



**Melton  
Borough  
Council**

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# Planning Committee

6 June 2023

Report of: Assistant Director for Planning and Delivery

## 22/00006/VAC Removal of Condition 4 (provision of on-site affordable housing requirement) of planning permission 19/00859/OUT

Field OS 6260 Canal Lane Hose

Applicant: Plumtree Homes LLP – Mr Adrian Kerrison

Planning Officer: Andrew Cunningham

<b>Corporate Priority:</b>	Delivering sustainable and inclusive growth in Melton
<b>Relevant Ward Member(s):</b>	Christopher Evans and Simon Orson (Long Clawson and Stathern)
<b>Date of consultation with Ward Member(s):</b>	12 May 2022
<b>Exempt Information:</b>	No

### Reason for committee determination

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.

**Web Link:** <https://pa.melton.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R570PPKOH4000>

**What 3 words:** <https://what3words.com/escalated.wakes.shields>

## RECOMMENDATION(S)

1. Approves subject to the following conditions
  - Submission of Reserved Matters
  - Approval of the following details (Appearance, Landscaping, Layout and Scale)
  - Provision of a mix of types and size of dwellings
  - Plan condition
  - Compliance with approved materials
  - Compliance with approved level details
  - Compliance with approved waste and recycling storage
  - Protection of retained trees
  - Compliance with construction traffic management plan and timetable
  - Compliance with off-site highway works and alterations to Canal Lane
  - Implementation of vehicular visibility splays
  - Compliance with access gradient
  - Compliance with control radii of access
  - Provision of drainage
  - Restriction of gates, barriers, bollards, chains and highway obstructions
  - Provision of pedestrian visibility splays
  - Surfacing of access drives and turning spaces
  - Retention of buffer zone
  - Compliance with the Great Crested Newt mitigation strategy and Phase 1 Habitat Survey, protected species assessment and ecological management plan
  - Compliance with the approved Written Scheme of Investigation
  - Compliance with approved surface water drainage systems
  - Contamination remediation and importation of soil
  - Compliance with the approved Construction Environmental Management Plan

2. And Deed of Variation to the previously completed agreed Section 106 Agreement to Continue to secure contributions towards
  - (i) Primary and secondary education provision.

Include contribution towards

- (i) Off-site Affordable housing provision

Remove contributions for

- (i) Sustainable transport options
- (ii) Waste services
- (iii) Library services
- (iv) NHS contribution

Include a Late Stage Review Mechanism

# 1 Executive Summary

- 1.1 The site comprises approximately 2.1 hectares of former agricultural land located to the west of the village of Hose. Outline planning permission has already been granted for the erection of 34 dwellings (Reference 19/00859/OUT). Subsequently, reserved matters approval (reference 20/01135/REM) has been granted for the layout of 34 dwellings and appearance and scale for 5 dwellings.
- 1.2 The outline planning permission was granted subject to a Section 106 agreement securing contributions to local infrastructure, and conditions, including condition 4 which required the provision of on-site affordable housing.
- 1.3 This proposal seeks to remove condition 4 of planning permission (reference 19/00859/OUT). By removing condition 4, this would remove the requirement for the provision of affordable housing.
- 1.4 A viability assessment has been submitted in support of the application which states that the applicant would not be in a position to provide affordable housing provision as the scheme would not be economically viable.

The submitted viability assessment was independently and externally reviewed by a viability assessor as part of the application submission.

## Main Report

### 2 The Site

- 2.1 The site comprises approximately 2.1 hectares of former agricultural land located to the west of the village of Hose along Canal Lane. Some construction work has taken place in the implementation of the granted planning permission.

### 3 Planning History

- 3.1 19/00859/OUT - Proposed erection of 34 dwellings permitted with Section 106 Agreement January 2021.
- 3.2 20/01135/REM - Application for the approval of reserved matters for layout of 34 dwellings and appearance and scale of 5 dwellings in relation to outline consent 19/00859/OUT Permitted July 2021
- 3.3 21/00620/DIS - Application for the approval of details reserved by Condition 11 (details of design for off-site highway works being the access arrangements and alterations to Canal Lane) of Planning Permission 19/00859/OUT permitted September 2021
- 3.4 21/01251/DIS - Application for the approval of details reserved by Conditions 6 (external materials), 7 (levels - part discharge relating only to 5 approved dwellings under 20/01135/REM), 8 (waste and recycling scheme), 10 (construction traffic management plan), 25 (surface water drainage scheme), 26 (management of surface water on site during construction), 27 (long-term management and maintenance of the surface water drainage system), 30 (construction environmental management plan) of Planning Permission 19/00859/OUT permitted November 2021

## **4 Proposal**

4.1 The Proposal deals solely with the removal of Condition 4 of the approved outline planning application reference 19/00859/OUT, there are no other matters for consideration.

## **5 Amendments**

5.1 During the course of the Planning Application an independent review of the Applicant's viability study was undertaken. This requested the submission of additional information which was received and also reviewed independently.

## **6 Planning Policy**

### **National Policy**

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

National Design Guide

### **Melton Local Plan**

Policy C2 Housing Mix

Policy C4 Affordable Housing Provision

### **Clawson, Hose and Harby Neighbourhood Plan**

Policy H5: Housing Mix

Policy H6: Affordable Housing Provision

Policy DC1: Developer Contributions

### **Other**

National Planning Policy Framework (2021)

Affordable Housing and Housing Mix SPD

Developer Contributions SPD

Design of Development SPD

Planning Practice Guidance - Viability

## **7 CONSULTATION RESPONSES**

### **SUMMARY OF TECHNICAL CONSULTATION RESPONSES**

- Housing Policy Officer – The site would not be delivering on the strategic objectives of both the Local Plan and the Council.
- LCC Planning Obligations – No objection subject to the Deed of Variation being agreed

- Leicester, Leicestershire and Rutland Integrated Care Board – Object to inclusion of the Deed of Variation which removes the healthcare contribution.

## SUMMARY OF REPRESENTATIONS

### Ward Member(s)

- Objects to the proposal due to the conflict with Local Plan Policy and lack of affordable home provision.

### Parish Council

- Object to the proposal on the following grounds
- Not complying with Local Plan Policy C1 (A) and Policy C4.
- Affordable housing is required in the village of Hose

### Neighbours

4 letters of objection have been received from 4 separate households on the following grounds

- MBC is committed to affordable housing in the Borough and the proposed removal of this Condition, although no surprise, should not be allowed.
- It is vitally important that affordable properties should be made available for local families in rural areas, to allow those who don't benefit from high incomes to have the option to remain in the area as they establish their families and support older family residents.
- Removal of all affordable housing on a scheme of this size would be inappropriate unless equivalent provision could be made elsewhere in the near vicinity.
- The housing sale value growth of 7% (Between 2017 - 2021) suggested is based on historical data and, I would suggest, less than we've seen in the last few months. For example, the new build 4 bed on Dairy Lane, Hose being sold in excess of £625,000.
- In the current market conditions, it seems likely that the developer will sell the properties in this development at a premium to the figures used for the viability assessment.
- Should the Council agree to a reduced affordable housing allocation, the developer should be obliged to share a percentage of the average sale values (Above those used in the viability assessment) to fund affordable housing elsewhere in the Parish.
- This approach de-risks the provision for the developer, but still ensures funds are available for provision by the local authority or housing association.
- Whilst the developer has submitted a detailed viability assessment, it is essential that this is externally validated. The assumptions, calculations and conclusions require specialist review.
- The policy requirement for affordable housing as part of the development is not new and the developer will have valued and purchased the site taking that into account. Whilst it is true that build costs have risen, it is difficult to accept that development of

what is a relatively average housing site cannot provide a proportion of affordable housing, as required by the adopted (and evidenced) policy.

## **RESPONSE TO CONSULTATIONS AND REPRESENTATIONS**

- 7.1 Comments are noted with regards to the financial information received, however the viability assessment has been reviewed independently of both Melton Borough Council and the applicant and on this occasion further independent legal advice has been sought. Both National Planning Policy (NPPF) and the Council's own Supplementary Planning Documents (SPDs) do include viability as a consideration regarding the provision of affordable housing. On this occasion the results of the assessments demonstrate that the development would not be viable if affordable housing were to be provided as originally conditioned.
- 7.2 Comments from the Leicester, Leicestershire and Rutland Integrated Care Board are also noted, however the adopted Developer Contributions SPD sets out the hierarchy for contributions if the viability of a site is problematic, prioritising strategic highways and education above all other infrastructure. In this instance the contribution originally sought for healthcare will be reallocated towards an offsite affordable housing contribution in accordance with Priority 2a of the SPD

## **8 PLANNING ANALYSIS**

The main considerations are

- Compliance with Development Plan Policies
- Viability, contributions and affordable housing
- Existing conditions

### **Compliance with Development Plan Policies**

- 8.1 Policy C4 of the Melton Local Plan and Policy H6 of the Clawson Hose and Harby Neighbourhood Plan seeks to secure affordable housing provision on housing developments. Policy H6 of the Neighbourhood Plan also states that the requirement to supply a percentage of affordable homes in line with Local Plan requirements having regard to, amongst other matters, economic viability requirements.
- 8.1.1 The Affordable Housing SPD also provides guidance on the submission of Economic Viability Assessments and information that would be required to support an application where the development seeks a reduction or removal of affordable housing provision.
- 8.2 **Principle of Development**
- 8.2.1 Outline planning permission has been granted for the erection of 34 dwellings (reference 19/00859/OUT).
- 8.2.2 Reserved matters have been approved for the layout of 34 dwellings and appearance and scale of 5 dwellings (reference 20/01135/REM).
- 8.2.3 This application seeks to remove condition 4 of outline planning permission 19/00859/OUT. Condition 4 reads:

4. Construction work on no more than 50% of the dwellings shall commence on site and no dwellings shall be occupied until the detail of arrangements for the provision of affordable housing equating to 32% of the quantum of the development (11 units) have been submitted to and approved in writing by the Local Planning Authority. The details shall include;

(a) the numbers, type and location of the affordable housing provision to be made as part of the development;

(b) the arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing;

(c) the occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing provision, and the means by which such occupancy criteria shall be enforced.

(d) the timing of the construction of the affordable housing provision and its phasing in relation to the occupancy of the market housing;

The requirements of the approved detailed arrangements will be complied with in implementation of the planning permission.

8.2.4 The changes proposed are to remove the requirement for on-site affordable housing provision, as previously secured by condition 4 of the outline permission. No changes are proposed to the layout or housing mix of the development.

8.2.5 The principle of the development, given that the outline permission is still extant and development has commenced remains acceptable.

8.2.6 The main considerations here are the loss of affordable housing provision, which is considered in full in the following sections.

### **Viability, contributions and affordable housing**

8.3 The original outline planning permission reference 19/00859/OUT was permitted subject to a number of contributions to local infrastructure, including 32% on site affordable housing provision (11 dwellings out of the total 34). The contributions secured by Section 106 agreement are detailed here –

- Secondary education provision of £101,536.65
- Civic amenity request of £2,810
- Library request of £1,030
- Sustainable travel provision of approximately £29,037
- NHS funding of £10,308.04
- Total amount of contributions secured and agreed – approximately £144,721.69

8.3.1 Members should note that the original outline planning application was supported by a viability assessment. However, officers raised concerns that given the scheme was in outline form only and with limited detail of the development costs, it was not considered that the scheme was unviable. Hence condition 4 was secured at the outline planning permission stage.

8.3.2 Following the outline permission, reserved matters have now been approved which demonstrate the detail of the development, being the layout of all 34 dwellings. The viability assessment submitted as part of this application is therefore directly related to and is as a result of the now known development costs associated with the development, which have been secured by reserved matters.

8.3.3 The submitted viability assessment reported a

- Negative viability of -£3.14 Million when assessing the impact of policy compliant Affordable Housing provision at 32% based on Affordable Rent Tenure.
- Negative viability of -£2.18 Million when assessing the removal of affordable housing units and delivery of a 100% market scheme.
- Negative viability of -£0.9 Million when assessing the removal of affordable housing units, delivery of a 100% market scheme and reducing profit and construction contingency allowances.

8.3.4 Following the submission of the applicant's viability assessment, the Council instructed an independent and external review of the applicant's appraisal. The full document relating to the independent review is available to view at Appendix 1. The findings of the independent assessor are summarised below.

"The viability assessment undertaken of the subject scheme, has concluded that the requirement to provide affordable housing, not only at the required level but at any level, will result in a non-viable development.

Furthermore, the sensitivity testing undertaken in relation to options available to the applicant to fully address the viability gap in its entirety, demonstrates that other measures will be required in addition to removal of affordable housing in order to create a scheme that is both viable and deliverable.

Therefore, alternative funding arrangements have been tested and confirmed as being pursued by Plumtree Homes so as to negate with traditional, more expensive development finance arrangements.

In addition, the applicant has confirmed that they recognise that a reduced profit is also likely to be required in the region of 15% and that land value, at the full BLV, may not be recoverable if a viability gap remains.

We have therefore concluded that the application to remove Condition 4 and affordable housing requirements is a key factor resulting in the scheme being nonviable and can therefore be accepted on this basis."

8.3.5 The provision of Affordable Housing is a key priority and highly important, as supported by Policy C4 of the Melton Local Plan and Policy H6 of the Neighbourhood Plan. Applicants can demonstrate where they consider that particular circumstances justify the need for a viability to be assessed, particularly where significant economic changes have occurred.

8.3.6 Both the Council's Housing Mix and Affordable Housing SPD and Developer Contributions SPD provide guidance on the submission of economic viability assessments. Specific elements and key factors of the considerations of a viability assessment are looked at further in the following sections.

## **Benchmark Land Value (BLV)**



8.3.7 A Benchmark land value is established as part of the viability process and is based on an existing use value (EUV) for the land. The BLV allowance is detailed as £1 Million and this is considered to be acceptable following a review of land transactions achieved within a five mile radius over the last two years. Following the review as detailed above and the BLV of £1 Million based on the size of the development is considered to be acceptable. The premium for the landowner should reflect the minimum return at which a reasonable landowner would be willing to sell their land.

### **Residential Property Market**

8.3.8 Again, as part of the independent assessment, a review of property sales within the last 18 month period in surrounding villages was undertaken. This information feeds into to the viability appraisals and defines the value that the properties are expected to be sold.

8.3.9 Initially there was limited data relating to new build dwellings being sold in the last year. Therefore to ensure a full and thorough review was undertaken, a review of new build dwellings further afield was undertaken as part of the assessment. The values for the dwellings proposed as part of this application are considered to be higher than that of the dwellings being sold recently in the wider area and that of existing property market conditions.

8.3.10 However, given the size (footprint and scale) of the dwellings and the higher specification of the build with detailed internal features, the sales values for the dwellings put forward by the applicant are considered to be acceptable.

8.3.11 The proposal aims to provide a more premium product than a traditional new build property, due to the varied design of the properties and internal specifications.

8.3.12 Therefore the higher sales values put forward by the application are as result of these higher development costs associated with the properties and the higher specification of the build, which is considered further in the following sections.

### **Development / Construction Costs**

8.4 Feeding into the reason why the applicant has stated property sales are to be higher than that of the existing property market conditions, are the development costs and premium product specification of the dwellings. The former is considered here and the latter in the following section.

8.4.1 A full and detailed construction cost has been undertaken as part of the submitted viability assessment, which again has been reviewed independently by a specific construction cost assessor.

8.4.2 The overall construction costs that have been put forward have been reviewed by a specific cost construction assessor and are acceptable and reasonable when considering construction costs associated with a development of this nature - based on evidence of local market conditions and data associated with each element. The costs referred to above are not all of the costs associated with the development, only those where further evidence or information was requested by the independent costs assessor.

8.4.3 Therefore by undertaking this work, the independent assessor has fully reviewed the applicants' viability assessment and can be seen to not just agree with but providing check and challenge, and clarification to certain elements.

- 8.4.4 Other fees associated with the development include professional, contingency, sales, legal and interest costs. These are all in line with the benchmark study values which based on local conditions.
- 8.4.5 A number of the costs associated with the development are allowances or relate to matters which are not yet fully designed and therefore not fully costed – for example the pumping station or installation/service connection works. This can be reviewed during the late stage review mechanism.
- 8.4.6 As such, the development costs put forward by the applicant at this stage are all considered reasonable and in line with the benchmark study values undertaken by the independent assessor. Therefore it is considered that there would be no reason to disagree with the applicant's findings, however the recommended condition securing a further review of the viability detail is considered reasonable for those elements still outstanding.

### **Premium Product / High Specification**

- 8.5 As part of the above consideration of the residential property market and development costs, one of the reasons for the high sales values proposed is due to the inclusion of high specification items as part of the new properties, including
- Underfloor heating
  - Log burners
  - High level of glazed elevations
  - Balconies
  - Bi-fold doors
  - Premium kitchens, bathrooms and internal fixtures and fittings
  - Entrance atriums with curtain walling
  - Vaulted ceilings and overhanging gables
  - Automated garage doors
- 8.5.1 Consideration has also been given as to whether the removal of some or all of the above elements would result in the ability to then provide affordable housing, as a result of the drop in sales values that would arise.
- 8.5.2 However, should the costs be reduced by 10% for example, then it would be expected that the sales values would then also fall, with a reduction of 5% being considered reasonable based on comparison of the residential property market.
- 8.5.3 The removal of the above elements would not result in the ability of the developer to provide affordable housing provision because it would be expected that the sales values would also reduce as a result. Whilst the sales values may not necessarily reduce at a similar level, the results would still conclude in a negative viability gap. This has been tested based on the above example but again this could be further reviewed once the development is nearing completion. This would provide confidence to Members that should these elements not be installed within properties then detailed consideration can be given at that point to assess whether this would alter the viability outcome of the development.

## **Developers Profit**

- 8.6 Planning Practice Guidance on Viability advises that a range of 15-20% is appropriate for Developers Profit. A 20% profit is being put forward by the applicant and whilst this is at the upper end of the scale, based on a modest location where the economic position is considered to be stable, it would be considered reasonable to adopt a figure at the upper end of this scale.
- 8.6.1 Notwithstanding this, further consideration has been given during the course of the application regarding a reduced profit. The results suggest that even with a reduced profit of 15% (the lowest considered within the range) would still result in negative economic viability result (-£499,712).

## **Negative Viability Result and Other Scenarios**

- 8.7 As stated above, the applicant has demonstrated that even with a 100% market dwelling scheme (no affordable housing provision), there still would be a negative viability outcome.
- 8.7.1 As part of the viability assessment, consideration must be given as to whether this negative outcome can be mitigated by the developer, despite the removal of the affordable housing provision.
- 8.7.2 A number of mechanisms have been put forward by the applicant, in order to recover the loss resulting from the development, including sensitivity testing undertaken by the independent assessor using a reduced land value (as well as a reduced profit). For example, equity and profit share arrangements (development being developed at a discount price), reduced land value and reduced profit, which would result in a very marginal viable outcome.
- 8.7.3 It is therefore considered that bearing in mind various options, including reduced profit, reduced land value, removal of the high specification items and even a change in affordable housing tenure all demonstrates that the overall viability of the scheme is considered to result in negative economic viability of the development.

## **Policy IN3, Developer Contributions SPD and Priorities List**

- 8.7.4 The original outline permission (reference 19/00859/OUT) secured contributions to local infrastructure, including education, sustainable travel, NHS, library and civic amenities as detailed above, equating to approximately £144,721.69.
- 8.7.5 Paragraph 3.3.1 of the Developer Contributions SPD states that the Council may refuse the application in line with the direction of Policy IN3 if the developer contributions cannot be made to mitigate the impact of a development. This is not considered to be the case here, given the level of contributions detailed above are not proposed to be amended or reduced and would therefore still ensure that the impact of the development on local infrastructure can be mitigated.
- 8.7.6 Paragraph 3.3.4 of the Developer Contributions SPD seeks to prioritise types of infrastructure contributions. The development would still provide the following
- Priority 1 – Secondary Education - £101,536.65
- Priority 2a – Local Highways Infrastructure – Upgrade works to Canal Lane
- 8.7.7 On-site (or off-site) Affordable Housing sits in Priority 2a and therefore above the contributions secured towards priorities 2b, 2c and 3.
- 8.7.8 Priorities 2b, 2c and 3 provide a contribution of approximately £43,185.04 which are currently secured towards Primary Care – Healthcare (£10,308.04) Civic Amenities and

Sustainable Travel (£2,810 & £29,037) and Libraries and Monitoring Costs (£1,030). The contribution to priorities 2b, 2c and 3 would still not be considered sufficient to provide on-site provision of affordable housing.

- 8.7.9 In accordance with the Developer Contributions SPD, it is recommended that the contributions to priorities 2b, 2c and 3 are removed and substituted for a contribution to off-site affordable housing provision (priority 2a) – approximately £43,185.04.
- 8.7.10 LCC Developer Contributions agree with the approach set out however Leicester, Leicestershire & Rutland Integrated Care Board raise concerns stating that it is imperative that healthcare contributions are secured to support the increased population and therefore improve primary care services for the area. However, given that affordable housing provision sits higher than healthcare contributions within the priorities list as set out in the SPD, the approach of removing all contributions which sit below affordable housing is considered reasonable and consistent with the policy.

### **Conclusion of Viability**

- 8.8 Overall, it is considered that up to date, acceptable and robust evidence of viability has been provided which demonstrates that the development is not capable of providing the policy target of 32% (11 Affordable Housing units). The viability appraisal has been independently and externally reviewed as part of the consideration of the application.
- 8.8.1 The provision of affordable housing is a key priority and there is a need for providing affordable housing as part of new developments. However it is considered that the provision of affordable housing on site would result in a scheme that would not be economically viable. As such, the removal of condition 4 and subsequent removal of affordable housing, whilst not in accordance with Policy C4 of the Melton Local Plan and Policy H6 of the Clawson, Hose and Harby Neighbourhood Plan, is considered to be acceptable when considering the viability assessment which has been thoroughly externally and independently assessed.
- 8.8.2 As referred to above, especially in relation to sales values and construction costs, it is recommended that a late stage review of the viability assessment is secured through the proposed Deed of Variation to the S106 Agreement. The wording of the mechanism would require a review once a proportion of the units in the scheme are sold – in line with Section 3.3.5 of the Housing Mix and Affordable Housing SPD.
- 8.8.3 This means the review will be based on actual sales values and known build costs and the mechanism is based on changes to the gross development value (GDV) and build costs between planning permission and review. The approach will not undertake a full reassessment but focus on these key values that have been submitted as part of this application which will be compared to final figures.
- 8.8.4 Section 3.3.5.1 of the Housing Mix and Affordable Housing SPD states that ‘If the applicant has adequately demonstrated that a scheme cannot be delivered in current market circumstances, the Council may, in exceptional circumstances, agree to defer the policy requirements until better market conditions apply. This would be through ‘clawback’ or ‘deferred payments’. Therefore, the position will be reviewed when actual costs are known as opposed to estimated costs. If the actuals show greater scope for provision this can be achieved by, for example, a subsequent financial contribution. This approach is sometimes applied where the estimates indicate a significant shortfall in policy compliant provision.’

- 8.8.5 The review mechanism would determine whether a 'surplus' is generated over and above the returns necessary for a scheme to be deemed viable. Any surplus profit will be a financial contribution towards off-site affordable housing provision.
- 8.8.6 It is therefore recommended that the application approved.
- 8.8.7 It is also worth noting that the development is unchanged in nature and would still provide benefits to the local area, in way of providing 6 bungalows on site, an acceptable housing mix and provision of housing towards to the local housing supply.

## **Existing conditions**

- 8.9 In accordance with the regulations, Section 73 applications (those which vary or remove conditions on approved planning applications) are new planning permissions and the conditions imposed on the original outline application must be considered whether they need to be amended or re-imposed, having consideration to whether they have previously been discharged under the original permission. The original permission can be found at Appendix 2.
- 8.9.1 The original planning permission (reference 19/00859/OUT) was granted subject to 30 conditions.
- 8.9.2 Condition 1 relates to the submission of reserved matters and commencement of development which is still required as not all reserved matters have been approved.
- 8.9.3 Condition 2 relates to the submission of reserved matters which is still considered to be required as not all reserved matters have been approved.
- 8.9.4 Condition 3 requires the reserved matters to provide a mix of housing, which is still considered to be required as not all reserved matters have been approved.
- 8.9.5 Condition 4 is being sought removal through this application.
- 8.9.6 Condition 5 requires compliance with the submitted details which is required to be retained.
- 8.9.7 Condition 6 requires the submission of materials for the dwellings, which has been discharged under application 21/01251/DIS. As such, this condition is recommended to be amended to ensure compliance with the approved details.
- 8.9.8 Condition 7 requires the submission of existing and proposed ground levels and finished floor levels, which has been partly discharged under application 21/01251/DIS – in relation to the 5 plots approved under reserved matters 20/01135/REM. As such, this condition is recommended to be amended to ensure compliance with the approved details whilst still requiring submission of the finished floor levels for the rest of the plots.
- 8.9.9 Condition 8 requires the submission of a scheme that makes provision for waste and recycling storage and collection, which has been discharged under application 21/01251/DIS. As such, this condition is recommended to be amended to ensure compliance with the approved details.
- 8.9.10 Condition 9 requires that trees and hedgerows which are to be retained are protected by fencing during construction. It is considered necessary to retain this condition.

- 8.9.11 Condition 10 requires the submission of a construction traffic management plan, which has been discharged under application 21/01251/DIS. As such, this condition is recommended to be amended to ensure compliance with the approved details.
- 8.9.12 Condition 11 requires the submission of a design for off-site highway works including the access arrangements and alterations to Canal Lane, which have been discharged under application 21/00620/DIS. As such, this condition is recommended to be amended to ensure compliance with the approved details.
- 8.9.13 Condition 12 requires the provision of visibility splays at the site access points. It is considered necessary to retain this condition.
- 8.9.14 Condition 13 requires the gradient of the access roads to not exceed a certain level. It is considered necessary to retain this condition.
- 8.9.15 Condition 14 requires the provision of a suitable radii on the western service access. It is considered necessary to retain this condition.
- 8.9.16 Condition 15 requires that surface water drainage does not drain into the Public Highways. It is considered necessary to retain this condition.
- 8.9.17 Condition 16 requires that gates, barriers and bollards are set back at least 20 metres behind the highway boundary and hung so as not to open outwards. It is considered necessary to retain this condition.
- 8.9.18 Condition 17 requires the provision of pedestrian visibility splays at the site access. It is considered necessary to retain this condition.
- 8.9.19 Condition 18 requires the access drives to be surfaced appropriately. It is considered necessary to retain this condition.
- 8.9.20 Condition 19 requires that a buffer is provided to the boundary hedgerows as part of the reserved matters submission. It is considered necessary to retain this condition.
- 8.9.21 Condition 20 requires compliance with the Great Crested Newt mitigation strategy. It is considered necessary to retain this condition.
- 8.9.22 Condition 21 requires compliance with the Biodiversity recommendation measures. It is considered necessary to retain this condition.
- 8.9.23 Condition 22 requires the submission of a protected species survey with the reserved matters application. It is considered necessary to retain this condition.
- 8.9.24 Condition 23 requires compliance with the ecological management plan. It is considered necessary to retain this condition.
- 8.9.25 Condition 24 requires compliance with the Written Scheme of Investigation. It is considered necessary to retain this condition.
- 8.9.26 Condition 25 requires the submission of a surface water drainage scheme. Condition 26 requires the submission of details of the management of surface water on site during construction. Condition 27 requires the submission of the long term management and maintenance of the surface water drainage system. All three conditions have been discharged under application 21/01251/DIS. As such, these conditions are recommended to be amended and condensed to ensure compliance with the approved details.
- 8.9.27 Condition 28 requires the submission of a Remediation Method Statement if contamination is found. It is considered necessary to retain this condition.

- 8.9.28 Condition 29 requires details of soil, should it be proposed to import soil onto the site. It is considered necessary to retain this condition.
- 8.9.29 Condition 30 requires the submission of a Construction Environmental Management Plan, which has been discharged under application 21/01251/DIS. As such, this condition is recommended to be amended to ensure compliance with the approved details.

## **9 CONCLUSION**

- 9.1 Overall, it is considered that up to date, acceptable and robust evidence of viability has been provided which demonstrates that the development is not capable of providing the policy target of 32% affordable housing (11 units). The viability appraisal has been independently and externally reviewed as part of the consideration of the application.
- 9.1.1 The provision of affordable housing is a key priority and there is a need to provide affordable housing as part of new developments. It is considered that the provision of affordable housing on site would result in a scheme that would not be economically viable. As such, the removal of condition 4 and subsequent removal of on-site affordable housing provision, whilst not in accordance with Policy C4 of the Melton Local Plan and Policy H6 of the Clawson, Hose and Harby Neighbourhood Plan, is acceptable in light of the viability assessment which has been thoroughly externally and independently assessed.
- 9.1.2 As referred to above, especially in relation to sales values and construction costs, it is recommended that a late-stage review of the viability assessment is secured through the proposed Deed of Variation. The wording of the mechanism would require a review once a proportion of the units in the scheme are sold – in line with Section 3.3.5 of the Housing Mix and Affordable Housing SPD.
- 9.1.3 This means the review will be based on actual sales values and known build costs and the mechanism is based on changes to the gross development value (GDV) and build costs between planning permission and review. The approach will not undertake a full reassessment but focus on these key values that have been submitted as part of this application which will be compared to final figures.
- 9.1.4 Section 3.3.5.1 of the Housing Mix and Affordable Housing SPD states that ‘If the applicant has adequately demonstrated that a scheme cannot be delivered in current market circumstances, the Council may, in exceptional circumstances, agree to defer the policy requirements until better market conditions apply. This would be through ‘clawback’ or ‘deferred payments’. Therefore, the position will be reviewed when actual costs are known as opposed to estimated costs. If the actuals show greater scope for provision this can be achieved by, for example, a subsequent financial contribution. This approach is sometimes applied where the estimates indicate a significant shortfall in policy compliant provision.’
- 9.1.5 The review mechanism would determine whether a ‘surplus’ is generated over and above the returns necessary for a scheme to be deemed viable. Any surplus profit will be a financial contribution towards off-site affordable housing provision.
- 9.1.6 Therefore it is recommended that the application is approved.
- 9.1.7 It is also worth noting that the development is unchanged in nature and would still provide benefits to the local area, in way of providing 6 bungalows on site, an acceptable housing mix and provision of housing towards to the local housing supply.

## 10 REASON FOR RECOMMENDATION

- 10.1 The application has been supported by a viability assessment which indicates that the provision of affordable housing on-site as required by the condition would not be viable.
- 10.1.1 The Council have sought external and independent advice on the submitted viability assessment, the results of which state that should affordable housing be provided as part of the development, then the scheme would not be economically viable. The application would still provide the same amount of financial contributions that were secured by the originally agreed Section 106 agreement under planning permission (reference 19/00859/OUT), however the lower priority contributions would be redistributed and from an off-site affordable housing contribution. The independent viability assessment included these contributions within the overall assessment
- 10.1.2 The original outline application (reference 19/00859/OUT) was supported with a viability assessment where the applicant aimed to demonstrate that the scheme was unviable in order to remove the affordable housing provision. However during the course of the original outline application, officers were concerned that given the scheme was in outline form it was difficult to understand the associated costs and values of the development as no detail of the proposal has been determined. Therefore the affordable housing provision was secured at outline stage.
- 10.1.3 Following approval at outline stage, the reserved matters for the layout of all 34 dwellings and scale and appearance of 5 dwellings have been approved under application (reference 20/01135/REM).
- 10.1.4 As the reserved matters have now been approved showing the layout of all 34 dwellings, consideration can be given to the detail of the development (something which was difficult to assess at outline planning stage). The viability assessment that has been submitted is in accordance with the detail of the development that has been approved through application 20/01135/REM. Therefore the viability assessment which has been submitted is considered to be an accurate representation of the costs that would be incurred.
- 10.1.5 Overall, it is considered that up to date, acceptable and robust evidence of viability has been provided which demonstrates that the development is not capable of providing the policy target of 32% (11 Affordable Housing units).
- 10.1.6 A number of different options have been considered within the viability assessment which demonstrate that any provision of on-site affordable housing (across any tenure mix forms) would not be economically viable.
- 10.1.7 The loss of affordable housing provision would not be in line with Policy C4 of the Melton Local Plan or Policy H6 of the Clawson, Hose and Harby Neighbourhood Plan. However the submitted viability assessment has been considered in detail during the course of the application of which the independent viability assessment concluded that the removal of the affordable housing provision is absolutely necessary in order to make the development financially viable and deliverable.
- 10.1.8 To emphasise this further, the conclusion of the viability assessment showed that there would still be an overall loss as a result of the development, despite removing the on-site affordable housing provision.
- 10.1.9 Whilst the proposal would not be in line with the aforementioned policies of the Melton Local Plan and Neighbourhood Plan, the Council have adopted both the Affordable Housing SPD and Developer Contributions SPD. Both of these SPD's are material



considerations within the determination of the application and do allow for the submission of viability assessment. The Affordable Housing SPD provides clear guidance and advice on the submission viability assessments and what detail and level of information should be contained within them. The viability assessment submitted is considered acceptable in this regard as a starting point and contains all the required information and detail in order to make a decision.

- 10.1.10 Following the independent review of the submitted assessment, a number of options and varying proposals have been ‘tested’ however again the outcomes would all result in an overall loss.
- 10.1.11 The Developer Contributions SPD sets out the relative infrastructure priorities where a viability assessment has been submitted. As such, in accordance with the Developer Contributions SPD, a deed of variation to the original Section 106 is proposed which removes the contributions to priorities 2b, 2c and 3 in lieu of a contribution to off-site affordable housing provision (priority 2a) – approximately £43,185.04. The contribution towards Education provision (priority 1) will be retained.
- 10.1.12 Whilst the provision of affordable housing provision is a key priority, the submitted viability assessment has been independently reviewed in detail. The conclusions of which demonstrate that the site would result in an overall loss should on-site affordable housing provision be provided.
- 10.1.13 Given that the development is currently being developed and circumstances may change within the construction market, a clause within the deed of variation is proposed securing a ‘late stage review’ of the viability position. This is in line with section 3.5.5 of the Affordable Housing and Housing Mix SPD – ‘Viability Reviews (clawback) and deferred payments’. This is considered reasonable to place on the permission to ensure that a further viability review is undertaken which would be based on actual sales values and known build costs.
- 10.1.14 Therefore, it is recommended that the application is permitted.

## 11 Financial Implications

- 11.1 There are no financial implications associated to this planning application

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

## 12 Legal and Governance Implications

- 12.1 Legal and Governance issues are considered and assessed within the report.

**Legal Implications reviewed by: Tom Pickwell (Solicitor)**

## 13 Background Papers

- 13.1 independent review is available to view at Appendix 1
- 13.2 Planning permission 19/00859/OUT is available to view at Appendix 2

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