

DATE: 15 November 2022
MY REF: Planning Committee
YOUR REF:
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To Members of the Planning Committee

Cllr. Louise Richardson (Chairman)
Cllr. Nick Chapman (Vice-Chairman)

Cllr. Cheryl Cashmore
Cllr. Roy Denney
Cllr. Chris Frost

Cllr. Trevor Matthews
Cllr. Sam Maxwell
Cllr. Christine Merrill

Cllr. Phil Moitt
Cllr. Mike Shirley
Cllr. Bev Welsh

Dear Councillor,

A meeting of the **PLANNING COMMITTEE** will be held in the Council Chamber - Council Offices, Narborough on **THURSDAY, 24 NOVEMBER 2022** at **4.30 p.m.** for the transaction of the following business and your attendance is requested.

Yours faithfully



Louisa Horton
Monitoring Officer



AGENDA

REFERENCING UP OF DECISIONS - COUNCIL CONSTITUTION PAGE 3-6-20

Any Committee or Sub-Committee may refer up any report for decision to its parent body. Referencing up shall be on the following basis:-

- a) At the beginning of the relevant meeting, any Committee/Sub-Committee Member may move reference up of any item of business. The Member must identify the grounds of significance justifying so doing. If this is seconded, the proposition shall be open to debate.
- b) There shall be no debate upon the contents of the report itself. Debate shall be limited to consideration as to whether the report item is of such significance as to justify its reference up to the parent body notwithstanding that the parent body has delegated its decision making powers.
- c) If the referencing up motion is carried, the matter shall not be determined at the meeting. If the referencing up motion is not carried, the matter shall be dealt with in accordance with the Committee/Sub-Committee's delegated powers.

AGENDA

1. Apologies for absence
2. Disclosures of Interest

To receive disclosures of interests from Members (ie. The existence and nature of those interests in respect of items on this agenda).

3. Minutes (Pages 3 - 6)

To approve and sign the minutes of the meeting held on 27 October 2022 (enclosed).

MEMBERS SHOULD NOTE THAT ALL LETTERS OF REPRESENTATION AND CONSULTATION RESPONSES WILL BE SUMMARISED IN THE COMMITTEE REPORTS. BACKGROUND PAPERS TO REPORTS WILL BE AVAILABLE TO VIEW ON THE COUNCIL'S WEBSITE.

4. Applications for Determination (Pages 7 - 36)

To consider the report of the Development Services Team Leader (enclosed).

PLANNING COMMITTEE

Minutes of a meeting held at the Council Offices, Narborough

THURSDAY, 27 OCTOBER 2022

Present:-

Cllr. Louise Richardson (Chairman)
Cllr. Nick Chapman (Vice-Chairman)

Cllr. Chris Frost
Cllr. Trevor Matthews

Cllr. Christine Merrill
Cllr. Phil Moitt

Cllr. Mike Shirley
Cllr. Bev Welsh

Substitute:-

Cllr. Janet Forey (In place of Cllr. Cheryl Cashmore)
Cllr. Terry Richardson (In place of Cllr. Roy Denney)

Officers present:-

Cat Hartley	- Planning & Strategic Growth Group Manager
Ian Davies	- Development Services Team Leader
Stephen Dukes	- Development Services Team Leader
Joseph Fleetwood	- Planning Officer
Linda Durham	- Solicitor
Sandeep Tiensa	- Senior Democratic Services & Scrutiny Officer
Nicole Cramp	- Democratic & Scrutiny Services Officer

Apologies:-

Cllr. Cheryl Cashmore, Cllr. Roy Denney and Cllr. Sam Maxwell

1. **DISCLOSURES OF INTEREST**

No disclosures were received.

2. **MINUTES**

The minutes of the meeting held on 6 October 2022 as circulated, were approved and signed as a correct record.

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Planning Committee - Thursday, 27 October 2022

3. **APPLICATIONS FOR DETERMINATION**

Considered – Report of the Senior Planning Officer, presented by the Development Services Team Leader.

Members were informed that the Fosse Villages Neighbourhood Plan should have been referred to in the report, but the only policy of relevance, FV6 in relation to Design, would not affect the recommendation made.

22/0595/FUL

Change of use of agricultural land to provide B8 use (storage and distribution) and installation of 110 storage containers as an extension to the existing site. Proposed extension of existing bund.

Land Southwest of Junction With Stanton Lane And Pingle Lane Potters Marston.

Public Speaking

Pursuant to Part 4, Section 7 of the Councils Constitution in relation to public rights of participation in planning applications, the Chairman allowed the following to give a 5 minute presentation:

- Cllr. Maggie Wright – on behalf of the Croft Ward Member, in support of the application.
- Sam Holt – Applicant

DECISION

The Officer's recommendation to refuse the application was overturned and the application was approved for the following reason and subject to the conditions below:

- Following the presentation, public speaking and subsequent debate, Members arrived at the conclusion that the economic benefits of the proposed scheme outweighed any conflict with countryside policies and accordingly resolved to approve the application.

Conditions:

1. Statutory time limit
2. List of approved plans
3. Development to be carried out in accordance with a precautionary method of works

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4. Parking and turning facilities to be provided
5. Storage containers to be finished in dark green paint
6. Landscaping and bund to be provided within one year of the commencement of development, and trees/planting to be replaced for a period of 5 years
7. New and replacement hedges to be native species
8. No customer access to site outside of the hours of 07:00 and 19:00 daily
9. The B8 use hereby approved shall be strictly limited to the area shown on the approved plans only
10. Storage containers to be sited in accordance with the approved plans and no containers shall be stacked on top of each other
11. Scheme of site lighting and CCTV to be submitted and agreed and implemented prior to their installation.

Considered – Report of the Planning Officer.

22/0808/HH

Single storey front and side extension and alteration to front porch
10 Bute Way, Countesthorpe.

DECISION

THAT APPLICATION 22/0808/HH BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. 3 year time limit
2. Approved plans
3. Materials as specified on application form

And subject to the addition of a further condition as follows:

4. Extension to be used ancillary to main dwelling and no trade or business to be undertaken.

THE MEETING CONCLUDED AT 5.18 P.M.

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Blaby District Council

Planning Committee

Date of Meeting **24 November 2022**
Title of Report **Applications for Determination**
Report Author Group Manager – Planning & Strategic Growth

1. What is this report about?

- 1.1 To determine planning applications as listed in paragraph 3.2 below and detailed in the attached report.

2. Recommendation

- 2.1 That the recommendations listed within paragraph 3.2 below and detailed in the attached report be approved.

3. Matters to consider

- 3.1 To avoid unnecessary delay in the processing of planning applications, the recommendations included in this list must often be prepared in advance of the closing date for the receipt of representations. This list was prepared on **14 November 2022** and information of representations received will be updated at your meeting. This updating will also cover any other information which may come to hand in the intervening period. Closing dates are given where they fall on or after the day of preparation of the list.

3.2	Application No.	Page No.	Address	Recommendation
	22/0464/FUL	9	Land rear of 43 New Street, Blaby	Refusal

3.3 Appropriate Consultations

Details of organisations / persons consulted in relation to the applications are included in the reports for each individual application. Members will be aware that full copies of correspondence received are available to view on the respective planning file and through the planning portal <https://w3.blaby.gov.uk/online-applications/>

3.4 Resource Implications

There are no specific financial implications arising from the contents of this report.

4. Other options considered

These are included where appropriate as part of the reports relating to each individual application.

5. Background paper(s)

Background papers are contained in files held in the Planning Division for each application being considered and are available for public inspection.

6. Report author's contact details

Ian Davies

planning@blaby.gov.uk

Development Services Team Leader

0116 272 7705

22/0464/FUL

Registered Date
10 May 2022

Mr Perry

Erection of 12 dwellings with associated vehicular access, parking and landscaping and drainage, including the demolition of No. 43 New Street, Blaby.

Land rear of No. 43 New Street, Blaby

**Report Author: Charles Ebdon, Senior Planning Officer
Contact Details: Council Offices. 0116 272 7691**

RECOMMENDATION:

THAT APPLICATION 22/0464/FUL BE REFUSED FOR THE FOLLOWING REASON(S):

1. The layout and design of the proposal would not enable the District Council's refuse vehicles to enter the site to collect household waste to fulfil their statutory duties. In addition, the development lacks the ability to provide adequate presentation facilities for waste collection at the boundary with the adoptable highway at the site entrance with New Street. Therefore, it is considered that as the site cannot be adequately serviced for household waste purposes, the scheme has not been designed appropriately to meet the needs of future residents. This constitutes poor design contrary to Policy CS2 and Policy CS10 of the adopted Blaby District Core Strategy (2013), Policy DM1 of the adopted Blaby District Local Plan (Delivery) Development Plan Document (2019) and Policy BNP1 of the Blaby Neighbourhood Plan (2018) and is also contrary to the aims and aspirations of the NPPF which seeks to raise the awareness and quality of design when dealing with development proposals.

Relevant Planning Policies

National Planning Policy Framework (NPPF)

Planning Practice Guidance (NPPG)

National Design Guide - Planning practice guidance for beautiful, enduring and successful places

Blaby District Local Plan (Core Strategy) Development Plan Document (February 2013)

Policy CS1	Strategy for locating New Development
Policy CS2	Design of New Development
Policy CS5	Housing Distribution
Policy CS8	Mix of Housing
Policy CS10	Transport Infrastructure
Policy CS11	Infrastructure, services and facilities to support growth
Policy CS12	Planning Obligations and Developer Contributions

Policy CS14	Green Infrastructure
Policy CS15	Open space, sport and recreation
Policy CS19	Biodiversity and geo-diversity
Policy CS21	Climate Change
Policy CS22	Flood Risk Management
Policy CS23	Waste
Policy CS24	Presumption in favour of sustainable development

Blaby District Local Plan (Delivery) Development Plan Document (Adopted February 2019)

Policy DM1	Development within the Settlement Boundaries
Policy DM8	Local Parking and Highway Design Standards
Policy DM13	Land Contamination and Pollution

Blaby Neighbourhood Plan (Feb 2018)

Policy BNP1	Character and Environment
Policy BNP8	Design of New Development
Policy BNP9	Settlement Boundary

Other Supporting Documents

- Blaby District Council Planning Obligations and Developer Contributions Supplementary Planning Guidance, February 2010.
- Blaby District Council Housing Mix and Affordable Housing Supplementary Planning Document
- Leicestershire Highways Design Guide
- Building for a Healthy Life: A Design Toolkit for Neighbourhoods, Streets, Homes

Consultation Summary

Blaby District Council, Environmental Services – No objections subject to conditions

Blaby District Council, Housing Options –

24.05.2022 – (on initial scheme for 15 dwellings)

Objected that the proposed development lacked suitable provision of affordable housing as set out in the Blaby District Council Housing Mix and Affordable Housing Supplementary Planning Document.

30.05.2022 – (on initial scheme for 15 dwellings)

Objected that the proposed development lacked suitable provision of affordable housing as set out in the Blaby District Council Housing Mix and Affordable Housing Supplementary Planning Document, and that the development failed to provide a suitable housing mix to meet the District Council housing requirements.

15.08.2022 – (on revised scheme for 12 dwellings)

Objected on the basis that the development failed to provide a suitable housing mix to meet the District Council housing requirements.

05.10.2022 – (on revised scheme for 12 dwellings)

Objected on the basis that the development failed to provide a suitable housing mix to meet the District Council housing requirements.

08.10.2022 – (on revised scheme for 12 dwellings)

No objections

Blaby District Council, Neighbourhood Services –

03.10.2022

“Thank you for the opportunity for Neighbourhood Services to consult on the latest version of the proposed development at 43 New Street, Blaby.

Having considered the layout as proposed the waste collection authority (WCA) does not consider it adequately addresses issues or advice contained within the ‘Guidance for Developers’ previously provided to the applicant and as such the WCA does not support the latest proposed layout.

The applicant is continuing to rely on a shared private access and the transport assessment states ‘it should be noted that the proposed access road has not been designed as an adoptable road, it has been designed as a private shared driveway and will not be offered for adoption’. The guidance provided by the WCA states that new developments and their access roads be adopted as public highway. The rationale for this is that adopted roads conform to a satisfactory design and construction standard that falls within the jurisdiction of the highways authority thereby avoiding access issues for waste collection crews in the future and ensures any repairs and resurfacing works are the responsibility of the highway authority and not a third party such as the district or residents. Private and shared access roads that are unadopted risk legal disputes from adjoining property owners seeking redress from the WCA for alleged damage to roads not constructed to adoptable standards. They also can be problematic for residents whereby one neighbour wants the waste collection vehicle to access the road and another neighbour does not thereby pitting neighbours against each other and placing the WCA in the middle. If a private road is not accessible then this creates another problem whereby the resident must present their bins a long distance from their property and next to the public highway. Part H of the building regulations which is contained within the WCA’s guidance specifies the requirements for developers not to construct waste storage areas more than 30 metres away from residents living accommodation and not more than 25 metres from the collection point specified by the WCA which is next to the public highway. The furthest dwelling in the proposed layout is more than 200 metres from public highway and as well as not complying with building regulations (which may lead to the development not being signed off by Building Control) also places a burden on the resident to carry their wheeled bins across this distance.

If the driveway complied with Part H regs in terms of the distances described above then the only conceivable location for a bin collection point which is the place where the bin is required to be presented on collection day is adjacent to New Street itself

and a maximum distance of 15m from the public highway and along one side of the unadopted private access road.

The waste containers specified by the WCA are wheeled bins; this is for the sake of safe manual handling, vermin control, and efficiency. Wheeled bins are collected using automatic bin lifts mounted on refuse collection vehicles weighing 26 tonne for a six wheeled refuse collection vehicle or 32 tonne for an eight-wheeled refuse collection vehicle. There is no alternate light weight collection vehicle within the fleet that is mounted with an automatic bin lift. An alternative bespoke vehicle would need to be procured for this activity which could lessen the risk of damaging the access road but would cost circa £150,000 for the vehicle alone and would need to be replaced every 7 or 8 years. In addition it would also incur the expense of a driver-loader and on going maintenance costs. Having estimated the costs of this method this is considered an unacceptable cost which would need to be burdened by the whole of the districts Council tax payers. It would create an extreme inefficiency in an otherwise efficient service. For example, the average daily round size is 1,300 properties per waste collection round with an estimated average of 4 properties collected from per minute of bin collection activity based on waste collected from the public highway. It may seem appropriate to the applicant that the waste collection crew walk from the public highway to the property rather than the other way round but this is estimated to take 14 times longer than collecting and emptying and returning containers to the bin collection point on the public highway. If a precedent was set for the future in this regard then the impacts across multiple new developments over time would create unnecessary inefficiencies and cause significant financial burden to the authority and by extension the rate payer over time. In addition to this being grossly inefficient, and from a health and safety perspective, according to British Standards on 'waste management in buildings – code of practice' (BS5906:2005) the waste collector should not move two-wheeled containers to the collection vehicle more than 15 metres.

The applicant proposes a private waste collection arrangement funded by a management company managed by or no behalf of residents. This is problematic from the perspective that the WCA is not reasonably able to carry out its statutory function of waste collection if one of the residents wants to renegotiate the agreement; such arrangements cannot be guaranteed in perpetuity.

In terms of the turning circle the guidance reflects the dimensions of a 32 tonne refuse collection vehicle because the WCA may in time seek to procure larger vehicles with greater payload capacity to further improve efficiency and seeks to future proof for such potential developments in waste collection vehicles.

In summary the WCA does not support the proposed waste collection strategy because:

- The proposed layout does not reflect the current guidance for new developments previously provided to the applicant.
- There is no intention for the shared access to be formally adopted which would afford all parties the surety of the road being maintained at public expense in perpetuity and could provide the WCA with adequate access although the WCA would require the tracking drawings be based on a 32 tonne refuse collection vehicle.

- *There is insufficient capacity for wheeled bin storage for all 12 households adjacent to New Street on the access road (i.e. would exceed the 15m specified under the BS code of practice).*
- *It does not comply with building regulations specifically H6 Solid waste storage.*
- *The proposal to discharge the obligation for maintenance of the access road is not sufficiently robust and is counter to the advice in the guidance for new developments.*
- *The proposal to discharge the obligation for the collection of waste to a management company funded and administered by residents is impractical and would not be considered a sustainable proposal either for the district or the resident. Such arrangements cannot be guaranteed in perpetuity; for example, future owners may not wish to participate in the management company scheme.*

The WCA would urge the applicant to reconsider its decision not to have the shared access road adopted which would have the full support of the WCA”.

Blaby Parish Council –

20.05.2022

“1 The original application for this site was for 7 dwellings. This has now been more than doubled leading to over intensification on the plot. The increased number of dwellings will also increase traffic movement along New Street and West Street which are both fairly congested.

2 The site in question forms part of an area of land which is currently designated for recreation. The site comprises the Blaby Social Centre (village hall) a tennis club and the local bowl’s club. Development of the site will encroach into this space.

3 The exit from the new development is adjacent to the access from a small existing development (Harvey Close) both of which come out on the bend where New Street joined West Street. This creates a potential accident hazard.

4 New Street is a fairly congested road the egress of which onto Enderby Road is blind due to parked cars. West Street’s exit onto Enderby Road also has sight difficulties.

5 The proposal to demolish one half of a pair of semi-detached houses to provide access to the new development creates a potential hazard for the occupiers of the remaining property”.

29.09.2022

“1 The original application for this site was for 7 dwellings. This has now been more than doubled leading to over intensification on the plot. The increased number of dwellings will also increase traffic movement along New Street and West Street which are both fairly congested.

2 The site in question forms part of an area of land which is currently designated for recreation. The site comprises the Blaby Social Centre (village hall) a tennis club and the local bowl’s club. Development of the site will encroach into this space.

3 The exit from the new development is adjacent to the access from a small existing development (Harvey Close) both of which come out on the bend where New Street joined West Street. This creates a potential accident hazard.

4 New Street is a fairly congested road the egress of which onto Enderby Road is blind due to parked cars. West Street's exit onto Enderby Road also has sight difficulties."

Environment Agency –

17.10.2022

"We have reviewed the submitted documents and on this occasion the Environment Agency will not be making any formal comment on the submission for the following reason:

- The development falls partially within flood zone 2 and therefore the LPA should apply national flood risk standing advice (FRSA) in this instance.
<https://www.gov.uk/guidance/flood-risk-assessment-local-planning-authorities>

There are no other environmental constraints associated with the application site which fall within the remit of the Environment Agency. If, however, the proposal subsequently changes such that you feel that it may pose a significant environmental risk then please do not hesitate to contact us and we will be pleased to review our response".

Leicestershire County Council, Lead Local Flood Authority (LLFA) –

30.05.2022

Further Consultation required – evidence that the site can be drained

27.09.2022

Further Consultation required - Consideration of the maintenance and management of all drainage elements

11.11.2022

No objections subject to conditions

Leicestershire County Council Archaeology – No objections subject to conditions

Leicestershire County Council Ecology – No objections regarding protected species, however noted the requirements for Biodiversity Net Gain.

Leicestershire County Council, Forestry – No objections subject to conditions

Leicestershire County Council Developer Contributions Officer – Requested developer contributions as follows:

- **Waste** – £262.57 towards Whetstone RHWS
- **Libraries** - £333.04 towards Blaby Library

Leicestershire County Council, Highways (LHA) –

20.06.2022

Objected on that basis that the application failed to fully assesses the highway impacts of the proposed development

12.10.2022

No objection in relation to highway safety, and parking subject to conditions. However, made the following observations:

- Internal Layout

“The proposed road layout does not currently conform to an acceptable standard for adoption and therefore it will not be considered for adoption and future maintenance by the LHA.”

- Vehicular Tracking

“The LHA note that it is the intention of the Applicant’s for waste collection vehicles to enter the site. Therefore, the LHA has considered the tracking drawings submitted within the submitted Edwards & Edwards Highways Addendum Report dated August 2022. The tracking drawings seek to demonstrate that the refuse vehicle used by Blaby District Council can enter, turn, and leave the site in a forward gear. The LHA previously raised concerns that the site layout could not support the Phoenix 2 Duo refuse vehicle. The LHA note that this drawing has been revised to track the Olympus 6x2 RS Wide, which is considerably smaller. Due to this change the LHA has sought advice from Blaby District Council, who have confirmed that the Olympus 6x2 RS Wide is the largest refuse vehicle current utilised for waste collection within the district. Therefore, the LHA has reviewed the submitted Swept Path Analysis drawing number TRCK/02 Revision A and are satisfied that the refuse vehicle can access the site, turn and egress the site in a forward gear. Notwithstanding the above, the LHA would note that should Blaby District Council return to using a larger refuse vehicle, the concerns raised within our previous observations dated 20 June 2022 would still apply.”

Leicestershire Police – No objections

National Health Service Leicestershire – Requested £5,837.12 contributions towards local primary health care or the area, specifically, Northfield and Hazelmere Medical Centres.

Severn Trent Water Authority – No objections

Third Party Representations

7 letters of representation were received, of which 6 objected to the application and 1 neither supported nor objected to the application. The objections were centred around the following issues:

- The constrained and narrow nature of the access

- General highway and pedestrian safety, traffic and parking implications in relation to the development,
- Flooding risks
- Noise pollution
- Air pollution
- Inappropriate mix of houses
- Overbearing impact on Nos. 41 and 45 New Street from proposed boundary wall
- Encroachment into recreational land
- Unfavourable impact on social, tennis and bowling club
- Unnecessary development
- No consideration of energy efficient and carbon neutral infrastructure
- Concerns were raised regarding the development resulting in a through access from Leicester Road to New Street.

Relevant Planning History

00/0068/1/PY	Formation of additional Bowling Green	Approved 10.04.2000
20/1322/FUL	Demolition of existing dwelling and erection of 7 dwellings with associated access, garaging, parking and landscaping	Refused 14.05.2021 Appeal Dismissed 26.10.2021
21/1230/FUL	Erection of eight dwellings with associated parking and landscaping. Vehicular access from access to be formed as part of adjacent development following demolition of 43 New Street.	Withdrawn During Consideration

The Site

The application site is located within an established residential area within Blaby's Settlement Boundary as defined by the Policies Map of the Blaby District Council (Delivery) Development Plan Document (2019).

The site is a roughly rectangular and level vacant area of shrub land measuring some 8000 sq.m in area. The site is set to the rear of No. 43 New Street, one of a pair of semi-detached dwellings, and is bounded by traditional two storey residential development along the western and southern edges off New Street and Lime Grove respectively. The Harvey Close development which comprises of 5 detached bungalows and the Blaby Social Club's bowling green and tennis courts form the northern boundary to the site. The Westfield House Hotel car park, the Abstractavr Ltd industrial unit and Westfields bound the southern edge of the site.

The site is predominantly situated within flood zone 1 which has been shown to be at less than 0.1% chance of flooding in any year, with the western edge and proposed access located within flood zone 2, which has between 0.1% - 1% chance of flooding in a year.

Site History

An application for the demolition of No. 43 New Street and the construction of 7 dwellings was refused on 14.05.2021 (21/1322/FUL refers). The application was refused on two separate grounds. The first reason for refusal determined that the increased vehicular activity and movements in association with the use of the proposed access would be detrimental to the amenities of the neighbouring residents at Nos. 41 and 45 New Street.

The second reason for refusal determined that the application site could not be adequately serviced for household waste purposes and could not provide adequate presentation facilities for waste collection at the boundary with the adoptable highway at the site entrance with New Street and as such the scheme had not been designed appropriately to meet the functional long term needs of the residents and thus constituted poor design.

The applicant appealed against the Council's decision (Appeal reference APP/T2405/W/21/3278060 refers). The Planning Inspector found against the first reason for refusal, stating that the proposal would have an acceptable effect upon the living conditions of neighbouring occupiers having regard to potential noise and disturbance. The Planning Inspector did however identify that waste collection provision had not been satisfactorily demonstrated and attached significant weight to the harm that this would cause as a result. The appeal was subsequently dismissed.

The Proposal

The proposed development is an amended scheme to the previously refused application (21/13222/FUL), which now seeks planning permission for the erection of 12 market detached dwellings within the site.

The application initially proposed 15 dwellings, however over the course of negotiation the development has been reduced to 12. The proposed housing mix comprising of 4 x 2 beds (including 1 bungalow), 4 x 3 beds and 4 x 4 beds.

The application proposes a mixture of single, two and two and half storey detached dwellings. The properties will be constructed in a mixture of facing brickwork and tiles in a traditional manner complimenting the local vernacular.

The proposed dwellings would be arranged in a linear fashion fronting the proposed private drive running centrally through the site from New Street. A turning area is provided centrally within the site with a shared drive leading off this serving an additional three plots to the east.

Parking for at least 2 off street parking spaces would be provided within the respective curtilages of the dwellings or within integrated single and double garages. A detached double garage serves plot 12 which includes a home office above.

The proposed development proposes a private access drive which would be served off New Street. The access is proposed to be facilitated by a 7.3m vehicular crossover

leading to a 4.8m wide carriageway with a 2m wide footway to the southern side and a 1.1m wide grass verge to the northern side for the initial 45m leading into the site, widening to a 2m wide service margin at Plot 01. The internal avenue of the development extends some 150m – 160m from Plot 1 to Plot 12. A total depth of some 200m taken from the New Street junction.

The proposed development further seeks planning permission for the demolition of No 43 New Street (one half of a pair of semi-detached dwellings) to allow the formation of the proposed private access and to 'make good' No. 45 New Street following the demolition of No. 43 New Street. These works included the reinstatement of the southern flank elevation of No. 45 and provision of a new pyramid roof.

A 1.8m brick wall was proposed to enclose the rear garden areas of No. 41 and 45 New Street either side of the access road.

Planning Considerations

Section 38(6) of the Town and Country Planning Act 1990, requires planning applications to be determined in accordance with the provisions of the Development Plan unless there are other material considerations which indicate otherwise. This section of the report will first consider the proposed development against the policy background and then consider any other material considerations.

There are a number of themes which run through national guidance as expressed in the National Planning Policy Framework and these are generally in line with local policies expressed through the Development Plan. Key themes in the case of this application are that new development should be in sustainable locations and that new development is of good design quality.

NATIONAL PLANNING GUIDANCE

National Planning Policy Framework (NPPF)

The National Planning Policy Framework establishes the key principles for proactively delivering sustainable development through the development plan system and the determination of planning applications. It sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Achieving sustainable development means that the planning system has three overarching objectives, which are independent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives.) These objectives are:

- An economic objective;
- A social objective; and
- An environmental objective.

The National Planning Practice Guidance (NPPG) provides supporting guidance to the interpretation of the NPPF.

DEVELOPMENT PLAN

Blaby District Local Plan (Core Strategy) Development Plan Document (2013)

The adopted Core Strategy (February 2013) is now part of the Development Plan for the District of Blaby. It is an up-to-date plan that is consistent with National Policy. Therefore, the policies of the Core Strategy should be given full statutory weight. The following policies are the most relevant to the proposed development.

Policy CS1 – Strategy for Locating New Development

Policy CS1 seeks to focus new development in the most sustainable locations in the district, primarily within and adjoining the Principal Urban Area (PUA) of Leicester. The appeal site is located within Blaby, which is identified in the Council's Core Strategy as being outside the PUA.

Provision is however made for the development needs of settlements outside the PUA, with Policy CS1 stating that outside the PUA new development should be focused within and adjoining Blaby town centre, and within and adjoining the settlements of Enderby, Narborough, Whetstone and Countesthorpe, referred to as the 'Larger Central Villages'. Given the proposed development is located within the settlement boundary of Blaby and is well served by transport links and with good access to key services and facilities, the application site is considered to be located in a sustainable location and is compliant with Policy CS1.

Policy CS2 – Design of New Development

Policy CS2 seeks to ensure that a high-quality environment is achieved in all new development proposals, respecting distinctive local character and contributing towards creating places of high architectural and urban design quality, including layout and street design, contributing to a better quality of life for the local community.

The application site is a vacant area of scrubland located to the rear of No. 43 New Street, one of a pair of semi-detached dwellings. The site is bounded towards the front edge of the site by residential development off New Street, Lime Grove and Harvey Close. A mixture of uses bound the site to the rear of the site, including the Blaby Social Club's bowling green and tennis courts, the Westfield House Hotel car park, the Abstractavr Ltd industrial unit and Westfields which is a used detached residential dwelling.

New Street and Lime Grove are residential streets with predominantly two storey post war semi-detached dwellings similar in design position and scale arranged in a linear pattern towards the highway with shallow open frontages and with generous rear gardens. The dwellings utilise a mixture of traditional buff red bricks and white render, giving a consistency and rhythm to the street scene. Harvey Close comprises of 5 detached bungalows fronting onto a private drive leading off New Street.

The proposed development provides a landscape led development set along an open green central internal avenue with detached dwellings set off the street providing a strong frontage and active street scene to the public realm, with soft landscaping proposed throughout the site to frame and soften the scheme and to compliment the green and open aesthetic.

Dual aspect buildings are proposed at key vantage points within the site, with key views through the site retained and framed by built form. The layout provides dwellings that front the central avenue, which enables dwellings with generous rear garden areas, whilst protecting the amenities of existing and new residents.

The dwellings utilise a range of traditional materials and architectural features which in turn reflects the traditional local vernacular.

Parking is provided for within the curtilages of the proposed dwellings in line with the required standards.

It is therefore considered that the development respects the traditional character and appearance of the area and would create a place of high architectural and urban design quality. As such it is considered that the proposed development complies with Policy CS2 from an architectural and urban design perspective.

Policy CS2 however goes on to state that design should be appropriate in its context and should take any opportunities available to improve the character and quality of an area and the way it functions.

Section 12 (paragraphs 126 – 136) of the NPPF specifically relates to achieving well designed places, and highlights that good design is a key aspect of sustainable development, creating better places in which to live and work. Paragraph 130 states that planning decisions should ensure that developments (inter alia) should function well and add to the overall quality of the area over the lifetime of the development.

The development is accessed off a shared private drive leading off New Street which is proposed to be facilitated by a 7.3m vehicular crossover at the New Street junction. The access is proposed to be set between Nos. 41 and 45 New Street following the demolition of No. 43 New Street and follows the full length of the rear gardens of these properties. For approximately 45m leading into the site, the access has a 4.8m wide carriageway with a 2m wide footway to the southern side and a 1.1m wide grass verge to the northern side. The access then opens into the internal aspect of the development at Plot 1 to plot 9, with a central avenue measuring some 105m in length with a 2m wide footway and a 2m wide grass verge to the south and northern sides respectively. A 45m shared surface extends beyond this to serve plots 10 to 12. The combined overall length of the street from New Street to plot 12 is some 200m.

Leicestershire County Council as the Local Highway Authority (LHA) concluded that whilst they were satisfied that there are no highway safety or parking implications, the proposed road layout would not conform to an acceptable standard and therefore it would not be considered for adoption and future maintenance by the LHA. The applicant has also confirmed that they do not intend to offer the access up for adoption, nor are they able to accommodate or secure the necessary alterations to the access

to achieve the requirements of the Leicestershire Highways Design Guidance (LHDG) for adoption.

When consulted Blaby District Council's Neighbourhood Services as the Waste Collection Authority responded that they would not support the application as the development does not conform to their Waste Collection Guidance. This guidance requires householders to present their wheeled bins at the boundary of the public highway, and new development to be designed to adopted as a public highway. The access does not conform to an acceptable standard, nor have opportunities to enable the access to be built to such standards been secured. The access therefore is unable to be considered for adoption and future maintenance by the LHA. Furthermore, whilst suitable alternative access points were explored, these were considered to be unviable.

It would also not be possible to provide a suitable presentation point for household waste adjacent at the boundary of the nearest adopted highway at New Street without impeding vehicular and pedestrian traffic. Any such infrastructure would not be able to be constructed in a suitable location on land within the applicant's control, and which would not result in an incongruous feature within the street scene. Consequently, it is considered that the development has not been designed to provide the appropriate infrastructure for suitable waste collection and therefore does comply with Policy CS2 from a functional design perspective.

Waste collection is a considered further on in the report.

Policy CS5 – Housing Distribution

Policy CS5 aims to focus new development in the most appropriate locations. The District Council seeks to distribute housing by settlement in accordance with the figures contained within the Core Strategy. In order to meet the minimum requirements for the number of housing within the District as set out in the Core Strategy over the plan period (2006-2029) an outstanding need for at least 420 dwellings has been identified in Blaby. At 1 April 2021, 536 dwellings were built or committed to be built in Blaby, some 116 dwellings over the minimum requirement as set out in Core Strategy Policy CS5 Housing Distribution. Taking the above into account it is considered that there is no current housing need for the proposed development in this location, however the policy does not specify a maximum number, nor does it preclude any higher housing provision. Residential development for 12 dwellings on the site therefore will help meet and sustain the current housing land supply of the District.

Policy CS8 – Mix of housing

Policy CS8 seeks to ensure that new housing developments provide the appropriate quantity and mix of housing for the District's current and future needs. Policy CS8 states that residential proposals for developments of 10 or more dwellings should provide an appropriate mix of housing types, tenures and sizes to meet those needs. Blaby District Council Housing Officers on the basis of the revised scheme are satisfied that the proposed mix meets the housing needs of the District.

Policy CS10 – Transport Infrastructure

Policy CS10 seeks to deliver the infrastructure, services and facilities required to meet the needs of the population of the District of Blaby including those arising from growth and to make services accessible to all, including locating new development so that people can access services and facilities without reliance on private motor vehicles.

The application site is located within and close to Blaby Town centre and its associated services and facilities. A footpath is to be retained leading to Leicester Road, which is proposed to be retained only for use by the future residents of the development and not the wider public. Pedestrian and cycle links provided throughout the site ensure the new development will be connected and integrated into the settlement with ample opportunity to maximise modal shift, and safe and sustainable modes of transport for the residents of the development.

Leicestershire County Highway Authority have raised no objection in relation to highway safety and parking provision and are satisfied that the current refuse vehicles (Olympus 6x2 RS Wide) used by Blaby District Council can enter, turn, and leave the site in a forward gear.

The applicant has confirmed that it was their intention not to offer the access up for adoption. The Local Highway Authority (LHA) concluded that the proposed road layout would not conform to an acceptable standard and therefore it would not be considered for adoption and future maintenance by the LHA.

The Waste Collection Authority have responded however stating that they do not support the application as it is unable to be served by an adopted public highway, nor would it be possible to provide a suitable presentation point for household waste adjacent at the boundary of the nearest adopted highway. The development therefore cannot suitably be serviced by the Waste Collection Authority under their statutory duties.

Consequently, the development is therefore contrary to Policy CS10 as it does not deliver the site specific infrastructure in this instance to serve the needs of the future residents.

Policy CS12 – Planning Obligations and Developer Contributions

Policy CS12 seeks to ensure that the requirements for infrastructure, services and facilities arising from any development will be sought in accordance with the Council's latest Planning Obligations and Developer Contributions SPD.

The scale of development is required to provide 0.18 hectares of on-site open space. Given the constraints on site and the proposed layout this figure is unable to be met on site. In line with the provisions of Policy CS12 the Council will therefore also be seeking contributions for off-site open space improvements within the Parish.

Contributions have also been requested towards healthcare, library and waste details of which are provided earlier in the report. The applicant has confirmed their willingness to enter into a legal agreement to secure the required developer

contributions. Accordingly, the application is considered to comply with policies CS12.

Policy CS14 – Green Infrastructure & Policy CS15 – Open Space, Sport and Recreation

Policy CS14 seeks to ensure that the District's natural environment, wildlife, habitats, landscape and geology are considered and protected through good design practices, seeking to protect existing green spaces and provide new good quality, multi-functioning green networks and corridors. Green Infrastructure can include formal open spaces for sport and recreation and Policy CS15 indicates that Blaby District Council will seek to ensure that all residents have access to sufficient, high quality, accessible open space, and sport and recreation facilities. These Policies state that new on-site provision or financial contributions to improve the quality of, or access to existing open space, will be expected and commuted maintenance sums will be sought.

As discussed above given the constraints on site and the proposed layout is unable to be met the required 0.18 hectares of on-site open space. The shortfall of on-site open space is to be compensated for through commuted sums to improve and enhance facilities within the Parish of Blaby.

The application site is however located within and to close to Blaby Town centre and its associated services and facilities, including nearby open space and sport and recreation facilities at Northfield Park and the Social Centre. The footpath to be retained leading to Leicester Road will enhance connectivity to such facilities for the future residents of the development. Accordingly, it is considered that the development accords with policies CS14 and CS15.

Policy CS19 – Bio-diversity and Geo-diversity

Policy CS19 seeks to ensure that the District's natural environment, wildlife, habitats, landscape and geology are considered and protected through good design practices, seeking to protect existing green spaces and provide new good quality, multi-functioning green networks and corridors.

Leicestershire County Council Ecology have confirmed that they are satisfied that no significant ecological impacts will arise because of the development and have requested the installation of 8 groups of 3 bat boxes/bricks in a suitable position on buildings across the site. The submission of details showing the provision of Bio-diversity Net Gain, on or off site, were also requested by Ecology. Such provisions can be secured via condition should the application be approved.

Accordingly, and subject to the imposition of suitable conditions, it is considered that the development could accord with Policy CS19.

Policy CS21 – Climate Change

Policy CS21 seeks to support new development which mitigates and adapts to climate change. New development should be focussed in the most sustainable locations in

accordance with Policies CS1 and CS5 and use sustainable design principles which reduce energy demand and increase efficiency.

The development will comply with government requirements with regard to building design and energy efficiency and suitable ecological mitigation and enhancements will be incorporated into the design of the proposal. A sustainable drainage system will be provided to ensure flood risk and surface water drainage within the site is managed appropriately. It is therefore considered that the development will comply with the requirements of Policy CS21.

Policy CS22 – Flood Risk Management

Policy CS22 seeks to ensure that all new development minimises flood risk vulnerability, providing resilience to flooding by directing new development to locations at the lowest risk of flooding within the District, using sustainable drainage systems (SuDS) where practical and managing surface water run-off. The development site is predominantly within a Flood Zone 1, with the north-eastern section located within Flood Zone 2. The application has been accompanied by a Flood Risk Assessment. Leicestershire County Council as Lead Local Flood Authority are satisfied that the development can be suitably drained. The proposal therefore complies with Policy CS22.

Policy CS23 – Waste

Policy CS23 states that new developments should encourage a hierarchy of waste management in the following priority order; waste prevention, re-use, recycle/compost, recovery, and disposal as a last resort.

The Waste Collection Authority have stated that they do not support the application as it is unable to be served by an adopted public highway, nor would it be possible to provide a suitable presentation point for household waste adjacent at the boundary of the nearest adopted highway. The development therefore cannot suitably be serviced by the Waste Collection Authority under their statutory duties.

Policy CS23 however specifically relates to a hierarchy of waste management with regard to recycling which is not a significant factor in the determination of the application. Should the application be approved recycling facilities would be provided by way of a condition. The application therefore can be made acceptable in respect to policy CS23 via condition in the event of an approval.

Policy CS24 – Presumption in Favour of Sustainable Development

Policy CS24 reflects the overarching principle of the NPPF that the Government wishes to see in relation to the planning system, with the golden thread running through the decision-making process being the presumption in favour of sustainable development. Policy CS24 requires that when considering development proposals, the District Council always work proactively with applicants to find solutions which mean that proposals can be approved wherever possible.

Your Officers have worked proactively with the applicant to ensure that the

development is as far as possible to be in accordance with adopted policies and thus the development is in accordance with Policy CS24.

Blaby District Local Plan (Delivery) Development Plan Document (2019)

The following policies are the most relevant to the proposed development.

Policy DM1 – Development within the Settlement Boundaries

Policies DM1 sets the principle for built development within the Settlement Boundary provided it is consistent with the other policies of the Local and Neighbourhood Plans, and has a satisfactory relationship with nearby uses that would not be significantly detrimental to the amenities enjoyed by existing and nearby residents, including but not limited to, consideration of, privacy, light, noise, disturbance and an overbearing effect and considerations including vibration, emissions, hours of working and vehicular activity. Policy DM1 further requires development to have a satisfactory layout, design and appearance.

The proposed development is arranged in a linear fashion with dwellings fronting an internal private drive with enclosed rear garden areas. The development provides adequate separation distances and suitable orientations between the proposed dwellings within the site and with neighbouring dwellings adjoining and backing onto the site. On this basis, it is considered, that the development would have a satisfactory relationship with existing and proposed dwellings in terms of overbearing impact and loss of light or privacy impacts.

The proposed development also seeks planning permission for the demolition of No 43 New Street (one half of a pair of semi-detached dwellings) to allow the formation of the proposed private access. With a 1.8m brick wall proposed to enclose the rear garden areas of No. 41 and 45 New Street either side of the access road.

The previous application (20/1322/FUL refers) was refused in part on the basis that *“...the increased vehicular activity and movements in association with the use of the proposed access would be detrimental to the amenities of the neighbouring residents causing noise and disturbance to an unacceptable degree”* with particular regard to the residents of Nos. 41 and 45 New Street. At appeal the Planning Inspector found against the District Council in this matter and concluded that *“having particular regard to the potential for noise and disturbance to occur, the access’s future use would not cause harm to the living conditions of adjoining residential occupiers”* and that the proposal accords with Policy DM1.

Whilst the current application represents an intensification of the use of the site, having considered the Inspector’s decision, on balance, it is considered that it would be unreasonable to refuse the application on noise and disturbance grounds.

The application further seeks to ‘make good’ No. 45 New Street following the demolition of No. 43 New Street. These works included the reinstatement of the southern flank elevation of No. 45 and provision of a new pyramid roof. Concerns were also raised previously regarding the isolated and enclosed nature of No. 45 New Street, which would be divorced from other dwellings on New Street in an incongruous

nature out of keeping with the surrounding character and appearance of the area. The Inspector was silent on this matter, centring their focus on matters in relation to noise and disturbance. It is your Officers consideration that whilst this matter weighs against this proposed development, it does not carry sufficient weight on which to refuse the application on these grounds.

It is therefore considered that the development would have a satisfactory relationship with nearby uses that would not be significantly detrimental to the amenities of nearby and adjoining residents and on balance would be in keeping with the character and appearance of the area. As such it is considered that the proposed development complies with Policy DM1 from a visual perspective.

However given the access does not enable the site to be adequately serviced by the Waste collection Authority, the development is therefore contrary to Policy DM1 from a functional design perspective.

Policy DM8 – Local Parking and Highway Design Standards

Policy DM8 seeks to provide a consistent approach to local car parking standards and highway design. It goes on to state that the Leicestershire Highways Design Guide sets out, amongst other things, standards and policies for parking and highway design that will need to be considered for all new development.

The layout, parking provision and access arrangements of the proposal have been assessed by the County Highway Authority, have confirmed that the proposed access does not meet the necessary standards required to be formally adopted, however are satisfied that there would appear to be no material impact on the public highway and that suitable parking arrangements are provided. Consequently, it is considered that the development accords with Policy DM8.

Policy DM13 – Land Contamination and Pollution

Policy DM13 seeks to ensure that development proposals are not affected by, or cause, land contamination or pollution. Development proposals where land contamination may be an issue are required to clearly demonstrate that any unacceptable adverse impacts can be satisfactorily mitigated.

Blaby District Council's Environmental Services Team are satisfied with regards to land contamination at the site, subject to the submission of a satisfactory Phase 2 intrusive land contamination survey and mitigation measures required as part of a prior commencement condition attached to the planning permission.

Blaby Neighbourhood Plan (2018)

Policy BNP1 – Character and Environment

Policy BNP1 seeks to ensure that all new development shall create a sense of place appropriate to its location by reflecting the principal characteristics of adjacent areas in regard to scale, layout and materials.

Regard has been given to the prevailing pattern of surrounding residential development along New Street, Lime Grove and Harvey Close which are predominantly two storey post war semi-detached dwellings arranged in a linear pattern fronting the highway with shallow open frontages and with generous rear gardens. The dwellings are similar in design, utilising a mixture of traditional render and buff red bricks giving a consistency and rhythm to the street scene which contributes positively to the character of the area.

The proposed development is “landscape led” with dwellings arranged in a linear fashion fronting the proposed private drive running centrally through the site from New Street. It is considered that the proposed development respects the traditional character and appearance of the area and would create a place of high architectural and urban design quality. As such it is considered that the proposed development complies with Policy BNP1 from an aesthetic perspective.

However as discussed previously design is both form and function and given the layout of the development with regard to the access does not enable the site to be adequately serviced by the Waste collection Authority, the development is therefore contrary to Policy BNP1 from a functional design perspective.

Policy BNP8 – Design of New Development

Policy BNP8 states that new development within Blaby should incorporate appropriate design features which enhance and compliment Blaby’s housing, commercial and historic character.

The proposed dwellings are similar in design, utilising a mixture of traditional render and buff red bricks to the scale, design and materials proposed for the development, which is considered to reflect the local vernacular and are appropriate to the scale and character of the surrounding area. As such it is considered that the development conforms with Policy BNP8.

Policy BNP9 – Settlement Boundary

Policy BNP9 states that new development will be focused within Blaby’s identified settlement boundary and will be supported in such locations subject to the proposed development having a satisfactory relationship with other uses.

The application is located with the Blaby’s designated Settlement boundary and with good access to the transport network and key services and facilities. It is therefore considered that the site is in a sustainable location. As such it is considered that the development conforms with Policy BNP9.

Other material considerations

Planning applications must be determined in accordance with the provisions of the Development Plan unless there are material considerations which indicate otherwise, and whether those material considerations are of such weight that the adopted policies of the Development Plan should not prevail in relation to any proposal. The following are material planning considerations in the determination of this planning application:

- Waste Collection
- Developer Contributions and Section 106 Agreements
- Ecological Implications
- Arboricultural implications
- Recreational Land

Waste Collection

- Appeal - 20/1322/FUL (APP-T2405-W-21-3278060)

A previous application for 7 dwellings on the same site and access was refused on two separate grounds (20/1322/FUL refers) on 14th of May 2021. The first reason for refusal centred on noise and disturbance impacts in association with the use of the proposed access on the amenities of the neighbouring residents at Nos. 41 and 45 New Street.

The second reason for refusal determined that the application site could not be adequately serviced for household waste purposes and could not provide suitable and appropriate infrastructure for waste collection at the boundary with the adoptable highway at the site entrance with New Street.

A subsequent appeal (Appeal reference APP/T2405/W/21/3278060 refers) was dismissed on 26.10.2021. The Planning Inspector found against the first reason for refusal, stating that *“the proposal would have an acceptable effect upon the living conditions of neighbouring occupiers having particular regard to potential noise and disturbance”*.

The Planning Inspector did however find with the Council on the second reason for refusal, stating that *“significant harm would be caused by virtue of acceptable arrangements for waste collection having not been satisfactorily demonstrated”*.

During the consideration of application 20/1322/FUL, Blaby District Council’s Neighbourhood Services department as the Waste Collection Authority stated that they would not support the application as the development is not served by an adopted public highway nor were adequate presentation points for household waste provided adjacent at the boundary of New Street, which is the nearest adopted highway.

Blaby District Council’s Neighbourhood Services’ response was based on their Waste Collection Guidance which states that:

- Householders are required to present their wheeled bins on their property at the boundary of the public highway
- New developments and their access roads should be designed to accommodate waste collection vehicles and be adopted as public highway by the Local Highways Authority.
- Blaby District Council do not consider the option of indemnity agreements to be suitable to enable domestic waste collections to take place on roads that are not adopted as public highway.
- The Council will not support or allow the deferment of its statutory duty to collect household waste to a separate management company or contractor.

The Waste Collection Guidance, which whilst does not form part of the development plan, it however remains a material consideration in the Waste Collection Authority's consideration of the development and operation of their service in the District.

The Waste Collection Guidance states that in cases where the road cannot be adopted as a public highway, wheeled bins are required to be presented on collection day by householders at a suitably sized and labelled bin collection point (BCP) adjacent to the public highway, in this case at New Street, and within a suitable distance of each household's bin storage point (BSP). The refused application provided BSPs within the curtilages of the respective dwellings, with BCPs provided at the junction with the internal central access. The nearest adoptable highway (New Street), where a BCP was required, was located some 50-100m from the proposed dwellings. Consequently, future residents would have been required to manually carry and present bins on collection days at the public highway at the New Street junction some 50-100m away.

Furthermore, the development lacked adequate facilities for the collection of bins at the New Street junction and given the limited space available within the applicant's ownership and control the development could not provide an adequate BCP to serve 7 dwellings (up to 21 bins as required – 3 per household), without both interfering with the safe passage of vehicles and creating an incongruous and harsh feature at the entrance to the site.

Without the provision of such a collection point, it is reasonable to presume that residents would carry their bins up to the New Street junction (up to 100m) and would present them either in the highway, on the footpath or on the frontage of No. 45 New Street, thus creating potential obstruction and visual clutter which would be detrimental to the character and appearance of the area and the street scene along New Street and would further impact on the residential amenities of the occupiers of No. 45 New Street.

The applicants, to overcome the above concerns, suggested the use of a private management company or the use of private waste collection company to collect household waste.

The District Council as the Waste Collection Authority considered that the use of such companies was not a practical long-term solution, given that these arrangements could not be guaranteed to remain in perpetuity. Any changes to such agreements, such as changes in terms and conditions, or companies becoming insolvent, or a particular resident wishing not to be included within the private arrangement, would result in waste collection reverting back to the District Council under its statutory duty to collect waste from rate payers under Section 45 of the Environmental Protection Act 1990.

Furthermore, the District Council as the Waste Collection Authority did not accept indemnities against damages caused by Council HGV's given the difficulties in enforcing indemnities and dealing with unjustified claims as a result of damage from other parties.

The District Council Neighbourhood Services as the Waste Collection Authority further commented that the submitted tracking information showed very little margin for error

in the vehicle movements. Additionally, the vehicle used in the tracking analysis was not representative of all of the vehicles within the fleet, with some larger fleet vehicles increasing the likelihood that safe and practical vehicle tracking is not always possible. In addition, the service could not guarantee that vehicles of particular dimensions will always be available to service particular streets.

The Local Highway Authority noted that the tracking drawings provided as part of the refused application showed that a large refuse vehicle was able to enter, turn and then leave the site in a forward direction. The tracking drawings submitted were based on the Phoenix Elite 2 refuse vehicle which has a width of 2.230m and a length of 10.195m. Whilst not a material consideration for the Local Highway Authority to consider should the road remain private, the Local Highway Authority highlighted that the Phoenix 2 Duo (P2-15W with Elite 6x4 chassis) utilised by Blaby District Council has an overall length of 11.300m and an overall width of 2.900m and that these extended dimensions may result in issues with a vehicle of this size navigating the site.

The above point illustrated that access into the site by large vehicles, not only waste vehicles, remained a concern. The tracking drawing provided showed HGVs crossing over the frontage of No. 45 New Street and running extremely close to its side elevation and garden wall. The drawings also show HGVs crossing internally over the parking areas of plot 2 and the landscaping strip in front of plots 1 and 2. This raises the prospect of damage to property.

The District Planning Authority, therefore, having regard to the Waste Collection Authority's response, considered that due to the unadoptable and substandard nature of the access and road leading into the site, the access, or any legal and/or regulatory mechanisms put forward by the applicant, would not enable the District Council's refuse vehicles to enter the site to collect household waste as required under the Waste Collection Authority's statutory duties. Furthermore, the site lacked the ability to provide adequate presentation facilities for waste collection at the boundary with the adoptable highway at the site entrance with New Street. The development therefore was not designed to be appropriately serviced and could not meet the functional long term needs of the residents.

Consequently, on 14th of May 2021 the development was refused on design grounds as it did not comply with Paragraph 127 of the NPPF, Policy CS2 of the Core Strategy (2013) and Policy DM1 the Blaby District Council's Delivery DPD (2019).

As noted previously the applicant appealed against the Council's decision (Appeal reference P/T2405/W/21/3278060 refers). In the Inspector's decision notice the Inspector identified that it had not been "*satisfactorily demonstrated that acceptable arrangements for the collection of household waste from the site would prevail. On the basis that substandard/inadequate waste collections would be to the detriment of the living conditions of future occupiers and the general amenities of the area, I identify significant harm in this sense*".

Discussions had taken place between the District Planning Authority and the applicant regarding the use of Management Companies and Private contractors and Indemnities to enable waste collection at the site, the inspector did however note that "*It is relevant*

to note that no legal agreement has been drafted and put before me with the aim of seeking to secure a suitable collection agreement (or similar) with (a) private contractor(s)".

Preapplication Discussions

Following the appeal, the Council and the applicant entered into discussions to give the applicant the opportunity to address the issues raised above to enable waste collection from the site. As part of these discussions a proposal was put forward by the applicant which centred around the use of conditions to secure a suitably constructed road within the site, and an obligation to provide details following the agreement of a S106 to set up a management company to maintain the private drive.

The discussions concluded without a satisfactory position which could be agreed by the District Council as the Waste Authority.

Application 22/0464/FUL

The application under consideration now seeks planning permission for 12 dwellings and extends beyond the extent of the previous site boundary to a depth of some 200m taken from the New Street junction. The site continues to be accessed by a private unadopted drive leading off New Street again set between Nos. 41 and 45 New Street with similar proportions and constraints.

Blaby District Council's Neighbourhood Services as the Waste Collection Authority have again in their consultation response stated that they would not support the application as the development is not served by an adopted public highway and that adequate presentation points for household waste have not been provided adjacent at the boundary to the nearest adopted highway at New Street.

The applicants have contested the weight that the Waste Collection Guidance can be afforded in decision making given its statutory basis and argue that the Waste Collection Authority under the Section 45 of the Environmental Protection Act 1990 have a statutory duty to collect householder waste regardless of the adopted status of the access provision.

It should be noted that Section 45 of the Environmental Protection Act 1990 gives Council's powers to determine/instruct how waste is presented for collection.

The applicants nevertheless again sought to resolve the Council's concerns regarding waste collection at the above site via the use of conditions to secure a suitably constructed road within the site, and an obligation to provide details following the agreement of a S106. This would set up a management company to maintain the private drive and provide an indemnity to insure the Council against any damages caused to or by its refuse vehicles.

The Local Highways Authority have confirmed that the private drive could be constructed to withstand the weight of a refuse vehicle under the Advanced Payments Code (APC) process. The APC is an obligation under S219/S220 of the Highways Act 1980 which, following submission of a building control application, is served by the

LHA on sites of 6 or more hours which, via a bond, ensures that private drives are built to a standard suitable for their use and completed to a satisfactory standard. Planning permission doesn't need to have been granted in order for the LHA to serve APCs.

The District Council has sought legal advice on the above proposals, which concluded that there is a risk that the management company may cease to operate and that the Council may be unable to enforce the obligations under the agreement. In which case the Council would still have a statutory duty to collect waste from the site under Section 45 of the Environmental Protection Act 1990 unless it considers that the private access road to the proposed development would either be remote or inaccessible or the cost of collecting household waste from the development would be unreasonably high.

For reference Section 45 of the Environmental Protection Act 1990 states that, (1), it shall be the duty of each waste collection authority, (a) to arrange for the collection of household waste in its area except waste (i) which is situated at a place which in the opinion of the authority is so isolated or inaccessible that the cost of collecting it would be unreasonably high, and (ii) as to which the authority is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste.

The Waste Collection Authority has stated that they are mindful of the additional logistical burdens, increased costs through additional waste collection routes, increased man hours and a larger and more varied fleet of refuse collection vehicles and additional damage to the vehicles and their ongoing maintenance. Further implications could include burdens on the Council in terms of the ongoing management and difficulties enforcing such agreements as well as the increased liability claims arising from damage to the roads and other private property.

Consequently, the Waste Collection Guidance has evolved over time to reduce the above issues, and now requires wheeled bins to be presented on collection day adjacent to the public highway within a suitable distance of each household's bin storage point.

It is for these reasons the Waste Collection Authority considered under Section 45 of the Environment Act 1990, that the site is inaccessible and the cost of collecting household waste from the development would be unreasonably high. The Waste Collection Authority is not satisfied that adequate arrangements for the disposal of waste have been put forward.

Over the course of the consideration of the application, given the lack of agreement by the Waste Collection Authority's to enter the site, and in the absence of an agreement in relation to the use of a management company and adequate indemnification of the Council, the applicant has evolved their position regarding waste collection, are now offering a private waste collection service to be set up via a management company administered by the residents of the development.

With regard to private waste services, the Waste Collection Authority in their Waste Collection Guidance states *that "the Council will not support or allow the deferment of its statutory duty to collect household waste to a separate management company or contractor."*

The applicant argues that given the Waste Collection Authority refusal to enter the site they have in effect deferred their own statutory duty, and therefore a private waste collection service remains the only viable alternative open to the applicant. The applicant refers to Section 34 (2a) of the Environmental Protection Act 1990 which they argue the primary responsibility for the transfer of waste from domestic premises sits the occupants of the proposed dwellings on the application site and not with the Council, and that the applicant is entitled to, and will, discharge his own statutory duty in this regard through the transfer of waste from the application site to a private waste collector who is the holder of a waste management licence or registered as a carrier of controlled waste.

The applicant has provided a legal agreement as part of the application which outlines such an agreement that would unilaterally require future residents to use a private waste collection service and not the Waste Collection Service.

The Waste Collection Authority's position is that there remains an issue regarding choice for the future occupiers of the development in terms of who collects waste as defined under Section 34 of the Environment Act. Should the residents in the future chose to have their waste collected by the Waste Collection Authority to or should the agreement with a private waste collection service dissolve, either through insolvency or choice, the duty would fall back to the Waste Collection Authority to service the site, with the inherent risks as discusses above remaining unresolved.

There are also the issues surrounding the practicability of relying on successive residents managing a collective contract with a private waste collection service and who would enforce the agreement to ensure it remains in place in perpetuity. For these reasons, the Waste Collection Authority considers that the use of a private waste collection service is impracticable and as such not compatible with the Environment Act 1990.

Whilst the Environment Protection Act and Waste Collection Guidance covers a separate legislative area, the question of whether the site can be serviced remains a significant planning material consideration. Having regard to the above matters, it is therefore considered that the applicant has failed to overcome the previous reasons for refusal and the site remains unserviceable by the Waste Collection Authority and lacks the ability to provide suitable infrastructure at the junction with New Street. It is also considered that given the intensification of the use of the site, the issues in relation to distances to the adopted highway and the associated impacts on the street scene, residential amenities and restriction of pedestrian and vehicular movements will be exacerbated. Furthermore, The Waste Collection Authority is still of the opinion that any of the legislative or alternative waste collection provision proposed by the applicant are impractical and cannot be adequately secured in perpetuity. Furthermore, given the lack of suitable legislative mechanisms to manage and/or indemnify the site, it therefore remains inaccessible and cost prohibitive to service.

From a planning perspective, having regard to the advice provided and the above matters the application is therefore again recommended for refusal on the basis that the site has not been designed appropriately to meet the functional long term needs of the residents and thus constitutes poor design.

Highway Implications

The proposed development proposes a private access drive which would be served off New Street. The access is proposed to be facilitated by a 7.3m vehicular crossover leading to a 4.8m wide carriageway with a 2m wide footway to the southern side and a 1.1m wide grass verge to the northern side for the initial 45m leading into the site, widening to a 2m wide service margin at Plot 01. The internal avenue of the development extends some 150m – 160m from Plot 1 to Plot 12. The total length of some 200m from the New Street Junction.

The appellant has confirmed that it was their intention not to offer the access up for adoption and the Local Highway Authority (LHA) have concluded that the proposed road layout would not conform to an acceptable standard and therefore it would not be considered for adoption and future maintenance by the LHA. The primary reason being the limited land within the applicant's control which does not allow the construction of suitable radii at the New Street Junction. Pedestrian crossing points over the 7.3m crossover at New Street in close proximity to the Harvey Close junction is also problematic but according to the LHA not unachievable.

Several alternative access arrangements were suggested and explored by the applicant in an attempt to enable an adopted access into the site. These included entering the site from the south off Lime Grove, the demolition of No. 45 New Street to enable a wider entrance to the site and the diversion of the access and inclusion of a wider radii across the frontage of No. 45 New Street. According to the applicant neither of these options were considered achievable or viable.

Consequently, given the length of the road and the constrained nature of the initial accessway leading into the site, the access as proposed cannot be adopted, and therefore the site remains unserviceable by the Waste Collection Authority as discussed above.

From a technical standpoint the LHA have confirmed that the private drive could be constructed to withstand the weight of a refuse vehicle, and other larger wheel-based vehicles under the Advanced Payments Code (APC) process. The APC is an obligation under S219/S220 of the Highways Act 1980, which following submission of a building control application triggering the process, is served by the LHA on sites of 6 or more houses, ensures, via a bond, that private drives are built to a standard suitable for their use and completed to a satisfactory standard. Planning permission doesn't need to have been granted in order for the LHA to serve APCs.

The LHA have also confirmed that they are satisfied that vehicle used by Blaby District Council can enter, turn, and leave the site in a forward gear. Some confusion has been raised regarding the type of vehicles utilised across the District, with larger vehicles quoted previously and on other sites. Nevertheless, the Waste Collection Authority has confirmed that the Olympus 6x2 RS Wide is the largest refuse vehicle current utilised for waste collection within the District. Notwithstanding the above, the LHA noted that should Blaby District Council return to using a larger refuse vehicle, there were concerns regarding the constrained nature of the access and turning facilities within the development.

In conclusion, the development is able to accommodate larger vehicles and residential vehicles, whilst at the same time accommodating safe and separate pedestrian and cycling networks through the development. A condition could be attached to the application, which would require the road is built to a suitable standard, albeit not adoptable by the LHA, and the APC process would ensure there is a regulatory process, assessed by a qualified expert to ensure the private drive is suitably constructed. The future and permanent maintenance of the private drive however remains the contested issue that your officers do not consider has been suitably resolved by the applicant in this instance.

Developer Contributions and Section 106 Agreements

Policy CS12 seeks to ensure that the requirements for infrastructure, services and facilities arising from any development will be sought in accordance with Blaby District Council's Planning Obligations and Developer Contributions Supplementary Planning Guidance (2010). This document sets the threshold for provision of such contributions as housing developments of more than 10 dwellings. This application is for 12 dwellings and as such, would meet the threshold for developer contributions.

A request for funding towards waste and library services was received from Leicestershire County Council.

Leicester, Leicestershire & Rutland Integrated Care Board, has also requested financial contributions towards improvements to Health Care facilities in Blaby.

Based on the above and in accordance with the requirements of Regulation 22 of the CIL Regulations we are seeking contributions for the following;

- i) Library facilities,
- ii) Waste facilities
- iii) Healthcare facilities,
- iv) Contributions toward off site open space provision/enhancements,

Ecological Implications

Leicestershire County Council Ecology have confirmed that they are satisfied that no significant ecological impacts will arise because of the development and have requested the installation of bat boxes/bricks in a suitable position on buildings across the site. The submission of details showing the provision of Bio-diversity Net Gain, on or off site, were also requested by Ecology. Such provisions will be secured via condition should the application be approved.

Arboricultural implications

Leicestershire County Council Forestry have not raised any objections on arboricultural grounds.

Recreational Land

The Parish Council have raised concerns that the development would encroach onto land designated as recreational land. The Local Plan Proposals Map (2019) and the Blaby Neighbourhood Proposal's Map confirm that the land is located within the Settlement Boundary and has not been designated or allocation for recreational use. It is noted that an application for the formation of an additional bowling green was approved in 10th of April 2000 under planning application 00/0068/1/PY, however this was not implemented and has lapsed. This however does not restrict the submission of a separate application for housing on this site.

Conclusion

In conclusion, whilst the site is in a sustainable location, it is considered that the application has failed to overcome the previous reason for refusal and dismissal of the appeal and the site remains unserviceable by the Waste Collection Authority and lacks the ability to provide suitable infrastructure at the junction with New Street.

It is also considered that given the intensification of the use of the site, the issues in relation to distances to the adopted highway and the associated impacts on the street scene, residential amenities and restriction of pedestrian and vehicular movements will be exacerbated.

Furthermore, the Waste Collection Authority is still of the opinion that any of the legislative or alternative waste collection provision proposed by the applicant are impractical and cannot be adequately secured in perpetuity. Furthermore, given the lack of suitable legislative mechanisms to manage and/or indemnify the site, it therefore remains inaccessible and cost prohibitive to service.

Having regard to the above, it is considered therefore that the development has not been designed appropriately to meet the functional long term needs of the residents and thus constitutes poor design

It is therefore considered that the proposal does not comply with Paragraph 130 of the NPPF, and Policy CS2 and Policy CS10 of the Core Strategy (2013), Policy DM1 the Blaby District Council's Delivery DPD (2019) and Policy BNP1 of the Blaby Neighbourhood Plan (2018) and as such is recommended for refusal.
