

Item No. 3

Application Reference Number P/17/0881/2

Application Type:	Full	Date Valid:	15/05/2017
Applicant:	Barwood Homes Limited		
Proposal:	Erection of 46 dwellings		
Location:	129 Cropston Road Anstey Leicestershire LE7 7BR		
Parish:	Anstey	Ward:	Anstey
Case Officer:	Karen Brightman	Tel No:	01509 632520

Introduction

This application is brought back before Plans Committee as there is new information that is material to the decision.

Background

The application, set out within the report attached at Appendix A below, was considered by Plans Committee on the 5th April 2018. It was resolved by the committee that planning permission should be refused as the proposal did not provide for 30% of the units to be affordable, which is the target set out within policy CS3 of the Core Strategy.

Policy CS3 states that the targets for affordable housing must be considered “having regard to market conditions, economic viability and other infrastructure requirements”. With this in mind the application was accompanied by a viability appraisal which had been scrutinised by the District Valuation Office and which was used to form the basis of the officer’s recommendation with regard to viability.

The recommendation reported to Plans Committee on 5th April 2018 was that the proposed development should be approved subject to conditions and a Section 106 legal agreement. The report explained that the development was not viable with 30% affordable housing (14 units). It concluded that the maximum that the site could provide, whilst remaining viable, was one accessible bungalow which was to be gifted to the Council. This is the equivalent to two non-gifted affordable housing units transferred to a Registered Provider.

Between the publication of the officer report and the committee meeting being held, the Highway Authority identified further requirements to support public transport which were not factored in the viability report. These were reported in the Extras Report at the meeting (Appendix B). However following the resolution of the Committee, the applicant has made further representations about the marginality of the scheme viability and therefore has re-run the viability appraisal for the site. This has necessitated further review from the District Valuation Office who have advised that new evidence on build costs must be factored into the viability appraisal in addition to the inputs required as a consequence of the highway requirements. These changes, and the District Valuer’s report, are material to this application and must be considered before a decision can be made. These changes are set below.

Material Changes

There are three key areas where the viability information has altered:

- The additional costs for planning obligations (to be secured under S106 of the Planning Act) identified by Leicestershire County Council, which had not formed part of its original consultation response. These were referenced in the Extras Report for the 5th April 2018 meeting and were requested by Leicestershire County Council to cover travel packs and bus passes for new residents and to secure improvements to the two nearest bus stops. This equated to an additional £12,731 of costs not previously considered in the viability evidence.
- Since the original viability appraisal was submitted and appraised by the District Valuation Office, the costs of building the development (the “build costs”) have also increased. In reviewing the revised viability report submitted by the applicant, the District Valuer is obliged to reflect the latest build cost figures and this has added further to the costs of the development.
- The applicant no longer disputes the benchmark land value in pounds per acre. This means that the costs of purchasing the land are lower than originally put forward by the applicant.

These changes have altered the conclusions arising from the assessment of viability. A summary of the main changes to the previous position is as follows:

- The gross development value, (GDV), of the proposal has increased. This means that receipts from the scheme are increased.
- the costs of purchasing the land are lower than originally put forward by the applicant
- Negotiations have taken place with regard to the profit level to be taken by the developer, (one of the cost inputs into the appraisal). The District Valuation Office places this at an ‘industry standard’ 20% of the GDV, whereas the applicant has argued a lower percentage profit is sufficient, given risk levels on the site.

These changes are material to the decision members took on 5th April 2018.

When the costs and receipts of the development are compared there is now a deficit, even if no affordable housing (i.e. not even the one gifted accessible bungalow initially offered) is provided. This in turn means that the scheme is not a deliverable one. This is a concern because the site is located outside of the settlement in countryside and would not ordinarily be considered for development. However, the lack of a five year supply and the presumption in favour of sustainable development can weigh in favour of granting such schemes when the balance of benefits and harms is considered, as discussed in the report to members on 5 April 2018. By definition though, sites that count towards 5 year land supply need to be deliverable. With this in mind it would not be unreasonable to refuse planning permission on the basis that the development is not deliverable and will not make a positive contribution to the five year supply.

However, in view of this concern the developer of the site has offered to accept a shortened implementation time of 12 months for the permission. This is considerably shorter than the usual lead in time of 3 years and would mean that development on the site would have to commence almost immediately. If there was no start within a year the consent would lapse.

In effect this would ensure that a non-deliverable scheme was not added to the housing supply figures. It also gives some assurance that the developer is able and willing to implement the development at the reduced profit margin indicated. Members should also be aware that the developer may commence the development in order to implement the permission but not progress it or complete it. However, this should be viewed in the context of the developer's fallback position with regard to the previous scheme P/15/0963/2 that was approved in March 2017 (now considered to be unviable), which could be implemented now to preserve the permission.

Conclusion

The proposal complies with policy CS3 as, although the target provision of 30% affordable housing is not met, when regard is had to economic viability there is a justifiable reason for the lower offer of one unit and this has been verified by an independent expert. In fact, the independently verified figures from the revised viability report suggest that the scheme may not be viable at all. However, the developer is confident that the scheme will be delivered albeit with reduced profit margin and to lend weight to this has undertaken to begin development of the site within 12 months of consent being issued. Given the fallback position, it is considered that this is acceptable and it is recommended that planning permission be granted subject to the conditions suggested previously, save for condition 1 which should be amended to reflect the 12 month lead in time.

RECOMMENDATION A:

That authority is given to the Head of Planning and Regeneration and the Head of Strategic Support to enter into an agreement under section 106 of the Town and Country Planning Act 1990 to secure improvements, on terms to be finalised by the parties, as set out below:

- The provision of one accessible bungalow on the site gifted to Charnwood Borough Council
- A sum of £43,150 towards the enhancement of skate park facilities in Staddon Park
- A sum of £108,891.09 towards improvements at Woollen Hill Primary School
- A sum of £29,378.41 towards 16+ education at Birstall Cedars Academy
- A sum of £1,390 towards increasing lending stock at Anstey Library.
- A Sum of £12,731 to provide for travel packs for new residents, including possible bus passes, and for improvement to the two nearest bus stops.

RECOMMENDATION B:

That subject to the completion of the agreement in A above, planning permission be granted subject to the following conditions:

1. The development, hereby permitted, shall be begun not later than 1 year from the date of this permission.
REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. The development shall be carried out in accordance with the following plans: *2976-02 Rev AB Proposed Site Plan, 2976-70 Site Sections, 2976-59 A Trerice house type, 2976-60 B Holdenby semi -detached, 2976-62 Lyme+, 2976-63 Sutton, 2976-64 A Sutton V, 2976-66 A Waddeston Detached, 2976-17 C Tatton, 2976-35 D Waddeston, 2976-52 B Alnwick and Bedford, 2976-54 D Harewood, 2976-55 B Holdenby Detached, 2976-58 C Sutton+, 2976-50 C B2 bungalow, 2976-73 Variant Bungalow 2 bed, 21023_01_230_01 M Drainage, Development Access Layout 21023_08_020_01 B*
REASON: For the avoidance of doubt and to make sure that the scheme takes the form agreed by the authority and thus results in a satisfactory form of development.
3. No development shall commence until details of proposed ground levels and the finished floor levels of all the buildings have been submitted to and approved in writing by the Local Planning Authority. The approved levels details shall be fully implemented.
REASON: To ensure that the development integrates satisfactorily into the landscape and surrounding area. These details are required prior to commencement of the development as they may necessitate engineering operations which need to be carried out prior to construction of infrastructure and buildings on the site.
4. No development other than site clearance and demolition shall commence until a further contamination survey, (which includes further sampling and testing for polyaromatic hydrocarbons), following removal of the buildings on the site has been carried out. This further survey shall be submitted to and approved in writing by the Local Planning Authority. The proposal shall be carried out in accordance with any remediation measures outlined within the Ground Investigation Report dated May 2015 submitted with previous application P/15/0963/2 and the further contamination survey.
REASON: The findings of the initial ground investigation report were restricted due to the presence of buildings on the site. This survey work needs to be carried out once the buildings have been removed but prior to any further development in the event that it requires further engineering or underground work.
5. No development shall take place until a gas monitoring assessment has been undertaken for the site and the details of this submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with any remediation measures suggested in the assessment.
REASON: To ensure the site is safe for future occupiers. This assessment is required prior to commencement of development as it may require engineering and underground works.
6. No development shall commence until a site verification report demonstrating that the measures, referred to in conditions 4 and 5 above, have been implemented has been submitted to and approved in writing by the Local Planning Authority.
REASON: To ensure the site is safe for future occupiers. This verification is required prior to commencement as it may lead to the need for further engineering and underground works and may also have implications for the safety of construction workers.

7. No development, including site clearance and demolition, shall take place until a construction method statement has been submitted to and agreed in writing by the Local Planning Authority. The statement shall include:
- Hours of construction
 - Traffic routing for contractors
 - Wheel wash facilities Measures for dust control
 - Parking provision for contractors

The development shall be carried out in accordance with these agreed details.

REASON: to ensure harm to the amenity of adjacent residents is minimised and for reasons of highway safety. This information is required prior to commencement as it is crucial that all works on the site take place in accordance with it.

8. No development shall take place until details of measures to remove any sediment from surface water discharging from the site into Rothley Brook have been submitted to and agreed in writing by the Local Planning Authority. All development shall be carried out in accordance with these measures and they shall remain in operation thereafter.

REASON: The brook has ecological value and excess sediment being discharged into the water may give rise to ecological issues. These conditions are required prior to commencement as they may necessitate underground engineering works which need to be installed prior to construction starting.

9. No development shall take place until a Landscape and Ecology Management Plan and an Ecological Construction Method Statement have been submitted to and agreed in writing by the Local Planning Authority. The proposal shall be carried out in accordance with any measures outlined within these documents unless previously agreed in writing.

REASON: To ensure that there are no adverse effects on the ecological value of Rothley Brook.

10. No occupation of any dwelling shall take place until a landscaping scheme, to include those details specified below, has been submitted to and agreed in writing by the local planning authority. The proposal shall be carried out in accordance with these approved details in the first planting and seeding season following approval of the details by the local planning authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

- the treatment proposed for all ground surfaces, including hard areas
- full details of tree and hedge planting;
- planting schedules, noting the species, sizes, numbers and densities of plants;
- finished levels or contours;
- any structures to be erected or constructed;
- functional services above and below ground; and
- all existing trees, hedges and other landscape features, indicating clearly those to be removed.

REASON: To make sure that a satisfactory landscaping scheme for the development is agreed.

11. No occupation of any of the dwellings shall take place until a landscape management plan including details of maintenance responsibilities and schedules of all the public areas and the strategic drainage system has been submitted to and approved in writing by the Local Planning Authority. This plan should cover all landscape areas other than domestic gardens.
REASON: To make sure the appearance of the completed development is satisfactory.
12. No occupation of any dwelling shall take place until a scheme for external lighting on the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these agreed details.
REASON: The site adjoins a Local wildlife Site and it is important to ensure that any outdoor lighting does not have an adverse impact on ecology.
13. No occupation of any dwelling shall take place until the proposed alterations to the site access onto Cropston Road detailed in the drawings listed at condition 2 above have been carried out.
REASON: To ensure that safe access into and egress from the site is provided for future occupiers.
14. No occupation of any dwelling shall take place until a scheme for a crossing facility for Cropston Road in the vicinity of the site has been submitted to and approved in writing. The crossing facility shall be provided in accordance with this approved scheme before occupation of the 10th dwelling and shall thereafter be so retained.
REASON: To ensure that the site is safely connected to facilities in the village and in particular schools, in the interests of sustainability and highway safety.
15. No erection of any dwelling or installation of hard surfacing shall take place until the strategic drainage system for the site, (ie excluding individual plot drainage), as shown on the drainage strategy set out within the Flood Risk Assessment April 2017 and associated additional documentation received September 2017, November 2017 and February 2018 has been installed and is fully functioning.
REASON: To ensure that the site drains adequately without causing flooding within the surrounding area. This drainage needs to be installed prior to the installation of any new hard surfacing to ensure that surface water run off from the site is not increased at any point.
16. No dwelling shall be occupied until the parking and, if applicable, turning facilities for that dwelling have been provided, hard surfaced and made available for use. The facilities referred to in this condition shall thereafter be permanently retained and kept clear for use.
REASON: To ensure that adequate parking is provided throughout the site in the interest of highway safety
17. No dwelling shall be occupied until 1m x 1m pedestrian visibility splays have been provided on the highway boundary on both sides of the proposed private drive for that property. Within the splay areas, referred to in this condition, nothing shall be planted or placed that exceeds 0.6m in height.

REASON: To ensure drivers and pedestrians have a good view of one another in the interest of highway safety

18. No materials shall be placed on the site until such time as details of the type, texture and colour of the materials to be used on the external surfaces of the proposed development have been submitted for the agreement of the local planning authority. Only materials agreed in writing by the local planning authority shall be used in carrying out the development.
REASON: To make sure that the appearance of the completed development is satisfactory
19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order revoking or re-enacting that Order, with or without modifications, no additional openings or windows shall be inserted in the north elevation of plot 42, south east elevation of plot 39, south east elevation of plot 35, south east elevation of plot 23, north west elevation of plot 25, or south west elevation of plot 31 at first floor level or above.
REASON: To prevent undue overlooking of nearby dwellings, in the interests of the privacy of nearby residents.
20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order revoking or re-enacting that Order, with or without modifications, no internal or external alterations shall take place to any garage, which would preclude its use for housing motor vehicles.
REASON: To ensure alterations are not carried out that would result in the loss of parking facilities within the site and to ensure that there is no overlooking of adjacent gardens if garages are converted to living spaces.
21. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, an amendment to the remediation scheme detailed in condition 4 above shall be submitted and approved in writing by the Local Planning Authority. This should detail how the unsuspected contamination will be dealt with. The development shall be carried out in accordance with any remediation measures suggested in the amendment.
REASON: To ensure the site is safe for future occupiers
22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order revoking or re-enacting that Order, with or without modifications, no doors other than of a type that opens inwards shall be fitted to the proposed garages for plots 1, 17, 18, 19, 20, 21, and 36.
REASON: To ensure that cars using the shorter driveways to the front of these garages do not overhang the highway in the interests of highway safety.

The Following Advice notes will be attached to the decision:

1. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process. This led to improvements to the scheme to secure a sustainable form of development in line with the requirements of the National Planning Policy

Framework (paragraphs 186 and 187) and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.

Item No.

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Applicant:	Barwood Homes Limited		
Proposal:	Erection of 46 dwellings		
Location:	129 Cropston Road Anstey Leicestershire LE7 7BR		
Parish:	Anstey	Ward:	Anstey
Case Officer:	Andrew Thompson	Tel No:	01509 634735

This application has been called-in to Plans Committee by Councillor Deborah Taylor as she considers the development raises issues regarding a lack of proposed affordable housing, financial contributions towards infrastructure and mitigation measures to address highway impacts relating to Anstey Town Centre and the safety of the proposed access onto the site.

Description of the Site

The site comprises an area of 1.5hectares of land to the rear of 129 to 161 Cropston Road in Anstey. The site was occupied by a former garden nursery, which included a series of greenhouses, a shop and parking/storage areas. The nursery primarily sold plants but there were ancillary sales of other garden products such as compost and tools. Land levels slope down from Cropston Road to Rothley Brook with the steepest gradients being immediately to the southeast of the carriageway. The site is adjacent to limits to development for the village.

Surrounding land uses are open land to the North and East (with Rothley Brook also to the east) with residential properties to the west. A stables and a paddock area are to the south of the application site.

The application site lies within the Rothley Brook Green Wedge which is designated under Saved Local Plan policy CT/3 and the designated Flood Zone has been remodelled.

Description of the Application

This is an application for full planning permission and proposes the following:

-) 34 three-bedroom detached and semi-detached houses*
-) 3 two-bedroom terraced properties*
-) 1 two-bedroom bungalow*
-) 1 one-bedroom affordable and accessible bungalow*
-) 6 four bedroom detached houses*
-) 1 five bedroom detached house*
-) Parking spaces*
-) Demolition of 129 Cropston Road, to allow a new access road in to the development.*

It should be noted that there is an extant permission on the site for 36 dwellings, P/15/0963/2, and that this latest application differs in the following ways:

-) An increase of 10 dwellings.*
-) The site area for residential development has increased by 0.3ha created through flood map remodelling which has re-classed areas thought to be flood zones 2 and 3 to flood zone 1.*
-) The area now proposed for additional dwellings was previously proposed for open space connected to approval of P/15/0963/2.*
-) An increased number of smaller units proposed in the housing mix*
-) The number of affordable units has been reduced from 11 to 1 affordable accessible bungalow to be gifted to the Council. A viability appraisal has been submitted to support this alteration.*
-) The layout and house types have been altered although the road layout is broadly the same as previously considered.*

The following documents are included with the application:

- Ñ Application Forms (April 2017)*
- Ñ Design and Access Statement (April 2017)*
- Ñ Ecological Appraisal (August 2017)*
-) Flood Risk Assessment (April 2017)*
-) FRA Addendum (September 2017)*
-) Flood Risk Technical Note (November 2017)*
- Ñ Transport Statement (April 2017)*
-) Viability study (April 2017)*
-) Housing mix statement (August 2017).*

The applicant has indicated willingness to enter into a Section 106 legal agreement to cover affordable housing, public transport contributions, education contributions, recreation contributions and to provide a crossing point close to the site entrance.

Development Plan Policies

Charnwood Local Plan Core Strategy (adopted 9 November 2015)

The following policies are relevant to this application:

Policy CS1 – Development Strategy sets out the development strategy and directions of growth for the borough. For Service Centres, (of which Anstey is one), provision is made for at least 3,000 new homes between 2011 and 2028. These homes must on balance be sustainable, meet need, be in line with strategic vision, make effective use of land and comply with the Core Strategy as a whole. In the period between the base date and adoption, (2011 – present), approximately 3,800 homes have been committed within or adjacent to the service centres meaning that there is only a requirement for additional windfall sites within the settlement boundaries up to 2028.

Policy CS2 – High Quality Design requires developments to make a positive contribution to Charnwood, reinforcing a sense of place. Development should respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout,

materials and access; protect the amenity of people who live or work nearby, provide attractive well managed public and private spaces; well defined and legible streets and spaces and reduce their impact on climate change.

Policy CS3 – Strategic Housing Needs supports an appropriate housing mix for the Borough and sets targets for affordable homes provision. In Anstey 30% affordable homes are sought on sites of 10 dwellings or more.

Policy CS11 – Landscape and Countryside seeks to protect the character of the landscape and countryside. It requires new development to protect landscape character, tranquillity and to maintain separate identities of settlements.

Policy CS12 – Green Infrastructure aims to enhance urban fringe green infrastructure. For green wedge areas such as this it is achieved by retaining the open and undeveloped character of the green wedge, retaining and creating green networks and improving public access for recreation.

Policy CS13 – Biodiversity and Geodiversity seeks to conserve and enhance the natural environment and to ensure development takes into account impact on recognised features.

Policy CS15 deals with open space and requires all new development to meet the standards in the open space Strategy. This site is, however, too small to provide open space to any meaningful minimum size on site other than for natural open space.

Policy CS16 – Sustainable Construction and Energy supports sustainable design and construction techniques. It also encourages the effective use of land by reusing land that has been previously developed.

Policy CS17 – Sustainable Transport seeks a 6% shift from travel by private car to sustainable modes by requiring major developments to provide access to key facilities by safe and well-lit routes for walking and cycling that are integrated with the wider green infrastructure network and by securing new and enhanced bus services where new development is more than 400m walk from an existing bus stop.

Policy CS18 – The Local and Strategic Highway Network – seeks to ensure that appropriate highway improvements are delivered and applications are supported by appropriate Transport Assessments.

Policy CS24 – Delivering Infrastructure – seeks to ensure that development contributes to the reasonable costs of on site, and where appropriate off site, infrastructure, arising from the proposal through the use of Section 106 Agreements. This is so the local impacts of developments will have been reasonably managed and mitigated.

Policy CS25 Presumption in favour of sustainable development echoes the sentiments of the National Planning Policy Framework in terms of sustainable development.

Borough of Charnwood Local Plan (adopted 12 January 2004) (saved policies)

The saved policies relevant to this proposal include:

Policy ST/2 – Limits to Development – This policy seeks to restrict development to within the existing settlement limits to ensure that development needs can be met without harm to the countryside or other rural interests.

Policy EV/1 – Design – This seeks to ensure a high standard of design and developments which respect the character of the area, nearby occupiers, and which are compatible in mass, scale, layout, whilst using landforms and other natural features. Developments should meet the needs of all groups and create safe places for people.

Policy CT/1 General Principles for areas of the countryside, green wedge and local separation. The policy restricts new development to that which is small-scale and where it meets certain criteria.

Policy CT/2 Developments in the Countryside – indicates in areas defined as countryside, development acceptable in principle will be permitted where it would not harm the character and appearance of the countryside and safeguards its historic, nature conservation, amenity and other local interest.

Policy CT/3 – Development in Green Wedges – This policy sets out criteria that development in such areas should meet. It identifies the site as being within a corridor of green wedge between Anstey and Leicester.

Policy TR/18 – Parking in New Development – This seeks to set the maximum standards by which development should provide for off street car parking.

Other Material considerations

The National Planning Policy Framework 2012 (NPPF)

The NPPF is a material consideration in planning decisions. The NPPF contains a presumption in favour of sustainable development.

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development and that there are 3 dimensions to this:

-) An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation;*
-) A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services;*
-) An environmental role – contributing to protecting and enhancing our natural, built and historic environment.*

Paragraph 14 states that where the development plan is absent, silent or relevant policies are out-of-date, proposals should be granted permission unless:

-) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;*
- or*
-) specific policies in this Framework indicate development should be restricted.*

Para 17 sets out the core principles of sustainable development

In terms of the remainder of the NPPF, relevant sections are as follows:

Section 4: Promoting Sustainable Transport

Paras. 29-32 - Promotes sustainable modes of transport and consideration of highway implications in that only where a development results in a severe impact should it be refused.

Section 6: Delivering a wide choice of high quality homes

Paras. 47 & 49 – requires Local Planning Authorities to significantly boost the supply of land and need for a 5 year housing land supply. Where a 5-year supply cannot be demonstrated relevant policies for the supply of housing should not be considered up-to-date.

Para 50 - advises local planning authorities to plan for a mix of housing.

Section 7: Requiring good design

Paras. 56, 58, 63 & 64 – Development is required to achieve high quality design that respects local distinctiveness and poor design should be refused.

Section 8. Promoting healthy communities

Paras 69 and 70 - Facilitating social interaction and creating healthy, inclusive communities.

Section 10: Climate change and flooding

Para 96 - Direct development away from areas at high risk of flooding, and it should take account of layout, landform, building orientation, massing and landscaping to minimise energy consumption.

Para 103 – seeks to ensure that development is flood resilient and designs in sustainable drainage.

On decision taking the NPPF advises:

Paras 186 and 187 - Local Planning Authorities should act in a positive and proactive manner in decision making.

Para 196 - Re-emphasises the primacy of the Development Plan in decision making

Paras 203-206 - Sets out the tests for the use of planning conditions and obligations.

National Planning Practice Guidance

This national document provides additional guidance to ensure the effective implementation of the planning policy set out in the National Planning Policy Framework. The guidance sets out relevant guidance on aspects of flooding, air quality, noise, design, the setting and significance of heritage assets, landscape, contaminated land, Community Infrastructure Levy, transport assessments and travels plans, supporting the policy framework as set out in the NPPF.

Leading in Design Supplementary Planning Document February 2006

This document encourages and provides guidance on achieving high quality design in new development.

Appendix 4 sets out spacing standards for new housing developments to ensure that overlooking and over dominance do not occur and that a good quality design is achieved.

Housing Supplementary Planning Document (May 2017)

This document includes advice relating to affordable housing and housing for older people. It should be noted that policy HSPD 9 has been redacted following a legal challenge.

Landscape Character Assessment (July 2012)

This Assessment forms part of the evidence base to the Core Strategy. The site lies within the Charnwood Forest Character Area which is described as the upland nature of Charnwood Forest, due to the underlying ancient rock, it is very different from other landscape character areas within the Borough. The geology has strongly influenced both the natural vegetation cover and agricultural land use. It has the highest percentage of woodland cover and wildlife sites in Leicestershire. Small villages have a strong sense of identity through the use of local stone. The area is very popular for recreation and visitor pressure is increasing. The historic core of Anstey is noted within the Assessment as a Conservation Area with the character area of Charnwood Forest being defined by the historic settlement form which extends into the fringes of the character area and forms an important part of the landscape character. Anstey lies in the south with other large villages of Quorn, Rothley and Mountsorrel at the transition between Charnwood Forest and the Soar Valley landscape character areas.

ARUP Green Wedges and Local Areas of Separation Study (2016)

This study commissioned by the Council provides amongst other things a review of local areas of separation and Green Wedges and how they perform against their respective objectives.

Housing and Economic Development Needs Assessment (January 2017) HEDNA

HEDNA provides an up to date evidence base of local housing needs including an objectively assessed housing need figure to 2036 based on forecasts and an assessment of the recommended housing mix based on the expected demographic changes over the same period. Whilst the objectively assessed need figure remains untested in a plan making environment in the Borough and is therefore not to be relied upon at the current time, the housing mix evidence can be accorded significant weight as it reflects known demographic changes.

Environmental Impact Assessment Regulations 2017

The development has been considered in the context of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, and it has been concluded that this is a proposal that would not be likely to have significant effects on the environment, within the meaning of the Regulations, given the scale and type of development. Accordingly the planning application for this development does not need to be accompanied by an Environmental Statement.

The Community Infrastructure Levy Regulations 2010, (CIL)

These set out the process and procedure relating to infrastructure requirements. Regulation 122 states that it must relate in scale and kind to the development. Regulation 123 precludes repeat requests for funding of the same items (pooling).

Relevant Planning History

Applications registered for 129 Cropston Road and the Nursery are as follows:

Ref.	Description	Decision	Date
P/80/0324	Advertisement	Refused	13/03/80
P/80/1569	Mounted Sign	Approved	07/06/80
P/83/2394	Change of use of horticultural building to shop	Approved	01/03/83
P/90/0451	Extensions to 129 Cropston Road	Refused	24/05/90
P/92/1690	Extensions to 129 Cropston Road	Approved	08/09/92
P/98/1260	Erection of poly tunnel	Approved	02/02/98
P/09/0217	Change of use to retail sales without compliance with condition 2 – allowing open retail	Refused	19/10/09

As set out above there are two extant applications for the site. These are:

-) P/15/0963/2 – Erection of 36 dwellings - Granted March 2017
-) P/15/2276/2 – Change of use of land to form public open space – Granted April 2016

Responses of Statutory Consultees

Leicestershire County Council Lead Local Flood Authority (LLFA)

When determining planning applications, Charnwood Borough Council as the local planning authority should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a site specific flood risk assessment (FRA) confirming it will not put the users of the development at risk. Where an FRA is applicable this should be undertaken in accordance with the requirements of the National Planning Policy Framework (NPPF) and accompanying Planning Practice Guidance (PPG).

Revised drainage and flood risk details have been submitted and are technically acceptable. Conditions are proposed.

Environment Agency

The Environment Agency does not object to the proposal but points out that works within 8m of the brook may require a special environmental permit.

Leicestershire County Council Highway Authority

The Highway Authority does not consider that the proposal for 10 additional dwellings would give rise to severe impacts. It is satisfied with the findings set out in the submitted Transport Assessment and, when considered within the context of recent improvements at The Nook, (ie. residually), believes that the development can be safely accommodated within the network.

No concerns are raised with regard to highway safety and the access shown on the drawings is considered to be acceptable. There are small elements of the internal layout which it points out may not meet with adoption criteria which could be addressed through the adoption process or used as private drives as shown. The County Highway Authority also confirms that the number of parking spaces provided is adequate providing these are of sufficient size.

With regard to accessibility and connectivity it comments that the site is well served by public transport but seeks a scheme to improve pedestrian crossing facilities in the area.

Anstey Parish Council

Anstey Parish Council considers the proposal to be of poor design. It raises concerns relating to lack of affordable housing, lack of Section 106 contributions, poor levels of 2 bedroom properties as a proportion of the overall site, lack of landscaping, flooding from the brook, loss of the pedestrian crossing and highway capacity.

Housing Strategy Manager

The Borough Council's Affordable Housing Officer is satisfied, on the basis of the viability submission, that the gifted accessible unit would be acceptable in terms of affordable housing provision.

The Canal and River Trust

The Canal and River Trust makes no comment on the application

Leicestershire County Council Developer Contributions

Civic Amenity - LCC seeks a contribution of £2,377 towards additional containers at Mountsorrel Civic Amenity site.

Education Authority - The Education Authority seeks a contribution of £138,269.50 towards Anstey Latimer Primary school and Thurstaston Richard Hill Primary School and towards post 16 education at Birstall Cedars Academy.

Libraries - seeks a contribution of £1,390 towards increasing stock at Anstey Library.

Open Space

The Open Spaces Team seek contributions of £35,863.92 towards park provision, £10,457.07 towards natural and semi natural open space, £12,832 towards children play, £43,150 towards provision for young people, £43,130.35 towards outdoor sports and £5,246 towards allotments.

Third Party Representations

Councillor Deborah Taylor

Objects to the application on the following grounds:

- outside development limits and within the Green Wedge
- traffic and highway impact
- the position of the access being in a dangerous position
- impact of the access on pedestrian safety
- impact of the access on the amenity of residents of neighbouring properties
- flooding and the proximity of properties to the Rothley Brook
- housing mix does not meet the Council's needs
- relationship to neighbouring properties
- lack of open space
- overdevelopment and lack of landscaping and
- lack of infrastructure to cope with the development.

Public Comment

Over the course of the application there have been 13 letters from local residents. Some residents have written more than once. The comments / concerns raised include:

-) Traffic from this and other new developments
-) Impact on village infrastructure
-) Proximity to the brook and impact on wildlife, the country park and flooding
-) Lack of need for the houses

-) Loss of privacy and impact of the access
-) Proximity of the houses to a stable block.

The occupiers of 131 Cropston Road have also written with specific comments relating to the gable wall and access wall adjacent to their property.

This is a summary and all comments received can be viewed in full on Charnwood's website at www.charnwood.gov.uk

Consideration of the Planning Issues

The key issues in considering this application are considered to be those that relate to the differences between this and the extant permission on the site. As a result they do not relate to the principle of developing the site for housing. They are:

-) The Principle of the Development and the provision of 10 additional dwellings
-) The proposed housing mix
-) Impact on the character of the area due to the layout changes
-) The Design and Layout
-) Impact on the amenity of adjacent properties
-) The impact of additional dwellings on highway safety and the capacity of the surrounding road network
-) Flood risk
-) Biodiversity and protected species
-) Affordable housing and viability
-) Other S106 Contributions.

The Principle of the Development and the provision of 10 additional dwellings

Planning permission has already been granted under planning permission reference P/15/0963/2 which approved 36 dwellings on the site. The proposal would therefore provide an additional 10 dwellings above the extant scheme. Since the previous approval there have been additional permissions granted for other sites in Anstey but the Borough no longer has a 5 year supply of housing land.

Policy CS1 sets a development strategy and settlement hierarchy that guides residential development to the edge of Leicester and Loughborough/Shepshed before smaller places in the Borough. Anstey is categorised as one of seven Service Centres, which are expected to accommodate at least 3,000 dwellings during the plan period 2011 to 2028.

The level of development in the Service Centres (currently in the region of 3,800 dwellings, taking account of recent permissions) and the amount of development already committed within Anstey is noted (for example, the Bloors and Jelson developments further along Cropston Road), the impact of the proposed additional dwellings on the settlement character should also be considered and this is set out later in this report.

The proposal is located in the countryside as denoted by Saved Local Plan Policy ST/2 but adjoins the settlement boundary. It also lies within a Green Wedge as designated by Saved Local Plan Policy CT/3.

The Core Strategy indicates that small scale development adjoining the settlement boundary of Service Centres may be acceptable subject to the proposals responding positively to sustainable development objectives and which contribute towards meeting our development needs, supports our strategic vision, makes effective use of land and is in accordance with the other policies in the Core Strategy.

Paragraph 14 of the National Planning Policy Framework states that where development plan policies are out-of-date planning permission should be granted unless:

-) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole; or*
-) specific policies in this Framework indicate development should be restricted.*

The need to significantly boost housing supply is a material consideration that must be given weight in the planning balance. For Charnwood, Core Strategy Policy CS 1 and Local Plan Policy ST/2 are the policies for the supply of housing. Whilst these policies are out-of-date, it remains for the decision taker to assess the weight of these policies. A recent Supreme Court judgement (Suffolk Coastal District Council v Hopkins Homes Ltd & Richborough Estates Partnership LLP v Cheshire East Borough Council [2017] UKSC 36.) has clarified a number of matters in relation to the application of the presumption of sustainable development. The Supreme Court judgement confirms that where policies for the supply of housing are not considered up to date, they retain their statutory force, but the focus shifts to other material considerations. When making an assessment of weight it is necessary to consider the degree of consistency with the Framework, the degree to which policies restrict the supply of new housing, the purpose of the policies and if there is a 5 year supply shortfall, the degree of the shortfall and the action that is being taken to address it.

Policy CS1 defines the settlement hierarchy and the criteria for considering proposals within individual tiers of settlements. The Development Strategy set out in the Policy seeks to guide development to locations that are well connected to jobs, services and infrastructure in order to provide a sustainable pattern of development. The Core Strategy supports sustainable development which contributes towards meeting our remaining development needs, supports the Council's strategic vision, makes effective use of land and is in accordance with the policies in the Core Strategy. These matters do not all necessarily relate only to the supply of housing but also to the sustainability and suitability of differing types of settlement for new housing having regard to travel and patterns of movement and access to services and facilities.

Whilst Policy CS1 is not up-to-date, and cannot be ascribed full weight, the policy has a role in delivering a sustainable pattern of development. The site in question is outside the limits to development of Anstey and within countryside. Policy CS 1 states that, in relation to Anstey, the Local Planning Authority will respond positively to sustainable development which contributes towards meeting the Borough's development needs. As the Council is currently unable to demonstrate a five year supply of housing land, it is considered that this site would contribute towards meeting our development needs. Whilst paragraph 4.45 and 4.46 of the supporting text for Policy CS 1 states that the Council's priority is to see any new development that takes place at service centres to be within their existing built up areas, it also states that small scale windfalls in greenfield locations may be appropriate

where there is a recognised local housing need. Whilst the council has no evidence of a specific local housing need for Anstey, and the developer has not provided any, the Council is unable to show it has a five year housing supply across the Borough as a whole. This brownfield site has extant permission for 36 dwellings and the proposal being considered increases that number modestly by 10 dwellings, which helps to create a better profile of house types in terms of HEDNA. Therefore taking account the borough wide housing need and the extant permission alongside the size of Anstey, it is considered the proposal is small scale.

Saved Policy ST/2 acts as a counterpart to CS1. It defines the land which is considered to be within the urban area and that which is countryside. In doing so, it provides that part of the development strategy which seeks to manage patterns of development is to ensure that landscape and the countryside are protected. It is considered that, in this instance, Policy ST/2 must be given moderate weight as it would restrict the delivery of housing adjacent to the service centre that would otherwise meet an identified housing need.

It is considered that Saved Policies CT/1, CT/2 and CT/3 whilst not policies for the supply of housing, can have a constraining effect upon the supply of housing. It is considered that these policies should be attributed reduced weight when the Council is unable to demonstrate it has a 5 year housing land supply, as they would otherwise restrict the supply of housing at a time when the Council is unable to demonstrate a five year supply of housing. In other respects these policies show a high degree of consistency with the objectives in the Framework, although aspects of their wording are inconsistent. For the above reasons they are considered to carry more than moderate weight.

The Green Wedge designated by Saved Policy CT/3, and considered by the ARUP Green Wedge review highlights that the Green Wedge performs well against the wider objectives of a Green Wedge designation, as a landscape feature, recreational resource and guide to development patterns. There are no site specific policies that would restrict development on the application site, but it is noted that the principle of development has already been accepted on the site. The proposal needs to be considered against the principles of sustainable development as defined in Paragraph 14 of the NPPF.

The provision of the additional 10 dwellings, in addition to the previously approved 36 dwellings would therefore be a boost to the housing land supply and this is a positive benefit to the proposals that should be weighed in the planning balance.

The remainder of the report therefore addresses the material planning considerations against which the application proposal should be measured.

The proposed housing mix

Policies CS2 and CS3 of the Core Strategy and saved Policy EV/1 require developments to be in keeping with the character of the area and take account of the local surroundings. This is supported by the aims and objectives of HEDNA which seeks at paragraph 5.36 to ensure that the development is in keeping with the characteristics of the site and the area.

The NPPF also seeks to ensure that there is no clear distinction between affordable and market housing. This was a specific failing in the scheme dismissed on appeal further up Cropston Road at the Bloor Homes scheme and more recently at Iveshead Road,

Shephed. It should be noted that there are no new house types from that previously approved and agreed house types are used in the additional plots proposed. The most recent expression of housing need for Charnwood is set out within the Housing and Economic development Needs Assessment (2017) (HEDNA). The housing mix identified in HEDNA 2017 is set out below:

Bedrooms	Affordable	Market
1	40-45%	0-10%
2	20-25%	25-35%
3	25-30%	45-55%
4+	5-10%	10-20%

However it is noted that HEDNA guidance advises against prescriptive application of the above figures and suggests that schemes should be considered against the mix of housing locally, the setting of the site and character of the area, and local demand evidence.

The current proposal consists of predominantly two storey development as a mix of terraced, semi-detached and detached properties. The application proposes two single storey bungalows one of these is accessible for wheelchair users. This is broadly similar to the previously approved housing mix in terms of type although there is a decrease in the number of detached dwelling types and increase in semi-detached and smaller house types, which helps to achieve a better match with need identified in HEDNA. The proposals continue to offer the same number of bungalows to cater for the identified need. There is no specific minimum amount of bungalows sought and policy does not seek to enforce a specific housing type

There is no specific identified needs study relating to dwelling types for Charnwood although HEDNA shows a need for accommodation for older households and particularly those with mobility problems. The character of the area must also be a consideration in assessing this element of mix as there is a clear need for a softer edge to the development along the brook and facing the country park. It is considered that the proposal represents an improved mix in terms of type and that it responds to a degree to identified need and more fully to area character.

The table below sets out the mix of market housing in terms of size both for the extant scheme and the current proposal and then compares this to the need figures given in HEDNA:

	EXTANT	CURRENT	HEDNA
1 Bedroom	0 (0%)	0 (0%)	0%-10%
2 Bedroom	0 (0%)	5 (11%)	25% – 35%
3 Bedroom	19 (76%)	34 (77%)	45% - 55%
4+ Bedroom	6 (24%)	7 (16%)	10% - 20%

The main differences in the submission compared to the extant permission are to the east which would be a transition to the open countryside and recreational areas to the north. The proposals for larger housing on this part of the site do mean that the proportion of 3

bed properties remain above HEDNA but they assist with the transition from open countryside and recreation areas to the north and are therefore considered to be acceptable. The proposals would also continue to reflect the design and scale of the properties to the western boundary on Cropston Road.

There would continue to be good integration with the surrounding area and the proposals would also include 2 bedroom properties within the market housing, which differentiates from the already approved development. The proposals are therefore considered to take account of the site characteristics and the advice of HEDNA the proposals are considered to offer an appropriate housing mix.

The development is therefore considered to respond positively to the character of the area in an appropriate way in terms of mix, with larger less dense development along the settlement edge adjoining the brook.

Overall, the proposals are in accordance with the aims and objectives of Policy CS3 (as supported by the evidence base) and are a coherent design response for the site, taking account of the surroundings. Additionally the proposal does not fundamentally change the housing mix from the approved scheme. The proposals are therefore acceptable and in accordance with Policies CS2 and CS3 of the Core Strategy and saved Policy EV/1 requiring developments to be in keeping with the character of the area and take account of the local surroundings.

Impact on the character of the area due to the layout changes

Policies CS2 and CS3 of the Core Strategy and Saved Policy EV/1 require developments to be in keeping with the character of the area and take account of the local surroundings. The impact of the extant proposal was assessed in terms of:

- a) Its location within a defined area of Green Wedge*
- b) The visual impact of the access and demolition of 129 Cropston Road*
- c) Relationship of the site to the village*
- d) Views into the site*

The proposal differs from the previous approval in that it involves development that is closer to the Brook at the rear of the site. In terms of visual impacts, views from Cropston Road and the site's relationship to the village remain unaltered.

The current proposal is reassessed against criteria a) and d) above in the remainder of this section.

Green wedge – The site is located within the Anstey/Groby/Glenfrith Green Wedge as defined on the Borough of Charnwood local plan proposals map. Saved Policy CT/3 of the Borough of Charnwood Local Plan has not been superseded by the Core Strategy and remains up to date in terms of the NPPF. This policy only permits development which protects the predominantly open and undeveloped character of the area, retains gaps between villages, maintains recreational access and secures landscape improvements.

Core Strategy Policy CS12 identifies the general area on the edge of Leicester including around Anstey as being within an 'urban fringe green infrastructure enhancement zone'. Within these zones there is an undertaking to protect and enhance the open spaces that form the network of green space. The Core Strategy also indicates the general area of the Anstey/Groby/Glenfrith green wedge but does not clarify the precise boundaries of the green wedge, these being defined by the local plan proposals map. Similar to Saved Policy CT/3, Policy CS12 states that within green wedges, development should be supported which retains the open character of the area, retains links between countryside and urban areas and enhances public access.

The application site already contains buildings, storage areas and hard surfacing in connection with the former garden centre. Whilst these were generally single storey buildings and low key uses which have a more limited impact on the surrounding area than the development, there is no open and undeveloped land that would be lost if the proposal were to be built. More importantly key linear open space along the brook would be retained and improved, allowing the provision of an open character and landscape improvements. These positive benefits are considered to meet the intentions of policy CS12 and Saved Local Plan Policy CT/3, as the open character of the area would be enhanced by the redevelopment of this site.

Whilst the current application reduces the width of the linear corridor along the brook, revisions to the submitted plans during the course of the application have restored this to a meaningful width and have ensured this is retained as a structural element of the scheme.

Views into the site –There are relatively few public areas where clear views of the site would be possible. From Cropston Road itself views of the site would be restricted to glimpses between buildings due to the presence of strong frontage development at a higher ground level.

It would also be possible to see the development from footpaths around the country park to the east. The current proposal would have a greater impact in terms of this viewpoint as it would bring development closer to the brook and park beyond. However, due to distances, topography and landscaping, the visual impact would be relatively limited. This also needs to be considered in the context of the former use of the site. As referenced above the former nursery buildings and structures were closer to the stream and park than either the extant permission or the current proposal.

In conclusion it is not considered that significant harm to the character of the area is likely as a result of the changes between the current scheme and the extant approval and would be in accordance with Policies CS2 and CS3 of the Core Strategy and saved Policy EV/1 of the Local Plan and the aims and objectives of the National Planning Policy Framework.

The Revised Design and Layout

Policy CS2 seeks high quality design. It sets out broad criteria for achieving this and suggests that the quality of proposals should be assessed using national design guidance. Building for Life 12 is one method that design quality may be assessed. It contains guidance on design and sets out a series of headings within which good quality

designs should perform. As in the previous assessment of the extant scheme, an assessment of the current scheme has been undertaken by officers against the Build for Life criteria.

The proposal divides up the site into two small character areas: the strong linear access road and the looser pattern of development in the brook edge corridor. These have been designed to reflect the two key elements of Anstey’s historic core which comprise the more formal “church” area and the less formal “green” area. The strong linear form of the access road also ties in with the pattern of development on the adjacent Cropston Road.

The scheme under consideration shares many design aspects as that already approved under the extant permission and the proposed scheme performs strongly in a majority of Building for Life criteria and moderately against the other criteria, which shows that it is a good quality design which would be in keeping with the provisions of Policy CS2 of the Core Strategy and the aims of the National Planning Policy Framework.

Impact on adjacent properties

Policy CS2 of the Core Strategy and Saved Policy EV/1 require developments to be in keeping with the character of the area and take account of the local surroundings and respect the amenity of neighbouring properties.

It is also of note that the approved permission for 36 dwellings is also a material consideration, and the comments of local residents and Cllr Taylor in this regard have been carefully considered.

As with the extant proposal the impact of the current scheme is assessed with regard to its impact on adjacent properties. The proposals have not significantly altered the proposed relationship of the housing approved under the extant scheme. The key relationships are set out in the table below:

Property	Relationship	Guide (if applicable)	Notes
131 Cropston Rd	There is 40m from the side gable of plot 1 to the rear elevation of 131. 30m to the side of the garage to plot 1 and 27m to the proposed substation.	12.5m between blank gable and main habitable room windows to avoid over dominance 5m from a newly formed access	Building: There is sufficient distance for there to be no material loss of light or outlook from the rear of the property. Garden: Plot 1 is situated 14m east of the 25m rear garden to this property. This is not considered to give rise to issues with privacy, outlook or lighting.

Property	Relationship	Guide (if applicable)	Notes
		to main habitable room windows, 3m to secondary windows and 2m to blank wall.	Access: The new access road would pass within 6m of the side elevation of 131 which would be a blank elevation following the demolition of 129. This is within the guideline figure.
127 Cropston Rd	6m from the side elevation of 127 to the access road.	5m from a newly formed access to main habitable room windows, 3m to secondary windows and 2m to blank wall.	Access: The proposed access road would pass within 6m of the side elevation to 127. This complies with guidelines set out in the Council's SPG on tandem development.
133 - 161	Approximately 35 – 40m between properties on Cropston Road and the westernmost plots.	21m between elevations containing main habitable room windows.	Buildings: This complies with the guideline.
			Gardens: The westernmost plots have average garden depths of 10m which, (particularly when combined with the drop in levels), means that there would not be significant overlooking of adjacent gardens.

Whilst an additional 10 dwellings would create additional highway movements, the proposed access has been designed in a manner to safeguard the amenities of neighbouring residents with appropriate landscape and separation. It is considered that the additional ten dwellings would not create significant noise or disturbance over and above the existing approved scheme that would be sustainable on its own as a reason for refusal.

Overall, taking account of the representations and concerns received to the application and the relationship to properties on Cropston Road, compared to the approved scheme, the proposals are considered to be an acceptable relationship in terms of policy EV/1 of the Local Plan and policy CS2 of the Core Strategy.

The impact of the additional units on Highway Safety and the capacity of the surrounding road network

Policy CS17 of the Core Strategy seeks to provide a genuine choice for our community to walk, cycle or take longer trips on public transport. Development is expected to be managed in ways which secure improvements or results in an efficient and effective transport network. Policy CS18 of the Core Strategy seeks to maximise the efficiency of the local and strategic road network by 2028 by requiring new developments (including

this application) to deliver an appropriate and comprehensive package of transport improvements.

Paragraph 32 of the NPPF states developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. It further states that decision makers should ensure that the opportunities for sustainable transport modes have been taken up, safe and suitable access to the site can be achieved, and improvements can be undertaken within the transport network that cost effectively limits the significant impact of the development. Development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

The comments of the Local Highway Authority have been carefully considered and the comments raised by local residents and Councillor Taylor are also noted. The following highway issues have been raised. These are discussed in turn with regard to the current proposal below:

- Ñ Highway Capacity in the area*
- Ñ Gradient and safety of the Access*
- Ñ Pedestrian facilities*
- Ñ Layout and parking within the site.*

Highway Capacity in the area – Concerns have been raised about the busy nature of Cropston Road and about introducing additional traffic onto this beyond that previously approved. The Local Highway Authority does not object to the application in principle, as it considers that the increase in the size of the development proposed would not generate sufficient numbers of trips to cause harm when considered cumulatively with other developments in the light of programmed and completed improvement schemes.

Gradient and safety of the Access_– The Highway Authority has no objection to the position of the access in terms of its relationship with the nearby Link Road junction. The existing gradient of the access has been reduced to meet adoption requirements providing a gradient of 1:15 which complies with highway standards and provides safe access and egress and reflects the same position as the extant permission.

Pedestrian facilities – Whilst the site is well located in terms of a good range of local facilities, many of these, and in particular the schools, are on the opposite side of Cropston Road. In order to make these journeys safer for pedestrians and ultimately improve the sustainability of the site the applicant has agreed to install a crossing facility in the vicinity of the site and reflects the same position as the extant permission.

Layout and parking within the site – the current layout has been revised to comply with Highway Authority requirements for adoption (Revision AB). Based on this the Highway Authority does not object to the layout or parking provision within the site subject to the attachment of a number of standard conditions. There are at least two spaces allocated for each unit across the site and these or the garage equivalents meet with size standards suggested by the Highway Authority with the remainder proposed as private drives.

In conclusion a safe highway layout has been achieved and the limited increase in traffic that this number of units would generate can be accommodated without a material increase in harm to the surrounding road network and is not substantially different to the approved scheme.

Flood Risk

Policy CS16 of the Core Strategy encourages sustainable design and construction and directing development to locations within the Borough at the lowest risk of flooding, supporting developments which reduce flood risk elsewhere, and requiring new developments to manage surface water run off with no net increase in the rate of surface water runoff for Greenfield sites. A number of residents have raised the capacity of the drainage network to cope with the additional infrastructure. In this respect the comments of the Lead Local Flood Authority and Severn Trent are noted and the conditions they suggest are positively worded (i.e. are not Grampian Conditions) so that additional work is not needed in the area (i.e. off-site works outside the control of the applicant). The inclusion of sustainable drainage systems and their scope are considered to be acceptable to both consultees.

Paragraph 103 of the Framework requires local planning authorities to ensure that, when determining planning applications, flood risk is not increased elsewhere and to only consider development in areas of flood risk where, informed by a site-specific flood risk assessment, will not put the users of the development at risk.

There are two separate areas of consideration with regard to flooding:

- Ñ Flooding within the site from the adjacent Rothley Brook*
- Ñ Surface Water run off downstream as a result of the development*

These are discussed in turn below:

Flooding within the site from the adjacent brook – Since the previous application was approved a challenge to the flood map classification across the site has been submitted by the applicant. This was successful and accepted by the LLFA and as a result the site is now identified as lying within Flood Zone 1. As the site now falls within Flood Zone 1, where flood risk to future occupiers is minimal it is considered that the level of flood risk within the site is acceptable. .

Surface water run off downstream as a result of the development – Residents have raised concerns about flooding which already occurs within the village and have highlighted fears that surface water run-off from the development could worsen this existing problem. In response to these concerns, the applicant has reviewed and revised the drainage strategy to address this issue which is also considered appropriate by the LLFA.

The drainage strategy proposes a network of surface water sewers which convey water to a flow control chamber and then on to a swale with a hydro-brake. The swale would release water at an agreed run off rate into Rothley Brook. The rate would be 25.2 l/s which would be a 30% reduction in the current brownfield run off

rate, (35.99 l/s). The revised strategy also proposes permeable paving for all of the private drives and parking areas which would also store water.

As the drainage strategy remains similar to that of the extant scheme and would result in an improvement on the existing situation it is considered that a refusal on the grounds that the site cannot be adequately drained could be sustained.

On this basis the proposed flooding and drainage strategy is considered acceptable by the LLFA and providing the measures are put in place as shown, the flooding situation downstream would be marginally improved as a result of the development. The proposals are therefore in accordance with Policy CS16 of the Core Strategy and in particular Paragraph 103 of the Framework

Biodiversity and Protected Species

Policy CS13 of the Core Strategy seeks to ensure protected species are not harmed as a result of development proposals and wherever possible they should seek to enhance ecological benefit through landscape and drainage solutions. Saved Policy EV/1 of the Local Plan and Policies CS2, CS11, CS12 and CS15 of the Core Strategy seek to ensure that appropriate designs and layout are provided which deliver high quality design and the provision of appropriate green infrastructure is also a relevant consideration in this context. The comments and concerns raised in relation to protected species from local residents in particular are noted and are carefully considered. The Council's Senior Ecologist has reviewed the application and the supporting documents.

An Ecological Appraisal has been carried out for the site which reveals that, as a previously developed site, it has limited ecological value. However, whilst there are no ecological designations within the site there is a Local Wildlife Site (Rothley Brook LWS) immediately adjacent. It should be noted that this appraisal was done in August 2017 and that, as a result, it does not relate to the revised site location plan which moves built development further away from the Local Wildlife Site. The appraisal does, nevertheless, conclude that there would be no adverse impact on the brook and that there are opportunities to enhance the Local Wildlife Site. This conclusion is reached on the understanding that on site drainage incorporates measures to prevent adverse impacts on the brook, care is taken during construction, a 4m planted buffer zone is provided and a wildlife sensitive lighting scheme is adhered to. Conditions to secure these matters and to ensure no harm to Rothley Brook Local Wildlife Site occurs, should be attached in the event of an approval of this application.

As per outlined within the Appraisal it is recommended that an Ecological Management Plan and an Ecological Construction Method Statement are also required by means of a condition.

The Ecological Appraisal also confirms the presence of foraging and commuting bats within the site. It does not, however, anticipate any detriment to bats providing that measures to retain and enhance Rothley Brook Local Wildlife Site, along with sensitive lighting and the other recommendations that seek to mitigate the development detailed in the appraisal are implemented.

Policy CS13 of the Core Strategy is concerned with biodiversity and is supportive of developments that protect, enhance, restore or recreate biodiversity. It is considered that this can be achieved with suitable conditions attached in the event of an approval of this application. This is the same position as the extant planning permission.

Affordable housing and viability

Core Strategy Policy CS3 seeks affordable houses at a level of 30% across the site. This would equate to 14 units.

As part of the extant planning permission on the site, 30% affordable units were proposed as:

-) Four 3 bedroom affordable houses*
-) Five 2 bedroom affordable houses*
-) Two 1 bedroom affordable bungalows*

Since the extant permission was granted, further groundwork investigation work has been carried out. This has indicated that the ground conditions will impact on the viability of the development due to the abnormal remediation costs. The applicant considers they can no longer supply affordable housing at the approved level.

In this respect the supporting text to Policy CS3 (at Paragraph 5.15) guides that if a developer considers that the requirement for affordable housing is making a site financially unviable, a viability appraisal is required from the developer which will be instructed by the Council.

A Viability Appraisal has been submitted with the application and examined independently by the District Valuer Service (part of the Valuation Office).

It has been confirmed by the District Valuer Service that the offer of one gifted unit, (roughly equivalent to 2 units sold to a Registered provider), is the maximum that the scheme could viably provide taking account of the cost of the development. It should also be noted that the provision of an accessible affordable bungalow meets a specific need for properties of this type.

As such having regard to the conclusions of the independently assessed viability assessment and the requirements of Policy CS3 of the Core Strategy and the supporting text and the reduced level of affordable housing is accepted as appropriate.

S106 contributions

Policies CS15, CS17 and CS24 of the Core Strategy requires the delivery of appropriate infrastructure to meet the aspirations of sustainable development either on site or through appropriate contribution towards infrastructure off-site relating to a range of services. This would be in accordance with the Framework and Community Infrastructure Levy (CIL) Regulations to mitigate to the impact of the proposals.

Regulations require any development to be assessed against the following tests:

1. necessary to make the development acceptable in planning terms;
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

The following represents the assessment of Officers in relation to the compliance of contributions sought by consultees.

Body Requesting	Amount/Item	For	CIL Compliant?
Charnwood – Open spaces	£7,277.67	Towards improving footpaths, grassed areas bins and lighting at Staddon Park.	No. This is not considered to be necessary for the development to proceed in planning terms. Policy CS15 seeks provision at a minimum which the development is too small to provide.
Charnwood – Open spaces	£10,0457.07	Towards improving semi natural and natural space at Castle Hill Country Park	No. Provision has been made on site to serve the needs of the development.
Charnwood – Open spaces	£12,832	Towards improving children's play facilities at Staddon Road.	No. This is not necessary as there is now a facility within 480m of the site being constructed as part of a nearby development which meets the standard policy CS15 seeks to provide this aspect.
Charnwood – Open spaces	£43,150 towards provision for young people	To be used for enhancement of the skate park at Staddon Park	Yes
Charnwood – Open spaces	£63,793.64 towards outdoor sports facilities	For shortfalls in junior football, mini soccer, tennis and bowling	No the projects named do not relate directly to the development and it is unclear how they fairly relate in scale and kind.

Body Requesting	Amount/Item	For	CIL Compliant?
<i>Charnwood – Open spaces</i>	<i>£5,246.87 towards allotments</i>	<i>For improvement and creation of allotments in Anstey.</i>	<i>No. This is not considered to be necessary for the development to proceed in planning terms. Policy CS15 seeks provision at a minimum which the development is too small to provide.</i>
<i>Leicestershire County Council – Education</i>	<i>£108,891.09</i>	<i>Towards improving primary school provision at Woolden Hill Primary School</i>	<i>Yes</i>
<i>Leicestershire County Council – Education</i>	<i>£29,378.41</i>	<i>Towards improving facilities 16+ facilities at Birstall Cedars academy.</i>	<i>Yes</i>
<i>Leicestershire County Council –</i>	<i>£1,390</i>	<i>To increase lending stock at Anstey Library</i>	<i>Yes</i>
<i>Leicestershire County Council – Civic Amenity</i>	<i>£2,377</i>	<i>To improve facilities at Mountsorrel Civic Amenity Site</i>	<i>No – there have been more than 5 requests for this project which exceeds the CIL (pooling) regulation.</i>

Having carefully considered the Regulations and the contributions already delivered elsewhere in Anstey the above shaded entries within the table gave rise to concerns that they are not compliant with the CIL regulations and as such are not sought in the recommendation.

The developer has indicated that they are willing to make the necessary contributions for the elements considered CIL compliant, and in this respect it would be possible to expand and improve existing infrastructure to meet the needs of the development.

Conclusion

This application seeks an increase in the number of units on a site which has an extant planning permission. In this respect the key issue is whether the additional 10 units in this location are acceptable rather than an overall assessment of principle of residential development on the site, noting that in any event the extant permission can be implemented at any time within the approved time limits.

Taking account of the Council's lack of 5 year housing land supply and the provisions of Paragraph 14 of the NPPF and "the tilted balance" this provides to significantly boost the supply of housing, the positive benefits of delivering additional housing to an already approved housing site should be given positive weight in the balance. The harm arising should only prevent development where it can be shown that the harm would significantly and demonstrably outweigh this benefit. The weight to be given to policies CS1 and ST/1 and ST/2 as housing supply policies must be given reduced weight having regard to the tilted balance in the absence of a 5 year housing land supply. The weight ascribed is considered to be moderate weight having regard to the role they play and their consistency with the NPPF. Policies CT1, CT2 and CT3 and CS12 whilst not for the provision of housing do constrain supply. Accordingly, they too cannot be ascribed full weight. It is considered having regard to their consistency with the aims of the NPPF that they should be ascribed more than moderate weight.

Having regard to the above assessment of the weighting of policies and that the site is located outside the settlement limits of Anstey and within the countryside, it adjoins the settlement boundary, is in a location that relates well to the existing service centre facilities, is considered to be small scale and uses land that has previously been developed, it is considered the principle of an increased number of units is acceptable.

The proposals improve the housing mix across the site in terms of type and size although it is no longer viable to provide affordable housing at the previously agreed level.

Revisions to the design have been made which provide for an acceptable design which does not give rise to landscape or visual harm.

Taking into account the responses of consultees, it is considered there are no technical issues or harm to ecological interests that cannot be safeguarded or mitigated against through appropriate use of planning conditions.

The design and layout has been assessed on the impact on neighbouring residents having regard to the concerns raised. Having done that assessment, it is concluded that, there would be no significant adverse impact on existing residents.

Taking account of the ground conditions now established on the site, adequate infrastructure payments are proposed which are considered will mitigate against the impacts of the development. The viability of the scheme has been tested independently, and the proposed level of affordable housing is also considered appropriate in this context to meet the aims and objectives of Policy CS3.

Accordingly there is no significant or demonstrable harm arising from the 10 additional units and associated layout changes that would outweigh the presumption in favour of this sustainable development and it is recommended that planning permission be granted. The proposals are in accordance with Policies CS1, CS2, CS3, CS11, CS12, CS13, CS15, CS16, CS17, CS18, CS24 and CS25 of the Core Strategy and saved policies EV/1, CT/1, CT/2, CT/3 and TR/18 of the Local Plan, and having regard to the associated guidance in the National Planning Policy Framework as a material consideration.

RECOMMENDATION A:

That authority is given to the Head of Planning and Regeneration and the Head of Strategic Support to enter into an agreement under section 106 of the Town and Country Planning Act 1990 to secure improvements, on terms to be finalised by the parties, as set out below:

-) The provision of one accessible bungalow on the site gifted to Charnwood Borough Council*
-) A sum of £43,150 towards the enhancement of skate park facilities in Staddon Park*
-) A sum of £108,891.09 towards improvements at Woollen Hill Primary School*
-) A sum of £29,378.41 towards 16+ education at Birstall Cedars Academy*
-) A sum of £1,390 towards increasing lending stock at Anstey Library.*

RECOMMENDATION B:

That subject to the completion of the agreement in A above, planning permission be granted subject to the following conditions:

- 1. The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.
REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004*
- 2. The development shall be carried out in accordance with the following plans: 2976-02 Rev AB Proposed Site Plan, 2976-70 Site Sections, 2976-59 A Trerice house type, 2976-60 B Holdenby semi -detached, 2976-62 Lyme+, 2976-63 Sutton, 2976-64 A Sutton V, 2976-66 A Waddeston Detached, 2976-17 C Tatton, 2976-35 D Waddeston, 2976-52 B Alnwick and Bedford, 2976-54 D Harewood, 2976-55 B Holdenby Detached, 2976-58 C Sutton+, 2976-50 C B2 bungalow, 2976-73 Variant Bungalow 2 bed, 21023_01_230_01 M Drainage, Development Access Layout 21023_08_020_01 B
REASON: For the avoidance of doubt and to make sure that the scheme takes the form agreed by the authority and thus results in a satisfactory form of development.*
- 3. No development shall commence until details of proposed ground levels and the finished floor levels of all the buildings have been submitted to and approved in writing by the Local Planning Authority. The approved levels details shall be fully implemented.
REASON: To ensure that the development integrates satisfactorily into the landscape and surrounding area. These details are required prior to commencement of the development as they may necessitate engineering operations which need to be carried out prior to construction of infrastructure and buildings on the site.*
- 4. No development other than site clearance and demolition shall commence until a further contamination survey, (which includes further sampling and testing for*

polyaromatic hydrocarbons), following removal of the buildings on the site has been carried out. This further survey shall be submitted to and approved in writing by the Local Planning Authority. The proposal shall be carried out in accordance with any remediation measures outlined within the Ground Investigation Report dated May 2015 submitted with previous application P/15/0963/2 and the further contamination survey.

REASON: The findings of the initial ground investigation report were restricted due to the presence of buildings on the site. This survey work needs to be carried out once the buildings have been removed but prior to any further development in the event that it requires further engineering or underground work.

5. *No development shall take place until a gas monitoring assessment has been undertaken for the site and the details of this submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with any remediation measures suggested in the assessment.*

REASON: To ensure the site is safe for future occupiers. This assessment is required prior to commencement of development as it may require engineering and underground works.

6. *No development shall commence until a site verification report demonstrating that the measures, referred to in conditions 4 and 5 above, have been implemented has been submitted to and approved in writing by the Local Planning Authority.*

REASON: To ensure the site is safe for future occupiers. This verification is required prior to commencement as it may lead to the need for further engineering and underground works and may also have implications for the safety of construction workers.

7. *No development, including site clearance and demolition, shall take place until a construction method statement has been submitted to and agreed in writing by the Local Planning Authority. The statement shall include:*

Ñ Hours of construction

Ñ Traffic routeing for contractors

Ñ Wheel wash facilities Measures for dust control

Ñ Parking provision for contractors

The development shall be carried out in accordance with these agreed details.

REASON: to ensure harm to the amenity of adjacent residents is minimised and for reasons of highway safety. This information is required prior to commencement as it is crucial that all works on the site take place in accordance with it.

8. *No development shall take place until details of measures to remove any sediment from surface water discharging from the site into Rothley Brook have been submitted to and agreed in writing by the Local Planning Authority. All development shall be carried out in accordance with these measures and they shall remain in operation thereafter.*

REASON: The brook has ecological value and excess sediment being discharged into the water may give rise to ecological issues. These

conditions are required prior to commencement as they may necessitate underground engineering works which need to be installed prior to construction starting.

9. *No development shall take place until a Landscape and Ecology Management Plan and an Ecological Construction Method Statement have been submitted to and agreed in writing by the Local Planning Authority. The proposal shall be carried out in accordance with any measures outlined within these documents unless previously agreed in writing.
REASON: To ensure that there are no adverse effects on the ecological value of Rothley Brook.*

10. *No occupation of any dwelling shall take place until a landscaping scheme, to include those details specified below, has been submitted to and agreed in writing by the local planning authority. The proposal shall be carried out in accordance with these approved details in the first planting and seeding season following approval of the details by the local planning authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.*

-) the treatment proposed for all ground surfaces, including hard areas*
-) full details of tree and hedge planting;*
-) planting schedules, noting the species, sizes, numbers and densities of plants;*
-) finished levels or contours;*
-) any structures to be erected or constructed;*
-) functional services above and below ground; and*
-) all existing trees, hedges and other landscape features, indicating clearly those to be removed.*

REASON: To make sure that a satisfactory landscaping scheme for the development is agreed.

11. *No occupation of any of the dwellings shall take place until a landscape management plan including details of maintenance responsibilities and schedules of all the public areas and the strategic drainage system has been submitted to and approved in writing by the Local Planning Authority. This plan should cover all landscape areas other than domestic gardens.
REASON: to make sure the appearance of the completed development is satisfactory.*

12. *No occupation of any dwelling shall take place until a scheme for external lighting on the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these agreed details.
REASON: The site adjoins a Local wildlife Site and it is important to ensure that any outdoor lighting does not have an adverse impact on ecology.*

13. *No occupation of any dwelling shall take place until the proposed alterations to the site access onto Cropston Road detailed in the drawings listed at condition 2 above have been carried out.
REASON: To ensure that safe access into and egress from the site is provided for future occupiers.*
14. *No occupation of any dwelling shall take place until a scheme for a crossing facility for Cropston Road in the vicinity of the site has been submitted to and approved in writing. The crossing facility shall be provided in accordance with this approved scheme before occupation of the 10th dwelling and shall thereafter be so retained.
REASON: To ensure that the site is safely connected to facilities in the village and in particular schools, in the interests of sustainability and highway safety.*
15. *No erection of any dwelling or installation of hard surfacing shall take place until the strategic drainage system for the site, (ie excluding individual plot drainage), as shown on the drainage strategy set out within the Flood Risk Assessment April 2017 and associated additional documentation received September 2017, November 2017 and February 2018 has been installed and is fully functioning.
REASON: To ensure that the site drains adequately without causing flooding within the surrounding area. This drainage needs to be installed prior to the installation of any new hard surfacing to ensure that surface water run off from the site is not increased at any point.*
16. *No dwelling shall be occupied until the parking and, if applicable, turning facilities for that dwelling have been provided, hard surfaced and made available for use. The facilities referred to in this condition shall thereafter be permanently retained and kept clear for use.
REASON: To ensure that adequate parking is provided throughout the site in the interest of highway safety*
17. *No dwelling shall be occupied until 1m x 1m pedestrian visibility splays have been provided on the highway boundary on both sides of the proposed private drive for that property. Within the splay areas, referred to in this condition, nothing shall be planted or placed that exceeds 0.6m in height.
REASON: To ensure drivers and pedestrians have a good view of one another in the interest of Highway safety*
18. *No materials shall be placed on the site until such time as details of the type, texture and colour of the materials to be used on the external surfaces of the proposed development have been submitted for the agreement of the local planning authority. Only materials agreed in writing by the local planning authority shall be used in carrying out the development.
REASON: To make sure that the appearance of the completed development is satisfactory*
19. *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order revoking or re- enacting that Order, with or without modifications, no additional openings or windows shall*

be inserted in the north elevation of plot 42, south east elevation of plot 39, south east elevation of plot 35, south east elevation of plot 23, north west elevation of plot 25, or south west elevation of plot 31 at first floor level or above.

REASON: To prevent undue overlooking of nearby dwellings, in the interests of the privacy of nearby residents.

20. *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order revoking or re-enacting that Order, with or without modifications, no internal or external alterations shall take place to any garage, which would preclude its use for housing motor vehicles.*

REASON: To ensure alterations are not carried out that would result in the loss of parking facilities within the site and to ensure that there is no overlooking of adjacent gardens if garages are converted to living spaces

21. *In the event that contamination is found at any time when carrying out the approved development that was not previously identified, an amendment to the remediation scheme detailed in condition 4 above shall be submitted and approved in writing by the Local Planning Authority. This should detail how the unsuspected contamination will be dealt with. The development shall be carried out in accordance with any remediation measures suggested in the amendment.*

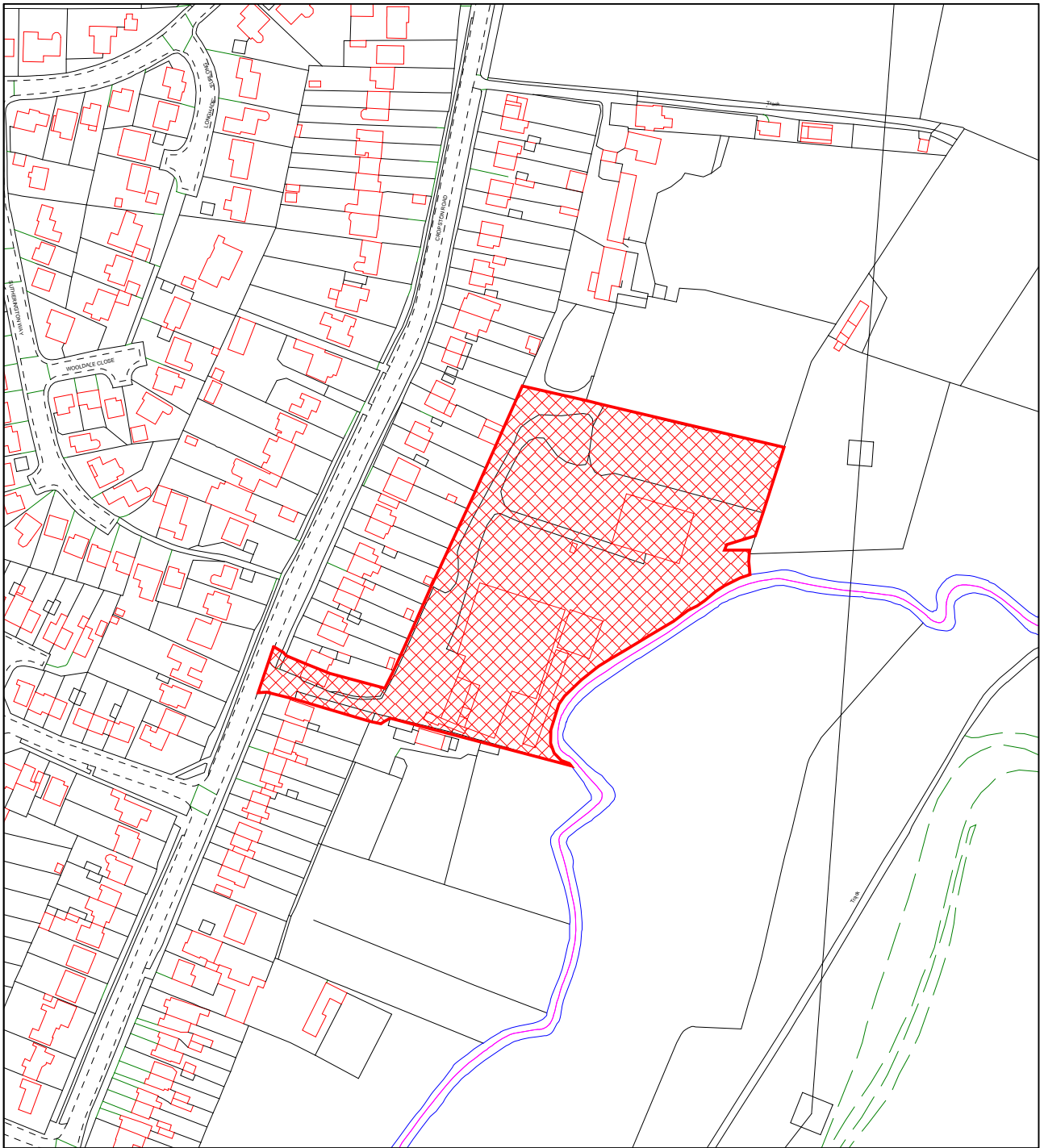
REASON: To ensure the site is safe for future occupiers

22. *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order revoking or re-enacting that Order, with or without modifications, no doors other than of a type that opens inwards shall be fitted to the proposed garages for plots 1, 17, 18, 19, 20, 21, and 36.*

REASON: To ensure that cars using the shorter driveways to the front of these garages do not overhang the highway in the interests of highway safety

The Following Advice notes will be attached to the decision

1. *The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process. This led to improvements to the scheme to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.*



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Plans Committee – 5th April 2018**Additional items received since the report was drafted.****Page B1****Site Address 129 Cropston Road, Anstey****Item No. 2****P.A. No. P/17/0881/2**

Councillor Snartt

Councillor Snartt has expressed concern about planning condition 14 relating to the provision of the pedestrian crossing and the timing of its implementation. He suggests this should be on the occupation of the first dwelling rather than the tenth and be specified as a TUCAN crossing. His full comments can be read on the Council's website.

Officer Response

The Highway Authority is seeking improved pedestrian crossing facilities in the area on the grounds that this will improve the accessibility and connectivity of the site, rather than primarily on highway safety grounds. Because a fundamental highway safety issue has not been identified, the trigger for provision is suggested as the occupation of 10 dwellings, (the threshold for major development), rather than prior to the occupation of the first unit. This is considered reasonable, proportionate and will ensure the delivery of housing is not unreasonably impeded.

The planning condition has been written to require a "scheme" rather than precisely defining that this should take the form of a signalised crossing. This is due to advice from the Highway Authority that the introduction of any formal crossing, (such as signals), requires a statutory process of public consultation and as such its introduction is not guaranteed. The condition has been drafted to provide flexibility dependent on the outcome of this process. Although a signalised crossing is preferred, should this become impossible to achieve due to other controls, the condition will ensure that a different form of provision is made rather than none at all.

Conclusion

It is not recommended that this condition be amended.

Leicestershire County Council

An e-mail has been received from Leicestershire County Council stating that it is of the view that the Civic Amenity request it made is CIL compliant. Concern is also expressed that Highway provisions for funding of travel packs and bus stop

improvements, included in the previous Section 106 agreement, have not been included.

Officer Response

There have been in excess of 5 requests for containers at Mountsorrel Civic Amenity site from developments approved in recent years. It is not therefore considered that the inclusion of a further contribution from this proposal to this facility is compliant with the CIL Regulations owing to the restrictions the law presents on pooling contributions. It is also noted that the previous committee report, (P/15/0963/2), concluded that a similar request was not CIL compliant and that consequently members did not resolve to include it within the Section 106 agreement.

Leicestershire County Council Highway Authority has not requested contributions towards bus stop improvements or travel packs in connection with the revised application in their formal response to the planning authority. And the assumption has to be that they are not required to overcome what would otherwise be a reason for refusing the planning application. The basis for them being requested at this late stage appears to have arisen as a consequence of observations from the County Council Legal Service whilst dealing with the preparation of the Section 106 agreement for the proposal before members tonight. Those observations are that they were included in the Section 106 agreement for the previous approval for the site (ref P/15/0963/2) and should therefore be included in this new agreement.

However, the basis for requesting planning obligations has to be that they are necessary to make the proposed development acceptable in planning terms; directly related to the development; and reasonable in scale and kind. To request obligations that do not meet these tests would be unlawful. At the time this Extras Report was drafted Leicestershire County Council had not been able to confirm if the request is a late formal response from the Highway Authority or otherwise provide any basis for the request that satisfies the tests. Should there be a further update in this regard it will be reported verbally to members at the Committee meeting.

Conclusion

It is not recommended that the request for Civic Amenity contributions or public transport contributions be added to the Section 106 agreement.

Management of Open Space

The Section 106 agreement has been drawn up in draft and as part of this a requirement for a clause that secures the management of open space and its availability for public use in perpetuity has been raised by the Open Spaces Team. Clarification of this point in the Section 106 agreement will support planning condition 11, which requires a landscape management plan.

Officer Response

This amendment will usefully clarify the arrangements for the long term management of the open scape and its public use in perpetuity.

Conclusion

That recommendation A includes provision to for management and maintenance of the open space in perpetuity within the development where necessary.