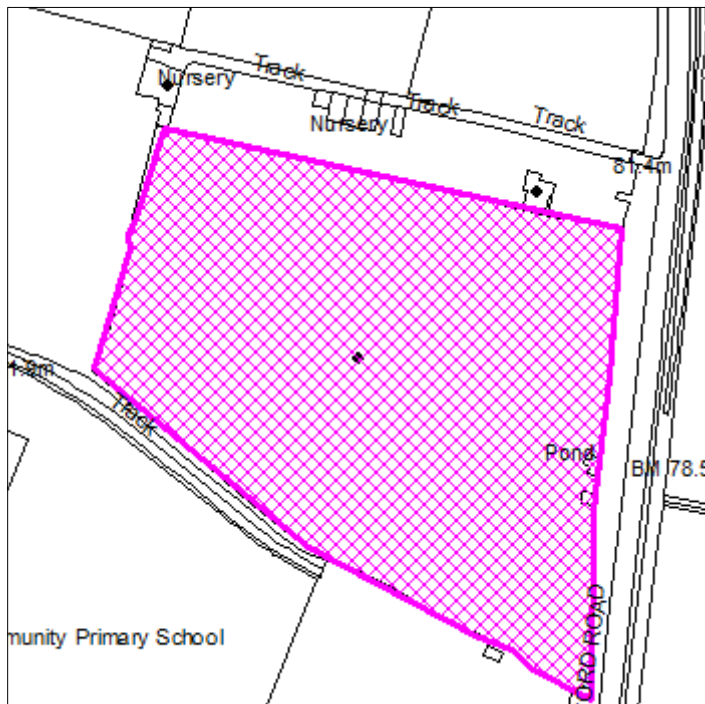


Application Number**Address****Report Items**

- 5a.** 17/00539/OUT Land South of St Pettrox Nursery
Welford Road
Wigston
Leicestershire
- 5b.** 18/00006/TPO Beaufort Way Spinney
Beaufort Way
Oadby
Leicester

5a.	17/00539/OUT	Land South of St Pettrox Nursery Welford Road Wigston Leicestershire
	13 November 2017	Outline planning permission for up to 43 dwellings, new planting and landscaping, vehicular access point from Welford Road and associated ancillary works. All matters reserved with the exception of the main vehicular access.
	Case Officer	Tracey Carey



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Site and Location

The site is located on the southern edge of Wigston. The site and adjoining area of land within the control of the applicant combine to form two roughly rectangular shaped fields. Welford Road is fronted by predominantly late 20th century housing to the north and a new development of 53 dwellings currently under construction opposite the application site, The site backs on to a field with further 20th century housing beyond to the west off Durnford Road. Thythorn Field Primary School abuts the site to the south and South Leicester Rugby Club lies to the north west, separated from the site by a single property with a number of greenhouses, polytunnels and two agricultural structures within the west of the land.

The site comprises a roughly rectangular pastoral field, bound by hedgerows, with a remnant hedgerow dividing the field roughly in half. A belt of woodland bounds the site to the west and a number of mature trees form the surrounding boundaries along Welford Road.

Description of proposal

The application is an outline application for up to 43 dwellings, new planting and landscaping, vehicular access point from Welford Road and associated ancillary works. Matters to be considered at the outline stage include means of access. Matters such as appearance, landscaping, layout and scale are for subsequent approval although an indicative development framework has been submitted for information.

The illustrative plan provides for up to 43 new dwellings and new public open space. The residential development area is located entirely outside the area at risk of fluvial flooding. The other land within control of the applicant (0.60 hectares) in the south eastern quarter of the site is identified as open space.

Vehicular access is proposed via a new junction onto Welford Road. The proposed vehicular access point will be designed to incorporate 2 metre wide footways to either side of the carriageway. The footway on the northern edge of the proposed carriageway will extend northwards to connect with the exiting footway just south of the Wigston Cemetery.

The illustrative framework plan submitted shows the potential for provision of a gated pedestrian footway link to Thythorn Field Primary School in the south western corner of the site and the proposed siting of a pumping station close to the Welford Road frontage.

Existing hedgerows are to be retained, including the mature boundary vegetation, with the exception of a small section to be removed to facilitate vehicular access and gateway to the school. The mature trees in the centre of the site will be retained and incorporated into a wide green corridor across the development.

The application is accompanied by:-

- * A Landscape and Visual Appraisal
- * Ecological Impact Assessment –
- * Archaeological Desk Based Assessment –
- * Tree Survey and Arboricultural Impact Assessment –
- * Noise Screening Report
- * Air Quality Screening Report
- * Flood Risk Assessment
- * Built Heritage Statement
- * Geophysical Survey Report

- * Written Scheme of Investigation for Trial Trenching
- * Transport Statement

The statutory determination period for this application expired on the 12 February 2018 and it is intended to issue a decision as soon as practicably possible after the committee meeting and following the completion of a Section 106 Agreement.

Relevant Planning History

None Relevant

Consultations

Leicestershire County Council (Highways) – The development proposes access onto Welford Road from a simple priority controlled junction. The access design proposed provides for a 5.5m wide carriageway, two no. 2m wide footways and 10m corner radii. A new 2m wide footway is also proposed to be provided along the western verge of Welford Road linking the site access to the existing footway provision further north which is required to enable pedestrian access to local amenities. With regard to the type of access proposed a comparison is drawn to the access provided as part of the recently approved application 16/00295/FUL for a residential development of 53 dwellings located opposite.

Whilst it is disappointing that the applicant has not considered the potential interaction of the proposed access with the development located opposite the CHA has overlaid the adjacent accesses and can advise that the proposed access is located in the region of 65m south of the main access to the approved Meadow Hill application. Furthermore, the Meadow Hill development includes a pumping station with service access and which is located in the region of 25m south of the proposed access to 17/00539/OUT. Whilst these accesses are located within the 'y' distances for the respective visibility splay envelopes, being located on opposite sides of Welford Road it is not anticipated that they would adversely impact the visibility achieved. Again, whilst typically would be demonstrated using appropriate tracking software, the proximity of each access is not expected to lead to conflict between vehicles using the respective accesses. It is also noted that the access strategy proposed has been independently reviewed as part of a Stage 1 Road Safety Audit with no issues raised specific to vehicular use of the proposed access.

In developing the access strategy the applicant has undertaken speed surveys of traffic along Welford Road. This assessment demonstrated 85th%ile wet weather speeds of 38.5mph in both directions. The applicant has equated these recorded speeds to a visibility 'y' distance of 73m utilising Table DG4 of the 6Cs Design Guide.

The applicant has also suggested a willingness to fund a Traffic Regulation Order (TRO) to extend the 30mph speed limit to replace the 40mph limit however it is not known to what extent this suggestion has been investigated and if views have been sought from the local constabulary and emergency services for example. Furthermore if this proposal were to be pursued then consideration should be given at the reserved matters stage for a layout which would be sympathetic to this and to help reinforce the context and environment that would be synonymous with a 30mph speed limit.

The applicant has also suggested that an additional pedestrian link should be pursued to the south west of the site and which could enable a useful link through to Thythorn Primary School. The applicant has also referenced a potential footway connection from Bideford Close to the school however it would appear that it is not currently proposed to provide a connection between Welford Road and Bideford Close.

Whilst a pedestrian connection to the school would be beneficial it is likely to offer even greater benefit if a connection could be provided between the development site and Bideford Close and this would also provide more direct pedestrian access to the local centre and avoiding Welford Road. Review of the plan submitted which details the applicant's land ownership suggests that the applicant's land entitlement may not abut Bideford Close and so it is possible that the aforementioned link might require use of third party land. The County Highway Authority recognises the value of this link and which would serve to enable greater accessibility and permeability to the school and other local amenities which might assist in reducing the reliance on the private car. The CHA would therefore strongly encourage its pursuance by the applicant and relevant land owners and for its inclusion within subsequent reserved matters application.

The Local Highway Authority advice is that, in its view the residual cumulative impacts of development can be mitigated and are not considered severe in accordance with Paragraph 32 of the NPPF, subject to conditions regarding (i) off site highway works to be implemented in full prior to first occupation, (ii) access to have a minimum width of 5.5m, be hard surfaced with a minimum 6m kerbed radii with 2m footways on both sides (iii) visibility splays of 2.4m x 73m to be provided prior to first occupation (iv) prior to commencement a construction traffic management plan be submitted and approved and contributions for bus passes and travel packs.

Leicestershire County Council (Archaeological Services) – The results of the archaeological evaluation report conclusively demonstrate the absence of significant buried archaeological remains and therefore confirm that no further archaeological investigation is required in order to inform determination of the current application. In respect of the ridge and furrow earthworks within the development area, it is concluded that the submitted desk-based assessment (DBA) and archaeological evaluation provide a sufficient record of the character and significance of the existing earthwork remains. The latter comprise most of a furlong of parallel, east to west aligned 'lands', the form of which suggest a medieval original for their establishment. The southern end of a second furlong projects into the northern edge of the development site, with a probably area of meadow to the south-east.

Based upon assessment of the submitted information, the archaeology team have confirmed that they do not wish to make further comment on the current proposals.

Leicestershire County Council (Contributions Team) – included within the report.

Leicestershire County Council (Ecology) : No objection in principle to this application and the Ecological Impact Assessment is satisfactory. The development is on land with negligible value however the following conditions are recommended:

- * Vegetation clearance must take place outside of the bird-nesting season (March to July inclusive).
- * All landscape planting in the informal/natural open space and adjacent to the site boundaries to be of locally native species only.
- * Light spill onto retained hedgerows should be minimised to a value of 1lux or lower at the edge of the habitats.
- * Hedgerows to be retained and must have buffer zones of natural open space alongside of at least 5m and not be garden boundaries.
- * An updated badger survey to be undertaken immediately prior to work commencing on site.

Leicestershire Constabulary (Architectural Liaison Officer) – No comments received at the time of writing this report.

Leicestershire County Lead Local Flood Authority – The proposed development would be considered acceptable to Leicestershire County Council as the LLFA subject to the following conditions:

- * Surface water drainage scheme, inclusive of SuDs treatment train to be submitted;
- * Construction surface water management plan to be submitted;
- * A SuDS (long term) Maintenance Plan and Schedule to be submitted;
- * Infiltration testing to be carried out to confirm the suitability of the site for the use of infiltration as a drainage element and the flood risk assessment updated accordingly to reflect this in the drainage strategy.

Leicestershire Fire and Rescue Service – No comments received at the time of writing this report.

Leicestershire Health Authority - No comments received at the time of writing this report.

Leicestershire and Rutland Wildlife Trust - No comments received at the time of writing this report.

Severn Trent Water Ltd - No comments received at the time of writing this report.

Western Power - No comments received at the time of writing this report.

National Grid - No comments received at the time of writing this report.

Wigston Civic Society – Please to see that the original number has been reduced to allow a large part of the site which is liable to flooding to remain as open space. However we continue to have grave concerns about the traffic impact of entry to and exit from the site onto the A5199. The traffic impact statement makes light of this but local residents would strongly disagree. It is accepted that a reduced speed limit is proposed along with other traffic calming measures and the report acknowledges the impact of the 50 units site being developed on the opposite side of the road but this is along with a 450 unit scheme on Newton Lane which will have severe implications for the roundabout at Guthlaxton Way on the A5199 and the Bull Head Street/Newton Lane traffic light controlled junction. These junctions will suffer from an additional 600 units under construction or proposed in the vicinity. It is not entirely clear if a right hand turn into the site is proposed but this must be a requirement.

We would wish to see a S106 agreement providing for funds for the library (shortly possibly to be turned into a part staff/part self-access unit), road improvements and community facilities. Whilst the Society generally supports the proposals we trust these additional comments can be taken into account.

OWBC Environmental Health – No comments received at the time of writing this report

OWBC Planning Policy – Incorporated within the text of the report.

OWBC – Housing - No comments received at the time of writing this report

OWBC - Client Services - No comments received at the time of writing this report

OWBC – Tree Officer - The arboricultural aspect of the application looks fine, the report is thorough, concise and sufficiently address' possible conflict and concerns that might arise:

With regards to T16 – it is likely to be the case that to safely retain this tree within a future residential development, the area of land within falling distance of the tree (or parts of the tree, according to a further assessment of tree form, structure, condition and weight distribution) would

need to be designed to be free of significant 'targets'. These include vehicles, pedestrians, buildings, parked cars or other property.

Since sections of the boundary hedgerows are shown to be incorporated into the gardens, in order to ensure their retention post-construction (for both arboricultural and ecological reasons) a condition to prevent occupants removing sections of the boundary hedgerow would be desirable if possible.

OWBC – Tree Warden - No comments received at the time of writing this report

Environment Agency – The Environment Agency are not required to formally comment as Flood Risk Standing Advice applies.

Natural England – No comments. Refer to standing advice.

Representations

Neighbours have been informed and a press/site notice placed with seven letters of representation (three from the same property) being received at the time of writing this report. The date for the receipt of comments expires on the 19 December 2017.

The reasons for objection can be summarised as follows: -

- * The green belt will be destroyed forever;
- * More pollution, more noise;
- * Potential footway to Tythorn School will lead to gangs congregating in this area. We have seen vandalism in the alleyways on the Little Hill Estate which has caused misery to many families;
- * Increase volume of traffic along the already undersized Welford Road. Already hold ups getting out of Horsewell Lane;
- * Current speed limit of 40mph is frequently exceeded;
- * Traffic calming methods need to be employed
- * Housing maybe needed but the road network, schools and public transport infrastructure needs addressing first;
- * 25 years ago a garden centre was turned down on this land due to access and speeding traffic;
- * Schools, Doctors Surgeries, Wigston parking all over stretched;
- * As an adjoining neighbour my wood processing equipment/operation generates considerable noise and could cause disturbance to any adjacent development. There are also 32 working beehives at my property which could cause a problem;
- * Flooding problems may be made worse with more housing;
- * Loss of rural character of my house and grounds and will cause loss of views which will reduce the value of the property;
- * Concerns over the planned link to the school which would need consent from the landowner, what provision is made to safeguard the pupils, is the footpath gated and to be opened by school staff at set times, what is to stop pedestrians using the school grounds as a thoroughfare? What control does the school have of the proposed gate opening times. There is a before and after school club which use the school grounds after school hours and sporting clubs take place every evening after school.

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Core Strategy Policy 1:	Spatial Strategy
Core Strategy Policy 4:	Sustainable Transport & Accessibility
Core Strategy Policy 5	: Green Infrastructure
Core Strategy Policy 7:	The Countryside
Core Strategy Policy 8:	Climate Change and Renewable Energy
Core Strategy Policy 9:	Flood Risk and the Water Environment
Core Strategy Policy 11	: Affordable Housing
Core Strategy Policy 14	: Design and Construction
Core Strategy Policy 15	: Landscape and Character

Oadby and Wigston Local Plan

Landscape Proposal 1 : Design of new development subject to criteria.

Emerging Local Plan

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

Developer Contributions Supplementary Planning Document

Planning Considerations

The main issues to consider in the determination of this application are as follows:

- * The principle of residential development in this location
- * The impact of the proposal upon the character and appearance of its surroundings
- * The impact of the proposal on neighbouring residential properties
- * The impact of the proposal upon the safe and efficient use of the highway network
- * The impact of the proposal upon protected species and their habitat
- * The impact of the proposal upon heritage assets and archaeology
- * Flooding and drainage issues
- * Section 106 obligations

The principle of residential development in this location

Paragraph 14 of the National Planning Policy Framework (NPPF), requires that a '*presumption in favour of sustainable development*' should be the golden thread that runs through both plan-making and decision-taking. In relation to decision-taking, paragraph 14 states that development proposals that accord with the development plan should be approved without delay, and '*where the development plan is absent, silent or relevant policies are out-of-date*'...permission should be granted.

Five Years Housing Land Supply

Contrary to the applicants suggestion that the Council cannot demonstrate that it has a five year housing land supply, the Council takes a pragmatic and proactive approach to delivering its identified housing need, both up to 2026 in the adopted Core Strategy and up to 2031 in the emerging New Local Plan.

In the context of the adopted Core Strategy, the Council has a healthy five year housing land supply. This is demonstrated in the Council's latest Housing Implementation Strategy (April 2017). As stated in paragraph 4.2 of the Housing Implementation Strategy, '*the current 5 year requirement for the Borough, using the adopted Core Strategy target of 90 dwellings per year is 450 dwellings plus a 5 per cent buffer, totalling 473. As of the 31st March 2017 the Borough has a five year*

supply figure of 1,083 net additional homes, which is 610 dwelling units above the requirement of 473'. This equates to 11.4 years supply.

In the context of the emerging New Local Plan, the Council's 5 Year Supply remains healthy. The annual housing requirement illustrated within the proposed New Local Plan is consistent with the Objectively Assessed Housing Need (OAHN) identified within the Leicester and Leicestershire Housing and Economic Development Needs Assessment 2017. The annual OAHN illustrated is 148 dwellings (up to 2031). Taking account of the proposed annual 148 figure, the following can be illustrated.

The current 5 year requirement for the Borough, using the annual dwelling figure of 148 dwellings is 740 dwellings plus a 5 per cent buffer, totalling 777. As of the 31st March 2017 the Borough has a five year supply figure of 1,083 net additional homes, which is 306 dwellings above the requirement of 777 dwellings. Taking account of residential net completions since 1st April 2011 (the commencement period for the HEDNA and the New Local Plan), the Council has a completion shortfall of 310 dwellings.

With the HEDNA being published in 2017, it would not be reasonable to seek to meet the shortfall within a 5 year period, as for the period 2011 to 2017, the Council was not planning for 148 dwellings per annum. Therefore, the 'Liverpool Approach' to dealing with a shortfall will be made use of for the purpose of these comments. Using this approach, the shortfall for the 5 year period would be 111 dwellings. Taking account of this revised shortfall figure, the requirement for the 5 year period would be 888 dwellings which is 195 dwellings below the supply figure of 1,083 dwellings. This equates to 6.1 years supply.

Local Policy relating to principle of development

Adopted Core Strategy

The proposed development does not accord with the Council's current adopted development plan (Core Strategy), because the site is not included within the Council's Spatial Strategy for development in the Borough and it is in a location that is identified as open countryside in the adopted Policies Map. The two most relevant Policies in the adopted Core Strategy are:

- *Core Strategy Policy 1: Spatial Strategy for Development in the Borough of Oadby and Wigston;* and,
- *Core Strategy Policy 7: The Countryside.*

The Core Strategy's Spatial Strategy for Development makes provision for a minimum of 1,800 new dwellings over the Plan period up to 2026. The strategy identified one direction for growth area to the south east of Wigston as the only appropriate greenfield development.

The application proposal site does not form part of the Core Strategy's direction for growth area.

In addition, the Council's latest Housing Implementation Strategy illustrates that for the Core Strategy's Plan period up to 2026, the Council has (delivered and) identified in excess of the minimum 1,800 homes required. The supply figure illustrated is 2,258 new dwellings, some 458 excess.

Emerging New Local Plan Pre-Submission Draft – November 2017 (Material Consideration)

However, Draft New Local Plan *Policy 2 Spatial Strategy for Development in the Borough* sets out a very clear approach to delivering the Borough's growth over the Plan period to 2031.

'The Council will always seek the reuse of previously developed land and will concentrate development within the Borough's key centres and the Leicester Principal Urban Area. In addition, the Council has allocated land outside of these areas to ensure that the development needs of the Borough are met.

In order to deliver the required levels of growth to meet the Borough's needs up to 2031, this Plan;

*- allocates sufficient land to provide at least 2,960 new additional homes;
- allocates sufficient land to provide at least 8 hectares of employment use development; and,
- identifies sufficient land to provide up to 2,974 sq.m of new additional retail floor space.
To achieve the above levels of development, the Council has identified and allocated land within Wigston town centre, Oadby district centre, South Wigston district centre, the Borough's designated local centres, areas within the Leicester PUA and the three Direction for Growth areas'.*

The Policy then goes on to state that 'land to the west of Welford Road, Wigston' is to be allocated, together with a number of other sites, to aid the delivery of the Borough Council's OAHN up to 2031.

Land west of Welford Road, (defined as 'land south of Pettrox Nursery, Wigston' in this application), historically emerged through the Council's Strategic Housing Land Availability Assessment (SHLAA). Due to its proximity to the Wigston Direction for Growth Area and its direct access onto Welford Road; the two areas will form a sustainable extension to the Leicester Principal Urban Area (PUA) up to 2031.

Draft New Local Plan *Policy 2* listed the site as being capable of delivering up to 50 dwellings, consistent with the Council's Strategic Housing Land Availability Assessment (SHLAA, April 2017). However, the application site does not include the full extent of the site previously considered through the SHLAA process and therefore, the proposal satisfies the requirements of the emerging draft New Local Plan *Policy 12* with regards to the density that has been proposed for this development.

Draft New Local Plan Policy 13 Affordable Housing establishes the Council's commitment to delivering appropriate housing for the community and in Wigston, the policy enables the Council to seek a minimum of 20 per cent affordable units on schemes of 11 or more dwellings. Therefore, in this instance, 9 of the 43 dwelling units will be affordable and the tenure split is generally 80 per cent affordable rent and 20 per cent shared ownership. However, the exact tenure split and size of the units will be considered at the time of the reserved matters application and will respond to local need, in agreement with the Council's Housing Team.

Draft New Local Plan Policy 26 Sustainable Transport and Initiatives states that:

All new development should be located and designed to; reduce the need to travel by the private motor vehicle; enhance the safety of pedestrians and other road users; encourage the use of cycling as a sustainable mode of transport; and, improve accessibility for residents, particularly in locations where there is poor transport choice and availability.

In all new development, proposals must consider the highways and transport infrastructure requirements needed to support and service the proposed development. There will also be a need to demonstrate that adequate capacity currently exists or will be provided through appropriate mitigation that meets necessary infrastructure requirements.

Where new development is considered to be of a significant scale or type, a transport assessment and/or a travel plan, will be required'.

The applicant has submitted a Transport Assessment and has demonstrated the sites proximity to nearby bus routes.

The sites to be allocated through the Council's New Local Plan and the levels of development set out within the Plan have been subject to extensive evidence and testing. The South East Leicestershire Transport Study (2017) took account of the full extent of development proposed within the Council's New Local Plan up to 2031, as well as levels of development sought within Harborough District's proposed New Local Plan up to 2031. The study confirmed that the majority of the Borough's junctions and highway routes would be severely stressed (particularly junctions along the A5199) due to the levels of development proposed. The study did however suggest that through specific mitigation, the levels of development could be accommodated up to 2031. It must be noted that the application site forms part of the Council's New Local Plan Pre-Submission document and therefore was taken account of within the South East Leicestershire Transport Study.

The applicant has also indicated that a potential pedestrian link from the western-edge of the development through to Thythorn Primary School, Bideford Close, Wigston, will be created. Such a pedestrian link could lead to a positive reduction in congestion at peak times and also provide good links through to Thythorn Primary School and Little Hill's local shopping centre on Launceston Road. A link would therefore be required by the Council, although the actual route of the link and its specification would need to be agreed with Leicestershire County Council.

In accordance with the requirements of *Draft New Local Plan Policy 38 Climate Change, Flood Risk and Renewable Low Carbon Energy*, the applicant has submitted a Flood Risk Assessment. Any subsequent reserved matters application will also need to be accompanied by a Sustainability / Energy Statement, as well as proposals for on-site renewable or low-carbon energy generation.

As referred to in the applicant's submission, developer contributions to mitigate the impact of the scheme will be sought in accordance with *Draft New Local Plan Policy 46 Infrastructure and Developer Contributions* and the Council's Developer Contributions Supplementary Planning Document.

In conclusion, although the proposed development does not accord with the current adopted Core Strategy, the principle of developing the site is set out in the emerging draft development plan; the site is to be allocated for residential development; and, the site has been subject to extensive highway testing through the South East Leicestershire Transport Study.

The impact of the proposal upon the character and appearance of its surroundings

Paragraph 109 of the NPPF states that the planning system should contribute to the natural and local environment by protecting and enhancing valued landscapes.

Policy 15 of the Core Strategy requires new development to reflect the prevailing quality, character and features of the landscape and townscape.

The site lies within the Wigston East sub-area of the Oadby and Wigston Vales Landscape Character Area as defined by the Borough wide Landscape Character Assessment. This sub area marks the transition between the urban area to the north and the rural landscape of the River Sence valley. The Landscape Character Assessment identifies the gradual transition from town to country and vice

versa as a particular strength of this area, particularly when travelling on the roads radiating into/out of the area.

The Landscape Character Assessment acknowledges that the area is likely to come under increasing pressure for built development. It states that this should generally be resisted given the sensitive nature of the landscape, which is primarily as a result of its natural, historic and visual characteristics. However, it does concede that there may be some parts of this sub-area where these characteristics are not as strong as others, and where some form of development may be acceptable in landscape terms as long as it does not have an adverse impact on the character of the wider area.

Whereas the application site is undeveloped, it does not have the characteristics of a high quality landscape. The Landscape and Visual Appraisal submitted with the application considers it to be of medium landscape quality, with the exception of the veteran tree, which is considered to be of high landscape quality and is to be retained within the proposed development.

An area to the south east of the site (at risk of fluvial flooding) which is not within the application site boundary but within the applicant's ownership is proposed for nature conservation. This is to include new woodland tree planting supported by native understory with a woodland meadow edge. Areas of grassland are to be restored and enhance to support local wildlife, incorporating a mix of wildflowers.

The overriding character of the residential development surrounding the site is properties of modern design which are predominantly 2 storey in nature and are either semi-detached or detached properties, although there is an element of 2.5 storey properties on the new development under construction opposite the application site.

The proposed development follows the same basic principles in this respect and therefore it is considered, in the terms of the general impact on the area, that the proposal will not have any significant adverse effects on the character of the area.

The impact of the proposal on neighbouring residential properties

Section 4 of the Council's Residential Development Supplementary Planning Document seeks to ensure that new development is designed so that it does not unacceptably affect the amenities enjoyed by the occupiers of neighbouring dwellings, particularly through loss of daylight or privacy.

The indicative plan shows residential development along the boundary of the existing single storey residential property to the north and suggests larger rear gardens adjacent to the existing property and the new homes overlooking central public open space within the site. The design and internal layout are not for consideration at this outline stage and will be submitted as part of the reserved matters process. The key tools to assess the impact on the residential amenity of existing properties are the 45 and 25 degree codes and the separation distance guide of 22 metres between facing (front and rear) elevations.

Whilst it is acknowledged that the neighbouring property operates wood cutting machinery at the premises along with a number of bee hives it is considered that an acceptable scheme could be achieved without significantly harming the amenity of existing neighbouring properties and future occupiers of the dwellings.

The impact of the proposal upon the safe and efficient use of the highway network

Policy 4 of the Core Strategy states that development should be designed to enhance the safety of pedestrians and road users.

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The application is accompanied by a Transport Assessment which establishes that the proposed development is likely to generate less than 30 two-way trips in the weekday peak hours (equivalent to one new trip every two minutes) resulting in only a 2.3% increase in traffic flows on Welford Road.

An assessment of the capacity of the proposed access has been undertaken which confirms that the access will have ample capacity to accommodate the predicted traffic flows in 2022 with the development and committed development in place. Personal accident data shows that there does not appear to be a proliferation of accidents at any one location suggesting highway safety is not an issue that would preclude the development of the site.

Based on the conclusions of the Transport Statement and the recommendations of the Highway Authority it is considered that, subject to mitigation which can be secured via conditions and obligations, the proposed access arrangements are safe and traffic generated by the proposal can be assimilated into the highway network without exceeding its capacity. It is not therefore considered that the proposals would prejudice the safe and efficient use of the highway network.

With regards to the extension of the 30mph speed limit along Welford Road, the Highway Authority are not looking to reduce the speed limit as the current level of development and subsequent change in environment, coupled with existing speeds would not support an extension of the 30mph speed limit.

The illustrative plan shows the siting of a potential gated footway link to the adjacent school. Whilst the benefits of such a link are noted the school has made some representations regarding safeguarding. The developer has agreed to include a financial contribution within the S106 agreement to support the funding of a link should the Local Education Authority, in conjunction with the school and applicant, wish to pursue this facility. In the event that it is to be pursued it would need to form part of the reserved matters submission.

The impact of the proposal upon protected species and their habitat

Paragraph 118 of the NPPF states that if significant harm to biodiversity cannot be avoided, adequately mitigated or as a last resort compensated for, planning permission should be refused.

The application is accompanied by an Ecological Impact Assessment.

Badgers

The survey found a mammal hole beneath the central hedgerow which it suggests is most likely to be a fox den, however whether now or in the future, the hole has potential to be used as an outlier sett for badgers. The burrow entrance is situated beneath a veteran tree for which a minimum 15m buffer area will need to be established. Badgers are however known to be active at the site, and may excavate new setts at any time. In mitigation, it is recommended that a pre-commencement badger survey be undertaken to determine whether badgers are present on-site. If confirmed an appropriate mitigation strategy should be prepared and implemented.

Bats

The proposed development will result in a net loss of semi-improved grassland and hedgerow habitat used by the local bat populations for foraging and commuting purposes. However, the development seeks to retain vegetation along the southern boundary and western boundaries as well as the central hedgerow and trees which were shown to be the most frequently used by bats during the survey. Mitigation measures include additional native hedgerow planting and an area of open space proposed in the south-east of the site.

Nesting Birds

The proposed development will require the removal of hedgerow habitat likely to be used by nesting birds. It is proposed that the removal of potential nesting habitat will be undertaken outside the main bird nesting season (May to August inclusive).

Grass Snake

Following the establishment of new landscape planting, the proposed development is not anticipated to result in a net loss of suitable habitat for this species.

Great Crested Newts

Whilst the on-site pond was considered to offer potential aquatic habitat for great crested newts if present locally, the pond was completely dry in April 2017 and remained as such during subsequent survey visits between May and September 2017.

Given the temporary nature of the pond and its distance from ponds identified on the far side of Welford Road together with recent negative survey results of these local ponds and the presence of suitable off-site habitats, it is considered unlikely that great crested newts would occur on-site.

In summary, the survey found some use of the site by bats, possibly badgers and suitable habitats for birds and grass snakes, however it is unlikely that great crested newts would be encountered during construction.

The report concludes that subject to retaining the majority of the existing vegetation, new planting, a sensitive lighting strategy, appropriate timing and impact avoidance measures, the residual effects of the development would be minimal.

The County Ecologist has assessed the report and has no objections subject to the conditions mentioned earlier in the report.

The impact of the proposal upon heritage assets and archaeology

Paragraph 132 of the National Planning Policy Framework states *"when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."*

The nearest conservation area to the site is the Grand Union Canal which lies approximately 0.4km south of the site. The nearest listed building lies over a kilometre away. The proposals are sufficiently distant from these heritage assets to avoid harming their settings.

The application is accompanied by a desk based archaeological assessment which establishes that there are no Scheduled Monuments on the proposed development site and development on the site will cause no direct or indirect impact upon the heritage significance of any Scheduled Monuments in the wider area.

A Written Scheme of Investigation for Trial Trenching has been submitted in support of the application. The trenching layout was agreed with the Senior Planning Archaeologist and the archaeological trial trenching has now been completed and an evaluation report submitted.

The County Archaeology team have been consulted on the report and comments that the results conclusively demonstrate the absence of significant buried archaeological remains and therefore confirm that no further archaeological investigation is required in order to inform determination of the current application. In respect of the ridge and furrow earthworks within the development area, it is concluded that the submitted desk-based assessment (DBA) and archaeological evaluation provide a sufficient record of the character and significance of the existing earthwork remains. The latter comprise most of a furlong of parallel, east to west aligned 'lands', the form of which suggest a medieval original for their establishment. The southern end of a second furlong projects into the northern edge of the development site, with a probably area of meadow to the south-east.

Based upon assessment of the submitted information, the archaeology team have confirmed that they do not wish to make further comment on the current proposals.

Flooding and drainage issues

Section 10 of the National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, and does not increase flood risk elsewhere.

A Flood Risk Assessment (FRA) has been submitted in support of the proposal. The FRA finds the application site is at low risk of flooding, lying within Flood Zone 1, which has a probability of flooding from rivers or sea of less than 1 in 1,000 years. The flood plain of a tributary of the River Sence lies adjacent to the south eastern corner of the site.

Residential development will therefore be positioned outside of the flood risk area and an appropriate surface water management system will be required to be implemented as part of the scheme.

The proposals therefore accord with the requirements of Section 10 of the National Planning Policy Framework.

Section 106 obligations

The Oadby and Wigston Developer Contributions Supplementary Planning Document (SPD) sets out the level of developer contributions required to mitigate against the impact of development.

The Developer Contributions SPD requires 20% of all dwellings on sites in Wigston to be affordable housing.

A contribution towards public open space is also required based on the following formulas:

- * 1 Bed Dwellings = £347.36 per unit
- * 2 Bed Dwellings = £1,658.50 per unit
- * 3+ Bed Dwellings = £2,969.64 per unit

This will contribute towards sport provision and/or accommodation for use by the local community at:

- * Horsewell Lane, Wigston; and/or

- * Willow Park, Wigston; and/or,
- * Sites within Wigston where a CIL compliant project that seeks to deliver publicly accessible sporting or community based infrastructure has been identified and is included within the Borough Council's latest infrastructure Delivery Plan and/or Playing Pitch Strategy.

The County Council require £124,861.78 towards primary education and a contribution towards library provision is also requested based on the following: 1 bed @ £15.09, 2+ bed @ £30.18, 1 bed student dwelling @ £10.06.

In order to promote sustainable travel, the Highway Authority requests the provision of a travel pack at a cost of £52.85 per dwelling and two 6 month bus passes at a cost of £720 per dwelling.

These contributions are all required to offset the impact of the proposed development, and accord with the Developer Contributions SPD.

In addition to the above the applicant has agreed to provide a financial contribution (to be agreed with the Local Education Authority) towards the funding of a potential footpath link from the site to Thythorn Field Primary School.

Other issues

Trees

The Tree Survey and Arboricultural Impact Assessment submitted with the application identifies a veteran tree within the centre of the site. The NPPF states that *'planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss'*.

The tree is in a decayed condition. The report suggests that it is very likely that the tree is hollow or is hollowing and with decay present throughout its structure. Notwithstanding the results of any further internal decay investigation, it is likely to be the case that to safely retain this tree within a future residential development, the area of land within falling distance of the tree would need to be designed to be free of significant 'targets'. These include vehicles, pedestrians, buildings, parked cars or other property.

A number of hedgerows define the boundaries of the site, these are in a good condition and have the potential to provide a valuable natural buffer between the public highway/school and any proposed development.

The remaining component of trees includes the central bisecting group of Hawthorns and Ash along with the on and off site individual trees within the site boundary hedges. These trees are all of moderate arboricultural and landscape value and new structures and surfaces within their RPAs should be avoided.

The report concludes that the presence of the veteran Ash tree along with the bisecting line of Hawthorns may be a significant constraint to development. The other trees around the boundary of the site are of lesser constraint.

The Council's Tree Officer has reviewed the report and considers that it sufficiently address' possible conflicts and concerns that might arise. It has also been recommended that since sections of the boundary hedgerows are shown to be incorporated into the gardens, in order to ensure their

retention post construction a condition be imposed to prevent occupants removing sections of the boundary hedgerow.

Noise

A Noise Screening Report has been submitted with the application. This identifies the existing noise sources affecting the site as the road traffic on Welford Road and a potential noise source as the railway noise from the Midlands Mainline which runs 150m to the south of the site and Thythorn Field Primary School. The report concludes that road traffic noise is unlikely to have an unacceptable impact on the development and that noise associated with the railway and Thythorn Field School may occasionally be audible. It also acknowledges that additional road traffic generated by the development is likely to result in a small increase in noise level at existing sensitive receptors (ie: the neighbouring residential property) however, if required, local mitigation measures can be confirmed at the detailed design stage.

Air

An Air Quality Screening Report has been submitted with the application. This indicates that the development is not located within an Air Quality Management Area (AQMA) or an area of known concern with regards to poor air quality. There are no current land uses surrounding the proposed development that may give rise to air quality, dust or odour. The report concludes that it is highly unlikely that the traffic generated by the proposed development will cause any air quality objectives to be approached or exceeded at existing or proposed receptor locations and suggests that any effects should be not significant.

Conclusion

In conclusion, it is considered that the proposed development accords with the aims and objectives of the National Planning Policy Framework, although the proposed development does not accord with the current adopted Core Strategy, the principle of developing the site is set out in the emerging draft development plan which allocates the site for residential development.

The site has been subject to extensive highway testing through the South East Leicestershire Transport Study and it is not considered that the proposal would prejudice the safe and efficient use of the highway network.

The proposal would not unacceptably harm landscape character, protected species or their habitats neither would it exacerbate flood risk.

Furthermore, the proposal complies with the saved Oadby and Wigston Local Plan policies and Developer Contributions Supplementary Planning Document providing that the section 106 agreement is completed and subject to the conditions outlined below.

Implications Statement

Health	No Significant implications
Environment	No Significant implications
Community Safety	No Significant implications
Human Rights	The rights of the applicant to develop his property has to be balanced against the rights of neighbours.
Equal Opportunities	No Significant implications

Risk Assessment	No Significant implications
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	No Significant implications

Recommendation

Subject to the completion of a suitable Section 106 Agreement and for the reasons set out in the above report, **Permit** subject to the following conditions:

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
Reason: To conform with Section 92 (2) of the Town and Country Planning Act 1990.
- 2 Prior to the commencement of work on site, plans and particulars of the layout, scale, appearance and the landscaping of the site, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with those details that have been approved in writing by the Local Planning Authority.
Reason: The application is in outline only and the Local Planning Authority wishes to ensure that these details which have not yet been submitted are appropriate for the locality.
- 3 The development hereby permitted shall be begun before the expiration of two years from the date of the approval of the last reserved matter(s) to be approved.
Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.
- 4 The Reserved Matters submission shall be consistent with the indicative layout plan (Drawing no CSA/3266/019 Rev.F) received by the Local Planning Authority on the 08 November 2017 and the Design and Access Statement dated November 2017 received by the Local Planning Authority 08 November 2017.
Reason: For the avoidance of doubt and to ensure that the proposal does not have any adverse impacts on the surrounding properties of the area in general and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policies 4, 14 and 15 and Landscape Proposal 1 of the Local Plan.
- 5 Prior to the commencement of development details of all materials to be used externally on all buildings shall be submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out using the agreed materials.
Reason: To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 6 All planting, seeding or turfing approved through the landscaping details to be submitted as a reserved matter shall be carried out in the first planting and seeding season following the first occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality and the occupiers of adjacent buildings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 7 Prior to the commencement of development a detailed plan (or plans) indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall be completed prior to the first occupation of the dwelling to which it relates.

Reason: To ensure that an adequate boundary treatment is provided to safeguard the visual amenities of the area, the amenities of the future occupiers of the dwelling and the occupiers of adjoining properties and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 8 No development shall take place until details of all existing and proposed slab and site levels (including any re-grading proposed to the site) have been submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with those details so approved.

Reason: To ensure that the development does not adversely affect the amenities of adjoining properties and the character or appearance of the area and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 9 Prior to the commencement of site works, full details of the measures to avoid damage to the trees to be retained on site shall be submitted to and approved in writing by the Local Planning Authority. The tree protection measures shall include details of a suitable fixed fence (which should extend to the full extent of the canopy of the tree(s) to be retained unless otherwise first agreed in writing by the Local Planning Authority). The agreed tree protection measures shall be installed on site prior to any site works commencing and shall be retained as such for the duration of construction works on site.

Reason: To ensure that adequate measures are taken to preserve trees and hedges and their root systems whilst construction work is progressing on site in accordance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 10 Prior to commencement of development a detailed method statement, schedule of works and drawings of all underground works and additional precautions measures required to prevent damage to the roots of the retained trees and hedges shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, extent and depth of all excavations for drainage and other services, in relation to the trees and hedges to be retained on the site. The construction works shall only be completed in accordance with the approved method statement and plans.

Reason: To ensure that adequate measures are taken to preserve trees and hedges and their root systems whilst construction work is progressing on site in accordance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 11 The boundary hedges retained as part of the development shall not be removed unless first agreed in writing by the Local Planning Authority.

Reason: To safeguard the appearance and future wellbeing of the hedges for both arboricultural and ecological reasons and in the interests of the visual amenity of the area, in accordance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 12 Existing vegetation and hedgerows with the potential to accommodate breeding birds shall only be managed or removed outside the bird nesting season (March to July inclusive), unless otherwise first agreed in writing by the Local Planning Authority.
Reason: To ensure the adequate measures are taken to reduce the risk of harm to nesting birds and in accordance with the Wildlife and Countryside Act 1981 and the aims and objectives of the National Planning Policy Framework.
- 13 No development shall take place until a further badger survey has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with any mitigation measures recommended by the approved survey.
Reason: To safeguard protected species and their habitats in accordance with Paragraphs 118 and 119 of the National Planning Policy Framework.
- 14 No part of the development shall be occupied until the off-site highway works shown generally on drawing number P17012-001D have been implemented in full.
Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with Paragraph 32 of the National Planning Policy Framework 2012.
- 15 Notwithstanding the submitted plans, the proposed access shall have a minimum width of 5.5 metres, shall be surfaced in a bituminous, bound material, with a minimum 6 metre kerbed radii with 2 metre footways on both sides of the access. The access once provided shall be so maintained at all times.
Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with Paragraph 32 of the National Planning Policy Framework 2012.
- 16 No part of the development hereby permitted shall be occupied until vehicular visibility splays of 2.4 metres by 73 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with Paragraph 32 of the National Planning Policy Framework 2012.
- 17 No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area.
- 18 Prior to the commencement of development a scheme for the disposal of foul sewage and surface water drainage for the site (based on sustainable drainage principles) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the first dwelling and, unless otherwise first agreed in writing by the Local Planning Authority, shall be maintained as such for the life of the development.

Reason: To ensure adequate drainage facilities are provided to serve the development and to prevent pollution of the water environment as recommended by Severn Trent Water Limited and in accordance with the aims and objectives of the National Planning Policy Framework.

- 19 No development approved by this planning permission shall take place until such time as a surface water drainage scheme, inclusive of a SuDS treatment train has been submitted to, and approved in writing by, the Local Planning Authority.
Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.
- 20 No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by, the Local Planning Authority.
Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems though the entire development construction phase.
- 21 No development approved by this planning permission, shall take place until such time as details in relation to the long term maintenance of the sustainable surface water drainage system within the development have been submitted to, and approved in writing by, the Local Planning Authority.
Reason: To establish a suitable maintenance regime, that may be monitored over time; that will ensure the long term performance, both in terms of flood risk and water quality, of the sustainable drainage system within the proposed development.
- 22 No development approved by this planning permission shall take place until such time as infiltration testing has been carried out to confirm (or otherwise) the suitability of the site for the use of infiltration as a drainage element, and the flood risk assessment (FRA) has been updated accordingly to reflect this in the drainage strategy. The updated FRA shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the updated document.
Reason: To demonstrate that the site is suitable (or otherwise) for the use of infiltration techniques as part of the drainage strategy and to ensure adequate drainage facilities are provided in accordance with the aims and objectives of the National Planning Policy Framework.
- 23 If during the course of development, contamination not previously anticipated or previously identified is found to be present on the site, then no further development (unless otherwise first agreed in writing with the Local Planning Authority) shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the Local Planning Authority. The contamination shall then be dealt with in accordance with the approved details.
Reason: In order to safeguard human health and the environment and identify potential contamination on-site and the potential for off-site migration as recommended by the Environmental Health Manager and in accordance with the aims and objectives of the National Planning Policy Framework.
- 24 Prior to the commencement of development details of any external lighting proposed shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of protecting the ecology of the site in accordance with Paragraphs 118 and 119 of the National Planning Policy Framework.

- 25 Unless otherwise first approved in writing (by means of a Non-Material Amendment/ Minor Material Amendment or a new Planning Permission) by the Local Planning Authority the development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below.

Application form submitted by Kodiak Land, received by the Local Planning Authority on 08 November 2017

Application Boundary Plan, Drawing No. CSA/3266/108 Rev B, submitted to and received by the Local Planning Authority on 08 November 2017

Development Framework Plan, Drawing No. CSA/3266/109 Rev F, submitted to and received by the Local Planning Authority on 08 November 2017

Reason: For the avoidance of doubt as to what is permitted by this permission and in the interests of proper planning.

Note(s) to Applicant:

- 1 You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section.
- 2 If the proposal involves the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Etc. Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.
- 3 For the avoidance of doubt this permission does not authorise any development outside the application site including any foundation, footings, fascias, eaves, soffits, verges or guttering.
- 4 You are advised that any amendments to the approved plans will require either a Non-Material amendment application, a Minor Material Amendment application or a new planning application. If this is the case then you should allow at least 8 weeks before the intended start date to gain approval for such amendments. Further advice can be obtained by contacting the Planning Section of the Council on any amendments (internal or external).
- 5 This permission requires you to submit further details to the Local Planning Authority on the proposal prior to the commencement of works on site. There is a fee payable to the Local Planning Authority when a request is made for the discharge of one or more conditions on the same permission or for confirmation of compliance with a condition or conditions. At the time of writing, the fee is payable per written request to discharge conditions not per condition and therefore any number of conditions may be included on a single request. The fee for such a request associated with this permission (at the time of this decision notice) is £97. The fee must be paid when the request is made. The Local Planning Authority has a statutory period of 8 weeks for the determination of such requests.
- 6 The applicant is advised that the landscaping scheme submitted as part of the reserved matters submission should include landscaping details for both the development site and the area within the blue line, together with details of protection of the existing trees and hedges

to be retained. All landscaping in the informal/natural open space and adjacent to the site boundaries to be of locally native species only.

- 7 This decision is also conditional upon the terms of the planning agreement which has been entered into by the developer and the Council under Section 106 of the Town and Country Planning Act 1990 (as amended). The Agreement runs with the land and not to any particular person having an interest therein.
- 8 The applicant is advised that no works or operations should take place on the site except between the hours of 8.00am and 6.00pm Monday to Friday, 9.00am to 2.00pm on Saturday and at no time on Sundays or Bank Holidays.
- 9 Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide>.

This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website: - see Part 6 of the '6Cs Design Guide' at www.leics.gov.uk/6csdg.

If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

A minimum of 6 months' notice will be required to make or amend a Traffic Regulation Order of which the applicant will bear all associated costs. Please email road.adoptions@leics.gov.uk to progress an application.

All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide>.

- 10 In respect of the footpath link from the site to the school, if this is to be provided it needs to form part of the reserved matters submission. In light of the representations received it is strongly recommended that dialogue between the Applicant, School and the Local Education Authority is carried out prior to the reserved matters application being submitted.

- 11 In respect of condition 19, the scheme shall include the utilisation of holding sustainable drainage (SuDS) techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features.

Full details for the drainage proposal should be supplied, including but not limited to, headwall details, pipe protection details (e.g. trash screens), long sections and full model scenarios for the 1 in 1, 1 in 30 and 1 in 100 year plus climate change return periods.

- 12 In respect of condition 20, details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided.
- 13 In respect of condition 21, details of the SuDS Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the system, and should also include procedures that must be implemented in the event of pollution incidents within the development site.
- 14 With regards to condition 22, the results should conform to BRE Digest 365 Soakaway Design. The LLFA would accept the proposal of an alternative drainage strategy that could be used should infiltration results support an alternative approach.
- 15 If there are any works proposed as part of an application which are likely to affect flows in a watercourse or ditch, then the applicant may require consent under Section 23 of The Land Drainage Act 1991. This is in addition to any planning permission that may be granted. Guidance on this process and a sample application form can be found at the following: <http://www.leicestershire.gov.uk/Flood-risk-management>
- 16 The applicant is advised that light spill onto retained hedgerows should be minimised to a value of 1lux or lower at the edge of the habitats.
- 17 The Ecologist has requested buffer zones of natural open space alongside the hedgerows of at least 5m and not be garden boundaries. It is requested that prior to the submission of reserved matters the applicant look at this and if necessary address it in the reserved matters submission.
- 18 The Application as submitted was considered to be acceptable and therefore discussion with the applicant to seek an acceptable solution was not considered necessary in making this decision. The Local Planning Authority has therefore acted pro-actively 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.
- 19 **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.gov.uk/appeal-planning-inspectorate

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

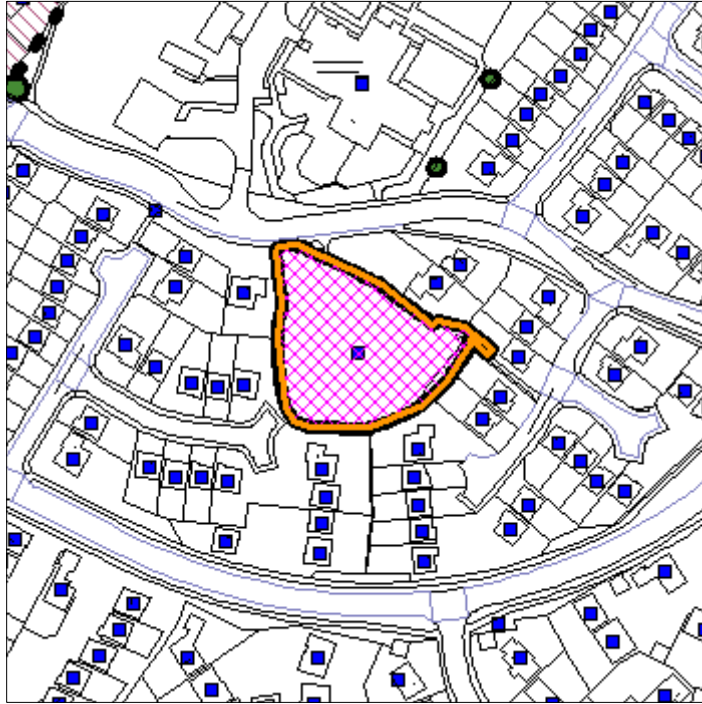
The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

5b.	18/00006/TPO	Beaufort Way Spinney Beaufort Way Oadby Leicester
	4 January 2018	Works to Woodland W2 (Oadby Grange Extension) Tree Preservation Order 1987 as per report.
	Case Officer	Michael Bennetto



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Site and Location

The application site is located in Oadby Woodlands Ward on Beaufort Way. The site is comprised of a woodland spinney retained during the surrounding residential development and is subject to a woodland tree preservation order (ref: TPO/0046/WOODLAND)

The surrounding land use is primarily residential with Woodlands Primary School to the north. There are 3 permissive footpaths through the spinney with entrances from Beaufort Way, Cooper Gardens and Newby gardens providing a great deal of amenity to neighbouring properties as well as those frequenting the school.

The spinney is comprised of mixed species, predominantly Oak and Ash with an understory of Holly and Hawthorn.

Description of proposal

The proposed works have been taken from an arboricultural survey in the context of a planning application but applied for in the context of risk management.

The proposed works are extensive and best summarised as:

- * Reduce 9No. trees to standing stems between 1.5m and 6m
- * Crown reduce 7No. trees between 3 and 6m
- * Fell 1 Group of 23 Hawthorn
- * Thin 1 Group of Holly.
- * Sever Ivy and remove fragile deadwood.

The statutory determination period for this application expires on the 12 February 2018, and it is intended to issue a decision as soon as practicably possible after the Committee meeting.

Relevant Planning History

None

Consultations

Leicestershire County Council (Ecology): With regard to the ecology consultation, bats and their roosts and nesting birds are addressed within Note 1 as detailed in the main agenda report (page 5). During my site visit no features suitable for bats or a roost were observed within the trees subject to the application. It was highlighted that there is an active badger sett in the vicinity of the application site.

OWBC Client Services : No response received at time of writing report.

OWBC Tree Warden : "I confirm I inspected this spinney on 20 January in my capacity as a tree warden .I do not have any objections to the application but please note that this does not in any way mean that I support any future application for planning permission for residential purposes."

Forward Planning (Policy) : The Oadby and Wigston Landscape Character Assessment (2005) identifies this area as Urban Character Area O(iv): Oadby Later Estates North and South. Paragraph 3.3.58 states:

'A decline in tree cover would decrease landscape quality of the area.'

In the adopted Core Strategy, Policy 5 Green Infrastructure states that:

'The Borough Council will safeguard and enhance Strategic Green Infrastructure corridors connecting locations of natural heritage, green space biodiversity and other environmental interest.'

In the adopted Core Strategy, Policy 15 Landscape and Character states that:

'All development proposals will be considered against the need to protect and enhance the distinctive landscape and historic character of the Borough. They should reflect the prevailing quality, character and features such as settlement pattern, views, biodiversity and local distinctiveness.'

The proposed works will dramatically change the character of the area and therefore such substantial changes would not be in keeping with current policy or guidance for the landscape character of the area

Representations

Neighbours have been informed and 3 notices placed close to the spinney entrances with 3 letters of representation (from 9 properties), 1 in support and 8 in objection of the proposal being received at the time of writing this report.

The date for the receipt of comments expired on the 6 February 2018

The reasons for objection can be summarised as follows: -

- * Intention to develop the spinney into further domestic dwellings
- * Destruction of local wildlife.
- * Severe impact on habitat.
- * TPO is in place to protect the trees from harm through development or excessive tree works.
- * Inconsistent with NPPF; protecting and enhancing valued landscapes, planning positively for the creation, protection and enhancement of green infrastructure, refusing permission for development resulting in the loss or deterioration of [...] aged trees found outside ancient woodland.
- * The work outlined in the Arb survey is excessive in the extreme to that required to mitigate the risk

The reasons for supporting the proposal can be summarised as follows: -

- * 'Trees badly overhang the property and so the property is at risk. Leaves stuck in gutters. Water stuck, roof and walls going damage with rain water' – [support inferred]

Councillor Dean Gamble and Councillor Bhupendra Dave have requested the application go to Committee on the grounds of local public interest and concerns.

Relevant Planning Policies

National Planning Policy Framework (2012)

Oadby & Wigston Core Strategy

Core Strategy Policy 5: Green Infrastructure
Core Strategy Policy 15 : Landscape and Character

Landscape Character Assessment (2005)

Planning Considerations

The main issues to consider in the determination of this application are as follows:

- * Purpose of the application
- * Tree Risk
- * Appropriate Management
- * Impact upon the TPO
- * Amenity
- * Justification of works
- * Protected Species

Purpose of the application

The submitted report is categorical in its status as being within the context of a proposed residential development (Ref: BeaufortWay_Oadby/01 section 1.1).

Following conversation with the applicant, the application was submitted for works to address neighbours' concerns regarding the adjacent trees:

- * Email of 10/01/2018 – "contact has been made from neighbouring residents with concerns for the safety of themselves and their property due to falling limbs from the trees situated on the land. My client urgently wants to resolve these issues so as not to put anyone at risk of injury or damage to property, along with the protection of relevant trees."
- * Email of 12/01/2018 – "From our knowledge, the survey was undertaken by the arboriculturist (taking) into account that the land is regularly accessed by members of the public, including school children as a local shortcut. As a result of this the report has been written so that the natural footpaths are also considered as well as the primary concern of the tree health."

Our client is ultimately looking to safeguard the public accessing his land and his surrounding neighbours, as they want to reduce the risk of injury or damage to others and their property. We want to continue with the works recommended by the arboriculturist so that the land becomes safe, however if my client is refused the opportunity to have this work undertaken, it must be assumed that the Local Authority are willing to take responsibility for any damages caused by the areas highlighted in the report."

Since clarified by the applicant, the works submitted for have been assessed with respect to risk and safety with regard to the owners' duty of care and concerned neighbours.

Tree Risk

The National Tree Safety Group publishes the Common Sense Risk Management of Trees:

- * "This document may be presented to a court documentation in any case involving death or personal injury caused by a falling tree or branch. "

- * "The NTSG believes that one fundamental concept should underlie the management of risks from trees. It is that the evaluation of what is reasonable should be based upon a balance between benefit and risk. This evaluation can be undertaken only in a local context, since trees provide many different types of benefit in a range of different circumstances. "
- * "The requirement under health and safety legislation is to have a suitable and sufficient risk assessment, and to apply measures that are reasonable and practicable. "

Disproportionate works to the risk posed should be refused, we must also be aware that failure to permit works on safety grounds can leave liability with the council, however where more proportionate measures have been proposed any failure to complete said works would return liability to the owner.

Appropriate Management

For applications relating to woodland, statutory advice is that the authority "must grant consent so far as accords with good forestry practice unless it is satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area."

In consideration of 'good forestry practice', due to the size and position of this site I would deem typical forestry processes inappropriate. I believe the spinney is better considered as an amenity asset rather than a working woodland.

The application has failed to show appropriate management in this instance, typically a Woodland Management Plan or Tree Condition Survey are considered suitable.

Small, scattered woodlands deliver a range of landscape, biodiversity and other benefits but remain vulnerable to neglect, due to the marginal revenues from managing them and pressures from development.

Impact upon the TPO

A tree preservation order for a woodland extends to all trees present and future within a woodland, within the defined area, including natural regeneration – "A tree is to be so regarded at all stages of its life, subject to the exclusion of a mere seed" (case: *C1/2015/1102*). The purpose of woodland Orders are to safeguard the woodland unit as a whole and covers all tree species. The woodland category should not hinder beneficial woodland management

Amenity

There would be a noticeable loss of amenity following the proposed works. Although the main tree group would remain, the form and condition of remaining trees would be impaired and apparent. A degree of protection is available in that the TPO covers all future trees.

Justification

Insufficient justification/evidence in support has been supplied, particularly pertaining to the presence of decay fungi where the report states 'fungal brackets on scaffold limbs', with no description or aspect (i.e Northern stem, second primary limb at 5m) or photographs to support it.

Protected Species

None apparent during site inspection. Ecology consultation not returned (at the date of writing)

Site visit and assessment of the application.

All works to remove deadwood and sever ivy have been removed from the accompanying report as they are exempt and do not require permission. (Trees T:2,3,4,5,6,9,10,12,16,18,20,23,26,29,30,34 and 35)

The remaining trees were then assessed against the specification provided:

- T1: Asymmetric canopy with tight included union and abrupt bends – As applied for.
- T7: Very slender on woodland edge, reduce to 1.5m - Applied for 4m.
- T8: Quite slender with extended growth on woodland edge. Reduce by 3m to improve form – As applied for.
- T11: Tree is not dead. Previously 'reduced' to 3-4m standing stem. Phototropic regrowth over adjacent garden and decay seen in main stem. Re-pollarding the regrowth will reduce the loading forces and thus reduce the chance of failure due to the decay in the main stem.
- T13: Reduction is not appropriate; the tree is unlikely to fail into an adjacent property. Slender form trees *within* woodland are to be expected.
- T14: No observed or evidenced decay fungus or previous attachment points. A primary limb has grown slightly overextended and is becoming dominant; reducing this limb by 3-4m should rebalance the canopy and reassert main stem apical dominance.
- T15: Previously topped, the established regrowth has several upright branches vying for position which could fail mechanically (lever arm failure) if allowed to mature. A reduction of 2m in height and 1m from the boundary should abate the upward growth in favour of a denser, compact crown.
- T17: Standing dead stem. Minimal risk posed, removal is contrary to best practice. – Location incorrect on plan.
- T19: Tree with impaired condition, with an asymmetric canopy biased over the adjacent dwelling. Cutting it down to a 3-4m standing stem would most likely result in the trees demise. The 2 main stems break into multi-stem unions at approximately 7m. Pollarding above this point would avoid making main stem cuts and reducing the risk to an acceptable level and can be included within a pollarding cycle/management strategy.
- T21: *I.Hispidus* bracket observed on primary limb over highway, associated with previous reduction, reduce by up to 3m - As applied for.
- T22: A 50% reduction would be excessive and not in accordance with best practice. 3m height reduction and 1m width reduction as well as removal of deadwood should be appropriate.
- T24: See T19.
- T25: Fibre buckling has little to no increased risk.
- T27: Out of falling distance. Works not justified.
- T28: See T27.
- T31: See T13.
- T32: See T13. – tagged as 0033
- T33: See T13. – tagged as 0035

- G1: Prune for access so far as required to survey
- G2: 'Remove tree' applied for. My count is that G2 comprises 23 trees, none of which pose a significant risk; as such their removal is not proportionate.

Conclusion

A high level of management will be required on a site such as this by the land owner; there is 223 linear metres of boundary with approximately 80% residential and 20% adjacent Beaufort Way road and directly opposite Woodland Grange Primary School with parents and coaches parking alongside. There are 3 distinct entrances with permissive footpaths through the spinney.

We can note that in the deed to the land it stipulates that owner is obliged to maintain a stock proof boundary; we wouldn't consider this as enforceable or of benefit to the community and it could be at expense far beyond maintaining a healthy tree stock.

The works applied for have been taken out of context; the submitted report is in the context of a residential development while the works submitted for are to address risk following neighbours' concerns. Intention to develop the spinney can be considered little more than conjecture and should not be a factor when considering the application.

When considering the main issues relating to this application I would suggest the most efficient and judicious outcome is to acknowledge that trees inherently pose a degree of risk and notwithstanding the submitted details permit works that are proportionate to the risk posed. In doing so the council would not be hindering the carrying out of safety works but encouraging a proportionate response to presented risk. This approach would also avoid as far as reasonably practicable the destruction of habitat and its impact on local wildlife. In other words, the severity of works can be reduced while still addressing the risk.

Works proposed are considered neither beneficial woodland management, nor in line with good forestry practise. That being said there is a justifiable reason for some works to be carried out to fulfil the owners duty of care for adjacent land owners and those who pass through the spinney, it's the balance of a proportionate response to the risk presented that must be assessed.

In order to prevent any undue destruction of habitat and impact on wildlife I would propose a more conservative set of works be granted as specified by an accompanying report so far as necessary to reduce the presented risk to a suitable level.

In summary, after due consideration of the site and its use I have made the first phase of a management plan that I feel makes a proportionate response while offering an acceptable reduction in risk, adequate to afford the owner reasonable precaution until a woodland management plan or tree inspection regime has been put into place. I will make myself available to discuss the matter with the suitably appointed person/arboriculturist

Implications Statement

Health	No Significant implications
Environment	Environmental impact has been taken into account when assessing the application.
Community Safety	No Significant implications
Human Rights	There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these issues have been taken into account in the assessment of this application.
Equal Opportunities	No Significant implications

Risk Assessment	Risk posed has been taken into account when assessing the application.
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	Liability has been taken into account when assessing the application.

Recommendation

For the reasons set out in the above report then **Permit** subject to the following conditions:

- 1 Notwithstanding the submitted details the tree works shall be undertaken strictly in accordance with the recommended works as specified by the Arboricultural Officer dated **** attached to, and forming part of, this consent.
Reason: To safeguard the appearance and future well-being of the tree(s) in the interests of the visual amenity of the area in accordance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 2 The works to which this consent relates shall be begun before the expiration of two years from the date of this consent.
Reason: To accord with the provisions of the Town and Country Planning (Tree Preservation) Regulations 2012.
- 3 The works shall be carried out in accordance with BS3998:2010 'Tree Works Recommendations' which revises and supersedes all previous issues and includes updated information based on the very latest Arboricultural research. Section 7 refers specifically to pruning and related work and gives detailed guidance about crown thinning, crown reduction, number of pruning cuts in relation to trunk diameter and the correct targeting of such cuts.
Reason: To safeguard the appearance and future well-being of the tree(s) in the interests of the visual amenity of the area and in accordance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

Note(s) to Applicant:

- 1 Nesting birds and bats, their roosts and their access to these roosts, are protected under the Wildlife and Countryside Act 1981 and the Conservation (Natural Habitat etc.) Regulation 1994. Therefore, should birds or bats be present, works should be deferred until the late summer/autumn.

2 **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority for the works to a tree or trees subject to a Tree Preservation Order or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 28 days of the date of the decision notice.

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.gov.uk/appeal-decision-about-tree-order/how-to-appeal

The Secretary of State can allow a longer period for giving notice of an appeal, but he/she will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

- 3 It has been noted that there is a Badger Settle within the vicinity of the application site. Badgers and their setts are protected under the Protection of Badgers Act 1992, It is an offence to damage or obstruct a badger sett which shows signs of current use by badgers, or to disturb a badger within a sett. It is therefore recommended that a badger survey is carried out prior to any works, this should involve a suitably experienced ecologist surveying the site, identifying any badger setts or badger activity on site and appropriate steps taken so as not to disturb or block access to any sett when carrying out the works herein permitted. Further information can be found within the Forestry Commissions Forestry Practice Guide 9.

BACKGROUND PAPERS

A. 17/00539/OUT

B. 18/00006/TPO

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