13.1 None

**Legal Implications reviewed by: Tom Pickwell (Deputy Monitoring Officer)**

## **14 Appendices**

14.1 Appendix A Appeal decision ref APP/Y2430/W/22/3300525, dated 17<sup>th</sup> January 2023.





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## Appeal Decision

Site visit made on 15 December 2022

**by Bhupinder Thandi BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 January 2023**

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**Appeal Ref: APP/Y2430/W/22/3300525**

**Land adjacent Brooksby Road, Hoby LE14 3EA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Alison Warner against the decision of Melton Borough Council.
  - The application Ref 21/00899/FUL, dated 22 July 2021, was refused by notice dated 27 May 2022.
  - The development proposed is two self-build dwellings and relocation of children's play-area.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Alison Warner against Melton Borough Council. This application is the subject of a separate decision.

### Procedural Matters

3. I have shortened the appellant's description of development to make it more succinct.

### Main Issues

4. The main issues are:
  - Whether the appeal site is an appropriate location for new housing having regard to the local housing strategy;
  - The effect of the proposed development upon the character and appearance of the area; and
  - The impacts upon climate change

### Reasons

#### *Appropriate location for new housing*

5. Part 1 of Policy 14 of the Hoby with Rotherby Neighbourhood Development Plan (2020) (NDP) advises that new residential development will be supported within or on the edge of settlement boundaries subject to a number of design criteria.
6. The appeal site neighbours existing residential development, but it is located beyond the settlement boundary of Hoby. Whilst beyond the built form and despite the presence of the access road it is apparent to me, that the site has a

visual and physical relationship with the village and in my view is located on its edge.

7. As such, the appeal site would be an appropriate location for new housing in accordance with NDP Policy 14.

#### *Character and appearance*

8. The appeal site is formed of two parcels of land bisected by a public footpath. The northern parcel is used as a children's play area and the southern parcel is a field used for the grazing of livestock.
9. When approaching Hoby along Brooksby Road open countryside is the prevailing characteristic of the area. Despite existing development on the eastern side of the road the combination of mature landscaping and green open spaces including the appeal site contribute to the rural character of the surrounding area.
10. The existing residential development along the eastern side of the road is less prominent on account of the set back from the road and intervening landscaping. The proposed development, by contrast, on account of its scale and position close to the road would be unduly prominent and would not frame the village in an appropriate manner.
11. I acknowledge that the scale and design of the development would be reflective of buildings in the village. However, its position close to the road and extensive hard surfacing results in an unduly urban and intrusive form of development eroding an open space that positively contributes to the setting and character of the village. As such, it would not successfully integrate into the area and would undermine its spacious and verdant character and appearance.
12. The appellant has referred to a previous appeal decision<sup>1</sup> for new residential development on the appeal site. I understand that the proposal was for four affordable dwellings and the main issues in dispute related to whether the site was a rural exceptions site and the provision of replacement play equipment. These are material differences between the two applications which is to be weighed in the planning balance. Whilst I have paid regard to the previous Inspector's conclusions, I am not bound by their decision. Every appeal must be considered on its own merits, as I have done.
13. As such, I conclude that the proposed development would adversely affect the character and appearance of the area contrary to Policy D1 of the Melton Borough Local Plan (2018) (LP) and NDP Policy 1 which, amongst other things, require developments to deliver good quality design; reflect the wider context of the local area and respect local vernacular and the siting and layout must be sympathetic to the character of the area.
14. I note the Council have referred to Policies EN8 and EN9 in the reason for refusal, however, I find that with specific regard to this main issue I have given it negligible weight in coming to my decision.

#### *Impacts upon climate change*

15. The appellant intends to incorporate low carbon materials and renewable energy technologies and has drawn my attention to updated Building

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<sup>1</sup> Appeal Ref: APP/Y2430/W/20/3261535

Regulations legislation. Whilst planning seeks to avoid duplication of other regulatory regimes achieving sustainable development and adapting to climate change are important themes of national guidance. Furthermore, LP Policies EN8 and EN9 require developments to consider climate change and sustainable design and construction.

16. As such, there will be a balance to be struck between planning and matters controlled by other regimes. Based on the evidence before me I am not satisfied that the appellant has adequately demonstrated that the proposed development would adapt to and mitigate the impacts of climate change in the context of the requirements of the development plan.
17. Consequently, I conclude that the proposed development would be contrary to LP Policies D1, EN8 and EN9, NDP Policies 1 and 14 and the Design of Development Supplementary Planning Document (2021) which, amongst other things, require development proposals to demonstrate how the need to mitigate and adapt to climate change has been considered; incorporate exemplar proposals for low carbon materials and renewable energy technology and incorporate sustainable low carbon design and construction techniques to meet high standards for energy and water efficiency. It would also be contrary to the aims and objectives of the National Planning Policy Framework which seeks to achieve sustainable development including mitigating and adapting to climate change and moving to a low carbon economy.

### **Other Matters**

18. I acknowledge that the development would deliver two self-build properties in the area, occupied by the appellant's children, and that none of the relevant policies prevent opportunities for such development from taking place. However, in this particular regard I find that the benefits of two self-build properties would not outweigh the harm that I have identified.
19. The proposal would result in the loss of the existing play area and its replacement on the neighbouring field. The proposed play area would be similar in size to the existing one and would be a marginal further distance from the settlement edge. The necessary planning obligation has not been provided and thus there is no mechanism by which to secure the contribution. However, given my findings in respect of the main issues, it is not necessary for me to consider this matter further.
20. The Council raise no objection on highway grounds or in respect of biodiversity and I have no reason to come to a different conclusion. However, the absence of harm in the relation to these matters weigh neither for nor against the proposal.

### **Conclusion**

21. For the reasons set out above the appeal does not succeed.

*B Thandi*

INSPECTOR

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