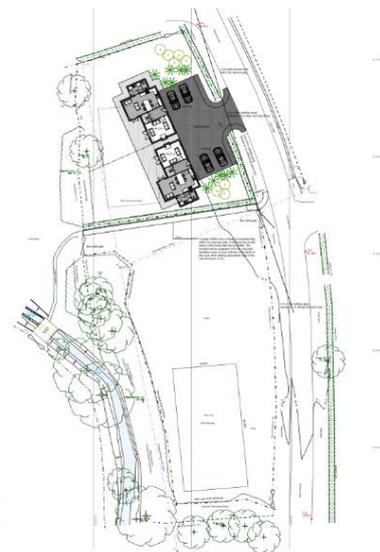




21/00899/FUL for Two Self-build dwellings and relocation of children's play area (resubmission of planning application ref 19/01113/FUL at Field OS 8695 Brooksby Road, Hoby.

Corporate Priority:	Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	Councillor Ronan Browne (Frisby on the Wreake)
Date of consultation with Ward Member(s):	27 August 2021
Exempt Information:	No

1 Summary



- 1.1 The application site consists of a 0.29 hectare greenfield site which is currently used as a children's play area and an adjoining paddock. At the time of the site visit the paddock was being used to graze a small number of sheep.
- 1.2 The site is mainly laid to grass with an area of bark chipping below the climbing frame, slide and swings within the play area. The two parts of the site are separated by a timber post and rail fence, this fence extends along the paddock boundary and the play area's boundary with the adjacent highway.
- 1.3 There is an approximately 1m high close boarded timber fence located along the western boundary of the play area which adjoins agricultural land, intercepted by a field gate. Interspersed hedgerow and tree planting is visible along the sites boundaries including sections of dense vegetation along the western, northern and eastern boundaries. Brooksby Road adjoins the site's eastern boundary and there are two existing field access gates off this road located in the southeast and northeast corners of the site.
- 1.4 The site is located just to the south of the settlement boundary as defined in Map 24 of the Hoby and Rotherby Neighbourhood Plan (NP). However, it sits outside of the Green Wedge between Hoby, Rotherby and Brooksby, as shown on NP Map 12. There is a group of 5 detached houses located immediately to the north of the site, separated by an access road serving a single dwelling, The Croft. The sites remaining boundaries adjoin the open countryside, although there is a Severn Trent pumping station located to the south.
- 1.5 A narrow open watercourse runs close to the sites western boundary, and the southern portion of the site is located within Flood Zones 2 and 3. A public right of way (PROW) no.H58b runs west to east across the site, to the south of the existing play area. Overhead power lines cross the site both north to south, close to the site's southern boundary and west to east, just to the south of the PROW.
- 1.6 Planning permission ref. 02/00726/COU was granted for the site, which was previously a paddock, to be used for recreational use. Equipment to include children's activity unit with slide (2-8 years), monkey bars (8 + years), 2 springers (0-6 years) on bark surface, bench and picnic table. This planning permission was fully implemented and the land has been used as a play area serving the village for a number of years.
- 1.7 Full planning permission ref.19/01113/FUL was sought for four dwellings and the relocation of a children's' play-area within the site. This application was refused on the grounds that although a need has been identified for the type of housing proposed, permission exists which is deliverable at an alternative site within close proximity to meet that need, and as such there is no need for this particular proposed development which is contrary to Policy C5 of the Adopted Local Plan relating to unmet need. This decision was upheld at appeal ref. APP/Y2430/W/20/3261535. The Planning Inspector concluded the proposed residential development would conflict with the Local Plan when taken as a whole. However, they raised no concerns relating to the relocation of the play area. Subsequent to this decision the Brooksby and Rotherby Neighbourhood Plan was adopted in June 2021.
- 1.8 This application seeks full planning permission for the erection of two, 3 bedroom, self-build dwellings and the relocation of the children's play-area to the southern portion of the site. A vehicle access would be provided off Brooksby Road to the east serving the two

properties and 4 parking spaces are proposed within the site. The two dwellings would be located on a north south axis with their front elevations facing east towards the highway and private rear gardens located to the west. The style of the dwellings would be traditional with similarities to late Victorian vernacular revival. The materials proposed include red brick to the walls, roof slates and timber framed openings.

- 1.9 Provision would be made for a new play area on the southern portion of the site. No specific details of the equipment and layout of the play area have been submitted. The Design and Access statement indicates decisions on what would be provided could be made with the Parish Council. The play area proposed would be 50% larger than the existing one, and would be offered on a long term lease, providing a permanent location for an equipped play area within Hoby. A new field access gate is proposed to the serve the re-located play area, just to the south of the PROW.

RECOMMENDATION(S)

1. It is recommended that the Planning Application be GRANTED, subject to conditions (as set out in Appendix C).

2 Reason for Recommendations

- 2.1 The proposal seeks full planning permission for two 3 bedroom dwellings on the southern edge of Hoby and the re-location of an existing equipped play area. The spatial strategy for new development in the Borough, as set out in policy SS2 of the Local Plan, allows for small scale residential development within or the edge of rural settlements including Hoby, of up to 3 dwellings, subject to it being compliant with Policies SS1 and SS2. The proposal would not meet an identified housing need as required by Local Plan Policy SS3, nor would it be located in a sustainable location and future residents of the proposed houses would be heavily reliant on a private car to access services and amenities. However, the Hoby and Rotherby Neighbourhood Plan, as set out in Policy 14, is permissive of new small scale residential development on the edge of Hoby. As the more up to date policy the Neighbourhood Plan takes precedence over policies contained in the Local Plan in accordance with section 38(5) of the Planning and Compulsory Purchase Act. The principle of the proposed development is therefore considered acceptable.
- 2.2 It is not considered that the proposal would harm the character of the area but would provide a gradual continuation of the existing built form and provide an attractive entrance to the village. The proposed design and layout of the two dwellings and associated amenity and parking areas would provide a satisfactory living environment for future occupiers and the proposal would not adversely affect neighbours and nearby uses and occupiers. An appropriate access and sufficient on-site parking would be provided and the proposal raises no highway safety concerns. Any potential harm to the site's ecology, included protected species, could be mitigated in accordance with the recommendations set out in the Ecological Assessment. The proposal is considered acceptable in terms of flood risk, including the re-location of the equipped play area to land at higher risk of flooding. A public footpath H58B which intersects the site would be retained on its current route and enhanced to improve its accessibility.
- 2.3 The proposal is supported in principle by Policy 14 of the Neighbourhood Plan which outweighs the conflict with the Local Plan policies SS2 and SS3 and the principle of the development can be supported. The proposal would accord to Local Plan policies C7, C9,

EN1, EN2, EN3, EN4, EN6, EN8, EN11, EN12, IN2 and D1, policies 1, 3, 8, 9, 10, 13 14 of the Hoby and Rotherby Neighbourhood Plan, Design of Development Supplementary Planning Document SPD and the overall aims of the National Planning Policy Framework.

3 Key Factors

3.1 Reason for Committee Determination

3.1.1 The application is required to be presented to the Committee due to the receiving more than 10 letters of objection from separate households which are in conflict with the recommendation.

3.1.2 The Director for Growth and Regeneration (in consultation with the Chair of Planning Committee) considers this application as likely to raise matters which should be referred to the Committee, specifically a previous application on the site ref.19/01113/FUL for four dwellings and the relocation of a children's' play-area was determined by Planning Committee on 06.08.2020.

3.2 Relevant Policies

3.2.1 The Melton Local Plan (LP) 2011-2036 was adopted on 10 October 2018 and forms part of the Development Plan for the area.

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

3.2.3 The Hoby and Rotherby Neighbourhood Plan (NP) was adopted on 23 June 2021 and forms part 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.

3.2.4 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.

3.2.5 Please see Appendix D for a list of all applicable policies.

3.3 Main Issues

3.3.1 The main issues for this application are considered to be:

- Principle of development; compliance with Development Plan Policies.
- Impact upon the character of the area
- Impact upon residential amenities
- Impact upon highways and parking
- Impact on ecology
- Impact on flood risk

4 Report Detail

4.1 Position under the Development Plan Policies and Principle of Development

4.1.1 The site is located on the edge of the main built-up area of the settlement of Hoby and is not identified for residential development. Hoby is a relatively poorly serviced village in terms of schools, shops and other facilities where access to them on foot is not a viable

option. Residents in the village are heavily reliant upon the private car for access to the nearest schools and day-to-day shopping requirements.

- 4.1.2 The site lies within open countryside and beyond the Limits to Development in the Neighbourhood Plan. Policy SS2 of the Local Plan states that in the open countryside, new development will be restricted to that which is necessary and appropriate in the open countryside. Policy 14 of the Neighbourhood Plan reinforces this approach stating land outside of the defined settlement boundaries will be treated as open countryside, where development will be carefully controlled in line with local and national strategic policies.
- 4.1.3 Local Plan Policies SS1 and SS2 are relevant. These policies emphasise the presumption in favour of sustainable development contained within the National Planning Policy Framework (NPPF) and set out the strategy for delivering new development across Melton Borough through identifying the most suitable locations for new housing within a settlement hierarchy devised from sustainable credentials. In this hierarchy Hoby is defined as a rural settlement under Local Plan Policy SS2. Therefore it is identified for small scale housing development of up to 3 dwellings on 'windfall' sites within and adjoining settlements by 2036. This development will be delivered through small unallocated sites which meet the needs and enhance the sustainability of the settlement in accordance with Policy SS3.
- 4.1.4 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 (inter alia): "The development provides housing which meets a proven local need as identified by substantive evidence, for example within in a Neighbourhood Plan".
- 4.1.5 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. However, it did not identify a specific need for market housing in Hoby.
- 4.1.6 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.
- 4.1.7 Therefore, there is 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 plans carry more weight as set out in section 38(5) of the Planning and Compulsory Purchase Act. As the more up to date policy, Neighbourhood Plan Policy 14, takes precedence. It is considered that this outweighs the conflict with the Local Plan policies SS2 and SS3.
- 4.1.8 In the Examiners report for the Neighbourhood Plan, their commentary for Policy 14 'New Residential Development' provides the following clarification on the provision of this policy. At para.7.68 they note Policy 14: "seeks to provide a local dimension to Policy SS3 of the Local Plan." And at para.7.69 that the settlement boundaries define the: 'existing settlements' for the purposes of Policy SS3 of the adopted Local Plan. Policy SS3 of the Local Plan provides the spatial context for development based on the four villages, but at

the local level Policy 14 is permissive of new residential development on the edge of Hoby where it meets the following criteria:

- a) They would be small-scale development of no more than 3 individual dwellings, per site;
- b) the scale of the development is proportionate to existing development surrounding the site;
- c) it does not unacceptably harm the appearance of the built character of the settlement concerned;
- d) it does not unacceptably harm the character and appearance of the surrounding countryside or rural setting of the settlement concerned;
- e) it does not create unacceptably environmental or highway safety problems, and if it does then appropriate mitigation should be provided;
- f) where practicable development should incorporate sustainable low carbon design and construction techniques to meet high standards for energy and water efficiency;
- g) it does not cause any unacceptable negative impact to the private amenity and space of any adjacent residential properties;
- h) where appropriate, new dwellings should provide appropriate garden amenity space to meet household recreation needs. The space provided should be in scale with the dwelling concerned, reflect the character of the surrounding area and be appropriate in relation to the local topography and secure privacy between adjacent dwellings; and,
- i) the development does not generate any unacceptable flood risk issues in the settlement concerned.

4.1.9 The proposal comprises a small-scale residential development of two detached, two storey, 3 bedroom dwellings. The site is located to the south of a small cul-de-sac of five detached dwellings on the edge of the settlement. The proposal is described as a self-build scheme and concerns have been raised that the Neighbourhood Plan policies do not allow for self-build schemes. Although there is no reference to self-build dwellings within the neighbourhood plan it does not preclude this form of development, which is supported in the Local Plan. Local Plan Policy C8 states: "In locations within or adjacent to the built form of settlements and those in keeping with the surrounding area, self-build proposals for community schemes will be particularly supported." Both the intended end users of these dwellings are currently on the self-build register, and in addition they have a strong local connection to the village via family ties. However, as there is no known shortage of selfbuild plots in the area this in itself would not be sufficient in itself to demonstrate a proven local need as identified by substantive evidence under the criteria of Policy SS3.

4.1.10 On balance, given that Policy H14, as the more up to date policy, takes precedence over Policy SS3 and is permissive of new small scale residential development on the edge of Hoby, it is considered that the principle of the development is acceptable subject to the criteria outlined above being met, and other material considerations including the provision of a suitable replacement equipped play area, the proposals impact on the ecology of the site, its impact upon the public right of way which crosses the site, as well as the content of the representations received.

4.1.11 Extract from Neighbourhood Plan Map 24 Settlement Boundary, Hoby



4.2 Impact upon the character of the area

- 4.2.1 The site is located on the edge of Hoby, as is the case with many of the villages in the South of the Borough, Hoby has a linear form. The land within the site is fairly level, and on a similar level with the neighbouring residential properties to the north, off Brooksby Road. The western side of Brooksby Road, up to the junction with Main Street is characterised by detached dwelling houses, mainly set back from the highway behind open post and rail fencing or hedges. The eastern side of Brooksby Road is characterised by open countryside in agricultural use, mainly pasture. The neighbouring properties consist of predominantly red brick or painted brick, two storey houses, with a fairly even mix of slate and tiles; dual pitched roofs and projecting gables are a common design feature.
- 4.2.2 As outlined in Appendix B of the Neighbourhood Plan 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 boundary, in particular its southern boundary. The existing boundary hedges would be predominantly retained, other than for the creation of the new vehicular access, and additional tree planting is proposed to further enclose the site.
- 4.2.3 The site lies outside of the identified green wedge of undeveloped agricultural land between Hoby and the settlements of Brooksby and Rotherby to the south/southeast. The dwellings proposed within the site would be a similar scale to the traditional cottages within the historic village core. They would be constructed of red brick walls with slate roofs, reflective of the neighbouring properties. The proposal seeks to provide a soft edge to the village and a continuation of the gradual and well-managed transition from countryside to village setting.
- 4.2.4 Appendix B of the Neighbourhood Plan also identifies “an architectural disparity between the village conservation area and its more recently constructed southern extents” however, “several long distance views towards the towering profile of All Saints Church help give these outer-lying parts of the village a connection to the village core and a greater sense of place”. The proposal would not interrupt these identified views and so would maintain the identified important connection between the southern extent of the settlement with the village core.

4.2.5 It is noted that the Inspectors Report for appeal ref. APP/Y2430/W/20/3261535 considered the development of the site for 4 affordable houses would “accord with the character and appearance of the village” and “It would also present an attractive entrance to the settlement”. The current proposal would result in less built development within the site including buildings and hard landscaping and includes additional screen planting to the front of the proposed dwellings than previously proposed, all of which is welcomed.

4.2.6 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. On balance the scheme represents good design in accordance with Local Plan Policy 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.

4.3 **Impact upon residential amenities**

4.3.1 Although the application site is located adjacent to the settlement of Hoby it is separated from the neighbouring dwellings on Brooksby Road by the access road serving The Croft, a detached dwelling located to the west of the site. The proposed dwellings would be located at a 90° angle to the closest dwelling to the site 20 Brooksby Road. There would be a distance of about 28m between the rear elevation of 20 Brooksby Road and the side elevation of the proposed dwelling in plot 1, which exceeds the 21m back to back separation distances between habitable room windows recommended in the Design SPD. The new dwellings would be set back a minimum of 9.5m from the boundary highway to the east and 9.25m from the shared boundary with the paddock to the west of the site. Due to the separation distances involved it is considered that the proposed new dwellings would not adversely affect neighbours and nearby uses and occupiers in accordance with Local Plan Policy D1 and Neighbourhood Plan Policy 14.

4.3.2 The new dwellings would provide good outlook, natural daylight and ventilation. Private amenity space would be provided to the rear of the two properties with a shared access driveway to the front. Two designated parking spaces would be provided for each new dwelling in accordance with the Highway Design Guide, as well as turning space which would allow for vehicles to enter and leave the site in a forward gear.

4.3.3 Local planning policies do not set any minimum garden sizes however, the neighbourhood plan requires them to be proportionate to the proposed dwellings. The size of the gardens proposed would total around 200 square metres for plot 1 and 150 square metres for plot 2, which is comparable to those serving the neighbouring larger dwellings on the cul-de-sac development off Brooksby Road... For these reasons it is considered that the proposal would provide a high level of residential amenity for future occupiers of the proposed dwelling in accordance with Local Plan Policies D1 and C9.

4.3.4 The proposal would provide natural surveillance to the re-located play area, creating an increased sense of safety and security which is welcomed in the interests of crime prevention as required by Policy D1. In order to protect the amenity of future occupiers, as outlined in the Fields in Trust guidance for outdoor sport and play, it is recommended that the play equipment is located at least 20m from the new dwellings. Condition 4 has been suggested for inclusion to agree the siting and layout of the equipped play area.

4.4 **Highway Safety**

- 4.4.1 The site would be accessed via a new vehicle access off Brooksby Road Hoby. There is an existing vehicle access to the north of the site serving a single detached dwelling The Croft, and beyond that a cul-de-sac serving 5 dwelling houses. An existing field access, which is described in letters of objection as an agricultural right of way, is located in the site's northern boundary. A right of way for agricultural purposes is a form of easement which in legal terms provides access for agricultural purposes. It is not considered to be a planning matter however and it is noted that the land to the north of the dwelling within plot 1 would be left open. A new field access is proposed to serve the re-located play area on the southern portion of the site, located just to the south of the Public Right of Way.
- 4.4.2 Concerns have been raised over the safety of the new vehicle access points, in particular due to their proximity to a bend in the road which limits visibility. Despite these concerns Leicestershire County Council as the Local Highway Authority (LHA) raise no objections to the proposal on highway safety grounds stating: "The impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments the impacts on the road network would not be severe." The LHA are satisfied that the required visibility splays could be provided and a condition has been suggested for inclusion to ensure this. With regard to the new field access point they highlight the need for the visibility splays to be clear of all obstructions over 0.6m in height and advise that if the relocation of the Hoby village sign is required to achieve this, it should be secured by a legal agreement. Further details of the proposed access surfacing and 1mx1m pedestrian visibility splays will be secured by the suggested planning conditions 11, 12 and 13.
- 4.4.3 With regards to pedestrian access to the site concerns have been raised in letters of representation that the route to the new dwellings would be unlit and without a pavement. It is noted that there is currently very limited street lighting along Brooksby Road serving the existing properties or a pavement connecting it to the centre of Hoby. The site could easily be accessed via the existing network of public footpaths, including the footpath which runs alongside the eastern side of Brooksby Road serving the existing play area and 10 dwellings the access to the proposed dwellings therefore would be comparable to the existing dwellings on Brooksby Road. There is an opportunity to provide additional external lighting within the site however, the impact of this approach would have to be carefully considered as it could conflict with the Neighbourhood Plan Community Objective 4 which states: "To reduce the levels of future and current light pollution within the Parish to help maintain and enhance our view of the night sky."
- 4.4.4 Based on the comments received from the LHA it is considered that the proposal raises no highway safety concerns. It is also considered that the proposal would provide a satisfactory access and sufficient on site parking provision in accordance with Local Plan policies D1 and IN2; and Neighbourhood Plan policies 10 and 14.
- 4.4.5 Neighbourhood Plan Policy 9 'Sustainable Transport' states (inter-alia): "Where practicable, new residential development should be located within a 5-minute walking distance to public transport infrastructure such as bus stops." Given that there are no bus stops within or within 5 minutes' walk of Hoby it would not be practicable to achieve this. However, the proposed dwellings would be located closer to the nearest bus stops to Hoby, which are located to the south of the village at Brooksby Hall and on Melton Road, the A607, close to the junction with Brooksby Road, than any of the existing properties within the settlement. Therefore, it is accepted that the site has limited access to public

transport. The scale of the proposed development is not sufficient to warrant the provision of transport infrastructure, developer contributions are usually only sought on major residential developments of 10 or more houses.

4.5 **Ecology**

4.5.1 An Ecology Assessment was submitted as part of the planning application. On the advice of the County Council Ecologist an updated Badger Survey was submitted prior to determination. In response to the updated Badger Survey submitted, the updated Badger Survey submitted demonstrated that there was no evidence of Badgers within the site, or within 30 metres of the site. It is noted that the County Ecologist raised no objections to the proposal and in their updated comments the officer confirmed that no additional surveys were required. It is considered that the proposed layout would provide an acceptable buffer to the watercourse to the west of the site, a minimum of 20 metres.

4.5.2 Attention is drawn to the recommendations made in the submitted Ecology Assessment. Condition 16 would require the mitigation measures as set out in Ecological Assessment to be fully implemented and complied with

4.6 **Flood Risk and Drainage**

4.6.1 The new dwellings, their associated amenity space, parking and access would be located within Flood Zone 1, an area of low probability of flooding. Flood zone 1 is the preferred location for new residential development as residential development is considered a more vulnerable use.

4.6.2 The play area would be relocated to a site which lies partly within Flood Zones 2 and 3, an area of medium to high probability of flooding. Recent flood events on the site of the proposed re-located play area have been raised in letters of objections received from the Parish Council and local residents however, sites for outdoor recreation including play areas are acceptable in areas at higher risk of flooding in planning policy terms. As set out in 'Table 2: Flood risk vulnerability classification' of the National Planning Practice Guidance (NPPG) play areas are defined as a water compatible use, and as such can be located within flood zones 2 and 3. It is also noted that no concerns were raised relating to flood risk in the Planning Inspector's report ref. APP/Y2430/W/20/3261535, which considered the impact of re-locating the play area in the same way as currently proposed.

4.6.3 As set out in Local Plan Policy EN11 it is important that a buffer of at least 8m is maintained in the interests of maintenance and ecology. The indicative plan submitted shows the play equipment would be located a minimum of 14m from the banks of the adjacent watercourse. It is therefore considered that the proposal would not result in a more vulnerable use, as set out in 'Table 2: Flood risk vulnerability classification' which includes a dwelling house, being located in an area at high risk of flooding and is unlikely to result in increased flooding elsewhere in accordance with Local Plan Policy EN11 and Neighbourhood Plan Policy 14.

4.6.4 With regards to site drainage Local Plan Policy EN12 'Sustainable Drainage Systems states (inter-alia): "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.

4.6.5 It is noted that concerns have been raised in letters of representation, including from the Parish Council, that the land within the play area site would be waterlogged or very muddy. On inspecting the site it was difficult to ascertain the ground conditions as the grass was so long. However, it is noted that in the past it was used for recreation including an informal football pitch. Within the existing play area there is a raised area of bark chippings below the climbing frame and slide, a similar area is shown on the proposed site plan. The use of a similar permeable, protective surfacing within the site could help address the concerns raised relating to the usability of the site, and details of a protective surface have been suggested for inclusion under condition 4.

4.7 **Other matters**

4.7.1 Policy 13 of the Neighbourhood Plan provides for the protection of identified community facilities within the plan area and sets out criteria for the provision of new community facilities including that they should be located within or adjacent to the built-up area of an existing settlement; and be accessible for members of the community and promote social inclusion.

4.7.2 It is noted that concerns have been raised by local residents and the Parish Council regarding the re-location of the equipped children's play area. The play area is not identified in the adopted neighbourhood plan as a key community facility. In addition, para. 7.42 to 7.47 of the Examiners report for the Hoby and Rotherby Neighbourhood Plan sets out why the site could not be included as a local green space in the adopted Neighbourhood Plan. The reasons behind this decision relate to the capability of the site enduring as a local green space beyond the plan period, or even in the short term, given that the play area is located on land attached to a time limited lease and the land owner had served a Notice to Quit to end the lease.

4.7.3 Local Plan Policy SS3 is supportive of new development where: "The development will be served by sustainable infrastructure and or provide new infrastructure or services to the wider benefit of the settlement". The proposal would not result in the loss of a community facility as a new more permanent location for an enlarged equipped play area on the adjoining paddock would be provided prior to the occupation of the proposed dwellings, secured by suggested condition 4. Planning policy recognises the importance of green spaces, including play areas in contributing to the physical, mental and emotional well-being of local people. The re-located play area would continue to provide opportunities locally for recreation and social interaction in accordance with Policy SS3. The play area would be adjacent to the proposed new dwellings which would provide increased natural surveillance and a sense of safety and security which is not provided for the existing play area.

4.7.4 The play area would continue to be accessed via public right of way (PROW), footpath H58B, which intersects the site, as well as a narrow public footpath which extends along the eastern side of Brooksby Road terminating opposite the kissing gate entrance to the PROW within the site. Guidance for walking distances between housing and play areas is provided in 'Guidance for Outdoor sport and Play Beyond the Six Acre Standard' which recommends a walking distance of 400m to Local Equipped Area for Play (LEAPS) and 1000m to Neighbourhood Equipped Area for Play (NEAPs). The entrance to the proposed

play area would be located within about 400m of All saints Church, and so to all of the houses to the south of the parish church; and it would be within 1000m of the entire settlement. It is noted that the play area is also used by residents of neighbouring settlements. A new field gate to the paddock is proposed to be used for maintenance purposes but which could provide for vehicle access and parking provision in the future subject to further planning permission.

- 4.7.5 Although the proposed site is at greater risk of flooding, given the site area, it appears possible that some of the play equipment is sited wholly outside of the areas at higher risk of flooding. The location of the equipped play area on the submitted plan is indicative and details of the exact layout are to be secured by planning condition 4 of appendix E. There are trees located along the southern boundary of the site which would cast a shadow over the play area at certain times of the day and year. However offering a choice of shade and shelter as part of a multifunctional green space is supported by the National Planning Policy Framework (NPPF). Therefore on balance it is considered that the proposed site is not considered significantly inferior to the existing one, and that it would comply with Neighbourhood Plan Policy 13 'Community Facilities'.

Neighbourhood Plan Policy 3 'Public Rights of Way' states: "1. Where appropriate, development proposals should contribute towards the protection, enhancement and provision of new public rights of way." Public footpath H58B cuts east to west across the centre of the site. The wider landscape setting of Hoby and Rotherby Parish is identified as an asset which is there to be enjoyed by the wider public. The proposal includes surfacing the footpath with hardstanding to address the muddy nature of the path after heavy rainfall, improving its accessibility. This could be secured by condition 15 of appendix C.

A 1.1m high post and rail fence is proposed either side of the footpath and native hedgerow planting is proposed along the shared boundary with the two new dwelling houses which will maintain its rural character. The LHA has requested that a 3 rail post and rail fence is provided in accordance with the Highways Design Guide, condition 14 of Appendix C would secure this. The dwellings would be orientated so that their built form would span the minimum section of the PROW, and the proposed parking area serving the proposed new dwellings would be screened by new tree planting. These measures are considered sufficient to protect and enhance the PROW in accordance with Policy 3 of the Neighbourhood Plan.

5 Consultation & Feedback

- 5.1 A site notice was posted on 12.08.2021 with responses due by 02.09.2021 and letters sent to the immediate neighbours of the site and all contributors to planning application ref.19/01113/FUL. A total of 37 objections, 1 representation, and 10 comments in support of the proposal have been received from 14 households.
- 5.2 The Parish Council have also objected to the application. No objections have been received from technical consultees including County Council Highways, and Ecology

6 Financial Implications

- 6.1 No financial implications have been identified.

Financial Implications reviewed by: N/A

7 Legal and Governance Implications

7.1 No legal or governance issues have been identified.

Legal Implications reviewed by: Tom Pickwell (Solicitor)

8 Background Papers

8.1 Committee report for planning application ref. 19/01113/FUL

8.2 Appeal Decision ref. APP/Y2430/W/20/3261535

9 Appendices

9.1 A: Consultation responses

B: Representations received

C: Recommended Conditions

D: Recommended Informative

E: Applicable Development Plan Policies

F: Site Photographs

Report Author:	Helen White , Planning Development Officer
Report Author Contact Details:	01664 502419 helenwhite@melton.gov.uk
Chief Officer Responsible:	Paul Feehily , Interim Assistant Director for Planning
Chief Officer Contact Details:	01664 502418 pfeeihly@melton.gov.uk

Appendix A : Summary of Statutory Consultation Responses

Parish Council: Object to the application. They have identified 4 key areas of consideration including: reflections on planning application ref.19/01113/FUL, flooding, the resubmission of an application for two self-build dwellings, and the unchanged re-location of the play area. In summary they object on the following grounds:

- a. The local housing need is being met by the Brooksby Spinney Campus development of 70 houses.
- b. The application fails to protect an existing community facility, the play area. The area identified for the replacement facility is inferior contrary to LP policy C7.
- c. Loss of a valuable and accessible green space which makes a positive contribution to the health and wellbeing of communities. Contrary to LP policies C9 and D1.
- d. The main reason for the dismissal of the previous appeal has not changed. The site is outside of the settlement boundary. Hoby provides limited access to good and services, and public transport. The dwellings would be accessed via an unlit road with no pavement. Future occupiers would be reliant on the private car for access to good and services. Accordingly, the site would not be suitable for open market dwellings.
- e. Despite the applicants' claims the site does flood, as shown in pictures taken in 2021.
- f. Flood risk in the village is being addressed but priority is being given to existing residential properties.
- g. The site for the new play area is boggy and would not be suitable for use all year round without significant drainage works.
- h. The site is outside of the settlement and so contrary to NP policy 14. As the land is outside of the settlement boundary it must be treated as open countryside, were development will be carefully controlled.
- i. The application does comply with 14a and 14b of Policy 14, not being more than 3 dwellings and not greater in size than the group of houses built in the 1990's.
- j. It does not comply with 14c of Policy 14. The proposal would bring the built line of the village much further out beyond the concealed, set back houses close to the application site.
- k. The proposal would not comply with NP Policy 4 'Green Wedges'
- l. It does not comply with 14d of Policy 14 as it would end the soft and seamless verdant edge with the countryside seen on the approach to Hoby along Brooksby Road. For this reason it would also be contrary to Policy 1 part 2.
- m. Does not comply with 14e of Policy 14 as there is no pavement or street lighting which will cause highway safety problems.
- n. Does not comply with 14f of Policy 14 there is no meaningful reference that these dwellings will address climate change.
- o. Does not comply with 14g. The impact on nearby settlements goes without saying. It ends the secluded nature of the Brooksby Road approach to the village, having an unacceptable negative impact.
- p. Does not comply with 14h. The garden space is small. An agricultural right of way runs through the garden of the northern plot, not shown on the plans, which will significantly reduce its size. A solid boundary between the footpath and adjacent residential garden will create a boxed in environment and a hard entrance to the village contrary to the Character Assessment.
- q. Does not comply with 14i. The submission states the site is not at risk of flooding, this is wrong. The area of the application is in Flood zones 2 and 3. Both the dwelling and play area are within 20m of a stream. The disposal of surface water to an existing watercourse

is not acceptable as it will increase the risk of flooding downstream. It would also be contrary to Policy 8 parts 7 and 9. The implementation of Sustainable Drainage Systems (SuDS) is a requirement of any new development.

- r. Contrary to Policy 9, in particular part 2. The new dwellings should be located within 5 minutes walking distance of public transport infrastructure.
- s. Contrary to Policy 10. The proposal does nothing to incorporate appropriate measures to reduce the speed of traffic on local roads. The loss of the play area is likely to result in an increase in the speed of traffic.
- t. Self build properties are not part of the neighbourhood plan and are therefore contrary to it.
- u. The site is not allocated for housing and there is no proven need for two market value dwellings.
- v. The Appeal Inspector deemed the site unsuitable for market housing.
- w. Contrary to LP policies SS1, SS2 and SS3. The proposal would provide two dwellings in an unsuitable location, reliant on public transport where existing local infrastructure is close to full capacity, and fragile. It will not be served by or provide new infrastructure or service to the wider benefit of the settlement.
- x. The play area is well used and valued by the local community.
- y. The play equipment was recently inspected and found to be in good order, the grounds are well maintained.
- z. High trees close to the proposed play area would put it in shade for much of the day discouraging its use.
- aa. The lack of a footpath to the new play area access would make it inaccessible for some, particularly on the grounds of safety.
- bb. The Parish Council Committee does not support the re-location of the play area to the centre of the village as it would result in the loss of an important open green space (as identified in Policy 6 Part 1, bullet point LGS2).
- cc. The Parish Council knows only too well the land owner would evict the Play Area at the first opportunity and is concerned that new play equipment and fencing would not be forthcoming and a new long term lease would not be entered into.

LCC Ecology: Do not object. The updated Badger Survey is satisfactory and no further survey work is required. However, they would like to draw the Applicant attention to the recommendations made in the report.

LCC Highways as the Local Highway Authority (LHA): Do not object. The impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments the impacts on the road network would not be severe. The LHA note there were no highway related matters documented in the previous reason for refusal or appeal decision for 4 affordable houses on the site. Brooksby Road is an unclassified road subject to a 30mph speed limit. The width of the proposed access of 4.6m for a minimum of 5m from the highway boundary is acceptable to serve two dwellings. The LHA remain satisfied adequate visibility can be achieved. No details of the proposed surfacing or 1mx1m pedestrian visibility splays have been provided so these will be sought by condition. However, the LHA have carried out their own assessment and are satisfied that the provision of 1mx1m pedestrian visibility splays is possible. It is advised that the existing field access gates are stopped up. The LHA also note that there appears to be a village name plate located between the new access to the site and the gate to the new play area, the Applicant must ensure there are no obstructions in the visibility splays above 0.6m in height, and the relocation of any street furniture must be carried out at the Applicants expense.

The existing line of public footpath H58b which runs through the site would be retained. The Applicant proposes to install an additional vehicle access off Brooksby Road adjacent to the public footpath. No vehicular or pedestrian visibility splays for this access have been provided, however as per the LHA previous response issued on 12th March 2020, this was deemed acceptable following the outcome of a speed survey undertaken.

There have been no recorded Personal Injury Collisions in the last 5 years within 500m in either direction of the site and the LHA do not believe the proposal would alter the existing situation.

Each plot will have 3 bedrooms therefore the provision of 2 car parking spaces is required for each new dwelling. Drawing no.21/23/002 adequately demonstrates four car parking spaces within the proposed shared driveway, therefore the parking proposals are deemed acceptable.

Appendix B: Summary of representations received.

35 objections, 1 representation and 10 letters in support of the application have been received from 14 households on the following grounds:

- a. An application for 4 houses declined, what is the difference with two larger houses?
- b. Access dangerous as close to bend and poor visibility
- c. Located outside of village envelope
- d. Site is an area of green space in Neighbourhood Plan
- e. Increase flooding on the site
- f. The green gateway to the Village should be protected
- g. Pedestrian safety concerns as users of the play area would have to walk on the road
- h. Site floods
- i. The village's housing allocation is being met by the development off Melton Road
- j. No school or public transport, and no local shop within walking distance of Hoby
- k. The fact the dwellings would be self build does not change the argument about development on this site
- l. A number of applications for residential development in the village have been recently refused
- m. I understand the need for more housing including low cost housing has been met by the Brooksby development
- n. Two larger dwellings with a large paved forecourt looks more out of keeping than the refused scheme
- o. My children regularly use the park, which is good condition
- p. The play area is very valuable to local children

- q. Increased traffic, pollution and congestion
- r. Hat connection do the adult children of the applicant have to the Parish?
- s. Are the adult children of the applicant on the self build register?
- t. There does not seem to be a huge need for self build plots in the borough.
- u. The national cycle network is not a suitable alternative to a bus service for commuting
- v. Harm local wildlife
- w. Not good to locate new play area on land at risk of flooding and next to a sewage pumping station.

Support

- a. Attractive design in keeping with the village
- b. Bring new life to village, attracting young families
- c. Opportunity to move the play area to a more accessible location, no reason why it cannot be located in the centre of the village at the rear of the village hall
- d. The play areas current location means it is not well used and is only attractive to a small number of visitors from neighbouring villages
- e. The existing play equipment is not in good condition
- f. This is the ideal location for more houses in our village
- g. Support the application with great enthusiasm
- h. Meets the neighbourhood plan policies re. Visual impact, environment and highways access.
- i. Provides the opportunity for 2 families on the self build register to build their own homes.
- j. The previous application was only refused on the ground that affordable housing needs would be met by the Spinney Campus Brooksby development.
- k. These homes will be an asset to the village
- l. Would allow for new development without causing too much change
- m. Recent flooding on the site was the result of a bridge collapse

Appendix C: Recommended Conditions

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with drawings numbered: Site Plan, 21/23/002 Planning Proposals plots 1 and 2 received by the Local Planning authority on 21 July 2021.

3. Prior to the commencement of development, or any preparatory works associated with the approved development (including demolition, site clearance works, fires, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) taking place on the site details of a Tree Protection Scheme in accordance with BS5837:2012 which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site which are to be retained or which are the subject of any Tree Preservation Order shall be submitted to and approved in writing by the Local Planning Authority and all protective fencing shall be erected as required by the scheme.
4. Prior to the commencement of development details of the re-located children's equipped play area on land to the south of the public footpath H58B, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the:
 - a) location, layout, design of the play area; and
 - b) equipment/ features, including protective surfacing.The play area and equipment/features shall be laid out and installed prior to the first occupation of the development. The children's play space shall be provided strictly in accordance with the details so approved, installed/erected prior to the first occupation of the residential dwellings hereby approved and shall be maintained as such thereafter.
5. 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.
6. 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.
7. No part of the development hereby permitted shall be occupied or first brought into use until a written scheme for the hard and soft landscaping of the site (including the location, number, size and species of any new trees/shrubs to be planted) has been submitted to and approved in writing by the Local Planning Authority. The scheme must be carried out in accordance with the approved details no later than during the first planting season (October-March) following either the substantial completion of the development or the new dwelling being brought into use, whichever is sooner. Once completed all hard landscaping works shall thereafter be permanently retained throughout the lifetime of the development.
8. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Planning Proposal Site Plan drawing number 21/23/002 have been implemented in full. Visibility splays shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
9. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 54 metres have been provided at the relocated field 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.
10. The new vehicular accesses hereby permitted shall not be used for a period of more than one month from being first brought into use unless any existing vehicular accesses on Brooksby Road that become redundant as a result of this proposal have been closed

permanently and reinstated in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

11. No part of the development hereby permitted shall be occupied until such time as 1.0 metre by 1.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of the development access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.
12. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Planning Proposal Site Plan drawing number 21/23/002. Thereafter the onsite parking provision shall be so maintained in perpetuity.
13. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.
14. Notwithstanding Drawing No.21/23/002 the fence which separates the Footpath from the play area should be constructed in accordance with LCC SD/3/19 (post and 3 rail fencing).
15. Notwithstanding Drawing No.21/23/002 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.
16. The mitigation measures as set out in Ecological Assessment including protected species survey by Curious Ecologists dated 30th September 2019 shall be implemented and fully complied with, including:
 - (a) Any works to remove vegetation should be scheduled to take place outside of the bird nesting season (usually March to August).
 - (b) A qualified Ecologist shall undertake a search for nesting birds within 24 hours immediately prior to vegetation clearance to ensure no active nests will be disturbed.
 - (c) If active nests, or nests under construction, are found the nest must remain undisturbed, and the vegetation clearance works must cease until all chicks have fledged.
 - (d) Where practicable existing trees and hedgerows within the site shall be retained, where they are removed, or gapping up is required, locally native species shall be used.
 - (e) The reasonable avoidance measures (RAMs) to protect great crested newts (GCN):
 - (f) The site shall be regularly checked prior to the commencement of development for evidence of badgers. During development if any trenches dug are left open overnight, they should be left with a sloping end or ramp to allow any badgers or other animals that fall in to escape, any pipes over 200mm in diameter should be capped off at night to prevent animals entering.
 - (g) The protection of the road verge on the eastern side of Brooksby Road, as a Local Wildlife Site, throughout the development including no vehicles shall park on the verge or encroach upon it when entering or leaving the site.
 - (h) Nest boxes for birds and bat boxes shall be provided within the site, details of which shall be submitted to and approved in writing, including a timetable for installation, prior to the commencement of development. The bat and bird boxes shall be installed in accordance with the approved details and timetable and retained as such for the lifetime of the development.

Reasons:

1. 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.
2. For the avoidance of doubt.
3. To ensure the adequate protection of the existing trees and hedgerows on the site during the construction of the development.
4. To ensure the satisfactory quantity, quality and accessibility of the replacement equipped play area.
5. 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.
6. To ensure a satisfactory standard of external appearance.
7. To ensure the development creates a visually attractive environment and to safeguard against significant adverse effects on the landscape character of the area.
8. To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, 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.
9. 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.
10. In the interests of highway and pedestrian safety.
11. In the interests of pedestrian safety.
12. 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.
13. To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety.
14. To retain an open aspect for the Footpath in the interests of protecting and enhancing Public Rights of Way and access.
15. To provide an all-weather route in the interests of protecting and enhancing Public Rights of Way and access.
16. To mitigate harm to protected species which may be present within the site.

Appendix D: Informatives

1. All building work should be in compliance with Environment Agency best working practices. For best practice guidance on this, please see the 'Construction, inspection and maintenance' section available at: <https://www.gov.uk/guidance/pollution-prevention-for-businesses#construction-inspection-and-maintenance>

The Environment Agency will arrange site meetings to agree the necessary measures to prevent pollution of the water environment during the construction phase of their development with applicants and carry out pollution prevention visits.

Please contact EastMidWaterQuality@environment-agency.gov.uk for further information and advice.

If found to be causing water pollution from developments, maximum fines can be up to £50,000 with an unlimited fine in Crown Court depending on the environmental impact of the offence along with other factors (attitude and pollution history of the offender, degree of

intent, any other circumstances relevant to the incident). More details of this are available at <https://www.gov.uk/government/publications/environment-agency-enforcement-and-sanctions-policy/environment-agency-enforcement-and-sanctions-policy>.

2. Materials samples will no longer be accepted at the Council offices. Alternative arrangements should be made with the relevant case officer to view samples on site.
3. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 3050001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
4. 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.
5. 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. 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, an application should be made to networkmanagement@leics.gov.uk at least 12 weeks before the temporary diversion is required.
6. 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.
7. No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.
8. The play equipment should be located a minimum distance of 20m from the external elevations of the dwellings contained in plots 1 and 2.

Appendix E: Available Development Management Policies

Local Plan Policies

SS2 [Development Strategy](#)

SS3 - Sustainable Communities (unallocated sites)

C7 Rural Services

C9 Healthy Communities

EN1 Landscape

EN2 Biodiversity and Geodiversity

EN3 The Melton Green Infrastructure Network

EN4 Areas of Separation

EN6 Settlement Character

EN8 Climate Change

EN11 Minimising the Risk of Flooding

EN12 Sustainable Drainage Systems

IN2 Transport, Accessibility and Parking

D1 Raising the Standard of Design

Hoby and Rotherby Neighbourhood Plan

1 Design of New Development

3 Public Rights of Way

8 Biodiversity Nature Conservation and the Environment

9 Sustainable Transport

10 Highway Safety and Capacity

13 Community Facilities

14 New Residential Development