

Rutland County Council

Catmose, Oakham, Rutland, LE15 6HP

Telephone 01572 722577 Email: governance@rutland.gov.uk

Ladies and Gentlemen,

A meeting of the **PLANNING AND LICENSING COMMITTEE** will be held in the Council Chamber, Catmos, Oakham on **Tuesday, 23rd November, 2021** commencing at 6.00 pm when it is hoped you will be able to attend.

Yours faithfully

Mark Andrews
Chief Executive

Recording of Council Meetings: Any member of the public may film, audio-record, take photographs and use social media to report the proceedings of any meeting that is open to the public. A protocol on this facility is available at www.rutland.gov.uk/my-council/have-your-say/

Although social distancing requirements have been lifted there is still limited available seating for members of the public. If you would like to reserve a seat please contact the Governance team at governance@rutland.gov.uk. The meeting will also be available for listening live via Zoom using the following link: <https://us06web.zoom.us/j/98514677932>

A G E N D A

1) APOLOGIES

To receive any apologies from Members.

2) MINUTES

To confirm the minutes of the Planning and Licensing Committees held on 4 October, 19 October, 2 November 2021.
(Pages 3 - 18)

3) DECLARATIONS OF INTERESTS

In accordance with the Regulations, Members are invited to declare any disclosable interests under the Code of Conduct and the nature of those interests in respect of items on this Agenda and/or indicate if Section 106 of the Local Government Finance Act 1992 applies to them.

4) PETITIONS, DEPUTATIONS AND QUESTIONS

Requests to speak on planning applications will be subject to the RCC Public Speaking Scheme.

To request to speak at a Planning Committee, please send an email to Governance@rutland.gov.uk

5) GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES

To receive Report No. 162/2021 from the Strategic Director of Places (Pages 19 - 108)

6) PLANNING APPLICATIONS

To receive Report No. 163/2021 from the Strategic Director of Places (Pages 109 - 182)

7) APPEALS REPORT

To receive Report No. 164/2021 from the Strategic Director of Places (Pages 183 - 186)

8) ANY OTHER URGENT BUSINESS

To consider any other urgent business approved in writing by the Chief Executive and Chairman of the Committee.

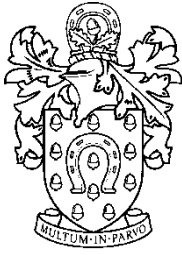
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DISTRIBUTION

MEMBERS OF THE PLANNING AND LICENSING COMMITTEE:

Councillor E Baines (Chairman)	Councillor N Begy (Vice-Chair)
Councillor D Blanksby	Councillor K Bool
Councillor A Brown	Councillor G Brown
Councillor P Browne	Councillor W Cross
Councillor A MacCartney	Councillor M Oxley
Councillor K Payne	

OTHER MEMBERS FOR INFORMATION



Rutland County Council

Catmose Oakham Rutland LE15 6HP.

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Minutes of the **MEETING of the PLANNING AND LICENSING COMMITTEE** held in the Council Chamber, Catmose, Oakham, Rutland, LE15 6HP on Tuesday, 2nd November, 2021 at 6.00 pm

PRESENT: Councillor E Baines (Chair) Councillor N Begy (Vice-Chair)
Councillor G Brown Councillor P Browne
Councillor W Cross Councillor M Oxley
Councillor K Payne

OFFICERS PRESENT: Justin Johnson Development Manager
Kylie Weston Planning Solicitor
Sue Bingham Interim Governance Manager

1 APOLOGIES

Apologies for absence were received from Councillors A Brown, K Bool and A MacCartney.

2 DECLARATIONS OF INTERESTS

Councillor M Oxley declared non-pecuniary interests in item 4 – Planning Applications, applications 2020/1263/MAF and 2020/1264/MAF due to knowing the owners of a neighbouring property.

Councillor K Payne and Councillor G Brown declared non-pecuniary interests in item 4 – Planning Applications, applications 2020/1263/MAF and 2020/1264/MAF due to knowing one of the speakers for the applications and as the Ward Members for Ketton.

3 PETITIONS, DEPUTATIONS AND QUESTIONS

In accordance with the Planning and Licensing Committee Public Speaking Scheme, the following deputations were received:

In relation to item 4 – Planning Applications, application 2020/1262/MAF, Mary Cade would be speaking on behalf of Ketton Parish Council and Mike Walker would be speaking as the applicant.

In relation to item 4 – Planning Applications, application 2020/1263/MAF, Mary Cade would be speaking as a member of the public and Mike Walker would be speaking as the applicant.

In relation to item 4 – Planning Applications, application 2021/0855/FUL, Peter Jones would be speaking as a member of the public in support of the application, Paul Beech would be speaking as a member of the public opposed to the application and Andrew Robinson would be speaking as the applicant’s representative.

In relation to item 4 – Planning Applications, application 2021/0856/LBA, Peter Jones would be speaking as a member of the public in support of the application, Paul Beech would be speaking as a member of the public opposed to the application and Andrew Robinson would be speaking as the applicant’s representative.

4 PLANNING APPLICATIONS

Report No.149/2021 was received from the Strategic Director of Places.

Item 1 - 2020/1262/MAF- Land At The Crescent. High Street. Ketton. Rutland. Erection of 50 dwellings together with associated access, parking and landscaping.

(Parish: Ketton; Ward: Ketton)

Justin Johnson, Development Manager, addressed the Committee and gave an executive summary of the applications, recommending approval subject to the conditions set out in the report and addendum.

Prior to the debate, the Committee received deputations from Mary Cade as a member of Ketton parish Council opposed to the application and Mike Walker as the applicant. The Committee also had the opportunity to ask questions of these speakers.

In response to questions raised by Members around electric charging points being available on all properties, Mike Walker advised that it was not currently included within the planning application to have electric charging points available on all properties but made clear that the applicant would not be adverse to conditions being implemented.

Several Members raised concern around the affordable housing element and rental costs. Mike Walker confirmed that these rates would be based on local housing rates and controlled by Rutland County Council’s Housing Officers. In response to this Councillor G Brown requested that a comment detailing this be included within the relevant condition.

It was requested by several Members that a condition be included around Bat friendly lighting being implemented around the site.

Members raised several concerns regarding the risk of flooding around the site and neighbouring areas. In response to questions asked of Mike Walker, an additional condition to the planning application by the Lead Flood Authority around surface water management had been requested.

'No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hardstanding areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority'.

It was moved by Councillor G Brown that the application be approved subject to the conditions in the report and addendum, and the additional changes to the conditions agreed during the debate. A further condition was also requested by Councillor G Brown that the Ward and Parish Councillors be consulted on several conditions i.e., landscaping, ground level works, boundary treatment, cut and fill details, noise mitigation and construction management plans. This was seconded and upon being put to the vote, with seven votes in favour the motion was unanimously carried.

RESOLVED

That application 2020/1262/MAF be **APPROVED** subject to the conditions set out in the report and addendum and the following additional conditions:

- 1) That electric charging points to be available on all dwellings.
- 2) That affordable housing rental charges be based on local housing rates and controlled by Rutland County Council.
- 3) That bat friendly lighting be implemented across the site.
- 4) That Ward and Parish Councillors be consulted on several conditions including landscaping, ground level works, boundary treatment, cut and fill details, noise mitigation and construction management plans.

The list of conditions can be found on the planning application page of the Council's website

<https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/view-planning-applications-and-decisions/>

Item 2 - 2020/1263/MAF - Land Adj To Chater House. High Street. Ketton. Rutland
Erection of 21 residential dwellings alongside associated access, parking and landscaping.

(Parish: Ketton; Ward: Ketton)

Justin Johnson, Development Manager, addressed the Committee and gave an executive summary of the applications, recommending approval subject to the conditions set out in the report and addendum.

Prior to the debate, the Committee received deputations from Mary Cade as a member of the public opposed to the application and Mike Walker as the applicant. The Committee also had the opportunity to ask questions of these speakers.

In response to concerns raised by Members regarding the protection of the boundary wall, Mike Walker stated that any repair works that were required to the boundary wall

would be undertaken by the applicant and this would be covered within the landscaping and boundary treatment conditions outlined in the planning application.

It was moved by Councillor G Brown that the application be approved subject to the conditions in the report and addendum, and that the Ward and Parish Councillors be consulted on several further conditions regarding landscaping, ground level works, boundary treatment and tree and hedgerow retention and the protection of the boundary wall. This was seconded and with 6 votes in favour and Councillor M Oxley's recorded abstention, motion was carried.

RESOLVED

That application 2020/1263/MAF be **APPROVED** subject to the conditions in the report and addendum, and the following additional conditions:

- 1) That Ward and Parish Councillors be consulted on several conditions including landscaping, ground level works, boundary treatment and tree and hedgerow retention.
- 2) That the boundary wall be protected, and any repairs works would be undertaken by the applicant.

The list of conditions can be found on the planning application page of the Council's website

<https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/view-planning-applications-and-decisions/>

Items 3 and 4 - 2021/0855/FUL and 2021/0855/LBA - Victoria Hall. 39A High Street, Oakham, Rutland LE15 6AH. The refurbishment and conversion of the Victoria Hall to a 2 Screen digitally equipped cinema with a cafe bar, foyers, multiuse 'lounge' and ancillary facilities.

(Parish: Oakham; Ward: Oakham North East)

Justin Johnson, Development Control Manager, addressed the Committee and gave an executive summary of the applications, recommending approval subject to the conditions set out in the report and addendum.

Prior to the debate, the Committee received deputations from Peter Jones as a member of the public in support of the application, Paul Beech as a member of the public opposed to the application and Andrew Robinson as the applicant's representative. The Committee also had the opportunity to ask questions of these speakers.

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At 9:15pm the Chair proposed that a full extension of 15 minutes be taken, and this was approved by the Committee.

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In response to several concerns raised by Members around the application works to the listed building being reversable and how this could be monitored, Justin Johnson stated that the Conversation Officer could inspect the works at relevant points to ensure this. The Committee were reassured that work was being undertaken around the employment of a full time Conservation Officer which would address capacity issues. It was requested by Members that an additional condition be imposed whereby observations by the Conversation Officer would take place at specified milestones throughout the renovation works.

It was moved by Councillor M Oxley that the application 2021/0855/FUL be approved subject to the conditions set out in the report and addendum, and that application 2021/LBA/FUL be approved subject to the conditions in the report and the additional changes to the conditions agreed during the debate. This was seconded and upon being put to the vote, with 8 votes in favour the motion was unanimously carried.

RESOLVED

That application 2021/0855/FUL be **APPROVED** subject to the conditions in the report and addendum and additional condition relating to the installation of Swift boxes.

That application 2021/LBA/FUL be **APPROVED** subject to the conditions set out in the report, and the following additional condition:

- 1) That observations by the Conversation Officer would take place at specified milestones at reasonable intervals throughout the renovation works.
- 2) That an additional condition relating to the installation of Swift boxes be added.

The list of conditions can be found on the planning application page of the Council's website

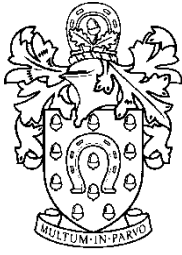
<https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/view-planning-applications-and-decisions/>

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The Chairman declared the meeting closed at 9:45pm.

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Minutes of the **MEETING of the PLANNING AND LICENSING COMMITTEE** held in the Rutland County Museum on Tuesday, 19th October, 2021 at 7.00 pm

PRESENT:

Councillor E Baines (Chair)	Councillor N Begy (Vice-Chair)
Councillor D Blanksby	Councillor A Brown
Councillor G Brown	Councillor P Browne
Councillor M Oxley	Councillor K Payne

OFFICERS PRESENT:

Justin Johnson	Development Manager
Nick Hodgett	Principal Planning Officer
Sherrie Grant	Planning Solicitor
Julie Smith	Interim Highways Engineer
Tom Delaney	Governance Officer

1 APOLOGIES

Apologies for absence were received from Councillors K Bool, W Cross and A MacCartney.

2 MINUTES

Consideration was given to the minutes of the meeting held on 21 September.

RESOLVED

That the minutes of the meeting held on 21 September 2021 be **APPROVED**.

3 DECLARATIONS OF INTERESTS

Councillor A Brown declared a pecuniary interest in item 5 – Planning Applications, application 2021/0018/MAF as a friend of the landowner and confirmed he would take no part in the debate or vote on the application.

Councillors E Baines and M Oxley declared non-pecuniary interests in item 5 – Planning Applications, application 2021/0018/MAF due to knowing the landowner.

Councillor Baines declared a pecuniary interest in item 5 – Planning Applications, application 2021/0736/FUL as an agricultural neighbour to the site who had submitted options to the applications. Councillor Baines confirmed he would leave the meeting for consideration of the item and Councillor N Begy would take the chair for consideration of the item.

4 PETITIONS, DEPUTATIONS AND QUESTIONS

In accordance with the Planning and Licensing Committee Public Speaking Scheme, the following deputations were received:

In relation to item 5 – planning applications, application 2021/0018/MAF, Carolyn Cartwright would be speaking as a member of the public opposed to the application and Mark Bassett would be speaking as the agent on behalf of the applicant.

In relation to item 5 – planning applications, application 2021/0737/2921, Tim Wardley would be speaking as a member of the public in support of the application, Sue Willetts would be speaking as a member of the public opposed to the application, Councillor Peter Allen would be speaking on behalf of Braunston in Rutland Parish Council, and Gemma Fesemeyer would be speaking as the applicant’s representative.

5 PLANNING APPLICATIONS

Report No. 139/2021 was received from the Strategic Director of Places.

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Councillor A Brown took no part in the discussion or vote on the following item having declared a pecuniary interest.

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Item 1 - 2021/0018/MAF - Land North Of A47, Duddington Way, Uppingham, Rutland.

(Parish: Ayston; Ward: Braunston & Martinsthorpe)

Nick Hodgett, Principal Planning officer, addressed the Committee and gave an executive summary of the applications, recommending approval subject to the conditions set out in the report and addendum.

Prior to the debate, the Committee received deputations from Carolyn Cartwright as a member of the public opposed to the application and Mark Bassett as the agent on behalf of the applicant. The Committee also had the opportunity to ask questions of these speakers.

Members raised several concerns regarding whether there was sufficient essential need for the proposal be justified due to the lack of definition of ‘essential’ in CS04 of the Core Strategy CPD. Members cited the location of other filling stations and electric changing points both in Oakham and nearby Uppingham as examples of why there may not be an essential need.

Concerns were also expressed over the proposed new access to the site from the A47/A6003 roundabout and cited issues of highway safety that could arise from an additional exit. The risk to pedestrians from crossing the A47 to access the other facilitates available was also raised. In response Julie Smith, Highways Engineer set out the process followed by the Council’s Highways team and why they had concluded the application was satisfactory with no objections at the determination stage of the planning application. However, it was explained that the Highways team would undertake further assessments as part of their processes following any approval.

Members also cited the agricultural location of the site, and that farming land would be lost should the application be granted. It was also highlighted that the site could be considered inappropriate as land on the other side of the road had been allocated for employment use in the adopted Uppingham Neighbourhood Plan and this has been allocated with an explicit expectation of the site being used for a filling station and had better electricity access for any charging points.

It was moved by Councillor M Oxley that the application be refused due to the site being prominent in a rural location, the proposed location and design also leading to a loss of visual amenity, concerns on the impact of 24-hour lighting on site, a more suitable site being allocated as employment land on the opposite side of the road by the Uppingham Neighbourhood Plan with the expectation of being used for a filling station, and the Committee not considering the application to have an essential employment need in order to justify the development.

This was seconded and upon being put to the vote, with 4 votes in favour and 3 against, the motion was carried.

RESOLVED

That application 2021/0018/MAF be **REFUSED** on the following grounds:

- 1) Due to the site being prominent in a rural location and therefore contrary to Policy SP7 of the Site Allocations and Policies DPD, and Policy CS19 of the Core Strategy DPD.
- 2) The proposed location and design leading to a loss of visual amenity.
- 3) A more suitable site being allocated as employment land on the opposite side of the road by the Uppingham Neighbourhood Plan with the expectation of being used for a filling station.
- 4) The application not being considered to be essential under Policy CS04 of the Core Strategy CPD.
- 5) The impact of lighting.

The list of reasons can be found on the planning application page of the Council's website <https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/view-planningapplications-and-decisions/>

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Councillor A Brown re-joined the meeting and Councillor E Baines left the meeting having declared a pecuniary interest in the next item and Councillor N Begy took the Chair.

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Item 2 – 2021/0736/FUL – Corner Meadow Far, Wood Lane, Braunston, Rutland

(Parish: Braunston in Rutland; Ward: Braunston & Martinsthorpe)

Justin Johnson, Development Manager, presented the report and gave an executive summary of the application, recommending approval subject

Prior to debate, the Committee received deputations from Tim Wardley as a member of the public in support of the application, Sue Willetts as a member of the public opposed to the application, Councillor Peter Allen on behalf of Braunston in Rutland Parish Council, and Gemma Fesemeyer as the applicant's representative. The Committee also had the opportunity to ask questions of these speakers.

Following questioning of the applicant's representative, it was suggested and agreed that the proposed condition of a maximum number of 50 dogs being permitted on site was excessive and a number of approximately 32 would be more appropriate.

In response to queries from Members recording road access, it explained that there were no concerns raised by the Highways team with the application, although a note would be sent to the applicant regarding the need for a further application on signage to the site.

During debate it was also agreed that an additional condition could restrict the business to only operating a lower number of dogs in the early and late hours of operation to mitigate against the number of vehicles entering and leaving the site at these times. Furthermore, that conditions could be added to require submission of details regarding the proposed external lighting and lighting of the parking facilities in order to ensure there wouldn't be excess light pollution, and that no kennelling of dogs would be able to take place on the site.

It was moved by Councillor G Brown that the application be approved subject to the conditions in the report and addendum, and the additional changes to conditions agreed during the debate with the wording of these conditions being delegated to the Vice-Chair for approval. This was seconded and upon being put to the vote, with 7 votes in favour the motion was unanimously carried.

RESOLVED

That application 2021/0736/FUL be **APPROVED** subject to the conditions set out in the report and addendum, a note being sent to the applicant regarding the need to submit a further application for signage, and the following additional conditions with the wording delegated to the Vice-Chair for approval:

- 1) An amendment to the condition on the maximum number of dogs allowed on site to a lower figure.
- 2) The business only being able to allow a further reduced number of dogs on site in the early hours of the morning and evening.
- 3) To require submission of details of the proposed external and parking lighting to ensure there would be no negative light pollution.
- 4) That no kennelling of dog be permitted at the site.

The full list of conditions can be found on the planning application page of the Council's website <https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/view-planningapplications-and-decisions/>

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Councillor E Baines returned to the meeting and resumed the Chair

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6 APPEALS REPORT

Report No. 140/2021 was received from the Strategic Director of Places. Justin Johnson, Development Manager, presented the report which listed the appeals received since the last meeting of the Planning & Licensing Committee and summarised the decisions made.

RESOLVED

That the Committee the contents of this report.

7 ANY OTHER URGENT BUSINESS

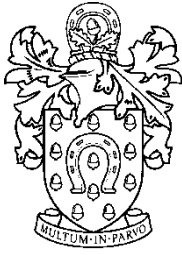
There was no other urgent business for consideration.

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The Chairman declared the meeting closed at 9.19 pm.

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Minutes of the **MEETING of the PLANNING AND LICENSING COMMITTEE** held in the Rutland County Museum , Catmos Street, Oakham, on Monday, 4th October, 2021 at 7.00 pm

PRESENT:

Councillor E Baines (Chair)	Councillor N Begy (Vice Chair)
Councillor D Blanksby	Councillor K Bool
Councillor A Brown	Councillor G Brown
Councillor P Browne	Councillor W Cross
Councillor A MacCartney	Councillor M Oxley
Councillor K Payne	

OFFICERS PRESENT:

Justin Johnson	Development Manager
Paul Milne	Planning Officer
Sherrie Grant	Planning Solicitor
Tom Delaney	Governance Officer

1 APOLOGIES

There were no apologies for absence.

2 DECLARATIONS OF INTERESTS

Councillor E Baines declared a non-pecuniary interest in item 4 – Planning Applications, application 2021/0229/LBA as a member of Uppingham Town Council’s Neighbourhood Planning Advisory Group, and as the owner of a retail premises in Uppingham.

3 PETITIONS, DEPUTATIONS AND QUESTIONS

No requests to speak had been received in accordance with the Planning and Licensing Committee Public Speaking Scheme.

4 PLANNING APPLICATIONS

Report No. 137/2021 was received from the Strategic Director of Places.

Item 1 - 2019/1389/FUL - Land adjacent to Barleythorpe Hall, Main Road, Barleythorpe.

(Parish: Barlethorpe; Ward: Barleythorpe)

Paul Milne, Planning Officer, introduced the application and gave an executive summary, setting out that the application which had been previously deferred by the Committee to allow a site visit and Members to be briefed on the process behind the calculation of Commuted Sums, both of which had taken place the previous week. Approval was recommended subject to the conditions set out in the report and addendum.

Members had several queries regarding the access to the site from the main road, in response it was explained by the Planning Officer that there had been no objections to the application from Highways officers, and that the site included the building of a garage for neighbouring properties use in order to mitigate against the number of vehicles parked on Main Road.

Several concerns were expressed by Members regarding the retention and condition of the existing brick wall due to its age and location in a Conservation Area. In response officers suggested that it would be the applicants interests to resolve these issues in order to maintain the marketability of the properties, it was set out that it would be possible for Condition 14 regarding the wall around the site could be expanded with the addition of “And details showing the wall’s structural stability and where any maintenance is proposed, details of that maintenance, be submitted and examined for appropriateness.”

It was proposed by Councillor M Oxley that the application be approved, subject to the conditions set out in the report and addendum, and the agreed change to Condition 14. This was seconded and upon being put to the vote with 10 votes in favour and 1 against, the motion was carried.

RESOLVED

That application 2019/1389/FUL be **APPROVED** subject to the conditions set out in the report, addendum, and the agreed change to Condition 14.

The list of conditions can be found on the planning application page of the Council’s website

<https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/view-planning-applications-and-decisions/>

Item 2 – 2021/0229/LBA - 9 High Street, East Uppingham. Rutland, LE15 9PY

(Parish: Uppingham; Parish: Uppingham)

Justin Johnson, Development Manager, introduced the application and gave an executive summary, recommending approval subject to the conditions set out in the report and addendum.

A number of Members expressed concerns over the proposal and suggested the scheme was inappropriate due to the site being a Grade II* listed building and it’s prominent location within the Uppingham Conservation Area. With reference to the colours of Dulux monarch and yellow proposed on the shop frontage, side windows and doors and with the quantity of corporate branding proposed on the same areas.

It was moved by Councillor D Blanksby that the application be deferred, in order for the relevant Planning and Conservation officers to consult with the Chair and Councillor M Oxley as Ward Member regarding the Committee's concerns, before negotiating new design options with the applicant for consideration at a future meeting. This was seconded and upon being put to the vote, there were 11 votes in favour and the motion was unanimously carried.

RESOLVED

That application 2021/0229/LBA be **DEFERRED** in order for consultation over the Committee's concerns to take place between officers, the Chair and Ward Member. Following which new design options would be negotiated with the applicant for submission.

5 ANY URGENT BUSINESS

There was no urgent business for consideration although reference was made to the Council's Statement of Principles under The Gambling Act 2005 which was currently out for public consultation. It was confirmed that the Statement would be coming to the Committee for consideration in November following the close of the consultation, prior to final approval by Council in December.

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The Chairman declared the meeting closed at 8.28 pm.

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PLANNING AND LICENSING COMMITTEE

23 November 2021

GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES

Report of the Strategic Director of Places

Strategic Aim:	Vibrant Communities	
Exempt Information	No	
Cabinet Member(s) Responsible:	Councillor L Stephenson, Deputy Leader and Portfolio Holder for Communities, Environment and Climate Change	
Contact Officer(s):	Jacqui Harvey, Head of Operations Environmental Health and Licensing	Tel: 01733 453502 Jacqui.harvey@peterborough.gov.uk
	Gareth Brighton – Licensing and Business Manager	Tel: 01733 864103 Gareth.brighton@peterborough.gov.uk
	Terri Martin, Strategic Regulatory Officer	Tel: 01733 453561 Terri.martin@peterborough.gov.uk
Ward Councillors	All Wards	

DECISION RECOMMENDATIONS

That the Committee:

1. Approve the proposed revised draft Gambling Act 2005 Statement of Principles, as attached at **Appendix D**; and
2. Recommends to Council at the meeting on 13 December 2021, the formal adoption of the proposed Gambling Act 2005 Statement of Principles for Rutland County Council

1 PURPOSE OF THE REPORT

- 1.1 To make members aware of the responses received during the consultation process.
- 1.2 To seek approval of the draft Statement of Principles and to seek recommendation to Council for adoption at the meeting on 13 December 2021.

2 BACKGROUND

- 2.1 Under Section 349 of the Gambling Act 2005, it is a requirement for each Council to produce, adopt and publish a Statement of Principles. This Statement will govern the way decisions are made by the Council and how it will administer its duties under the Act. Without a Statement of Principles the Council may be subject to Judicial Review, for failing in its responsibilities to carry out a statutory duty.
- 2.2 The Act requires that the Statement of Principles is kept under continual review, to incorporate where necessary, any changes to the legislation and or Guidance as appropriate. In addition, the Act specifies that the Statement must be reviewed and subject to consultation every three years.
- 2.3 The current three year period began on 31 January 2019 and therefore is due to expire on 30 January 2022. The revised Statement must be reviewed and consulted upon prior to it being adopted.
- 2.4 In order to meet our statutory obligations, a revised Statement was drafted and subject to consultation.
- 2.5 In formulating the draft revised Statement, officers have given full consideration to the requirements of the Act and guidance issued by the Gambling Commission. This draft is based on the nationally accepted template and contains the minimum of amendments and there are no changes to the intent or direction of the policy.

3 CONSULTATION

- 3.1 The following outlines the procedure taken, in providing the opportunity for members, statutory consultees and members of the public to be involved in the process of reviewing our Statement of Principles.
- 3.2 Before determining its Statement for any three year period, (as required under S.349 of the Act) the licensing authority must consult with the persons listed in s.349(3) as follows:
 - a. Chief Officer of Police for the area;
 - b. One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the area;
 - c. One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
- 3.3 For information purposes, a list of consultees is attached at **Appendix A**
- 3.4 A consultation took place between 27 August 2021 and 15 October 2021. The consultation letter gave advice on the following:
 - ii) Options on where to access and obtain copies of the draft revised Statement
 - iii) How to make representations on the draft Statement
 - iv) Deadline for making representations, that any comments must be received by 15 October 2021.
- 3.5 The consultation document showing track changes is attached at **Appendix B** (Track changes; additions of text are shown in red and deletions of text are shown with strikethrough)

- 3.6 Two Responses (and one enquiry) were received to the consultation.
- 3.7 The response from the National Association of Bookmakers identified some outdated text within paragraph 18.7 of the draft policy. The outdated text referring to the 'five times betting rule' has been removed and the paragraph is now consistent with current guidance.
- 3.8 The second response was from HMRC, stating that the postal address had changed, Appendix 3 (Responsible Authority contact details), has been updated accordingly.
- 3.9 The revised Statement of Principles including changes made in consideration of consultation responses, is attached at **Appendix D**

4 ALTERNATIVE OPTIONS

- 4.1 The alternative option is to do nothing. This presents a risk to the council as failure to adopt a policy could result in a Judicial Review being sought.

5 FINANCIAL IMPLICATIONS

- 5.1 Any costs in relation to the production of the Statement of Principles will be met by income from gambling licensing fees.

6 LEGAL AND GOVERNANCE CONSIDERATIONS

- 6.1 The Statement of Principles should be read in conjunction with the Statutory Guidance issued under Section 25 of the Gambling Act 2005 ('the Act').
- 6.2 The Council must have regard to the Statement of Principles when carrying out its duties under the Act.
- 6.3 Section 349 of the Act requires the Licensing Authority to publish a Statement of Principles every three years, and to consult with the statutory consultees and any other persons who may have an interest.
- 6.4 Legal Services will rely upon the contents of the policy in the event of any appeals to the Magistrates Court against decisions of the council and in any prosecutions.
- 6.5 As per paragraph 4.2 of the Statement of Principles *'It should be noted that this statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.'*

7 DATA PROTECTION IMPLICATIONS

- 7.1 A Data Protection Impact Assessments (DPIA) has not been completed as there are no DPA implications in producing and publishing the Policy.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 An Equality Impact Assessment (EqIA) has not been completed as the policy does not seek to discriminate against any particular group.

9 COMMUNITY SAFETY IMPLICATIONS

- 9.1 None identified. Rutland County Council currently has one premises licensed under the Gambling Act 2005 and issue various permits and registrations.
- 9.2 The Gambling Act 2005 sets out the functions to be exercised by licensing authorities, which includes a consultation process with Responsible Authorities and interested parties on new premises applications. The Statement details the Principles it will apply, when exercising those functions, which is consistent with statutory guidance.

10 HEALTH AND WELLBEING IMPLICATIONS

- 10.1 Please refer to 9.1 and 9.2 above.

11 ORGANISATIONAL IMPLICATIONS

- 11.1 No Environmental, Human Resource or procurement implications have been identified.

12 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 12.1 To comply with the statutory requirements of the Gambling Act 2005 and to ensure that the Statement of Principles is up to date and remains fit for purpose, the revised Statement of Principles (as attached at **Appendix D**) should be recommended for adoption by Council.

13 BACKGROUND PAPERS

- 13.1 The Gambling Act 2005
- 13.2 Guidance issued to Licensing Authorities under s.25 of the Act issued by the Gambling Commission (published April 2021)
<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

14 APPENDICES

- 14.1 Appendix A – List of Consultees
- 14.2 Appendix B – Consultation document
- 14.3 Appendix C – Consultation responses
- 14.4 Appendix D – Proposed Statement of Principles for adoption

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

LIST OF CONSULTEE'S

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

Responsible Authorities

- The Licensing Authority
- Leicestershire Constabulary – the chief officer of police
- Gambling Commission
- Leicestershire Fire & Rescue Service
- Rutland County Council – Planning Control
- Rutland County Council – Pollution Control
- Local Safeguarding Children Board
- Environment Agency
- HM Revenue & Customs

One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area. The authority has therefore consulted:

- British Beer and Pub Association
- National Association of Bookmakers
- Betting and Gaming Council
- Chamber of Commerce
- All local Gambling Act 2005 Licence/Permit/Registration Holders (through the Council website).

One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005:

- Rutland County Council Ward & Parish Councillors
- GamCare
- MP for Rutland
- Police Crime Commissioner
- Director of Public Health
- All residents and businesses within the Rutland County area (through the Council website)

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APPENDIX B



Rutland
County Council

Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP

telephone: 01572 722 577
fax: 01572 758 307
email: enquiries@rutland.gov.uk
web: www.rutland.gov.uk
DX: 28340 Oakham

27 August 2021

To all Responsible Authorities and Interested Parties

Dear Sir/Madam

RE: THE GAMBLING ACT 2005 – Statement of Principles Review

I write to inform you of a revision to the council's Gambling Act 2005 (the Act) Statement of Principles. The consultation will run from 27 August 2021 to 15 October 2021 and seeks views on the draft revisions. Should you wish to respond and make comment, please ensure that you do so prior to the end of the consultation period, to ensure your comments can be properly considered, prior to determination of the final policy.

This latest draft of the policy contains the minimum of amendments, additions of text are shown in red, and deletions of text are shown with ~~strikethrough~~.

Any person who wishes to respond to the consultation may do so in the following manner:

In writing to: Rutland County Council, Licensing Team, Catmose, Oakham, Rutland, LE15 6HP

Or by email: licensing@rutland.gov.uk

Please note: We are unable to accept verbal responses.

The Act requires all licensing authorities to prepare and publish a Statement of Principles, setting out how it will administer its duties. The Statement must be published at least every three years and amended from time to time with any amended parts re-consulted upon and subsequently re-published. As the current statement was last published in January 2019 the three year period is coming to an end.

Prior to publishing its statement the Act requires the licensing authority to consult the following on the statement or any subsequent revision;

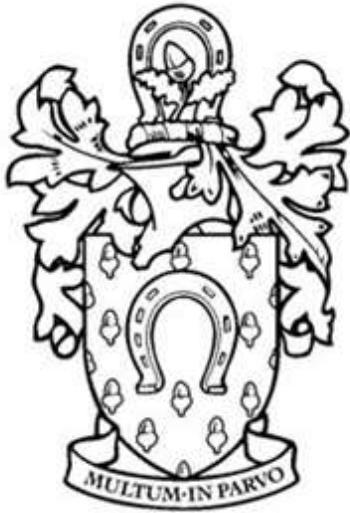
- in England and Wales, the chief officer of police for the authorities area;
- one or more persons who appear to the licensing authority to represent the interests of persons carrying on the gambling businesses in the authorities area; and
- one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

As such I would like to invite your comments on the draft revised Statement of Principles.

A copy of the draft revised Statement of Principles can be found on the Council website www.rutland.gov.uk under the Gambling Act 2005 section. Copies have also been made available in the public library in Oakham during opening hours.

Yours faithfully

The Licensing Team



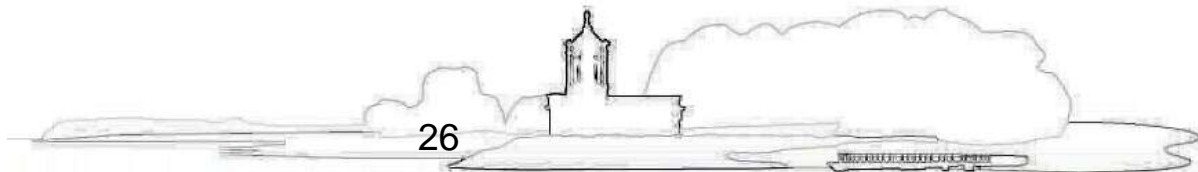
Rutland County Council

DRAFT

Gambling Act 2005 Statement of Principles

Subject to consultation - 27 August to 15 October 2021

Next Review Date	31 January 2022
Approved by Licensing Committee	To be updated 23 October 2018
Approved by Full Council	To be updated 12 November 2018



BACKGROUND

The Gambling Act 2005 (“the Act”) gives effect to the Government’s proposals for reform of the law on gambling. The Act contains a regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting. The Act received Royal Assent on 07 April 2005.

A draft bill was published in November 2003 following a publication of a Government White Paper “A Safe Bet for Success” published in March 2002. The White Paper was the Government’s response to the report of the Gambling Review Body published in July 2001.

The Act introduced a new unified regulator for gambling in Great Britain, the Gambling Commission and a new licensing regime for commercial gambling (to be conducted by the Gambling Commission or by licensing authorities, depending on the matter to be licensed). The Act removed from licensing justices all responsibility for granting gaming and betting permissions, which they exercised previously. Instead, the Gambling Commission and licensing authorities now share between them responsibility for all matters previously regulated by licensing Justices.

The overall approach of the Act is to state that gambling is unlawful in Great Britain, unless permitted by the Gambling Act 2005 in relation to most commercial gambling, or by way of the National Lottery Act 1993, or Financial Services and Markets Act 2000 in the case of spread betting.

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THE COUNTY OF RUTLAND

Rutland became a Unitary Authority in 1997. Rutland covers a total area of 39,398 hectares. This is mainly an area of mixed farms with small farms predominating. Rutland is a sparsely populated rural County, with a population density of approximately 0.87 people per hectare.

Two main market towns, Oakham and Uppingham, plus 50 villages make up the County. There are 37,369 residents according to the 2011 census. Oakham has a population of c.10, 500 and Uppingham c.4, 000, thus neither are large enough to meet the Government definition of 'a town'. The number of residents from ethnic backgrounds other than white (British) account for less than 2% of the population.

Tourism makes a significant contribution to the local economy within Rutland and provides a major focus for the Service's work. There are estimated to be about two million visitors a year, of those visiting, most are day-trippers.

Rutland Water is the largest man-made reservoir in Europe and an amazing spot for every type of water sport. Set in 4200 acres of open countryside, Rutland Water lies at the very heart of the county and is as spectacular in beauty as it is in size. Created in the 1970's to meet an ever increasing demand for water, nowadays it's widely regarded as a leading centre for water and land based leisure activities and has year round appeal for fishermen, cyclists, sailors and bird watchers.

There are around 1700 businesses operating in Rutland with a majority employing less than 10 people. Small businesses are the norm for Rutland.

Please refer to Appendix 1 for a map of Rutland.

DEFINITIONS

The **Council** means Rutland County Council

The **Licensing Authority** means the Council acting as defined by section 2 of the Gambling Act 2005.

The **Act** means the Gambling Act 2005.

Members means Rutland County Councillors

The **Licensing Committee** means the full committee or a subcommittee of no less than three Members.

Guidance means the guidance issued under part 2 section 25 of the Gambling Act 2005 by the Gambling Commission in April 2006 and subsequently updated

Child means an individual who is less than 16 years old, as defined in part 4 section 45(1) of the Act.

A **young person** means an individual who is not a child but who is less than 18 years old, as defined in part 4 section 45(2) of the Act.

LA means Local Authority.

PART A - INTRODUCTION

1. THE LICENSING OBJECTIVES

- 1.1 The Act sets out licensing functions to be exercised by licensing authorities in relation to the licensing of premises and the grant of certain permits. In exercising most of these functions licensing authorities must have regard to the licensing objectives, which underpin the regulatory regime.

The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime,
- Ensuring that gambling is being conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 1.2 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

2. STATEMENT OF PRINCIPLES

- 2.1 The Act requires this licensing authority to publish a ‘Statement of Principles’ that it proposes to apply when exercising its functions. This statement must be published at least every three years and amended from time to time with any amended parts re-consulted upon and subsequently re-published.

3. CONSULTATION

- 3.1 Rutland County Council consulted widely upon this statement before finalising and publishing.

- 3.2 The Gambling Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005

For a full list of persons this authority consulted please refer to Appendix 2.

- 3.3 The consultation ~~took~~ **will take** place between **27 August 2021 to 15 October 2021**. ~~06 August 2018 and 23 September 2018~~.

This latest draft of the policy contains the minimum of amendments and no changes to the intent or direction of the policy.

4. APPROVAL OF POLICY STATEMENT

- 4.1 This statement ~~was~~ **will be recommended for approval** ~~approved~~ at a meeting of the full council on ~~12 November 2018~~. **13 December 2021 and will be published via the Rutland's website upon adoption.**
- 4.2 It should be noted that this statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

5. DECLARATION

- 5.1 Rutland County Council would like to declare that in producing this Statement it has had regard to the licensing objectives of the Gambling Act 2005, the guidance to Licensing Authorities issued by the Gambling Commission and any responses from those consulted on the statement.

6. RESPONSIBLE AUTHORITIES

- 6.1 As required by regulations licensing authorities are to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- The need for the body to be responsible for an area covering the whole of the licensing authority's area; and
 - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 6.2 In accordance with the suggestion in the Gambling Commission's guidance to local authorities this authority designates our Local Safeguarding Children Board for this purpose.

For a full list of the Responsible Authorities in relation to premises please refer to Appendix 3 or alternatively via the council website.

7. INTERESTED PARTIES

- 7.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence.
- 7.2 For the purposes of this part a person is an interested party in relation to an application for or in respect of a premises licence, if in the opinion of this licensing authority the person:
- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
 - Has business interests that might be affected by the authorised activities; or
 - Represents persons who satisfy the above.

- 7.3 Licensing authorities are required to state the principles they will apply in exercising their powers under the Act to determine whether a person is an interested party. The principles this authority will apply are:
- 7.4 Each case shall be decided upon its own merits. This authority will not apply a rigid rule to its decision making. It will however consider the following in accordance with the Gambling Commission's guidance for local authorities.
- 7.5 When determining what "sufficiently close to the premises" means (in each case), this authority might include:
- The size of the premises
 - The nature of the premises
 - **The activities taking place at the premises**
 - The distance of the premises from the location of the person making the representation
 - The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment), and
 - The circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.
- 7.6 In relation to "persons with business interests that could be affected" it could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain, however that is unlikely to satisfy the test of being "a person with business interests that could be affected by the premises" under consideration. It should be borne in mind however that the "demand test" in the 1963 and 1968 Acts have not been preserved in the Gambling Act 2005, therefore unmet demand is not a criterion for a licensing authority in considering an application.
- 7.7 Factors that this licensing authority is likely to include are:
- The size of the premises;
 - The 'catchment' area of the premises (i.e. how far people travel to visit); and
 - Whether the person making a representation has business interests in that catchment area that might be affected.
- 7.8 **The types of organisations that may be considered to have business interests will be interpreted broadly to include, for example, partnerships, charities, faith groups and medical practices.**
- 7.9 § The Gambling Commission recommended in its guidance that licensing authorities should state that interested parties include trade associations, trade unions, residents' and tenants' associations. This authority however will not generally view these bodies as interested parties unless they have a member who can be classed as an interested party under the terms of the Act e.g. lives

sufficiently close to the premises to be likely to be affected by the activities applied for.

7.10 ⁹ Interested parties can also be represented by other persons such as their local councillors and Members of Parliament (MP's). There is a burden on ward councillors who are also licensing committee members to avoid beyond doubt any conflict of interest; therefore care should be taken when seeking representation. If there are any doubts please contact the licensing department.

7.11 Any objections to new premises or requests for a review should be based on the licensing objectives of the Gambling Act 2005. Unlike the Licensing Act 2003 the Gambling Act 2005 does not include the prevention of public nuisance and anti-social behaviour as a specific licensing objective.

7.12 The licensing authority will not consider representations that are frivolous or vexatious or which relate to demand or need for gambling facilities. A decision on whether representations are frivolous or vexatious will be made in consideration of a number of factors including the following:

- who is making the representation, and whether there is a history of making representations that are not relevant
- whether it raises a 'relevant' issue
- whether it raises issues specifically to do with the premises that are the subject of the application.

8. EXCHANGE OF INFORMATION

8.1 Licensing authorities are required to include in their statement, the principles to be applied under Section 29 and 30 of the Act with respect to the exchange of information between the licensing authority and the Gambling Commission, and the functions under section 350 of the Act with the respect of information between it and the other persons listed in schedule 6 of the Act:

- A Constable or Police Force
- An Enforcement Officer
- A Licensing Authority
- Her Majesty's Commissioners of Customs and Excise
- ~~The Gambling Commission~~
- The First Tier Tribunal
- ~~The National Lottery Commission~~
- The Secretary of State
- The Scottish Ministers

8.2 The principle that this licensing authority applies is that it will act in accordance with provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 and any relevant regulations will not be contravened. This licensing authority shall have regard to the guidance issued by the Gambling Commission and adopt the principles of better

regulation, ~~as and when it is published on this matter~~, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

- 8.3 Details of applications and representations which are referred to the Licensing Sub-Committee for determination will be detailed reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the Licensing Authority is asked to do so.
- 8.4 Should any protocols be established as regards information exchange with other bodies then they will be made available. Please contact the licensing team for further information on our protocols.

9. ENFORCEMENT

- 9.1 Licensing authorities are required by regulation to state the principles they propose to apply in exercising the functions under Part 15 of the Act with respect to the inspection of premises and the powers under Section 346 of the Act to instigate criminal proceedings in respect of the offences specified.
- 9.2 The Council follows the principles of the Regulators Code. The Code is based on consistency, transparency and proportionality.
- 9.3 The council proposes, in line with the code, that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a review heard by the Licensing Act Committee, the issue of a Formal Caution or a referral for prosecution.
- 9.4 The main enforcement and compliance role of the licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacturer, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.
- 9.5 The Council will seek to work actively with the Police and Leicestershire Fire and Rescue Service in enforcing licensing legislation and on compliance issues to ensure an efficient deployment of resources.
- 9.6 This licensing authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible and adopt a risk based inspection programme, **targeting high risk premises.**

10 PUBLIC REGISTER

- 10.1 In accordance with section 156 of the Act, Rutland County Council maintains an electronic public register which contains premises licences issued by the authority. The register is available to view on request. This information is available for inspection by members of the public at all reasonable times. Further information such as fees can also be found on the website.

11. DECISION MAKING / DELEGATION

- 11.1 A Licensing Panel of three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Licensing Panel involving an application within their ward.
- 11.2 Where a Councillor who is a member of the Licensing Act Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.
- 11.3 The Licensing Act Committee will also refer to the Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.
- 11.4 Every determination of a licensing decision by the Licensing Act Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable where it will form part of the statutory licensing register required to be kept by the Council.
- 11.5 The Council's Licensing Officers will deal with all other licensing applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 11.6 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Act Committee. Where representations are rejected, the person making that representation will be given written reasons as to why that is the case. There is no right of appeal against a determination that representations are not admissible.
- 11.7 When determining applications this licensing authority will have regard to the guidance issued by the Gambling Commission, any relevant code of practice,

this policy and the licensing objectives. Determination of applications made to the licensing authority will be made in accordance with section 153 of the Act.

For a summary of this licensing authorities delegations permitted under the Gambling Act 2005 please refer to Appendix 4.

12. LICENSING AUTHORITY FUNCTIONS

12.1 Licensing authorities are required under the Act to:

- be responsible for the licensing of premises where gambling activities are to take place by issuing **Premises Licences**
- issue **Provisional Statements**
- regulate members' clubs and miners welfare institutes who wish to undertake certain gaming activities via issuing **Club Gaming permits** and/or **Club Machine Permits**
- issue **Club Machine Permits to Commercial Clubs**
- grant permits for the use of certain lower stake gaming machines at **Unlicensed Family Entertainment Centres**
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- issue **Licensed Premises Gaming Machine Permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- register **Small Society Lotteries** below prescribed thresholds
- issue **Prize Gaming Permits**
- receive and endorse **Temporary Use Notices**
- receive **Occasional Use Notices**
- provide information to the Gambling Commission regarding details of licences issued
- maintain registers of the permits and licences that are issued under these functions
- the exercise of its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and other relevant responsible authorities.

12.2 It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

PART B - PREMISES LICENCES

13. GENERAL PRINCIPLES

13.1 Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where considered to be appropriate.

13.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives, and
- in accordance with the authority's Statement of Principles

13.2.1 The Licensing authority is also aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. The authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).

13.3 Definition of "premises"

13.3.1 In the Act, "premises" is defined as including "any place". Section 152 of the Act prevents more than one premises licence applying to any one place. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can reasonably be regarded as being different premises. However, this licensing authority will pay particular attention if there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.

13.3.2 Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter of discussion between the operator and the licensing officer.

13.3.3 The local authority will consider the Gambling Commission's Guidance and all other circumstances of the case in making any decision as to what can properly be regarded as premises.

13.4 Premises “ready for gambling”

13.4.1 The guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

13.4.2 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have the right to occupy them, then an application for a provisional statement should be made instead.

13.5 Location

13.5.1 Demand issues cannot be considered with regards to the location of premises but that considerations in terms of licensing objectives can. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

13.6 Duplication with Other Regulatory Regimes

13.6.1 This licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of any application. The licensing authority will listen to, and consider carefully, any concerns about conditions which cannot be met by licensees due to planning restrictions, should such a situation arise.

13.7 Integrating Strategies

13.7.1 There are many stakeholders involved in the Leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case, the Council will aim, as far as possible, to co-ordinate them.

13.7.2 The Council recognises in particular the importance of the co-ordination and integration of the Gambling policy with other plans aimed at the management of town centres and the night-time economy.

13.8 Licensing Objectives

13.8.1 Premises licences granted must be reasonably consistent with the licensing objectives, this licensing authority has considered the Gambling Commission's guidance to local authorities and some comments are made below.

- 13.8.2 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** – This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's guidance does however envisage that licensing authorities should pay particular attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located in such areas and whether conditions may be suitable such as the provision of door supervisors.
- 13.8.3 This licensing authority has noted the Gambling Commission's guidance where it states that licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance.
- 13.8.4 Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officers and Leicestershire Constabulary before making a formal application.
- 13.8.5 **Ensuring that gambling is conducted in a fair and open way** – This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. Further guidance on this issue may be provided by the Gambling Commission and if so this authority will have regard to it, when available.
- 13.8.6 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** – This licensing authority has noted that Gambling Commission guidance states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children).
- 13.8.7 **The Advertising Standards Authority (ASA) enforces the UK Advertising Codes (the Codes), written by the Committees of Advertising Practice. The Codes cover the content and placement of advertising and are designed to ensure that advertisements for gambling products are socially responsible, with particular regard to the need to protect children, young persons under 18 and other vulnerable persons from being harmed or exploited.** The Council will work with licensees to ensure advertising on premises is such that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.
- 13.8.8 The Council will consult with the Leicestershire and Rutland Safeguarding Children Board on any application that indicates there may be concerns over access for children or vulnerable persons

13.8.9 The Council will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:-

- Supervision of entrances;
- Segregation of gambling areas from areas frequented by children;
- Supervision of gaming machines in non-adult gambling specific premises

13.8.10 There is no definition of 'vulnerable person' and it is noted that the Gambling Commission are not seeking to offer one, but ~~this could~~ **it does, for regulatory purposes, assume that this group** includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. Should a practical definition prove possible in future then this statement will be updated with it, by way of a revision.

This licensing authority will consider this licensing objective on a case by case basis.

13.9 Conditions

13.9.1 Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects

13.9.2 Decisions upon individual conditions will be made on a case by case basis, although there are a number of measures this licensing authority may consider using should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which they can meet the licensing objectives effectively.

13.9.3 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's guidance.

13.9.4 This authority will also ensure where necessary and deemed appropriate that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
- only adults are admitted to the area where these machines are located
- access to the area where the machines are located is supervised
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18

13.9.5 As the licensing authority we note that there are conditions which we are unable to attach to premises licences, these are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition
- conditions relating to gaming machine categories, numbers, or method of operation
- conditions which provide that a membership of a club or body be required for casino and bingo clubs (the Act specifically removed the membership requirement)
- conditions in relation to stakes, fees, winning or prizes

13.9.6 This licensing authority may consider a need for door supervisors in terms of the licensing objectives for protection of children and vulnerable persons and preventing premises becoming a source of crime or disorder. Door supervisors at casinos or bingo premises are exempt from the requirements of the Private Security Industry Act 2001. Where this authority imposes door supervision requirements on such licences, the personnel will not need licensing under the 2001 Act. This authority may however consider imposing the requirement of a Criminal Record Bureau check on door supervisors, by way of a condition on a licence.

13.9.7 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances / machines is appropriate for particular cases but it will need to be decided whether these shall be SIA licensed or not. It will not be automatically assumed that they shall be.

13.10 Risk Assessments

13.10.1 Under new social responsibility code provisions from April 2016 licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- When applying for a variation of a premises licence
- To take into account of significant changes in local circumstances, including those identified in a licensing authority's statement of policy

- When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

13.10.2 Social responsibility (SR code 10.1.1) requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's policy statement.

13.10.3 2 Such risks that may be identified could include but are not exhaustive to, the location of nearby services for children, the demographics of the area in relation to vulnerable groups, whether the premises is located in an area with high levels of crime / antisocial behaviour; and set out how vulnerable people, including those with problem gambling behaviours will be protected

13.10.4 The SR provision is supplemented by an ordinary code provision indicating that licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the licensing authority.

13.11 Local Area Profiles

13.11.1 Such risk assessments can make reference to the council's Area Profile which may be compiled with respect to reported gambling-related problems in an area. At the time of preparing this edition of the Statement of Principles there has been no evidence presented to support the assertion that any part of Rutland County Council had or is experiencing problems from gambling activities. This position will be kept under review.

14. ADULT GAMING CENTRES

14.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to address these issues.

14.2 This licensing authority will expect applicants to offer their own measures to meet licensing objectives however appropriate measures / licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation
- location of entry
- notices / signage
- self-barring schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 14.3 The question of sub-division of such premises has become an issue and been the subject of Gambling Commission Guidance. There must be no direct entry from one adult gaming centre into another. This Authority will take note of the guidance issued in respect of such applications.

15. LICENSED FAMILY ENTERTAINMENT CENTRES

- 15.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, ensure that under 18 year olds do not have access to the adult only gaming machine areas.

- 15.2 This licensing authority will expect applicants to offer their own measures to meet licensing objectives however appropriate measures / licence conditions may cover issues such as:

- notices / signage
- physical separation of areas
- CCTV
- supervision of entrances / machine areas
- specific opening hours
- self-barring schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare
- suspected child truancy handling training

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 15.3 This licensing authority will, as per the Gambling Commission's guidance, refer to the Gambling Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated.

For a full list of machine categories please refer to appendix 5.

16. CASINOS

- 16.1 This authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the powers to do so. Should this authority decide in the future to pass such a resolution, it will update this statement with details of that resolution. Any such decision would need to be made by full council.

17. BETTING PREMISES

- 17.1 **Betting machines** - This licensing authority will, as per the Gambling Commission's guidance, take into account the size the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.
- 17.2 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that the door supervision is both necessary and proportionate.

18. TRACKS

- 18.1 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 18.2 This licensing authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and / or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 18.3 Applicants will be expected to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:
- proof of age schemes
 - location of gaming machines
 - supervision of entrances / machine areas
 - notices / signage
 - provision of information leaflets / helpline numbers for organisations such as Gamcare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 18.4 **Betting Machines** – This licensing authority will as per the Gambling Commission’s Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. We will also take note of the Gambling Commission’s suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.
- 18.5 **Condition on rules being displayed** - The Gambling Commission has advised in its guidance for local authorities that “...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.”
- 18.6 **Applications and plans** – The Gambling Act requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling.

The Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”) and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities." and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."

- 18.7 This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.
- 18.8 In rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided

through occasional use notices where the boundary premises do not need to be defined.

19. BINGO PREMISES

19.1 This licensing authority notes that the Gambling Commission's guidance states:

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

19.2 This licensing authority must satisfy itself that bingo can be played in any bingo premises for which a premises licence has been issued. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

19.3 This authority also notes the Guidance at paragraph 18.9 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted.

20. TRAVELLING FAIRS

20.1 It will fall to this licensing authority to decide whether, where category D machines and / or equal chance gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met. This licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

20.2 It has been noted that the 27-day statutory maximum for land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses its boundaries is monitored so that the statutory limits are not exceeded.

21. PROVISIONAL STATEMENTS

21.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

The Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expect to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

21.2 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired.

21.3 In terms of representations about premise licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, this authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional licence stage; or
- which in the authority's opinion reflect a change in the operator's circumstances

22. REVIEWS

22.1 Requests for a review of a premise licence can be made by interested parties or responsible authorities; however, it is for this licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authorities statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

22.2 This licensing authority can also initiate a review of a licence on the basis of any reason which it considers is appropriate.

22.3 Once a valid application for a review has been received, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

- 22.4 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- a) add remove or amend a licence condition imposed by the licensing authority;
 - b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or amend such an exclusion;
 - c) suspend the premises licence for a period not exceeding three months; and/or
 - d) revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

- 22.5 In particular, the licensing authority may initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them. **Equally, the premises licence holder must only offer the type of gambling that they are permitted to.**

PART C - PERMITS / REGISTRATIONS / NOTICES

23. UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

- 23.1 Where a premises does not hold a premises licence but wishes to provide category D gaming machines, it may apply to this licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 23.2 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children and other vulnerable persons from harm. Harm in this context is not limited to harm from gambling but includes wider protection considerations. The efficiency of such policies and procedures will each be considered on their own merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.
- 23.3 This licensing authority will expect that applicants demonstrate a full understanding of the licensing objectives as well as the maximum stakes and prizes of the gambling that is permissible in Unlicensed Family Entertainment Centres; that the applicant has no relevant convictions and that staff are trained to have a full understanding of the maximum stakes and prizes.

24. (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

- 24.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of category C and / or D. To take advantage of this entitlement, the person who holds the on-premises licence must give notice to this licensing authority of their intention to make gaming machines available for use, and must pay the prescribed fee.
- 24.2 This licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
 - gaming has taken place on the premises that breaches a condition of Section 282 of the Gambling Act **for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines** ~~(i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)~~
 - the premises are mainly used for gaming; or
 - an offence under the Act has been committed on the premises

- 24.3 If a premises wishes to have more than two machines, an application for a permit is required and this licensing authority shall consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under Section 25 of the Act, and “such matters as they think relevant”. This authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Such measures may include:
- adult machines being in sight of bar
 - notices / signage
- 24.4 It should be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.
- 24.5 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 24.6 Where an application is received for more than 19 gambling machines in alcohol licensed premises Officers will have the discretion to arrange a hearing for members to consider the application.
- 24.7 It should be noted that this licensing authority can decide to grant the application with a smaller number of machines and / or different category of machines than applied for. Conditions (other than these) cannot be attached.

25. PRIZE GAMING PERMITS

- 25.1 This licensing authority can grant or refuse an application for a permit, but cannot add conditions. This licensing authority can only grant an application for a permit if it has consulted with the chief officer of police about the application. This licensing authority will take into account any objections that the police may make which are relevant to the licensing objectives. Relevant considerations would be the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and issues about disorder.
- 25.2 Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant, this licensing authority will give weight to child protection issues. Applicants will be required to set out the types of gaming that he or she is intending to offer and the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in regulations; and
- that the gaming offered is within the law.

25.3 The licensing authority will determine each application on its own merits.

(The Council as a licensing authority has the remit to set its own criteria for the above statement of principles on permits – the principles as set out above reflect the general issues considered to be most relevant by a number of other licensing authorities)

25.4 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission's guidance.

25.5 It should be noted that there are conditions in the Gambling Act 2005 to which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

26. CLUB GAMING AND CLUB GAMING MACHINE PERMITS

26.1 Members Clubs and Miners' Welfare Institutes (but **not** Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines, of which one may be a category B3A, the others being of categories B4, C or D), equal chance gaming and games of chance as prescribed in regulations.

26.2 Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

26.3 Members clubs must have at least 25 members and be established and conducted 'wholly or mainly' for the purposes other than gaming, unless the

gaming is permitted by separate regulations. A members club must be permanent in nature, not established to make commercial profit, and controlled by its members equally.

26.4 This licensing authority is aware that it may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- the applicant's premises are used wholly or mainly by children and / or young persons
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Gambling Commission or the police.

26.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

27 SMALL SOCIETY LOTTERIES

27.1 Under the Gambling Act 2005, a lottery is unlawful unless it runs under an operating licence or is an exempt lottery. This Licensing Authority will register and administer small society lotteries as defined under the Act. Promoting or facilitating a lottery will fall into two categories:

- Licensed Lotteries (requiring an operating licence from the Gambling Commission)
- Exempt Lotteries (including small society lotteries registered with Rutland County Council)

27.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and are defined as:

- Small society lotteries;
- Incidental non-commercial lotteries;
- Private lotteries;
- Private society lottery;
- Work lottery;
- Residents' lottery;
- Customers' lottery.

27.3 **S.19 of the Act defines a society as such if it is established and conducted:**

- **For charitable purposes, as defined in s.2 of the Charities Act 2006**

- For the purpose of enabling participation in, or of supporting sport, athletics or a cultural activity
- For any other non-commercial purpose other than that of private gain.

27.4 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in s.19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

27.5 If a society running small lotteries fails to comply with any of the conditions of running such lotteries specified in Part 4 of Schedule 11 of the Act, it will be operating in an illegal manner, irrespective of whether it is registered with a licensing authority or not. In these circumstances, small society lottery operators may face prosecution by the Commission, a licensing authority, or the police.

Advice regarding the definitions of the above exempt lotteries is available from the Gambling Commission website:

http://www.gamblingcommission.gov.uk/gambling_sectors/lotteries.aspx

28. TEMPORARY USE NOTICES

28.1 A Temporary Use Notice (TUN) allows the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for facilities for gambling. A Temporary Use Notice may only be granted to a person or company holding a relevant operating licence issued by the Gambling Commission.

28.2 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of revising this Statement the relevant regulations state that Temporary Use Notices can only be used to permit the provision of facilities of equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

28.3 There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to licensing authorities to decide what constitutes a 'set of premises' where TUN's are received relating to the same building / site.

28.4 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Local Authorities.

29. OCCASIONAL USE NOTICES

29.1 This licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.

This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

30. ADDITIONAL INFORMATION

Further information on the application process, application forms and applicable fees can be found at;

<https://www.rutland.gov.uk/my-business/licensing/licensing-a-gambling-policy/>

Consultation Draft

APPENDIX 1

MAP OF RUTLAND



APPENDIX 2

LIST OF CONSULTEE'S

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

Responsible Authorities

- The Licensing Authority
- Leicestershire Constabulary – the Chief Officer of Police
- Gambling Commission
- Leicestershire Fire & Rescue Service
- Rutland County Council – Planning Control
- Local Safeguarding Children Board
- Environment Agency
- HM Revenue & Customs

One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area. The authority has therefore consulted:

- British Beer and Pub Association
- British Bookmakers Trade Association
- All local Gambling Act 2005 Licence/Permit/Registration Holders (through the Council website).

One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005:

- Ward & Parish Councillors
- GamCare
- All residents and businesses within the Rutland County area (through the Council website)

APPENDIX 3

GAMBLING ACT 2005 **RESPONSIBLE AUTHORITIES CONTACT DETAILS**

THE RESPONSIBLE AUTHORITIES:

Licensing Team:

The Licensing Team
Catmose
Oakham
Rutland
LE15 6HP
licensing@rutland.gov.uk

The Gambling Commission:

Victoria Square House
Victoria Square
Birmingham B2 4BP
Tel: 0121 230 6500
Fax: 0121 237 2236
Email: info@gamblingcommission.gov.uk

Leicestershire Police:

Licensing Department
Leicestershire Police
Mansfield House
74 Belgrave Gate
Leicester
LE1 3GG

Fire Authority:

Leicestershire Fire & Rescue Service
LFRS Headquarters
12 Geoff Monk Way
Birstall
Leicester
LE4 3BU

Pollution Control:

Pollution Control
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP

Planning:

Head of Planning & Development Control
Rutland County Council
Catmose

Oakham
Rutland
LE15 6HP

HM Revenue & Customs:

National Registration Unit
Portcullis House
21 India House
Glasgow
G2 4PZ

**Safeguarding Children Board
Leicestershire and Rutland:**

Safeguarding Children Partnership
Local Safeguarding Business Office
Room 100
County Hall
Glenfield
LE3 8RA
E: james.fox@leics.gov.uk

_____ Safeguarding Service Manager
_____ Rutland County Council
_____ Catmose
_____ Oakham
_____ Rutland
_____ LE15 6HP

Consultation Draft

APPENDIX 4

Summary of licensing authority delegations permitted under the Gambling Act 2005.

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of licence		Where representations have been received from the Commission or RA	Where no representations received from the Commission or RA
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premise licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give counter notice to temporary use notice		X	

APPENDIX 5

Section 236 of the Act provides for the Secretary of State to make regulations to define four classes of gaming machine: categories A, B, C and D, with category B to be further divided into sub-categories.

The below table sets out the current limits for the different categories with the maximum stakes and prizes that apply (please note the below information is subject to change upon regulations being set). Any changes to the limits will be published on the Gambling Commission's website. <https://www.gamblingcommission.gov.uk/home.aspx>.

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 ¹
B2	£2 £100	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D Non-money prize (other than a crane grab machine or a coin pusher or penny falls machine)	30p	£8
D Non money prize (crane grab machine)	£1	£50
D Money prize (other than a coin pusher or penny falls)	10p	£5
D Combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be money prize)
D Combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)

¹ with the option of a maximum £20,000 linked progressive jackpot on a premises basis only

A large print version of this document is available on request



Rutland
County Council

Rutland County Council
Catmose, Oakham, Rutland LE15 6HP

01572 722 577
enquiries@rutland.gov.uk
www.rutland.gov.uk

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Fw: GAMBLING ACT 2005 - DRAFT GAMBLING POLICY

Licensing <Licensing@rutland.gov.uk>

Wed 06/10/2021 11:23

To: Terri Martin <terri.martin@peterborough.gov.uk>

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Hi Terri

Please see below.

Thank you

Savannah Parkinson
Licensing Officer
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP
01572 758366

From: NRUBettingGaming@hmrc.gov.uk <NRUBettingGaming@hmrc.gov.uk>**Sent:** 06 October 2021 09:58**To:** Licensing <Licensing@rutland.gov.uk>**Subject:** GAMBLING ACT 2005 - DRAFT GAMBLING POLICY

Good Morning

Thank you for your recent correspondence.

As one of the responsible authorities quoted in your appendices can I ask you to amend our postal contact address to:-

HM Revenue and Customs
Excise Processing Teams
BX9 1GL
United Kingdom

Our contact telephone number is now 0300 322 7072 Option 7.

Our email address remain the same, NRUBetting&Gaming@hmrc.gsi.gov.uk

Kind Regards

Janet (Marron)
Excise Processing Team
HM Revenue & Customs
BX9 1GL
United Kingdom
0300 322 7072 Option 7

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Fw: Gambling Act 2005 - Statement of Principles Review and Consultation

Licensing <Licensing@rutland.gov.uk>

Tue 28/09/2021 09:51

To: Terri Martin <terri.martin@peterborough.gov.uk>

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Hi Terri

Please see below response re the Gambling consultation.

Thank you

Savannah Parkinson
Licensing Officer
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP
01572 758366

From: secretary@nab-bookmakers.co.uk <secretary@nab-bookmakers.co.uk>**Sent:** 27 September 2021 19:07**To:** Licensing <Licensing@rutland.gov.uk>**Subject:** RE: Gambling Act 2005 - Statement of Principles Review and Consultation

Dear Sir/Madam,

Many thanks for including the National Association of Bookmakers Ltd in the circulation of your proposed draft Statement of Principles and we would just like to comment on 18.7 where reference is made to the "Five times rule" areas. As a direct result of the implantation of the Gambling Act 2005, the "five times" Rule fell away and on the 1st September 2012 all racecourses commenced with a new contract between themselves and on-course bookmakers which some areas are charged at 10 times and annual marketing fees are also applied.

Kind regards

Simon Walmsley
Chairman, NAB

From: Licensing <Licensing@rutland.gov.uk>**Sent:** 27 September 2021 10:50**To:** Licensing <Licensing@rutland.gov.uk>**Subject:** Fw: Gambling Act 2005 - Statement of Principles Review and Consultation

Good afternoon,

This is a polite reminder that the consultation on Rutland's draft Statement of Principles as required under the Gambling Act 2005, ends on Friday 15 October 2021.

If you would like to respond and make comment on the draft revisions, please ensure that you do so on or before the 15th of October. This is to ensure your comments can be properly considered prior to determination of the final policy.

Thank you if you have already responded. Your comments will be taken into consideration by the Licensing and Planning Committee when formulating the final policy.

Kind regards

Consultation Officer
The Licensing Team
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP

From: Licensing <Licensing@rutland.gov.uk>
Sent: 31 August 2021 11:50
Subject: Gambling Act 2005 - Statement of Principles Review and Consultation

CAUTION: This email originates outside of Peterborough City Council's network. Do **NOT** click on links or open attachments unless you recognise the sender and know the content is safe. Please report any concerns or issues to ICT

Good morning,

I write to inform you of a revision to the council's Gambling Act 2005 (the Act) Statement of Principles. As part of the consultation process, we are writing to those likely to be affected by the policy and recognise that in some areas it may be difficult to identify the correct persons or bodies to consult. With this in mind, it would be appreciated if you could forward this email to the most appropriate person or body to respond, if necessary.

The consultation will run from 27 August 2021 to 15 October 2021 and seeks views on the draft revisions. Should you wish to respond and make comment, please ensure that you do so prior to the end of the consultation period, to ensure your comments can be properly considered, prior to determination of the final policy.

This latest draft of the policy contains the minimum of amendments, additions of text are shown in **red**, and deletions of text are shown with ~~strikethrough~~.

Any person who wishes to respond to the consultation may do so in the following manner:

In writing to: Rutland County Council, Licensing Team, Catmose, Oakham, Rutland, LE15 6HP

Or by email: licensing@rutland.gov.uk

Please note: We are unable to accept verbal responses.

The Act requires all licensing authorities to prepare and publish a Statement of Principles, setting out how it will administer its duties. The Statement must be published at least every three years and amended from time to time with any amended parts re-consulted upon and subsequently

re-published. As the current statement was last published in January 2019 the three year period is coming to an end.

Prior to publishing its statement the Act requires the licensing authority to consult the following on the statement or any subsequent revision;

- in England and Wales, the chief officer of police for the authorities area;
- one or more persons who appear to the licensing authority to represent the interests of persons carrying on the gambling businesses in the authorities area; and
- one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

As such I would like to invite your comments on the draft revised Statement of Principles.

A copy of the draft revised Statement of Principles is attached to this email. It can also be found on the Council website www.rutland.gov.uk under the Gambling Act 2005 section. Paper copies have also been made available in the public library in Oakham during opening hours.

Yours faithfully

Consultation Officer
The Licensing Team

Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP

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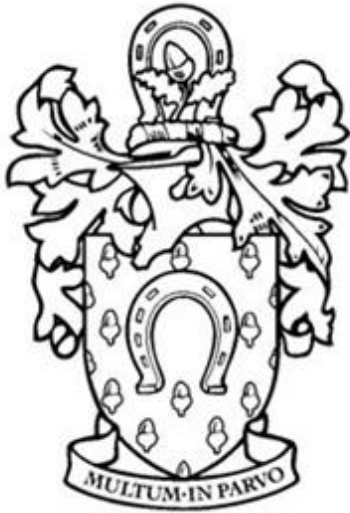
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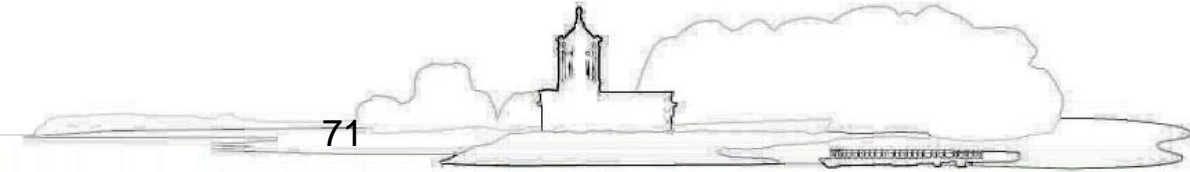
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Rutland County Council

Gambling Act 2005 Statement of Principles

Next Review Date	31 January 2025
Approved by Licensing Committee	23 November 2021
Approved by Full Council	13 December 2021



BACKGROUND

The Gambling Act 2005 (“the Act”) gives effect to the Government’s proposals for reform of the law on gambling. The Act contains a regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting. The Act received Royal Assent on 07 April 2005.

A draft bill was published in November 2003 following a publication of a Government White Paper “A Safe Bet for Success” published in March 2002. The White Paper was the Government’s response to the report of the Gambling Review Body published in July 2001.

The Act introduced a new unified regulator for gambling in Great Britain, the Gambling Commission and a new licensing regime for commercial gambling (to be conducted by the Gambling Commission or by licensing authorities, depending on the matter to be licensed). The Act removed from licensing justices all responsibility for granting gaming and betting permissions, which they exercised previously. Instead, the Gambling Commission and licensing authorities now share between them responsibility for all matters previously regulated by licensing Justices.

The overall approach of the Act is to state that gambling is unlawful in Great Britain, unless permitted by the Gambling Act 2005 in relation to most commercial gambling, or by way of the National Lottery Act 1993, or Financial Services and Markets Act 2000 in the case of spread betting.

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THE COUNTY OF RUTLAND

Rutland became a Unitary Authority in 1997. Rutland covers a total area of 39,398 hectares. This is mainly an area of mixed farms with small farms predominating. Rutland is a sparsely populated rural County, with a population density of approximately 0.87 people per hectare.

Two main market towns, Oakham and Uppingham, plus 50 villages make up the County. There are 37,369 residents according to the 2011 census. Oakham has a population of c.10, 500 and Uppingham c.4, 000, thus neither are large enough to meet the Government definition of 'a town'. The number of residents from ethnic backgrounds other than white (British) account for less than 2% of the population.

Tourism makes a significant contribution to the local economy within Rutland and provides a major focus for the Service's work. There are estimated to be about two million visitors a year, of those visiting, most are day-trippers.

Rutland Water is the largest man-made reservoir in Europe and an amazing spot for every type of water sport. Set in 4200 acres of open countryside, Rutland Water lies at the very heart of the county and is as spectacular in beauty as it is in size. Created in the 1970's to meet an ever increasing demand for water, nowadays it's widely regarded as a leading centre for water and land based leisure activities and has year round appeal for fishermen, cyclists, sailors and bird watchers.

There are around 1700 businesses operating in Rutland with a majority employing less than 10 people. Small businesses are the norm for Rutland.

Please refer to Appendix 1 for a map of Rutland.

DEFINITIONS

The **Council** means Rutland County Council

The **Licensing Authority** means the Council acting as defined by section 2 of the Gambling Act 2005.

The **Act** means the Gambling Act 2005.

Members means Rutland County Councillors

The **Licensing Committee** means the full committee or a subcommittee of no less than three Members.

Guidance means the guidance issued under part 2 section 25 of the Gambling Act 2005 by the Gambling Commission in April 2006 and subsequently updated

Child means an individual who is less than 16 years old, as defined in part 4 section 45(1) of the Act.

A **young person** means an individual who is not a child but who is less than 18 years old, as defined in part 4 section 45(2) of the Act.

LA means Local Authority.

PART A - INTRODUCTION

1. THE LICENSING OBJECTIVES

1.1 The Act sets out licensing functions to be exercised by licensing authorities in relation to the licensing of premises and the grant of certain permits. In exercising most of these functions licensing authorities must have regard to the licensing objectives, which underpin the regulatory regime.

The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime,
- Ensuring that gambling is being conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.2 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

2. STATEMENT OF PRINCIPLES

2.1 The Act requires this licensing authority to publish a ‘Statement of Principles’ that it proposes to apply when exercising its functions. This statement must be published at least every three years and amended from time to time with any amended parts re-consulted upon and subsequently re-published.

3. CONSULTATION

3.1 Rutland County Council consulted widely upon this statement before finalising and publishing.

3.2 The Gambling Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005

For a full list of persons this authority consulted please refer to Appendix 2.

3.3 The consultation took place between 27 August 2021 to 15 October 2021.

This latest draft of the policy contains the minimum of amendments and no changes to the intent or direction of the policy.

4. APPROVAL OF POLICY STATEMENT

- 4.1 This statement was approved at a meeting of the full council on 13 December 2021 and will be published via the Rutland's website upon adoption.
- 4.2 It should be noted that this statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

5. DECLARATION

- 5.1 Rutland County Council would like to declare that in producing this Statement it has had regard to the licensing objectives of the Gambling Act 2005, the guidance to Licensing Authorities issued by the Gambling Commission and any responses from those consulted on the statement.

6. RESPONSIBLE AUTHORITIES

- 6.1 As required by regulations licensing authorities are to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- The need for the body to be responsible for an area covering the whole of the licensing authority's area; and
 - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 6.2 In accordance with the suggestion in the Gambling Commission's guidance to local authorities this authority designates our Local Safeguarding Children Board for this purpose.

For a full list of the Responsible Authorities in relation to premises please refer to Appendix 3 or alternatively via the council website.

7. INTERESTED PARTIES

- 7.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence.
- 7.2 For the purposes of this part a person is an interested party in relation to an application for or in respect of a premises licence, if in the opinion of this licensing authority the person:
- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
 - Has business interests that might be affected by the authorised activities; or
 - Represents persons who satisfy the above.

- 7.3 Licensing authorities are required to state the principles they will apply in exercising their powers under the Act to determine whether a person is an interested party. The principles this authority will apply are:
- 7.4 Each case shall be decided upon its own merits. This authority will not apply a rigid rule to its decision making. It will however consider the following in accordance with the Gambling Commission's guidance for local authorities.
- 7.5 When determining what "sufficiently close to the premises" means (in each case), this authority might include:
- The size of the premises
 - The nature of the premises
 - The activities taking place at the premises
 - The distance of the premises from the location of the person making the representation
 - The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment), and
 - The circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.
- 7.6 In relation to "persons with business interests that could be affected" it could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain, however that is unlikely to satisfy the test of being "a person with business interests that could be affected by the premises" under consideration. It should be borne in mind however that the "demand test" in the 1963 and 1968 Acts have not been preserved in the Gambling Act 2005, therefore unmet demand is not a criterion for a licensing authority in considering an application.
- 7.7 Factors that this licensing authority is likely to include are:
- The size of the premises;
 - The 'catchment' area of the premises (i.e. how far people travel to visit); and
 - Whether the person making a representation has business interests in that catchment area that might be affected.
- 7.8 The types of organisations that may be considered to have business interests will be interpreted broadly to include, for example, partnerships, charities, faith groups and medical practices.
- 7.9 The Gambling Commission recommended in its guidance that licensing authorities should state that interested parties include trade associations, trade unions, residents' and tenants' associations. This authority however will not generally view these bodies as interested parties unless they have a member who can be classed as an interested party under the terms of the Act e.g. lives

sufficiently close to the premises to be likely to be affected by the activities applied for.

- 7.10 Interested parties can also be represented by other persons such as their local councillors and Members of Parliament (MP's). There is a burden on ward councillors who are also licensing committee members to avoid beyond doubt any conflict of interest; therefore care should be taken when seeking representation. If there are any doubts please contact the licensing department.
- 7.11 Any objections to new premises or requests for a review should be based on the licensing objectives of the Gambling Act 2005. Unlike the Licensing Act 2003 the Gambling Act 2005 does not include the prevention of public nuisance and anti-social behaviour as a specific licensing objective.
- 7.12 The licensing authority will not consider representations that are frivolous or vexatious or which relate to demand or need for gambling facilities. A decision on whether representations are frivolous or vexatious will be made in consideration of a number of factors including the following:
- who is making the representation, and whether there is a history of making representations that are not relevant
 - whether it raises a 'relevant' issue
 - whether it raises issues specifically to do with the premises that are the subject of the application.

8. EXCHANGE OF INFORMATION

- 8.1 Licensing authorities are required to include in their statement, the principles to be applied under Section 29 and 30 of the Act with respect to the exchange of information between the licensing authority and the Gambling Commission, and the functions under section 350 of the Act with the respect of information between it and the other persons listed in schedule 6 of the Act:
- A Constable or Police Force
 - An Enforcement Officer
 - A Licensing Authority
 - Her Majesty's Commissioners of Customs and Excise
 - The First Tier Tribunal
 - The Secretary of State
 - The Scottish Ministers
- 8.2 The principle that this licensing authority applies is that it will act in accordance with provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 and any relevant regulations will not be contravened. This licensing authority shall have regard to the guidance issued by the Gambling Commission and adopt the principles of better

regulation, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

- 8.3 Details of applications and representations which are referred to the Licensing Sub-Committee for determination will be detailed reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the Licensing Authority is asked to do so.
- 8.4 Should any protocols be established as regards information exchange with other bodies then they will be made available. Please contact the licensing team for further information on our protocols.

9. ENFORCEMENT

- 9.1 Licensing authorities are required by regulation to state the principles they propose to apply in exercising the functions under Part 15 of the Act with respect to the inspection of premises and the powers under Section 346 of the Act to instigate criminal proceedings in respect of the offences specified.
- 9.2 The Council follows the principles of the Regulators Code. The Code is based on consistency, transparency and proportionality.
- 9.3 The council proposes, in line with the code, that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a review heard by the Licensing Act Committee, the issue of a Formal Caution or a referral for prosecution.
- 9.4 The main enforcement and compliance role of the licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacturer, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.
- 9.5 The Council will seek to work actively with the Police and Leicestershire Fire and Rescue Service in enforcing licensing legislation and on compliance issues to ensure an efficient deployment of resources.
- 9.6 This licensing authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible and adopt a risk based inspection programme, targeting high risk premises.

10 PUBLIC REGISTER

- 10.1 In accordance with section 156 of the Act, Rutland County Council maintains an electronic public register which contains premises licences issued by the authority. The register is available to view on request. This information is available for inspection by members of the public at all reasonable times. Further information such as fees can also be found on the website.

11. DECISION MAKING / DELEGATION

- 11.1 A Licensing Panel of three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Licensing Panel involving an application within their ward.
- 11.2 Where a Councillor who is a member of the Licensing Act Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.
- 11.3 The Licensing Act Committee will also refer to the Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.
- 11.4 Every determination of a licensing decision by the Licensing Act Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable where it will form part of the statutory licensing register required to be kept by the Council.
- 11.5 The Council's Licensing Officers will deal with all other licensing applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 11.6 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Act Committee. Where representations are rejected, the person making that representation will be given written reasons as to why that is the case. There is no right of appeal against a determination that representations are not admissible.
- 11.7 When determining applications this licensing authority will have regard to the guidance issued by the Gambling Commission, any relevant code of practice,

this policy and the licensing objectives. Determination of applications made to the licensing authority will be made in accordance with section 153 of the Act.

For a summary of this licensing authorities delegations permitted under the Gambling Act 2005 please refer to Appendix 4.

12. LICENSING AUTHORITY FUNCTIONS

12.1 Licensing authorities are required under the Act to:

- be responsible for the licensing of premises where gambling activities are to take place by issuing **Premises Licences**
- issue **Provisional Statements**
- regulate members' clubs and miners welfare institutes who wish to undertake certain gaming activities via issuing **Club Gaming permits** and/or **Club Machine Permits**
- issue **Club Machine Permits to Commercial Clubs**
- grant permits for the use of certain lower stake gaming machines at **Unlicensed Family Entertainment Centres**
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- issue **Licensed Premises Gaming Machine Permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- register **Small Society Lotteries** below prescribed thresholds
- issue **Prize Gaming Permits**
- receive and endorse **Temporary Use Notices**
- receive **Occasional Use Notices**
- provide information to the Gambling Commission regarding details of licences issued
- maintain registers of the permits and licences that are issued under these functions
- the exercise of its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and other relevant responsible authorities.

12.2 It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

PART B - PREMISES LICENCES

13. GENERAL PRINCIPLES

13.1 Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where considered to be appropriate.

13.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives, and
- in accordance with the authority's Statement of Principles

13.2.1 The Licensing authority is also aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. The authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).

13.3 Definition of "premises"

13.3.1 In the Act, "premises" is defined as including "any place". Section 152 of the Act prevents more than one premises licence applying to any one place. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can reasonably be regarded as being different premises. However, this licensing authority will pay particular attention if there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.

13.3.2 Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter of discussion between the operator and the licensing officer.

13.3.3 The local authority will consider the Gambling Commission's Guidance and all other circumstances of the case in making any decision as to what can properly be regarded as premises.

13.4 Premises “ready for gambling”

13.4.1 The guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

13.4.2 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have the right to occupy them, then an application for a provisional statement should be made instead.

13.5 Location

13.5.1 Demand issues cannot be considered with regards to the location of premises but that considerations in terms of licensing objectives can. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

13.6 Duplication with Other Regulatory Regimes

13.6.1 This licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of any application. The licensing authority will listen to, and consider carefully, any concerns about conditions which cannot be met by licensees due to planning restrictions, should such a situation arise.

13.7 Integrating Strategies

13.7.1 There are many stakeholders involved in the Leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case, the Council will aim, as far as possible, to co-ordinate them.

13.7.2 The Council recognises in particular the importance of the co-ordination and integration of the Gambling policy with other plans aimed at the management of town centres and the night-time economy.

13.8 Licensing Objectives

13.8.1 Premises licences granted must be reasonably consistent with the licensing objectives, this licensing authority has considered the Gambling Commission's guidance to local authorities and some comments are made below.

- 13.8.2 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** – This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's guidance does however envisage that licensing authorities should pay particular attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located in such areas and whether conditions may be suitable such as the provision of door supervisors.
- 13.8.3 This licensing authority has noted the Gambling Commission's guidance where it states that licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance.
- 13.8.4 Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officers and Leicestershire Constabulary before making a formal application.
- 13.8.5 **Ensuring that gambling is conducted in a fair and open way** – This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. Further guidance on this issue may be provided by the Gambling Commission and if so this authority will have regard to it, when available.
- 13.8.6 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** – This licensing authority has noted that Gambling Commission guidance states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children).
- 13.8.7 The Advertising Standards Authority (ASA) enforces the UK Advertising Codes (the Codes), written by the Committees of Advertising Practice. The Codes cover the content and placement of advertising and are designed to ensure that advertisements for gambling products are socially responsible, with particular regard to the need to protect children, young persons under 18 and other vulnerable persons from being harmed or exploited. The Council will work with licensees to ensure advertising on premises is such that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.
- 13.8.8 The Council will consult with the Leicestershire and Rutland Safeguarding Children Board on any application that indicates there may be concerns over access for children or vulnerable persons

13.8.9 The Council will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:-

- Supervision of entrances;
- Segregation of gambling areas from areas frequented by children;
- Supervision of gaming machines in non-adult gambling specific premises

13.8.10 There is no definition of 'vulnerable person' and it is noted that the Gambling Commission are not seeking to offer one, but it does, for regulatory purposes, assume that this group includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. Should a practical definition prove possible in future then this statement will be updated with it, by way of a revision.

This licensing authority will consider this licensing objective on a case by case basis.

13.9 Conditions

13.9.1 Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects

13.9.2 Decisions upon individual conditions will be made on a case by case basis, although there are a number of measures this licensing authority may consider using should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which they can meet the licensing objectives effectively.

13.9.3 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's guidance.

13.9.4 This authority will also ensure where necessary and deemed appropriate that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
- only adults are admitted to the area where these machines are located
- access to the area where the machines are located is supervised
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18

13.9.5 As the licensing authority we note that there are conditions which we are unable to attach to premises licences, these are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition
- conditions relating to gaming machine categories, numbers, or method of operation
- conditions which provide that a membership of a club or body be required for casino and bingo clubs (the Act specifically removed the membership requirement)
- conditions in relation to stakes, fees, winning or prizes

13.9.6 This licensing authority may consider a need for door supervisors in terms of the licensing objectives for protection of children and vulnerable persons and preventing premises becoming a source of crime or disorder. Door supervisors at casinos or bingo premises are exempt from the requirements of the Private Security Industry Act 2001. Where this authority imposes door supervision requirements on such licences, the personnel will not need licensing under the 2001 Act. This authority may however consider imposing the requirement of a Criminal Record Bureau check on door supervisors, by way of a condition on a licence.

13.9.7 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances / machines is appropriate for particular cases but it will need to be decided whether these shall be SIA licensed or not. It will not be automatically assumed that they shall be.

13.10 Risk Assessments

13.10.1 Under new social responsibility code provisions from April 2016 licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- When applying for a variation of a premises licence
- To take into account of significant changes in local circumstances, including those identified in a licensing authority's statement of policy

- When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

13.10.2 Social responsibility (SR code 10.1.1) requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's policy statement.

13.10.3 Such risks that may be identified could include but are not exhaustive to, the location of nearby services for children, the demographics of the area in relation to vulnerable groups, whether the premises is located in an area with high levels of crime / antisocial behaviour; and set out how vulnerable people, including those with problem gambling behaviours will be protected

13.10.4 The SR provision is supplemented by an ordinary code provision indicating that licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the licensing authority.

13.11 Local Area Profiles

13.11.1 Such risk assessments can make reference to the council's Area Profile which may be compiled with respect to reported gambling-related problems in an area. At the time of preparing this edition of the Statement of Principles there has been no evidence presented to support the assertion that any part of Rutland County Council had or is experiencing problems from gambling activities. This position will be kept under review.

14. ADULT GAMING CENTRES

14.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to address these issues.

14.2 This licensing authority will expect applicants to offer their own measures to meet licensing objectives however appropriate measures / licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation
- location of entry
- notices / signage
- self-barring schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 14.3 The question of sub-division of such premises has become an issue and been the subject of Gambling Commission Guidance. There must be no direct entry from one adult gaming centre into another. This Authority will take note of the guidance issued in respect of such applications.

15. LICENSED FAMILY ENTERTAINMENT CENTRES

- 15.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, ensure that under 18 year olds do not have access to the adult only gaming machine areas.

- 15.2 This licensing authority will expect applicants to offer their own measures to meet licensing objectives however appropriate measures / licence conditions may cover issues such as:

- notices / signage
- physical separation of areas
- CCTV
- supervision of entrances / machine areas
- specific opening hours
- self-barring schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare
- suspected child truancy handling training

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 15.3 This licensing authority will, as per the Gambling Commission's guidance, refer to the Gambling Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated.

For a full list of machine categories please refer to appendix 5.

16. CASINOS

- 16.1 This authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the powers to do so. Should this authority decide in the future to pass such a resolution, it will update this statement with details of that resolution. Any such decision would need to be made by full council.

17. BETTING PREMISES

- 17.1 **Betting machines** - This licensing authority will, as per the Gambling Commission's guidance, take into account the size the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.
- 17.2 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that the door supervision is both necessary and proportionate.

18. TRACKS

- 18.1 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 18.2 This licensing authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and / or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 18.3 Applicants will be expected to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:
- proof of age schemes
 - location of gaming machines
 - supervision of entrances / machine areas
 - notices / signage
 - provision of information leaflets / helpline numbers for organisations such as Gamcare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

18.4 **Betting Machines** – This licensing authority will as per the Gambling Commission’s Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. We will also take note of the Gambling Commission’s suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

18.5 **Condition on rules being displayed** - The Gambling Commission has advised in its guidance for local authorities that “...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.”

18.6 **Applications and plans** – The Gambling Act requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling.

The Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”) and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities." and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."

18.7 This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any ‘betting ring’ areas must be indicated on the plan.

18.8 In rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided

through occasional use notices where the boundary premises do not need to be defined.

19. BINGO PREMISES

19.1 This licensing authority notes that the Gambling Commission's guidance states:

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

19.2 This licensing authority must satisfy itself that bingo can be played in any bingo premises for which a premises licence has been issued. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

19.3 This authority also notes the Guidance at paragraph 18.9 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted.

20. TRAVELLING FAIRS

20.1 It will fall to this licensing authority to decide whether, where category D machines and / or equal chance gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met. This licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

20.2 It has been noted that the 27-day statutory maximum for land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses its boundaries is monitored so that the statutory limits are not exceeded.

21. PROVISIONAL STATEMENTS

21.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

The Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expect to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

21.2 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired.

21.3 In terms of representations about premise licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, this authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional licence stage; or
- which in the authority's opinion reflect a change in the operator's circumstances

22. REVIEWS

22.1 Requests for a review of a premise licence can be made by interested parties or responsible authorities; however, it is for this licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authorities statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

22.2 This licensing authority can also initiate a review of a licence on the basis of any reason which it considers is appropriate.

22.3 Once a valid application for a review has been received, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

- 22.4 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- a) add remove or amend a licence condition imposed by the licensing authority;
 - b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or amend such an exclusion;
 - c) suspend the premises licence for a period not exceeding three months; and/or
 - d) revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

- 22.5 In particular, the licensing authority may initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them. Equally, the premises licence holder must only offer the type of gambling that they are permitted to.

PART C - PERMITS / REGISTRATIONS / NOTICES

23. UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

- 23.1 Where a premises does not hold a premises licence but wishes to provide category D gaming machines, it may apply to this licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 23.2 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children and other vulnerable persons from harm. Harm in this context is not limited to harm from gambling but includes wider protection considerations. The efficiency of such policies and procedures will each be considered on their own merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.
- 23.3 This licensing authority will expect that applicants demonstrate a full understanding of the licensing objectives as well as the maximum stakes and prizes of the gambling that is permissible in Unlicensed Family Entertainment Centres; that the applicant has no relevant convictions and that staff are trained to have a full understanding of the maximum stakes and prizes.

24. (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

- 24.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of category C and / or D. To take advantage of this entitlement, the person who holds the on-premises licence must give notice to this licensing authority of their intention to make gaming machines available for use, and must pay the prescribed fee.
- 24.2 This licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
 - gaming has taken place on the premises that breaches a condition of Section 282 of the Gambling Act for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
 - the premises are mainly used for gaming; or
 - an offence under the Act has been committed on the premises
- 24.3 If a premises wishes to have more than two machines, an application for a permit is required and this licensing authority shall consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission

under Section 25 of the Act, and “such matters as they think relevant”. This authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Such measures may include:

- adult machines being in sight of bar
- notices / signage

24.4 It should be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

24.5 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

24.6 Where an application is received for more than 19 gambling machines in alcohol licensed premises Officers will have the discretion to arrange a hearing for members to consider the application.

24.7 It should be noted that this licensing authority can decide to grant the application with a smaller number of machines and / or different category of machines than applied for. Conditions (other than these) cannot be attached.

25. PRIZE GAMING PERMITS

25.1 This licensing authority can grant or refuse an application for a permit, but cannot add conditions. This licensing authority can only grant an application for a permit if it has consulted with the chief officer of police about the application. This licensing authority will take into account any objections that the police may make which are relevant to the licensing objectives. Relevant considerations would be the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and issues about disorder.

25.2 Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant, this licensing authority will give weight to child protection issues. Applicants will be required to set out the types of gaming that he or she is intending to offer and the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in regulations; and

- that the gaming offered is within the law.

25.3 The licensing authority will determine each application on its own merits.

(The Council as a licensing authority has the remit to set its own criteria for the above statement of principles on permits – the principles as set out above reflect the general issues considered to be most relevant by a number of other licensing authorities)

25.4 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission's guidance.

25.5 It should be noted that there are conditions in the Gambling Act 2005 to which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

26. CLUB GAMING AND CLUB GAMING MACHINE PERMITS

26.1 Members Clubs and Miners' Welfare Institutes (but **not** Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines, of which one may be a category B3A, the others being of categories B4, C or D), equal chance gaming and games of chance as prescribed in regulations.

26.2 Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

26.3 Members clubs must have at least 25 members and be established and conducted 'wholly or mainly' for the purposes other than gaming, unless the gaming is permitted by separate regulations. A members club must be

permanent in nature, not established to make commercial profit, and controlled by its members equally.

26.4 This licensing authority is aware that it may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- the applicant's premises are used wholly or mainly by children and / or young persons
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Gambling Commission or the police.

26.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

27 SMALL SOCIETY LOTTERIES

27.1 Under the Gambling Act 2005, a lottery is unlawful unless it runs under an operating licence or is an exempt lottery. This Licensing Authority will register and administer small society lotteries as defined under the Act. Promoting or facilitating a lottery will fall into two categories:

- Licensed Lotteries (requiring an operating licence from the Gambling Commission)
- Exempt Lotteries (including small society lotteries registered with Rutland County Council)

27.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and are defined as:

- Small society lotteries;
- Incidental non-commercial lotteries;
- Private lotteries;
- Private society lottery;
- Work lottery;
- Residents' lottery;
- Customers' lottery.

27.3 S.19 of the Act defines a society as such if it is established and conducted:

- For charitable purposes, as defined in s.2 of the Charities Act 2006

- For the purpose of enabling participation in, or of supporting sport, athletics or a cultural activity
- For any other non-commercial purpose other than that of private gain.

27.4 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in s.19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

27.5 If a society running small lotteries fails to comply with any of the conditions of running such lotteries specified in Part 4 of Schedule 11 of the Act, it will be operating in an illegal manner, irrespective of whether it is registered with a licensing authority or not. In these circumstances, small society lottery operators may face prosecution by the Commission, a licensing authority, or the police.

Advice regarding the definitions of the above exempt lotteries is available from the Gambling Commission website:

http://www.gamblingcommission.gov.uk/gambling_sectors/lotteries.aspx

28. TEMPORARY USE NOTICES

28.1 A Temporary Use Notice (TUN) allows the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for facilities for gambling. A Temporary Use Notice may only be granted to a person or company holding a relevant operating licence issued by the Gambling Commission.

28.2 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of revising this Statement the relevant regulations state that Temporary Use Notices can only be used to permit the provision of facilities of equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

28.3 There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to licensing authorities to decide what constitutes a 'set of premises' where TUN's are received relating to the same building / site.

28.4 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Local Authorities.

29. OCCASIONAL USE NOTICES

29.1 This licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.

This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

30. ADDITIONAL INFORMATION

Further information on the application process, application forms and applicable fees can be found at;

<https://www.rutland.gov.uk/my-business/licensing/licensing-a-gambling-policy/>

APPENDIX 1

MAP OF RUTLAND



APPENDIX 2

LIST OF CONSULTEE'S

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

Responsible Authorities

- The Licensing Authority
- Leicestershire Constabulary – the Chief Officer of Police
- Gambling Commission
- Leicestershire Fire & Rescue Service
- Rutland County Council – Planning Control
- Rutland County Council – Pollution Control
- Local Safeguarding Children Board
- Environment Agency
- HM Revenue & Customs

One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area. The authority has therefore consulted:

- British Beer and Pub Association
- National Association of Bookmakers
- Betting and Gaming Council
- Chamber of Commerce
- All local Gambling Act 2005 Licence/Permit/Registration Holders (through the Council website).

One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005:

- Rutland County Council Ward & Parish Councillors
- GamCare
- MP for Rutland
- Police Crime Commissioner
- Director of Public Health
- All residents and businesses within the Rutland County area (through the Council website)

APPENDIX 3

GAMBLING ACT 2005 **RESPONSIBLE AUTHORITIES CONTACT DETAILS**

THE RESPONSIBLE AUTHORITIES:

Licensing Team:	The Licensing Team Catmose Oakham Rutland LE15 6HP licensing@rutland.gov.uk
The Gambling Commission:	Victoria Square House Victoria Square Birmingham B2 4BP Tel: 0121 230 6500 Fax: 0121 237 2236 Email: info@gamblingcommission.gov.uk
Leicestershire Police:	Licensing Department Leicestershire Police Mansfield House 74 Belgrave Gate Leicester LE1 3GG
Fire Authority:	Leicestershire Fire & Rescue Service LFRS Headquarters 12 Geoff Monk Way Birstall Leicester LE4 3BU
Pollution Control:	Pollution Control Rutland County Council Catmose Oakham Rutland LE15 6HP
Planning:	Head of Planning & Development Control Rutland County Council Catmose

Oakham
Rutland
LE15 6HP

HM Revenue & Customs:

Excise Processing Teams
BX9 1GL
United Kingdom

**Safeguarding Children Board
Leicestershire and Rutland:**

Safeguarding Children Partnership
Local Safeguarding Business Office
Room 100
County Hall
Glenfield
LE3 8RA
E: james.fox@leics.gov.uk

APPENDIX 4

Summary of licensing authority delegations permitted under the Gambling Act 2005.

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of licence		Where representations have been received from the Commission or RA	Where no representations received from the Commission or RA
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premise licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give counter notice to temporary use notice		X	

APPENDIX 5

Section 236 of the Act provides for the Secretary of State to make regulations to define four classes of gaming machine: categories A, B, C and D, with category B to be further divided into sub-categories.

The below table sets out the current limits for the different categories with the maximum stakes and prizes that apply (please note the below information is subject to change upon regulations being set). Any changes to the limits will be published on the Gambling Commission's website. <https://www.gamblingcommission.gov.uk/home.aspx> .

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 ¹
B2	£2 £100	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D Non-money prize (other than a crane grab machine or a coin pusher or penny falls machine)	30p	£8
D Non money prize (crane grab machine)	£1	£50
D Money prize (other than a coin pusher or penny falls)	10p	£5
D Combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be money prize)
D Combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)

¹ with the option of a maximum £20,000 linked progressive jackpot on a premises basis only

A large print version of this document is available on request



Rutland
County Council

Rutland County Council
Catmose, Oakham, Rutland LE15 6HP

01572 722 577
enquiries@rutland.gov.uk
www.rutland.gov.uk

REPORT NO: 163/2021

PLANNING AND LICENSING COMMITTEE

**PLANNING APPLICATIONS TO BE DETERMINED BY THE
PLANNING AND LICENSING COMMITTEE**

REPORT OF THE STRATEGIC DIRECTOR OF PLACES

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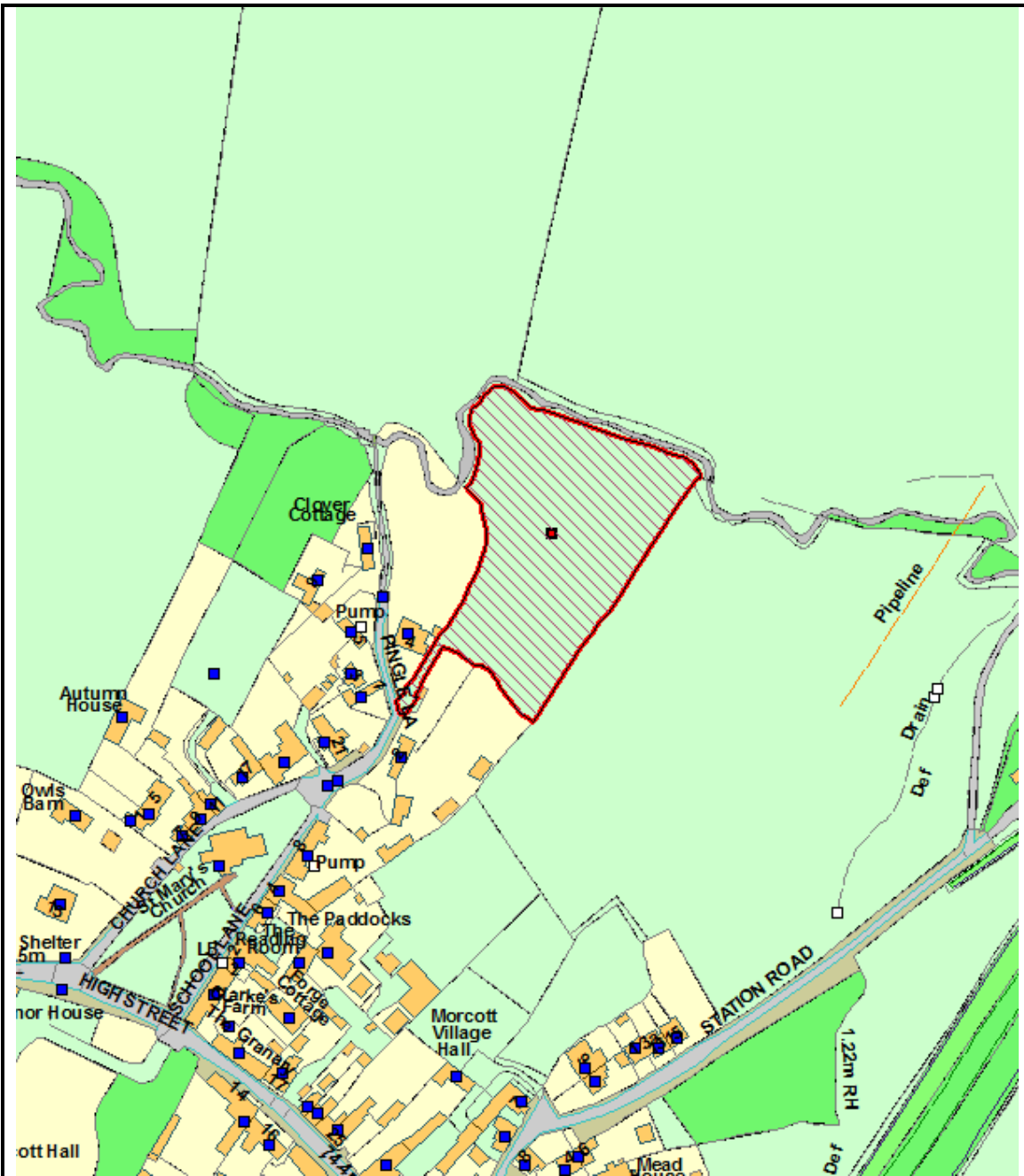
Rutland County Council

Planning & Licensing Committee – Tuesday 23rd November 2021

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1	2020/0059/FUL	Mr Richard Drewnicki Land on the North East side of Pingle Lane, Morcott 1 No. New Dwelling	Approval	113- 134
2	2021/0091/FUL	Muffty Developments Ltd Development on land at Hawksmead Business Park, Lands End Way, Oakham Application for coffee shop with drive thru facility and ancillary works	Approval	135- 160
3	2021/0698/FUL	Mr Michael Allen Brooke Priory School, Station Approach, Oakham Construction of a new artificial multi use games area (MUGA) with associated sports lighting, fencing and ancillary features for pupils at Brooke Priory School. Includes a change of use from domestic gardens to school	Refusal	161- 172
4	2021/0816/FUL	Mr R Evans, Distinctive Developments Group Ltd Land to the South of Teigh Road, Market Overton Proposed construction of 2 no. dwellings, new vehicular access and associated works including demolition of existing buildings and foul water disposal	Refusal	173- 182

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Ordnance Survey [100018056]



Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2020/0059/FUL	ITEM 1	
Proposal:	Erection of dwelling in line with Para 80 NPPF		
Address:	Land on the North East Side of Pingle Lane, Morcott		
Applicant:	Richard Drewnicki	Parish	Morcott
Agent:	Mr D Hartley Rural Solutions Ltd	Ward	Braunston & Martinsthorpe
Reason for presenting to Committee:	Policy considerations and objections		
Date of Committee:	23 November 2021		
Agreed Extension of Time Date:	26 November 2021		

EXECUTIVE SUMMARY

The scheme is for an exemplar house in line with Para 80(e) of the NPPF. The design has evolved through 2 reviews. There would be considerable bio diversity gains and there is limited harm to historic assets. The Councils lack of a 5 year land supply due to the withdrawal of the new local plan means that the locational policies in the development plan are out of date and cannot be used to refuse the proposal. Overall there are no sustainable reasons for refusing planning permission.

RECOMMENDATION

APPROVAL,

1. The development shall be begun before the expiration of three years from the date of this permission.
Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers MC-PL01 A, MC-PL02 F, MC-PL03 D, MC-PL05 A, MC-PL06 A, MC-PL08, MC-PL09, 1281-01 B, 1281-02 B, LE159DS-DR-MC-0001, LE159DS-DR-MC-002, LE159DS-DR-MC-0003, SK_PL_01, Stone Design Statement Rev A - (11/6/20), the track construction details shown in the Traffic Management Report (Boyes) October 2019, the Design & Access Statement, the Biodiversity Net Gain assessment (Green Environmental Consultancy – Nov 2019), the recommendations in the Preliminary Ecological Appraisal (Green Environmental Consultancy – September 2019) and its Addendum (September 2020).
Reason - For the avoidance of doubt and in the interests of proper planning.
3. No development above ground level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, including all the bio-diversity gains outlined in the application, which shall include proposed changes in ground levels, boundary treatments and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in Relation to Construction."
Reason - To ensure that the landscaping is designed in a manner appropriate to the locality and to enhance the appearance of the development.
4. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the

Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.
Reason - To ensure that the landscaping is carried out at the appropriate time and is properly maintained.

5. No development above damp course level shall be carried out until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - To ensure that the materials are compatible with the surroundings in the interests of visual amenity and because no details have been submitted with the application.

6. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling or erection of any structure within its curtilage shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - To ensure that any additions or alterations are considered in the light of the special reasons for granting this planning permission and to ensure that the works do not imping on the wider landscape or the setting of the conservation area and nearby listed buildings.

7. No development shall take place within the application site, including the approved construction access and compound, until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved, in writing, by the Local Planning Authority.

Reason - To allow proper investigation and recording of the site, which is potentially of archaeological and historic significance.

8. The development shall be carried out in accordance with the recommendations in the submitted Preliminary Ecological Appraisal (Green Environmental Consultants, September 2019) and the nest boxes, including for Swifts, shown on the approved plans shall be erected before the dwelling hereby permitted is occupied.

Reason - To ensure that the bio-diversity gains set out in the application are achieved on site

9. Once occupied, the dwelling hereby approved shall be made available for visits by the public and Architectural Students for the purposes of understanding high quality design in rural areas. Such access shall be in accordance with a scheme details of which shall have been submitted for the approval of the Local Planning Authority.

Reason - To ensure that the access to such facilities are maintained in the future in the interests of enhancing design in rural areas ,in accordance with the requirements of Para 80 of the National Planning Policy Framework 2021.

10. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (i) the parking of vehicles of site operatives and visitors
- (ii) loading and unloading of plant and materials

- (iii) storage of plant and materials used in constructing the development
- (iv) measures to control the emission of dust and dirt during construction
- (v) a scheme for recycling/disposing of waste resulting from demolition and construction works
- (vi) residents liaison

Reason - To ensure that the construction period causes minimal disruption to the local highway network and any areas of archaeological interest.

11. The annexe hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling hereby permitted.
Reason - The site of the permission is outside any area where planning permission would normally be forthcoming for more than a single dwelling which is permitted in this case as a specifically identified exception.
12. Within 2 months of the dwelling hereby permitted being occupied, the temporary track to the construction compound, the compound itself and any structure constructed to cross the watercourse shall be removed from the land and the land re-instated to its former condition, including any ridge and furrow disturbed, in accordance with a plan and photographic survey that shall have been carried out before development commences. The widened access gate on Glebe Road shall also be restored back to its original condition including replanting of hedges within the same timeframe.
Reason - To ensure that the temporary use of the land does not result in long term impact or harm to the field and to visual amenity.

Site & Surroundings

1. This 0.65Ha site is located off Pingle Lane, on the northern boundary of the Morcott Conservation Area and outside, but adjoining the Planned Limits to Development (PLD). There are several listed buildings on Church Street but none immediately adjoining this site.
2. The site consists of grassland enclosed by mature vegetative boundaries which consists primarily of overgrown hedgerows and associated trees to the north, east and west with a large mature woodland forming the western boundary. Successive years of limited management to both the land and boundaries has allowed a wild and informal setting to develop.
3. A key characteristic of the site is the 7m fall in levels from south to north. Although the site is enclosed on three sides, open views can be obtained to the rural setting on the northern boundary from the elevated southern end of the site. The view looks upon agricultural land and a series of Public Rights of Way.
4. A stream corridor wraps around the west and northern boundary and runs parallel with the low lying land at the north. Along the east and west boundaries are two low level depressions which act as water ditches during seasonal wetter periods of weather.
5. Plant species within the site are primarily trees such as Willow, Ash and Poplar as well as mixed grasses and dense shrub planting.
6. Access to the site is from the south through an existing field entrance and gate.

Proposal

7. The proposal is for a detached house and garage with separate annexe. The house is a contemporary design that has changed fundamentally between 2 Design Reviews by

Design Midlands, the original on a preliminary enquiry that informed this subsequent detailed application. The proposal is for the applicants own house and he has owned that land for 30 years whilst working in Hertfordshire.

8. The revised design comprises a house built of local stone with grass roofs. The house would be assimilated into the landscape and comprise an annexe over a wetland area.
9. The building would essentially have a flat green roof to help it assimilate and is of contemporary design but using local materials.
10. The application states that the scheme:
 - Create a strong relationship between the house and landscape, responding to place and existing landscape features.
 - Protects the rural character of the area.
 - Significantly enhances the biodiversity value of the site. Landscape proposals could enhance the ecological and aesthetic value of the site.
 - Uses vernacular materials and planting to respond to and reinforce the inherent landscape character fused with contemporary or innovative architecture.
11. The scheme is intended to be of innovative
12. The applicant has assessed the site to be suitable for a new country house under paragraph 80(e) of the NPPF, having regard to the opportunities to meet the specific tests of that policy, with regard to case law and the broad range of houses approved under the 'new country house clause' since the introduction of PPG7 in 1997.



Image of revised proposal

Relevant Planning History

None

Planning Guidance and Policy

National Planning Policy Framework (NPPF) 2019

Chapter 2 – Achieving Sustainable Development (Inc Para 11(d) and footnote 8)
Chapter 5 – Delivering a sufficient supply of homes (Inc Para 80(e))
Chapter 12 – Achieving well designed places (Para 134)

Site Allocations and Policies DPD (2014)

SP1- Presumption in favour of Sustainable Development
SP5 - Built Development in the Towns and Villages
SP6 - Housing in the Countryside
SP15 - Design and Amenity
SP20 - The Historic Environment

Core Strategy DPD (2011)

CS03 - The Settlement Hierarchy
CS04 - The Location of Development
CS19 - Promoting Good Design
CS22 - The Historic and Cultural Environment

Morcott Conservation Area Appraisal 2014

Neighbourhood Plan

There is no Neighbourhood Plan for Morcott.

Officer Evaluation

Principle of the Use

13. Morcott is designated as a Smaller Service Centre in the Core Strategy. Within such settlements CS4 states that they can accommodate a minor level of development (up to 5 dwellings) mainly on previously developed land comprising infill or conversion of redundant rural buildings, within the Planned Limit to Development (PLD).
14. Policy CS4 sets out that development in the countryside will be strictly limited to that which has an essential need to be located in the countryside and will be restricted to particular types of development to support the rural economy and meet affordable local housing needs - The proposal is for a market house so doesn't accord with this policy so the scheme relies on Para 80 of the NPPF (2021) (the Framework).
15. Policy SP6 only allows for development in the countryside where it is essential for certain operational needs or for affordable housing to meet an identified local housing need.
16. The Core Strategy policies of housing location, together with SP6, are however now considered out of date in accordance with Para 11(d) of the Framework as the Council can no longer demonstrate a 5 year housing land supply.
17. The recently withdrawn Local Plan Review (LPR) had re-assessed the settlement hierarchy and Morcott was to be designated as a Smaller Village. The criteria was not greatly dissimilar to CS4. However, other than the 'other villages' identified in the settlement hierarchy, all other settlements are considered sustainable in terms of applying control in the situation where there is an out of date policy (as per Para 11(d)). Whilst the LPR has been withdrawn, the settlement hierarchy has been appraised and can still be taken into consideration.

18. The Site Allocations & Policies DPD, Policy SP1 – Presumption in Favour of Sustainable Development is now more relevant where the Council cannot demonstrate a 5 year supply of housing. The policy states the Council will take a positive approach when considering development proposals that reflect the Frameworks presumption in favour of sustainable development in line with Paragraph 11 (d) of the Framework. This includes applications involving the provision of housing, where the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Where relevant policies are out of date then the Council will grant permission unless material considerations indicate otherwise, taking into account whether this proposal will lead to any adverse impacts, which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.
19. Given the current shortfall in the required five-year housing supply, consideration needs to be given whether the adverse impacts of developing the site significantly outweighs its benefits. As such the development will need to be in compliance with the National Planning Policy Framework.
20. In terms of location of the site, the Framework advises that when planning for development i.e. through the Local Plan process, the focus should be on existing service centres and on land within or adjoining existing settlements. It is considered the Council's approach to Restraint Villages is out of date, the National Planning Practice Guidance (NPPG) states that all settlements can play a role in delivering sustainable development and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence.
21. The Council has produced a background paper 'Sustainability of Settlements Assessment Update' (November 2019). In the 2019 update, Morcott is classed in the Smaller Village category. These villages tend to have only some of the key facilities and/or are less accessible to higher order centres than villages in the Local Service Centre category. It is considered small scale development on infill sites, redevelopment of previously developed land and the conversion or reuse of existing buildings will be supported.
22. Therefore, it is considered the site is in a sustainable location and meets the Framework's core approach to sustainable development. The Council will need to consider whether the proposal will harm the character and setting of the countryside.
23. Overall, the Council will need to be satisfied that this proposal is sustainable development in accordance with the Framework and that it is unlikely to have an adverse impact on the surrounding environment or character of the area that would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.
24. Paragraph 80(e) of the Framework is relevant and states that "Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply":
 - a) to d) (*not relevant in this case*); or
 - e) the design is of exceptional quality, in that it:
 - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas¹; and

¹ Note the previous versions of the NPPF included 'innovative' in this description but this no longer appears in the latest version

- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

25. Furthermore Paragraph 134 of the Framework states:

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

26. Overall, the principle for development in this location would have been contrary to the development plan, but the locational policies are now out of date. The council should be satisfied that the scheme meets the criteria set out in Para's 80 and 134 but this is now less critical in view of Para 11(d) of the Framework.

Paragraph 80 'Isolated' Issue

27. Objectors have argued the point that this site is not 'isolated' in Para 80 terms.

28. The meaning of the word isolated has been assessed in the courts as part of the 'Braintree cases'. The Court of Appeal considered the case after the High Court had done so earlier².

29. Justice Lindblom stated in his findings that:

'In my view, in its particular context in paragraph 55 (now para 80) of the NPPF, the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, "isolated" in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand'.

What constitutes a settlement for these purposes is also left undefined in the NPPF. The NPPF contains no definitions of a "community", a "settlement", or a "village". There is no specified minimum number of dwellings, or population. It is not said that a settlement or development boundary must have been fixed in an adopted or emerging local plan, or that only the land and buildings within that settlement or development boundary will constitute the settlement. In my view a settlement would not necessarily exclude a hamlet or a cluster of dwellings, without, for example, a shop or post office of its own, or a school or community hall or a public house nearby, or public transport within easy reach. Whether, in a particular case, a group of dwellings constitutes a settlement, or a "village", for the purposes of the policy will again be a matter of fact and planning judgment for the decision-maker. In the second sentence of paragraph 55 the policy acknowledges that development in one village may "support services" in another³. It does not stipulate that, to be a "village", a settlement must have any "services" of its own, let alone "services" of any specified kind.

²[2018] EWCA Civ 610 - March 2018

³ Now in Para 79

30. The key test for decision makers, as established by the ruling, is therefore whether a new dwelling under paragraph 80(e) would be 'physically separate or remote from a settlement'. The final sentence of the Judge's finding above, and the words 'in this sense' serve to confirm the test of 'separate or remote from a settlement' as the key focus. The use of the word 'or' confirms that a site could be considered either separate from or remote from a settlement (for it to be considered isolated); a scheme does not therefore have to meet both of these descriptions and only one description need be met.
31. The agent considers that this site is separate from Morcott as it is surrounded by mature vegetative boundaries, is outside the PLD and comprises a 1.6 acre field which has no lawful use other than for agriculture. Years of low management have clearly given the site a function of the countryside.
32. The agent has provided details of an allowed appeal for a similar scheme in the Cotswolds where the applicants Barrister was the same one that represented the Secretary of State in the Braintree case.
33. Taking a step back, it also seems it would be irrational to consider that the advice in Para 80 was only intended to allow remote new dwellings miles from anywhere, but not one adjacent to the edge of an existing settlement.
34. Notwithstanding this Para 134 b) of the NPPF advises that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help to raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Impact on the character of the area

35. The design has completely changed since a preliminary enquiry was first submitted and has been through 2 Design Reviews by Design Midlands.
36. There are no specific important views into or out of the conservation area identified in the Conservation Area Appraisal that would impact on this development. Views into the village, including portions of the application site in the foreground are however possible from the footpaths to the north of the site. The house would be largely screened from traffic on Glebe Road by existing roadside hedges.
37. In terms of visual impact, the building would sit down in the landscape and whilst limited longer views would be possible from public footpaths to the north these are not views that detract from the character of the village. Visualisations have been provided and will be displayed at the meeting. The main buildings within the village and the Conservation Area would be mostly screened by trees on this edge of the village

Domestic paraphernalia

38. The exceptional quality of the proposal and the longer views into the site from the public footpath could be harmed if the location of domestic paraphernalia is not controlled. The scheme has been designed to specifically control the locations of signs of domesticity – in the courtyard and by the use of land levels and layout. These physical design measures will control the quality of the site in its wider setting but a condition to limit permitted development within the curtilage of the dwelling would be appropriate in this case.

Impact on the neighbouring properties

39. The only neighbour that would be impacted is a bungalow adjacent to the access. The impact would be limited to domestic traffic after occupation which is not deemed so injurious to amenity that it could be refused on those grounds. Similar situations appear all over the country. With construction traffic coming from the opposite direction there is no impact from that point of view, even though it is only for a limited period and rarely, if ever, forms the basis of a reason for refusal.

Heritage

40. The site is within the wider Conservation Area where there is a requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the area, in accordance with Section 72 (1) of The Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990
41. Also at the Statutory level, Sections 16 (2) and 66 (1) of The Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 require the decision maker to have special regard to the desirability of preserving listed buildings or their setting, or any features of special architectural or historic interest which they possess
42. Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the Framework. This advises that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.
43. As set out in the 2014 Morcott Conservation Area Appraisal, the defining features that contribute to its special interest and distinctive character are its compact, high density historic core, the visual harmony resulting from the use of good quality traditional materials, the understated design of the buildings and the low profile (other than the Church) and grouping of buildings
44. The proposed development site is not within the setting of any listed buildings, although there are 30 grade II listed buildings and one grade I listed building within the village. This is because the village is enclosed in terms of internal views by narrow streets and high boundary walls and there is no inter-visibility between the listed buildings and the development site. Development would not affect the way that the listed buildings are experienced within the village of Morcott, their historic or architectural heritage values or their contribution to the special interest of the conservation area.
45. The site is exposed to views from the higher ground to the north-east, where limited points on Glebe Road afford views of the site and its relationship to the village, although most views from Glebe Road are contained by hedges along the roadside. At present the most notable building in these views is the upper part of the tower and the short spire of the Grade 1 Listed Church of St. Mary the Virgin. As the 2014 Conservation Area Appraisal states: "The village is largely hidden and unobtrusive in the landscape, which results in the Church tower and its distinctive stumpy spire being the defining landmark." These views are, of course, subject to seasonal variation.
46. Views of and from the surrounding countryside are important to the setting and character of a conservation area.
47. The proposed dwelling would be of an overtly contemporary and low carbon footprint design having a low profile and 'green roof', built into the slope on the upper, south-western part of the site, the aim being to work with the landscape, rather than imposing

- on it and limit its visibility in views of the Conservation Area from outside the village, most notably from the public right of way.
48. The intention is that materials would be locally sourced as was traditionally the case with the older properties in the village. In this case the external walls will be constructed entirely of limestone, dressed ashlar for parapets and window surrounds and Clipsham cropped walling stone for other areas. A sample panel of the proposed materials has been constructed and is reproduced below.
 49. A separate garage building immediately to the north of the proposed dwelling would have a more conventional appearance (pitched roof) and would help to screen vehicles from view from the north east.
 50. Access to the site would remain as existing and, other than where buildings are to be constructed, trees and hedges are to be retained.
 51. The development site is not readily viewed from the conservation area or obvious in views of the conservation area. None of the 'important views' identified in the conservation area appraisal are within or of the development site.
 52. The on line Planning Policy Guidance and the Framework set out central Government policy in relation to the Conserving and Enhancing the Historic Environment.
 53. Paragraph 199 of the Framework states that 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
 54. Paragraph 200 goes on to require that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
 55. Policy CS22 of the adopted Core Strategy requires that all developments protect and where possible enhance historic assets and their settings, maintain local distinctiveness and the character of identified features.
 56. Policy SP20 of the Site Allocations and Policies Development Plan Document (Adopted October 2014) seeks to safeguard the character and appearance of conservation areas from development that would be harmful to their character or appearance and protect the setting of listed buildings.
 57. Officers concur with the statement in the submitted Heritage Impact Assessment that the proposed development "would not affect the way that Listed Buildings are experienced within the village, their historic or architectural heritage values or their contribution to the special interest of the Conservation Area."
 58. It is also agreed that the house design proposed would have a "minor adverse" impact equating to less than substantial harm. Although the Framework does not refer to any gradations of harm within 'less than substantial harm', it is considered that the harm in this case would be at the lower end of the scale. The harm arises from the change of character of the application site arising from the change from agricultural to domestic use and the impact this has on the setting of heritage assets, although the proposals include measures (and recommended conditions) to mitigate this harm.
 59. The proposal would preserve the compact, nucleated, development pattern of the settlement and a dwelling of the design and materials proposed would sit comfortably in

the landscape and not impose unduly on the setting of the village's listed buildings, in particular the Parish Church, which is the most prominent structure in the views across the valley.

60. In instances where it is concluded that there would be less than substantial harm to the historic environment, Para 202 of the Framework requires that harm be weighed against the public benefits of the proposal. This is a matter for the decision maker to come to a judgement on having regard to all the relevant issues.

61. There would be short term public benefits in construction and materials being sourced locally. The building would also be a continuing source of interest and exemplar in architecture as it is clearly a very high quality design, reflecting the highest standards in architecture as set out in Para 80(e) and 134 of the Framework, helping raise the standards of architecture in rural areas.

62. The applicant cites an appeal decision in their supporting statement that includes the following paragraph (now also bearing in mind the supply of housing land issue):

The proposed dwelling would contribute, albeit modestly, to the Council's significant shortfall in housing provision and would create economic benefits through the creation of local construction jobs, an increase in Council Tax revenue and New Homes Bonus. Furthermore, it would provide a high quality dwelling which would respect and reflect the local vernacular and protect the natural and built environment. Although such benefits are modest, they should be afforded due weight in this case. As a result, based on the evidence before me, I find that there would be no significant harm resulting from the scheme which would outweigh the benefits.

63. Officers consider that the current scheme could also be attributed similar comments.

64. The policy of rural dwellings was introduced in the late 1990's to allow the continued tradition of the 'English country house'. It is not easy to define how any such dwelling would enhance its surroundings where there were no previous buildings on a site.

65. This scheme would represent a significant increase in biodiversity, see Ecology comments below, together with the proposed construction method to allow biodiversity within the fabric of the building itself. The use of the landform and new landscape proposals will enhance the appearance of the site albeit introducing a more formal landscape, which is what many original country houses did.

66. It is proposed that the whole external wall elements will be constructed entirely from stone. Dressed Clipsham Cream Ashlar will be used to finish the parapet and window surrounds and Clipsham Cropped Walling Stone will be used for the infill areas. These infill pieces will be brick-like in size and proportion but with a pronounced horizontal aspect to ensure a low and elegant built form in harmony with the landscape strategy. The coursing will be dry laid and random gaps will permit sedums and other micro flora and fauna to begin occupation in a bid to increase the immediate biodiversity footprint. This would constitute an innovative form of development and contribute to enhancing the immediate setting.



Material sample panel by Stamford Stone

67. The Applicant has suggested conditions to be imposed if planning permission is granted, and these should include the removal of permitted development rights, not only for extensions to the dwelling, annexe and garage but also additional openings and freestanding garden structures, walls and fences and surfacing of external areas, so that their impact of any of these works on the sensitive surroundings can be assessed through a planning application.
68. The applicant has also suggested a planning condition to require the building to be available for public inspection for educational purposes such that the new house should act as an educational resource to raise the standards of design in rural areas and could include the use of the house as a working case study for university architecture students, in order to ensure that the house helps to raise standards of design in rural areas as required by Para 80.
69. Overall, the dwelling is considered to meet the requirements of Para 80 of the Framework. Whilst it has (minor) 'less than substantial harm' to the character and appearance of the conservation area, these impacts are offset by the public benefits of biodiversity gains, raising the standards of architecture in rural areas and benefits to the local economy.
70. Also outweighing the less than substantial impact is the lack of a 5 year housing land supply such that policies CS4 and SP6 in particular are out of date and cannot be used as a reason for refusal of this scheme.

Highway Issues

71. There have been local concerns raised about the access to the site by construction traffic and the implications of that traffic on personal safety and disturbance to property and amenities.

72. The applicant has engaged with a local landowner and has reached agreement for construction traffic to be routed from the north via Glebe Road to the north. This temporary measure will use in part an existing agricultural track. The applicant stated that the new routing will take traffic out of the village to avoid potential difficulties on Church Lane, however, it would need to transverse the village from the A47 along Willoughby Road.
73. The application was supported by an initial Construction Transport Management Plan. This plan has been supported by Highways. As part of their response Highways requested additional information to be included within the Traffic Management Plan relating to staff parking, material storage, managed access by HGVs, and condition assessment of the highway.
74. Objectors point to the fact that Willoughby Road is narrow, but it is preferable to Church Lane where there were concerns about damage to property and the church wall. Its use would only be for a relatively short time during construction. Many objections were made at the time when Willoughby Road was subject to the one way system for the recycling centre at North Luffenham.

Drainage

75. A key element of the landscape strategy is to create an enhanced meadow habitat that runs across the majority of the site. Species mix and diversity of the meadow will respond to the various localised conditions. This area will be sown with a wet meadow and pond edge meadow mix contain a variety of marginal and wetland species which are suited to periods of waterlogging.
76. Excess water will then discharge to the watercourse to the north of the site.

Ecology

77. The submitted application included a Biodiversity Net Gain assessment in accordance with the DEFRA Biodiversity Metric 2.0 (Green Environmental Consultancy – Nov 2019). The Habitat Units Delivered (HUD) under the new scheme are 3.70 (2.66 habitat creation plus the 1.04 units retained). This results in an overall Habitat Unit Change of +1.36, or a 57.94% change. For hedgerows, the baseline is 0.68 (made up of 0.40 units retained and 0.29 units enhanced with none lost). The Hedgerow Units Delivered are 0.99 equating to a net gain of +0.31. This equates to a 44.91% change.
78. Other categories that the calculator shows is that 100% of the land lost is allocated to the low distinctiveness band; in other words, habitat of low ecological value. It also shows that there is an overall loss of grassland habitat but this is within the low distinctiveness band whilst the replacement might be smaller by area but is of higher distinctiveness or value and so the unit score is higher.
79. The Ecology officer has requested that, in addition to the bat and bird friendly features proposed within the submission, three swift nest boxes be installed at the site to provide additional nest sites for this species and to help achieve the aims of the Biodiversity Action Plan. A revised plan is submitted as part of this response showing proposed location of the nest boxes to be provided, avoiding the need for a pre-commencement condition.

Crime and Disorder

80. It is considered that the proposal would not result in any significant crime and disorder implications.

Human Rights Implications

81. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation.
82. It is considered that no relevant Article of that act will be breached.

Consultations

RCC Highways

83. No objection to the revised construction access subject to a revised Construction Management Plan.

Ecology

84. This application has been accompanied by a Preliminary Ecological Appraisal (Green Environmental Consultants, September 2019). This indicates that the site currently comprises species-poor grassland, bounded by hedgerows and a watercourse. No evidence of protected species were found on site, but the site was considered to have potential to support grass snakes. We are therefore in agreement with the recommendations in the report and these should be followed.
85. A Biodiversity Net Gain report (Green Environmental Consultants, November 2019) has also been submitted in support of the application. This demonstrates that net gain will be achieved as a result of the development. We are happy to accept the findings of this report as we have no objections to the development provided that the proposed landscaping is as described, but we would usually expect to see calculations submitted in support of any net gain reports. We welcome the detail of the Phase 1 Survey which is required to calculate net gain. The meadow and wetland planting should use locally native species in order to be of the greatest benefit to biodiversity.
86. We welcome the inclusion of bat and bird friendly features as discussed within section 4 of the Design and Access Statement. However, it should be noted that it would be quite remarkable to attract the bat species *Tomopeas rarus* as it is a species endemic to Peru! Whilst not critical to the determination of the application, it would be more appropriate to use a species such as the common pipistrelle *Pipistrellus pipistrellus* in its place.
87. The application site falls within a 'Swift Alert Area' as there are recent records for breeding swifts close to the site. Swifts are a local Biodiversity Action Plan (BAP) species. This development provides the opportunity to install some swift nest boxes to provide additional nest sites for this species and to help achieve the aims of the BAP. I would therefore recommend that 3 swift nest boxes are installed on a suitable elevation of the building in accordance with the Swift Advice Note found at <https://www.leicestershire.gov.uk/environment-andplanning/planning/leicestershire-and-rutland-environment-records-centre-lrerc>.

Archaeology

88. The Leicestershire and Rutland Historic Environment Record (HER) notes that the application area is located immediately adjacent to the historic medieval and post medieval settlement core of Morcott village (MLE16884) and is likely to have formed part of an agricultural landscape during the medieval and post-medieval periods. The proximity of the site to the watercourse to the north indicates that site has potential for the presence of occupation and settlement activity relating to earlier periods; however

very little archaeological investigation has been undertaken in the vicinity of the site and the archaeological potential of the area is not fully understood.

89. The development proposals include works (e.g. foundations, services and landscaping) likely to impact upon any archaeological remains present. In consequence, the local planning authority should require the developer to record and advance the understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance (NPPF Section 16, paragraph 199).
90. In accordance with National Planning Policy Framework (NPPF), Section 16, paragraph 190, assessment of the submitted development details and particular archaeological interest of the site, has indicated that the proposals are likely to have a detrimental impact upon any heritage assets present. NPPF paragraph 199, states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.
91. In that context it is recommended that the current application is approved subject to conditions for an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording. The Historic & Natural Environment Team (HNET) will provide a formal Brief for the latter work at the applicant's request.
92. If planning permission is granted the applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above mentioned Brief, with this Department's 'Guidelines and Procedures for Archaeological Work in Leicestershire and Rutland' and with relevant Institute for Archaeologists 'Standards' and 'Code of Practice'. It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.
93. We therefore recommend that any planning permission be granted subject to the following planning conditions (informed by paragraph 37 of Historic England's Managing Significance in Decision-Taking in the Historic Environment GPA 2), to safeguard any important archaeological remains potentially present:
 - No demolition/development shall take place/commence until a staged programme of archaeological work, commencing with an initial phase of trial trenching has been undertaken. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and
 - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works ' The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason: To ensure satisfactory archaeological investigation, recording, dissemination and archiving The Written Scheme of Investigation (WSI) must be

prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

Further Comments on revised Construction access

94. The newly proposed storage area is located on an area of preserved ridge and furrow earthworks.
95. If this storage area will impact on the ridge and furrow (e.g. flatten it), it may be that an archaeological earthwork survey of the R&F would be needed, but this can be included in the previously suggest condition.

Morcott Parish Council

96. Proposed by Cllr Traylen, seconded by Cllr Giles and unanimously agreed that this application be recommended for REFUSAL on the following grounds:

The proposed development does not comply with the provisions or spirit of Para 79, NPPF and is contrary to many other planning policies:

1. It is within Morcott's Conservation Area. It does not comply with the provisions of the Conservation Area;
 2. It is outside of the Planned Limits of Development as defined in the Local Plan; Contrary to Para 79 it is in close proximity to other properties and is not isolated in open Countryside;
 3. It is not "sensitive to the defining characteristics of the local area" as defined in Para 79;
 4. It will interfere with the landscape and natural drainage patterns. It will affect rainwater & groundwater drainage courses and will force the water to divert around it - as has already happened with the development at 13 Church Lane;
 5. The proposed biodiversity programme, whilst a welcome benefit, "would not be sufficient to outweigh harm to the rural character and appearance of the countryside" arising from the introduction of a dwelling and a domestic garden into what is now essentially an agricultural landscape;
 6. A large number of residents of Morcott have raised objections to the development. This should be noted and acted on by RCC Planning.
97. Morcott Parish Council has carried out a research on similar planning applications relating to Para: 79. There are specific examples where planning consent has been refused as the development was not considered to comply with the spirit of Para 79 of the NPPF. RCC should note that applications such as this one which state that they comply with Para 79, whilst at the same time stretching the boundaries of Para 79 to suit their requirements, should be judged as not compliant and be refused on this basis.

Further Comments

98. Morcott Parish Council wishes to make further objections to the above planning application. The points which were raised previously on the initial application still applies and should be considered along with the following new points which relate largely to the revised site traffic management arrangements which have recently been submitted by the applicant's agents. We are relieved to see from the traffic management report of 27th August 2020 that it has been accepted that access to the site via Pingle Lane is not a viable option.

99. The new access proposed across farmland to the north of the site is however equally flawed for the following reasons:
1. The Traffic Management Report conveniently omits that traffic will have to travel down Willoughby Road on its way from the A47 to Glebe Road. Willoughby Road is a narrow (single track +) residential road in the middle of the village. It is already overburdened by traffic from the civic amenity site and this situation will only get worse when Rutland's plans to close permanently the Cottesmore amenity site are implemented. Commercial and agricultural traffic meeting on this road cannot pass without mounting the curb or roadside banks and damage frequently occurs. The new statement from Rural Solutions states that "the new routing will take traffic out of the village completely". This disingenuous suggestion could not be further from the truth. Willoughby road is very much a part of the village and, after the High Street, has the greatest number of houses of any street in the village.
 2. RCC has clearly acknowledged that there is a problem with the access to the Civic Amenity site with regards to traffic density, capacity and passing by implementing a one-way system in Willoughby Road. The new plans for the CA site and restoration of two-way traffic mean that building site traffic for 2020/0059FUL will pass in the opposite direction to much of the traffic from the amenity site. Taken together these two planning applications, if granted, will place an intolerable and potentially unsafe traffic loading on to Glebe Road and Willoughby Road.
 3. The proposed access from the A47 passes through a tight "pinch point" in Morcott High Street between the Cockpit and the south end of Willoughby Road. This point is bounded by two high stones walls and is barely wide enough to allow two cars to pass. The proposed increase in large, heavy, traffic resulting from this application would put a loading beyond its current capacity on the Cockpit/High Street/Willoughby Road junction (including pinch point) from the high frequency of large vehicle movements over the three-four years required to move the thousands of tonnes of building materials required.
 4. At the junction of Willoughby Road and Glebe Road there is a small bridge over the river. The capacity for this bridge to support the increased volume and weight of traffic passing over it must be inadequate for the purposes required by this application.
 5. The proposed access road from Glebe Road (opposite Springfield Farmhouse) is shown as running down to the river where a very large storage area is planned for building materials and, no doubt earth moving & other heavy equipment. This area is within the natural flood plain of the river and is prone to periodic flooding. It becomes very wet and marshy for an extended period during the winter. The plans show that footpath E286 has been diverted to the west of the storage area. Anyone living locally will know that the proposed course of the diversion will mean that the path will pass through an area where there is often standing water up to knee height. The Rutland Local History and Record Society comment for this application of 23rd March 2020 states that "this watercourse can rise significantly". It is evident that the area proposed in the application is entirely inappropriate to be used as a storage area over the three-four year period which will be required.
 6. Footpath E286 lies to the west of the proposed access road and there is provision for a fence to protect the public from construction traffic. What is not mentioned in these new proposals is that Footpath E284 to South Luffenham runs from E286 directly across the access road. This is not recognised in the proposal and no arrangement is in place to accommodate this or to protect users of E284 from the dangers of the heavy machinery using the road.

7. The topography of the field through which the proposed access road runs is hostile to the proposal. The northern part of the road is relatively flat but close to the river the field slopes very steeply and I very much doubt that any heavily laden commercial vehicle would safely be able to reach the storage area, let alone climb out of the valley. The only way to make this possible would be to excavate a long cutting to reduce the gradient, creating a massive scar on the field. This has not been recognised in the proposals.
8. The issue of pollution of the field and watercourse has also not been addressed adequately in the proposals. The materials stored will be a combination of inert and activated chemicals in both solid and liquid form. These will also include hydrocarbons - diesel and other inflammable fuels. There are no defined hazards, nor defined management processes for these included in the proposals. Consequently, the proposals do not include a risk register for managing what would be a calculated set of risks. This must be unacceptable, and the application should not be approved without these. The Environment Agency should be consulted once these documents have been completed as it may not have the appetite for the risks posed if the proposals were to go ahead.
9. No mention is made in these revised proposals of how the heavy materials and equipment are to be transported to and fro across the brook. Could this be over a bridge yet to be constructed? Again, the topography of the field means that a massive construction would be required to support the weight to be moved, of the order of thousands of tonnes. I would expect the opinion of the Environment Agency at the least should be sought before the application is considered. The River, at the proposed point of crossing, runs in a deep gully and any crossing for very heavy equipment and large volumes of spoil will need a very significant bridge structure.
10. The field adjacent to the brook, through which the proposed road will run, has a number of mounds suggestive of earthworks. There is evidence of ancient ridge and furrow agriculture in the field. The conclusion to be drawn is that this area is part of an ancient settlement and no work should commence on the field without at least seeking advice on the need for a comprehensive archaeological assessment.
100. The above points all provide evidence that the proposal to build an access road from the north side of the site, combined with the storage site within the river flood plain is dangerous & damaging to the local environment. The proposals should not be approved.
101. For all the reasons above, together with other objections submitted previously, on behalf of the residents of Morcott we strongly recommend that this planning application be refused.

Submitted by the Clerk of Morcott Parish Council. 24th September 2020.

Rutland Local History and Record Society

102. I write on behalf of the Society to make the following comments with regards to the proposed construction of 1 new dwelling in Morcott. We feel that the other correspondents clearly state in their objections the setting, style and materials issue and have nothing further to add to these.
103. As a Society we are pleased that the applicant has provided a Heritage Statement about the archaeology and heritage in the area. There is a problem with Morcott Parish with historical evidence as many of the Tithe and other cartographic and documentary sources are missing from the archives, so what can be gleaned gives a basic and somewhat biased interpretation.

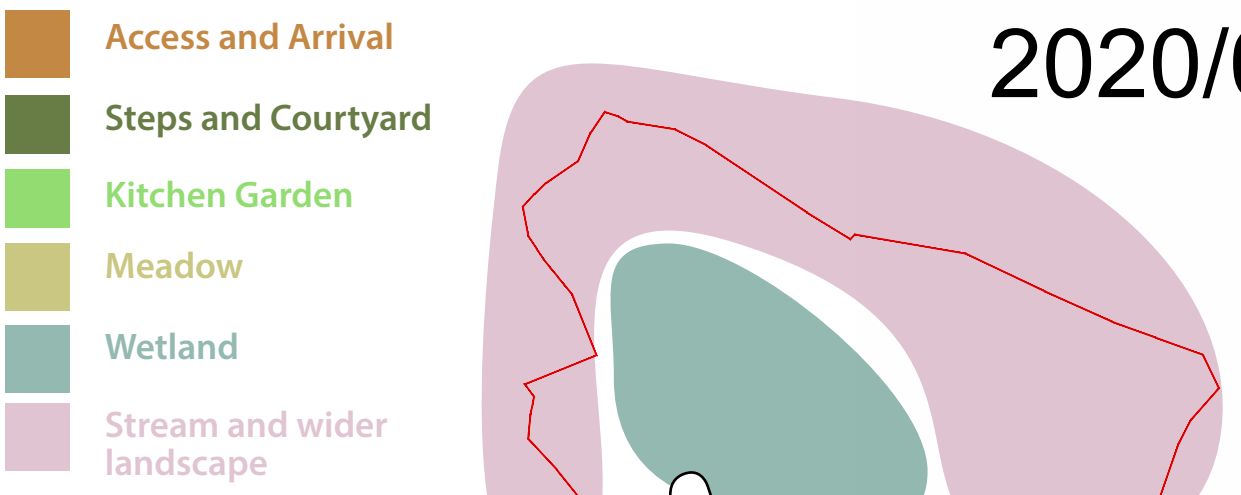
104. We are in total agreement with the Historic Environment Record statement that an archaeological written scheme of investigation should be made. We know from our own research that areas that have been pasture for the past 100 years, are in fact rich in archaeological material in Rutland.
105. As far as the proximity to the watercourse we know from evidence of previous historical geological studies that this watercourse can rise significantly, hence the siting of the historic core of the village away from the "stream" bed, and this should be taken into account.

Neighbour Representations

106. There have been 73 neighbour representations, some of which include more than one letter from the same people. These objections are summarised as follows:
 - Outside PLD
 - Does not satisfy Para 80
 - Speculative
 - Site is not 'isolated'
 - Design is subjective
 - Highly modernist – does not fit in with other properties.
 - Does not preserve or enhance the character and appearance of the Conservation Area.
 - Precedent for others
 - Access difficulties for construction (inc original one-way system proposed on Church Lane)
 - Willoughby Road also impractical for construction
 - Significant levels change across the site
 - Risk to churchyard wall from construction traffic
 - Impact on bungalow adj the access drive
 - Impact on wildlife
 - High water table in the village
 - Impact on ridge and furrow for the construction compound

Conclusion

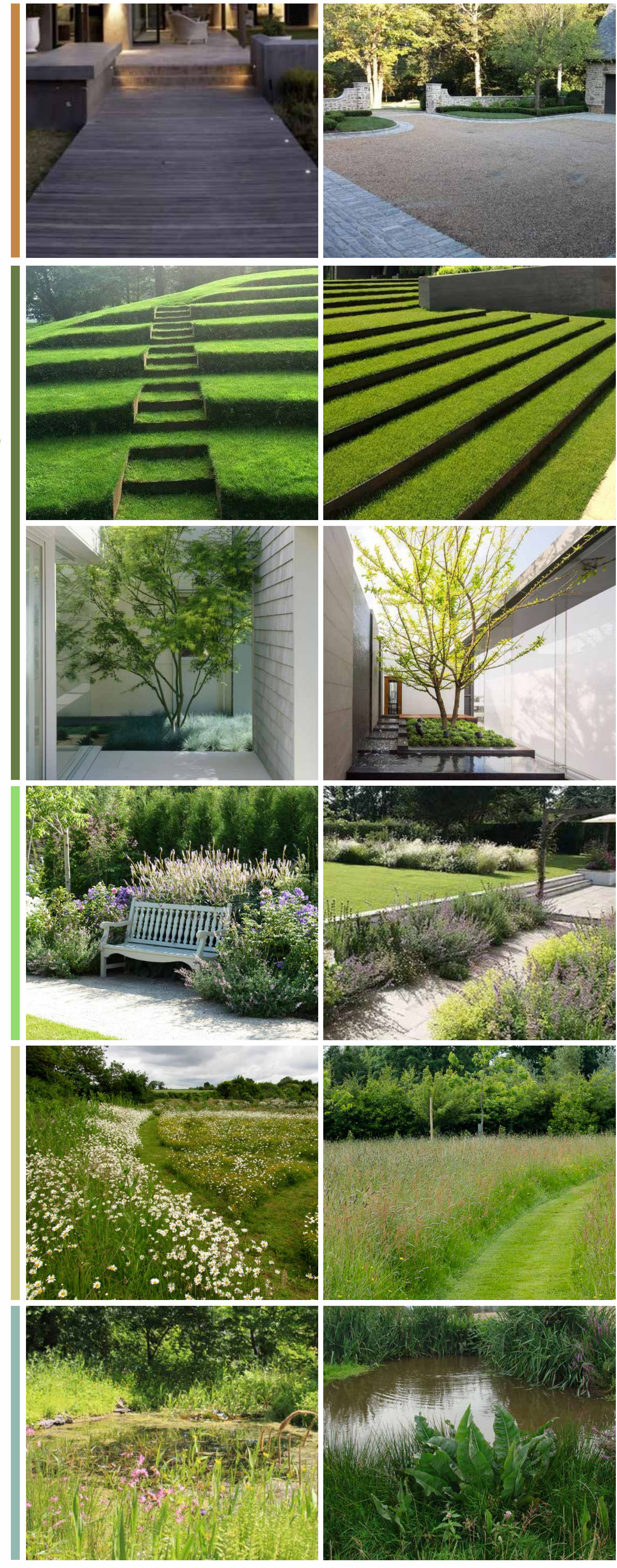
107. The scheme is submitted under Para 80(e) of the Framework as an exemplar country house. The design has been through 2 Design Reviews and has evolved to a scheme which is acceptable. Ecological gains would be made, there would be minimal impact on any interests during construction and other public benefits would be achieved.
108. In view of the lack of a 5 year housing land supply, the locational policies of the current Local Plan are out of date (Framework Para 11(d)) and the fact that the site is outside the PLD is no longer a sustainable reason for refusal, this takes some of the importance off the Para 80 issues as Morcott is deemed a sustainable settlement for low key development in any event. Notwithstanding the fact that it can be argued whether the site is isolated or not the proposed development is considered to comply with the requirements of Para 134 of the NPPF which gives significant weight to schemes of outstanding or innovative design such as this.



- KEY**
- APPLICATION BOUNDARY
 - HARD LANDSCAPE**
 - ACCESS DRIVE AND PARKING
Buff coloured, locally sourced loose gravel to access drive and parking area
 - PROPOSED PAVING TO PRIMARY PATHS AND COURTYARD
Natural stone paving - various unit sizes as surfacing to main access paths to dwelling and to courtyard
 - PROPOSED GRAVEL SURFACING TO SECONDARY PATHS
Loose pea gravel to garden paths with timber edging
 - PROPOSED STEPS
Proposed steps to match proposed paving
 - PROPOSED WALL
Natural stone walling - locally sourced
 - PROPOSED GATES
New vehicular gates to parking area and forecourt.
 - SOFT LANDSCAPE**
 - EXISTING TREES
To be retained
 - EXISTING TREES TO BE REMOVED
To be removed
 - PROPOSED TREES
Tree planting to wider landscape to be native rural species to include but not limited to, Salix alba, Sorbus aucuparia, Salix caprea, Corylus avellana. Proposed trees within kitchen garden and closer to the house to be smaller ornamental species Prunus x subhirtella 'Autumnalis', Malus sylvestris or similar
 - PROPOSED WILDFLOWER MEADOW AREAS
Wildflower meadow seed mix with management regime to establish and maintain new swathes of meadow and wildflower. Wildflower meadow treatment to continue onto the roof of the dwelling.
 - EXISTING VEGETATION
Existing vegetation to boundaries of the site to be managed to retain a well screened and mature setting to the dwelling. Any gaps to be filled with new planting to match existing.
 - PROPOSED PLANTING
Proposed areas of mixed herbaceous and shrubby planting to immediate garden areas adjacent to the dwelling. Kitchen garden to include areas for veg and annuals.
 - PROPOSED LAWN
Small areas of lawn to the Kitchen Garden
 - PROPOSED POND AND WETLAND PLANTING
Proposed pond to encourage wildlife. Plug planting to marginal areas. Species to include but not limited to Caltha palustris, Myosotis scorpioides, Veronica beccabunga, Meniha aquatica. Wet meadow seed mix to be sown to all areas to feather into dry soils on the slope.
 - PROPOSED MOWN PATHS
Mown path through meadow area during spring and summer months

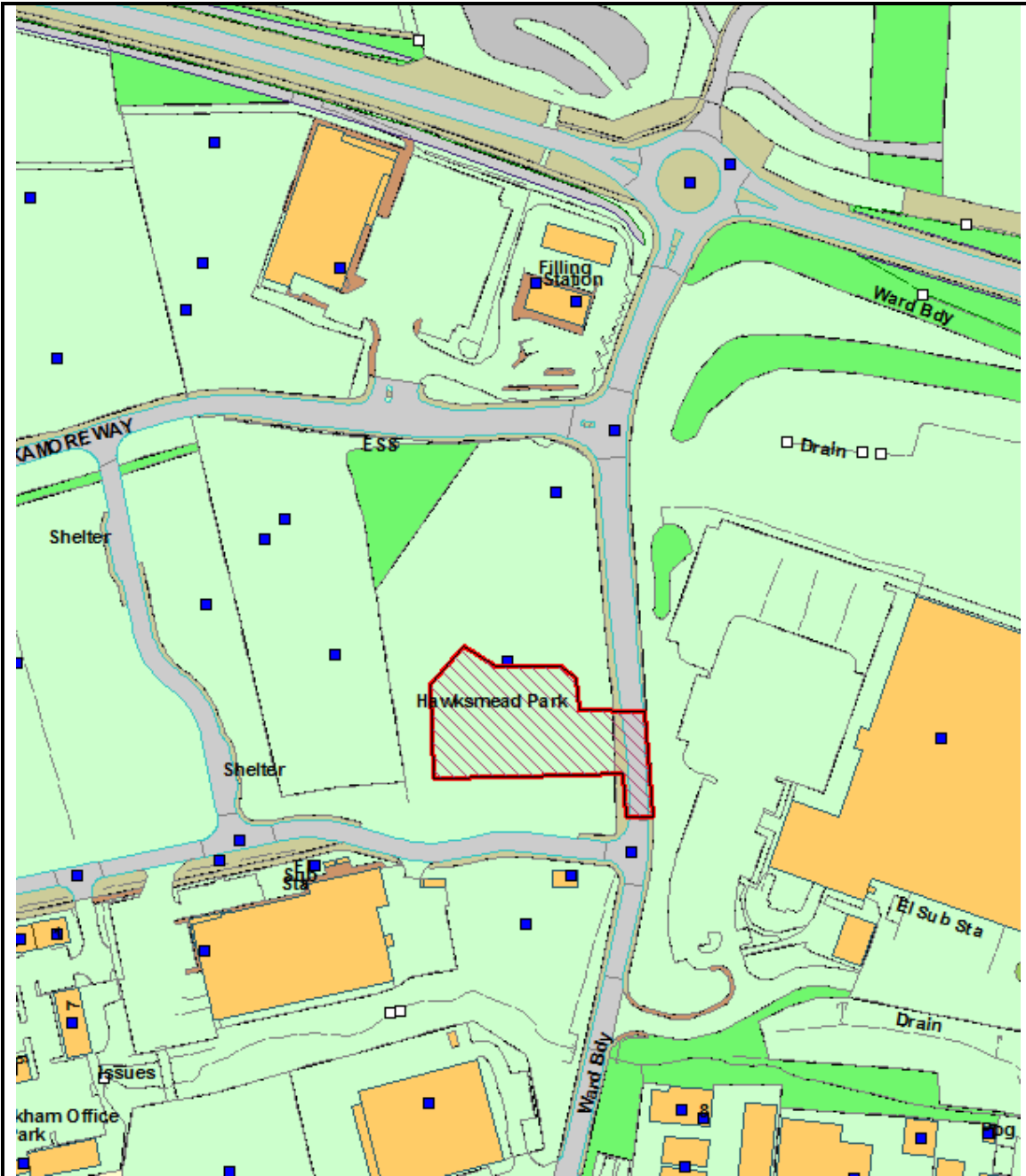


- KEY FEATURES**
1. EXISTING STREAM
 2. PROPOSED WETLAND
 3. WILDFLOWER MEADOW
 4. KITCHEN GARDEN
 5. ARRIVAL AREA AND GARAGE
 6. COURTYARD
 7. STEPPED PLANTING
 8. NEW TREE PLANTING
 9. WILDFLOWER MEADOW ROOFSCAPE



REV B - 19.12.2019
Layout and red line boundary updated
REV A - 15.10.2019
Layout and red line boundary updated

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Ordnance Survey [100018056]



Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2021/0091/FUL	ITEM 2	
Proposal:	Application for coffee shop with drive thru facility and ancillary works.		
Address:	Development on Land at Hawksmead Business Park Lands End Way, Oakham		
Applicant:	Muffty Developments Ltd	Parish	Oakham
Agent:	Mr E Hall, TDH Estates Ltd	Ward	Barleythorpe
Reason for presenting to Committee:	Departure from the Adopted Local Plan		
Date of Committee:	23 November 2021		
Determination Date:	19 April 2021		
Agreed Extension of Time Date:	26 November 2021		

EXECUTIVE SUMMARY

The application proposes the construction of a freestanding restaurant with drive-thru facility, car parking, landscaping and associated works, including Customer Order Display (COD).

The proposed development would be sited on land allocated for employment uses.

The proposed development is considered acceptable. It would not have an adverse impact on neighbouring residential amenities and/or the character of the surrounding area. This application is being reported to the Committee as the proposed development would be contrary to Adopted Local Plan Policies and represent a Departure from the Adopted Local Plan, however the proposals would provide an employment generating use on the site.

Off Street car parking would comply with the Councils adopted standards.

RECOMMENDATION

APPROVAL, subject to the signing of an Unilateral Undertaking and the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 1964-P-10 Location Plan, 1964-P-11 Block Plan Existing, 1964-P-12 Site Plan Existing, 1964-P-13S Site Plan Proposed, 1964-P-14B Block Plan Proposed, 1964-P-15E Proposed Floor Roof Plans Elevations Section AA, 1964-P-16 Proposed External Details, 1964-P17 Container Plan, 1964-P-18A Cycle Shelter Details, The Travel Plan Technical Report 53000/4 Dated January 2021, Ecological Constraints Assessment, BMD, July 2021, Letter from SHARPS REDMORE Acoustic Consultants dated 12 August 2021 Project No 2120230 'Acoustic fencing -Advice on Specification', Environmental Noise Assessment Report, SHARPS REDMORE, dated 30 September 2021, Delivery Management Plan Technical Report 53000/5 August 2021 Mark Baker Consulting Limited, The Badger Survey Report (Bradley Murphy Design Ltd, December 2020), The Ecological Constraints Assessment report (BMD, July 2021), PP-D-2000067-2 Twin Charger Dual User Guide and Mount Guard Data Sheet, Sustainable Drainage Assessment, Operation and Maintenance Plan dated September 2021, Construction

Management Plan -Costa Coffee Drive Thru, Oakham, Revision B
Reason - For the avoidance of doubt and in the interests of proper planning.

3. **External Materials**

No development above foundation level, comprising the walls and roof of the development hereby approved shall take place until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - To ensure that the materials are compatible with the surroundings in the interests of visual amenity.

4. **External Materials**

No development comprising the walls of the development hereby approved above damp proof level shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:

- A sample panel of the stone work proposed;
- Details of stone slips and corners
- A description of the joints proposed;
- Details of the mortar mix, profile and finish;

The relevant works shall be carried out in accordance with the approved details

Reason - To ensure that the materials of an acceptable quality appropriate to the area

5. **No unbound material**

No unbound material shall be used in the surface treatment of the vehicular access within 5 metres of the highway boundary, but the construction details used must be porous.

Reason - To avoid displacement of loose material onto the highway in the interests of highway safety and to ensure that drainage is sustainable.

6. **Parking**

The development shall not be used until such time as the vehicle parking area, cycle stands and canopy and EV charging points indicated on the approved plans, including any parking spaces for the mobility impaired, have been provided, hard surfaced, sealed and marked out in parking bays. The vehicle parking area and cycle stands shall be retained in this form at all times. The vehicle parking and cycle stands shall not be used for any purpose other than the parking of vehicles and cycles that are related to the use of the development and shall be maintained available at all times.

Reason - To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.

7. **Delivery**

Delivery operations and parking of associated vehicles making deliveries shall be carried out fully in accordance with the Delivery Management Plan, Technical Report 53000/5 August 2021 Mark Baker Consulting Limited

Reason - For the avoidance of doubt and in the interest of highway safety.

8. **Lighting**

For the avoidance of doubt the external lighting scheme in the 'External Lighting Statement' Dated August 2021 Ref 1964-P-ELS and Drawing 'External Lighting' No P186-609-L-R2 shall not exceed the limitations set out in Table 2 (pa Environmental Zone E3 'Urban' in 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011' as prescribed by the Institute of Lighting Professionals Guidance

Reason: In the interests of amenity and reduce the impact of night time illumination on the character of the area.

9. **Southern Boundary Treatment**
Notwithstanding the approved drawings details and design of a stepped boundary stone faced wall shall be submitted to and approved, in writing, by the Local Planning Authority. The boundary wall shall be implemented as agreed and completed prior to the first use of the development. The stone clad wall shall be stepped reducing in height to mirror the topography of the site from West to east and shall be 2m high at the western end and 1.2m high at the eastern end. The development shall be carried out in accordance with the approved details and retained thereafter
Reason: in the interests of amenity of the surrounding area.
10. **Western Boundary Treatment**
In accordance with the letter from SHARPS REDMORE Acoustic Consultants dated 12 August 2021 Project No 2120230 'Acoustic fencing –Advice on Specification' and 1964-P-13 Rev S Site Plan a 2m high timber acoustic screen fence shall be erected long the full length of the rear western boundary of the site.
Reason: in the interests of amenity and avoid an unacceptable level of noise pollution to the surrounding area.
11. **Fixed plant and machinery**
In accordance with the recommendation of the Acoustic Report prepared by SHARPS REDMORE dated 30th September 2021, Project No 2120230 no fixed plant and/or machinery shall come into operation until details of the fixed plant and machinery serving the development hereby permitted, and any mitigation measures to achieve this condition, are submitted to and approved in writing by the local planning authority. The rating level of the sound emitted from the site shall not exceed 44 dBA between 0700 and 2300 hours and 37 dBA between 0500 and 0700. The sound levels shall be determined by measurement or calculation at the nearest residential premises. The measurements and assessment shall be made according to BS 4142:2014.
Reason; In the interests of amenity and avoid an unacceptable level of noise pollution
12. **Opening and Deliveries hours of operation**
In accordance with the recommendation of the Acoustic Report prepared by SHARPS REDMORE dated 30th September 2021, Project No 2120230 the hours of operation of the coffee shop and drive thru and any future use of the building hereby approved shall be limited to between the hours of 05.00 and 23.00
Reason - In the interests of amenity and avoid an unacceptable level of noise pollution to the surrounding area.
13. **Timber Fence**
For the avoidance of doubt the boundary fence fronting Lands End Way shall be a 1.1 metre high post and rail timber fence.
Reason - In the interests of amenity and character of the area.
14. **Ecology**
The mitigation measures set out in chapter 5 'Mitigation' of the 'Ecological Constraints Assessment, BMD, July 2021' shall be adopted in full and the proposed enhancement works set out in chapter 6 'Enhancements' shall be incorporated into the proposed landscaping scheme for the site.
Reason - Local Planning Authorities are required to promote and encourage opportunities to incorporate biodiversity improvements in and around developments, as set out in paragraph 179 and 180 of the National Planning Policy Framework (2021).
15. **Landscaping**
Before any development above damp proof course level, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority, which shall include any proposed changes in ground levels

and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in Relation to Construction." Reason - To ensure that the landscaping is designed in a manner appropriate to the locality and to enhance the appearance of the development.

16. **Ground Levels**

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

Reason - To ensure that the landscaping is carried out at the appropriate time and is properly maintained.

17. **Hard surfacing below Trees**

Hard surfacing beneath the canopy of any tree shall be designed to minimise ground compaction in accordance with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in Relation to Construction." Such areas will require the use of geo-textile membranes coupled with no excavation and minimal alterations in ground level.

Reason - To minimise disturbance to and help to ensure the satisfactory retention of the trees.

18. **Replacement trees**

Any trees dying, being removed or being seriously damaged as a result of the failure to comply with the landscaping scheme above shall be replaced in the next planting season (October - March inclusive) with others of similar size and species.

Reason - To enable existing landscaping to be protected and retained in the interests of visual amenity.

19. **Landscape management plan**

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved, in writing, by the local planning authority prior to the first use of the development. The landscape management plan shall be carried out as approved in accordance with the details and timescales in the plan.

Reason - To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

20. **Litter Plan**

The development shall not be used until a Litter Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of regular litter picking within and around the site. The approved plan shall be implemented in perpetuity thereafter

Reason - In the interests of the visual amenities of the locality and to protect the amenities of the surrounding area.

21. **Archaeological Investigation**

No demolition/development shall take place/commence until a staged programme of archaeological work, commencing with an initial phase of trial trenching has been undertaken. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no

demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason - To ensure satisfactory archaeological investigation, recording, dissemination and archiving

22. **Temporary Access**

Prior to commencement of development within the site, the temporary access will be formed and completed to basecourse level including providing a safe and level route for passing pedestrians and cyclists.

Reason - In the interest of highway safety.

23. **Off-site Highway Works**

The scheme of off-site highway works including a right turn lane, repositioning of a pedestrian crossing point and provision of a pedestrian crossing point over the new access, as shown on the approved layout plans will be implemented in full prior to first operation.

Reason - In the interest of highway safety.

24. **Off-site Haul Routes**

Prior to completion of the full extent of the off-site highway works, all vehicles associated with construction of this site will enter and leave the site from and to the A606 making a left-turn only movement, with all approaching vehicles travelling via Hackamore Way, Bosal Way and Maresfield Way.

Reason - In the interest of highway safety.

25. **Lighting affecting the highway**

Prior to the first use of any external lighting / floodlighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare.

Reason - To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety.

26. **Tree Root Protection**

Any new trees located within 5m of the public highway must be planted with root-protection, details of which must be approved in writing by the Local Planning Authority.

Reason - In the interests of highway safety.

27. **Surface Water Drainage**

All vehicular and pedestrian accesses will be designed to prevent the discharge of surface water from the development onto the public highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

28. **Construction Management Plan Condition (compliance)**
 The development shall be carried out in accordance with the approved Construction Management Plan 'Construction Management Plan – Costa Coffee Drive Thru, Oakham Revision B' received 30 September 2021.
 Reason - In the interests of residential amenity and highway safety.
29. **Temporary Facilities**
 Temporary facilities shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the construction period.
 Reason - In the interests of highway safety.
30. **Wheel wash**
 Development shall not commence until a fully operational jetted drive-thru bath type wheel cleaning apparatus has been installed within the site at the exit and the area between this and the public highway is hard surfaced in either concrete or tarmac and maintained free of mud, slurry and any other form of contamination whilst in use. All vehicles leaving the site shall pass through the wheel cleaning apparatus which shall be sited to ensure that vehicles are able to leave the site and enter the public highway in a clean condition and free of debris which could fall onto the public highway. The wheel cleaning apparatus shall be retained on site in full working order for the duration of the development. In the event the wheel wash unit becomes ineffective all vehicles will cease leaving the site until the wheel wash unit is fully working and the contractor will arrange a street cleanse of the affected streets.
 Reason - In the interest of highway safety.
31. **Sustainable drainage**
 The sustainable drainage scheme for this site shall be completed in accordance with the details set out in the Sustainable Drainage Assessment, Operation and Maintenance Plan dated September 2021 and thereafter managed and maintained in accordance with the Sustainable Drainage Assessment, Operation and Maintenance Plan dated September 2021.
 Reason - To ensure that the principles of sustainable drainage are incorporated into this proposal and maintained thereafter.
32. **Hours of Use**
 The premises shall not be open to customers outside the following hours 23.00hrs until 05.00am
 Reason - In the interests of amenity and because information has not been submitted to demonstrate that use could operate outside these hours without having an adverse impact on the amenities of the surrounding area.
33. **Hours of Delivery**
 No deliveries shall be received or dispatched from the site outside the hours of 23.00hrs until 05.00am.
 Reason: In the interests of amenity and because information has not been submitted to demonstrate that use could operate outside these hours without having an adverse impact on the amenities of the surrounding area
34. **Contamination**
 If during development contamination is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.
 Reason - For the Avoidance of doubt and because no details have been submitted to show that the site is not contaminated.

INFORMATIVES

1. **Street Naming & Numbering - Section 17 - 18 Public Health Act 1925**

The development will result in the creation of new street(s) and/or new dwelling(s) and/or allocate appropriate street names and property numbers. This procedure is applicable to the sub-division of premises, which will provide multiple occupancy for both residential and commercial buildings. Before development is commenced an application should be made, allowing 8 weeks to complete. Details are available on our website at the following link:- <https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/street-name-and-numbering/>
Should you require assistance please email snn@rutland.gov.uk. Please note this is not a function covered by your planning application but is a statutory obligation of the Local Authority, and must be dealt with as a separate matter following planning approval.

2. **Utility Services - Section 50 NRSWA 1991**

The development is likely to involve works within the public highway in order to provide services to the site or which will affect existing services. Such works must be licenced under the New Roads and Street Works Act 1991. It is essential that, prior to the commencement of such works, adequate time be allowed in the development programme for; the issue of the appropriate licence, approval of temporary traffic management and booking of road space. Further details can be obtained from our website and any queries can be emailed to highways@rutland.gov.uk.

3. **Off-site Highway Works – Section 278 Highways Act 1980**

The development involves extensive works within the public highway. Such works must be the subject of a legal agreement under Section 278 of the Highways Act 1980. It is essential that prior to the commencement of the highway works, adequate time is allowed in the development programme for; approval by the council of the design, contractors, technical vetting, safety audits, approval of temporary traffic management, booking of road space for off-site highway and service works and the completion of the legal agreement. Works must not commence until the legal agreement is in place and road space booked. Please email highways@rutland.gov.uk for further details.

4. **Temporary Construction Access – Section 184 Highways Act 1980**

This development involves the construction of a temporary construction access within the public highway to enable access by vehicles during the construction of the scheme.

These works must be carried out in accordance with details specified by Rutland County Council under the provisions of Section 184 of the Highways Act 1980. Works must not commence until a licence is in place and road space booked. Please email highways@rutland.gov.uk. Please note that road space will not be permitted until a licence under Section 184 has been provided.

5. **Penalty for Depositing on the Highway - Section 148, Sub-Sec C Highways Act 1980**

It is an offence to deposit anything including building materials or debris on a highway which may cause interruption to any user of the highway (including footways and verges). In the event that a person is found guilty of this offence, a penalty may be imposed in the form of a fine. It is the responsibility of the developer and contractor(s)

to ensure that no building materials or debris are placed on or remain within the highway during or after the construction period.

6. Removal of Deposits on the Highway – Section 149 Highways Act 1980

If anything is so deposited on a highway as to constitute a nuisance, the Local Highway Authority may by notice require the person who deposited it there to remove it forthwith and if he fails to comply the Local Highway Authority may make a complaint to a Magistrates Court for a Removal and Disposal Order. In the event that the deposit is considered to constitute a danger, the Local Highway Authority may remove the deposit forthwith and recover reasonable expenses from the person who made the deposit. It is the responsibility of the developer and contractor(s) to ensure that no building materials or debris are placed on or remain within the highway during or after the construction period.

Site & Surroundings

1. The application site is located on vacant land adjacent to Lands End Way, along the northern boundary is McDonalds Drive Thru Restaurant and is on the opposite side of the road is Land End UK to the east. To the west the application site is bordered by Ben Burgess (currently under construction) and to the south the land is open rough grassland, which is allocated for employment use within the Adopted Local Plan. The site is broadly rectangular in shape and is approximately 0.25 ha.in size.

Proposal

2. The application proposes the construction of a freestanding coffee shop within use class E with a drive thru lane and associated external seating area, landscaping, parking and a new junction to provide access from Land End Way.
3. The proposed coffee shop and drive thru is single storey building with a mono pitched roof and would be of a contemporary design having a footprint measuring approximately 15.5m x 12.8 m, with a maximum height to the front elevation eaves parapet of approximately 5.4m and to top of the feature tower parapets being approximately 5.98m
4. Adjoining the main building to the rear is a refuse /plant enclosure with footprint measuring approximately 7.54 x 4.23 m with external walls 2.6m high. This would be used for external storage with everything screened from view.
5. The building would located centrally on the site with parking to the south and rear. Outdoor seating is provided to the south of the customer entrance.
6. The applicants agent has stated that 'In terms of covers, this depends somewhat on Costa's fit out but on average they would have 60 to 65 covers inside plus the outdoor seating which would be around 8 tables with 4 seats per table'
7. In order to improve the external appearance of the building some of the original materials have been substituted for reconstructed stone and corner slips from the Bradstone rough dressed Cotswold range for use on part of the walls of the main building. It is considered that the use of stone slips would be more in keeping with the vernacular of the surrounding area and complement the other materials proposed to be used on the exterior of the building.

8. Costa operate also an existing coffee shop at Unit 1, Butlers Yard in Oakham town centre. This comprises a typical “high street” coffee shop within a terrace of other retail and service uses with no dedicated car parking or drive thru facility

Relevant Planning History

Planning permission was refused under reference no 2017/0832/MAJ for the erection of a new housing development comprising 161 new dwellings, including 56 affordable homes, with associated open space, landscaping, infrastructure and drainage.

Previously planning permission had been granted under reference number 2013/0598/FUL for an extension of time for planning application OUT/2003/1181/MS for the use of land as B1, B2 and B8 employment development.

An outline planning application was submitted under reference number 2019/1180/OUT with all matters reserved apart from the access for the construction of up to 120 (affordable) homes on the ‘Hawksmead Area 11 site’ at Land End Way Oakham. The application site area included the current application site and land to the south. This application was withdrawn by the applicant.

Planning Guidance and Policy

National Planning Policy Framework (NPPF) 2021

Chapter 2 – Achieving Sustainable Development

Chapter 4 - Decision-making

Chapter 6 - Building a strong, competitive economy

Chapter 7 - Ensuring the vitality of town centres

Chapter 8 - Promoting healthy and safe communities

Chapter 9- Promoting sustainable transport

Chapter 11 - Making effective use of land

Chapter 12 - Achieving well-designed places

Chapter 15 - Conserving and enhancing the natural environment

Site Allocations and Policies DPD (2014)

SP5 - Built Development in the Towns and Villages

Core Strategy DPD (2011)

CS1- Sustainable development principles

CS02 - The Spatial Strategy

CS04 - The Location of Development

- CS08 - Developer Contributions
- CS13 - Employment & Economic Development
- CS17 – Town center and retailing
- CS18 - Sustainable Transport & Accessibility
- CS19 - Promoting Good Design
- CS21 - The Natural Environment

Neighbourhood Plan

9. Rutland County Council designated the whole of the Oakham & Barleythorpe Parishes and a small part of Egleton Parish area in Rutland as the designated Neighbourhood Plan area following a statutory public consultation between 16 February and 29 March 2016. The draft version of the plan is awaiting adoption.

Officer Evaluation

Main Issues

10. The main issues are policy, relating to the principle of development on this site, design, highway safety and residential amenity.
11. During the determination of the application amended drawings have been received to change details relating to materials, noise, boundary treatment, landscaping, disabled parking, parking and layout, number of bicycle parking racks, cycle shelter, pedestrian and vehicle access to the site, improvements to the site drainage, improvements to the visibility splays to the proposed access, and the right hand turning lane from Lands End Way.
12. In order to improve the external appearance of the building the applicant has agreed to substitute the some of the original material for reconstructed stone and corner slips from the Bradstone rough dressed Cotswold range for use on part of the walls of the main building. It is considered that the use of stone slips would be more in keeping with the vernacular of the surrounding area and complement the other materials proposed to be used on the exterior of the building. In addition the applicant has agree to construct a stepped stone faced wall along to reflect the topography of the site along the southern boundary.

Impact on the neighbouring properties

13. The revised acoustic assessment report and supporting additional information submitted by the applicant shows that predicted levels for the plant, parking, drive through and service yard activity will have no adverse impact on the nearest residential properties between the proposed operating and delivery times of 0500- 2300 hour.
14. Therefore noise from the coffee shop and drive-thru facility will not have an adverse impact on the amenity of any residential properties or nearby businesses subject to conditions relating to hours of operation, the installation of a acoustic fence along the rear western boundary (parallel) with the rear boundary of the Ben Burgess site, lighting, and submission of details of any fixed plant and operation and relation control of noise levels and hours of operation.

Highway

15. Further to numerous meeting and various drawing submissions with the applicant and their agent, the Local Highway Authority are now in a position to support the planning application, subject to the above conditions and informative's being appended to the decision notice

Drainage

16. Following detailed discussions with RCC Highways and LLFA the applicants had submitted a revised sustainable drainage assessment, operation and maintenance document. The LLFA have confirmed that they are satisfied with the document including drainage proposals and maintenance thereafter and a condition is proposed to ensure that the principles of sustainable drainage are incorporated into this proposal and maintained thereafter.

Ecology

17. The senior Planning ecologist has confirmed that the landscaping plan is generally okay but lacks species diversity. The Ecological Constraints Assessment report (BMD, July 2021) makes reference to the provision of bat friendly planting, inclusion of pollen and nectar-rich planting and planting of a range of trees of varied, age structure and species. I don't believe this has been taken on board when developing the landscape plan. I recommend that the planting scheme should be of locally native species which is more beneficial for wildlife. I don't believe this has been taken on board when developing the landscape plan.
18. Although a landscaping plan has been submitted, in its current form it is not considered acceptable as it does not fully address the recommendations of the ecology report and officers wish to be sure that the proposed planting scheme along the 2.2 metre wide strip of land between the back of the access road and the western boundary fence will adequately screen the acoustic timber fence.

Odour

19. The applicant's agent has confirmed that Costa sell hot and cold drinks for consumption on and off the premises, along with sandwiches, other cold food and confectionary. No primary cooking is done on site and therefore the operation does not include any hot food production for either eat in or takeaway. They have also stated that there is a small element of sales which involves the heating through and toasting of panini and sandwiches. These are made off site and heated through on a microwave or hot plate. This generates no cooking odours or smoke and accordingly there is no requirement for specialist kitchen extraction, de-greasing or de-odourising equipment. Environmental Protection have confirmed that with respect to the proposed use they are satisfied there will be no noticeable odour and that an Odour Assessment report is not required.

Boundary Treatment

20. The post and rail fence along the front of the site and part of the front southern boundary will be a renewal of what is there at present and is considered acceptable. A 2m high acoustic timber boundary fence is proposed screening along the western boundary. From a visual aspect it is considered that a 2m high acoustic fence by itself would be visually prominent when compared to the boundaries on surrounding employment sites. However in this instance it is considered that this would not be the case. This is because from the neighbouring Ben Burgess Site (still under construction) this will be screened from view by their security fence and a landscaping scheme in front of the security fence. From within the application site a 2.2m wide landscaping strip between the back of the access road

and the western boundary fence will allow a suitable landscaping scheme to adequately screen the acoustic timber fence.

21. In relation to the southern boundary the applicants have agreed to construct a new stone faced wall between 1.2m in height at the eastern end and stepped up to 2m in height at the western end to reflect the topography of the site.
22. Subject to the planning conditions detailed above the proposed boundary treatments are considered to be acceptable and appropriate in this employment area.

Impact of the use on the character of the area

23. Taking the above into account, it is considered that, by virtue of the design, scale and materials to be used, the proposal would be in keeping with the streetscene and surrounding context and would not result in adverse impact upon the appearance of the area,

Impact on the Town Centre

24. The site is located approximately 1km from Oakham Town Centre. The applicant has undertaken a review of the surrounding area for alternative sites that are suitable, available and viable to support the proposed freestanding drive-thru coffee shop (E4).
25. In accordance with the NPPF, there is a requirement to undertake a sequential assessment to determine whether there are any sequentially preferable sites to the site which has been selected to accommodate the proposed development. The order of priority is set out in the Chapter 7 of the Framework and comprise of the Town Centre, Edge of Centre, and accessible location out of centre.
26. The applicant agent has confirmed that an inspection of Oakham town centre and its edge of centre area has been undertaken. In addition a property search has been carried out using Rightmove, Zoopla, Prime Location and Realla. These were searched for all types of commercial property, to let and for sale. Where a size selection is available, properties of between 116 sq m (1250 sq ft) and 232 sq m (2,500 sq ft) was used. Finally sites included within the McDonalds assessment and/or the adopted local plan or emerging plan were included.
27. The results of this exercise provided in an appendix to the planning statement and concluded that there are no sequentially preferable sites or premises which are available and suitable for the proposed development.
28. The retail floor area of the proposed use would be 120 square metres. As this is less than the 500m² gross floor area required by policy CS17 (f) no retail impact assessment on Oakham Town centre is required.

Employment Land

29. Given this site is part of the employment allocation, the Council would expect this site to be developed for employment uses as set out in the Policy. Hawksmead Park is considered important as the main employment land option for the key town of Oakham and is by far the largest serviced and readily available site in the County.
30. Proviso d) of Policy CS13 – Employment and Economic Development states that this site should be safeguarded unless it can be demonstrated that an alternative use would have economic benefits and would not be detrimental to the overall supply and quality of employment land within the County.

31. The applicant recognises that the site is allocated for employment uses. They have undertaken a sequential assessment of Oakham, and consider this site to be the most suitable site for the proposed development. The proposal will create a minimum of 15 full and part time jobs. The density of employment is greater than would be the case for office development and general industrial uses.
32. The level of employment and economic contribution of the proposal is higher than a typical employment uses.
33. Planning Policy has confirmed that the information provided by the applicant to justify the loss of safeguarding this employment land adequately demonstrates that the proposed use would have comparable economic benefits and given the land-take the proposal would not have a significant detrimental impact on the overall supply and quality of employment land in Rutland.
34. In light of the above, the proposed development can be considered as an exception to the existing policy because it will bring about significant employment and economic benefits without compromising the overall supply of employment land within the County.

Litter

35. Following additional consultation with the Local Planning Authority the applicant has agreed to enter into a unilateral undertaking for the provision of 2 new waste bins within close proximity of the site.
36. The applicant agent has stated that;

‘Compared to the McDonalds, the application form gives 371.6 sq m GIA (from the submitted Planning Statement). The committee report gives linear dimensions of 26.7m by 14.2 m, which would give 379 sq m assuming a wholly rectangular shape.

At 371.6 sq m for McDonalds this compares to 168 sq m for Costa, so the Costa is 45.2% of the size; this most clearly equates to 2 bins rather than 1 or 3 and if anything the Costa proportionately is providing a greater contribution.’
37. The following locations have been identified as suitable areas for the 2 bins :-
 1. Bosal Way between Hackamore Way and Maresfield Road
 2. Maresfield Road and Stud Road
38. With regards to the proposed location of the bins the Principal Environmental Services Manager, RCC Highways and Barleythorpe Parish council and Oakham Town Council have been consulted and any response about the suggested locations will be reported verbally to the Committee
39. The bins to be provided are the ‘Victorianna’ style as requested by the Senior Environmental Services Manager and have a capacity of 112 litres measuring 965mm x 559mm x 559mm.
40. For the completion of the Unilateral Undertaking by the applicant the financial data was provided for the purchase, installation of the bins, and a cost for emptying the bins commuted over a 20 year period.

Crime and Disorder

41. It is considered that the proposal would not result in any significant crime and disorder implications.

Human Rights Implications

42. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation.
43. It is considered that no relevant Article of that act will be breached.

Consultations

Archaeology

44. Thank you for your consultation on this application. We recommend that you advise the applicant of the following archaeological requirements.
45. The Leicestershire and Rutland Historic Environment Record (HER) notes that previous archaeological investigation indicates that it has a potential to contain buried archaeological remains constituting one or more as yet unidentified heritage asset(s). Geophysical Survey undertaken in 2007 (Stratascan report J2315) revealed the presence of anomalies likely to represent archaeological remains. The geophysical survey indicates the presence of possible archaeological remains and to the immediate south trenching revealed an area of River Terrace Gravels and a buried soil horizon, with further ditches likely to be of prehistoric date.
46. The development proposals include works (e.g. foundations, services and landscaping) likely to impact upon those remains. In consequence, the local planning authority should require the developer to record and advance the understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance (NPPF Section 16, paragraph 199).
47. In accordance with National Planning Policy Framework (NPPF), Section 16, paragraph 190, assessment of the submitted development details and particular archaeological interest of the site, has indicated that the proposals are likely to have a detrimental impact upon any heritage assets present. NPPF paragraph 199, states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.
48. In that context it is recommended that the current application is approved subject to conditions for an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording. The Historic & Natural Environment Team (HNET) will provide a formal Brief for the latter work at the applicant's request.
49. If planning permission is granted the applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above mentioned Brief, with this Department's 'Guidelines and Procedures for Archaeological Work in Leicestershire and Rutland' and with relevant Institute for Archaeologists 'Standards' and 'Code of Practice'.

It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.

We therefore recommend that any planning permission be granted subject to the following planning conditions (informed by paragraph 37 of Historic England's Managing Significance in Decision-Taking in the Historic Environment GPA 2), to safeguard any important archaeological remains potentially present:

1. No demolition/development shall take place/commence until a staged programme of archaeological work, commencing with an initial phase of trial trenching has been undertaken. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and
 - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason - To ensure satisfactory archaeological investigation, recording, dissemination and archiving

The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

Planning Policy 27/09/2021

50. It could be argued employing 15 people would provide a reasonably good economic benefit, given the proposal is only 168 sqm floor space.
51. The main policy consideration for alternative uses on this site is Core Strategy Policy CS13

Employment & Economic Development 04/03/2021

52. Given this site is part of the employment allocation, the Council would expect this site to be developed for employment uses as set out in the Policy. Hawksmead Park is considered important as the main employment land option for the key town of Oakham and is by far the largest serviced and readily available site in the County.

Policy CS13 – Employment and Economic Development

Proviso d) of Policy CS13 does state that this site should be safeguarded unless it can be demonstrated that an alternative use would have economic benefits and would not be detrimental to the overall supply and quality of employment land within the County.

53. As such, the applicant will need to demonstrate the economic benefits of the proposal to the Council. The supporting Planning Statement indicates the proposed coffee shop would directly employ around 15 people. The Council will need to consider whether the benefits outweigh the loss of approximately 0.25 hectares of the employment land and whether this will be detrimental to the overall supply employment land in Oakham

Economic Development

54. No comments

Barleythorpe Parish Council

55. No objections.
56. It is noted that public comments are asking for a noise assessment. The development is not particularly close to "sensitive residential receptors" - which we presume means housing - but if they are asking for the same measures as McDonalds has implemented then that seems appropriate.

Oakham Town Council

57. Recommend approval, and members welcome and encourage new businesses into Oakham

RCC Highways Email 28 September 2021

58. Further to various drawing submissions and meetings with the applicant, the Local Highway Authority are now in a position to support the planning application, subject to the following conditions and informatives being appended to the decision notice:

CONDITIONS

Parking and Turning

Car parking and turning shall be provided in accordance with the approved layout plans prior to the operation. It shall thereafter be retained and not used for any other purpose other than the parking and turning of vehicles.

Reason - In order to ensure that sufficient car parking and turning remains available on site.

Cycle Parking

Cycle parking shall be provided in accordance with the approved layout plans and cycle stand details prior to first operational use of the building hereby approved. The cycle parking shall thereafter be retained in perpetuity.

Reason - In order to ensure that sufficient and suitable cycle parking is available.

Temporary Access

Prior to commencement of development within the site, the temporary access will be formed and completed to basecourse level including providing a safe and level route for passing pedestrians and cyclists.

Reason - In the interest of highway safety.

Off-site Highway Works

The scheme of off-site highway works including a right turn lane, repositioning of a pedestrian crossing point and provision of a pedestrian crossing point over the new access, as shown on the approved layout plans will be implemented in full prior to first operation.

Reason - In the interest of highway safety.

Off-site Haul Routes

Prior to completion of the full extent of the off-site highway works, all vehicles associated with construction of this site will enter and leave the site from and to the A606 making a left-turn only movement, with all approaching vehicles travelling via Hackamore Way, Bosal Way and Maresfield Way.

Reason - In the interest of highway safety.

Lighting affecting the highway

Prior to the first use of any external lighting / floodlighting within the development site, the light source shall be so positioned and shielded, in perpetuity, to ensure that users of the highway are not affected by dazzle and/or glare.

Reason: To ensure that users of the highway are not subjected to glare and dazzle from lighting within the development in the interest of highway safety.

Tree Root Protection

Any new trees located within 5m of the public highway must be planted with root-protection, details of which must be approved in writing by the Local Planning Authority.

Reason - In the interests of highway safety.

Surface Water Drainage

All vehicular and pedestrian accesses will be designed to prevent the discharge of surface water from the development onto the public highway.

Reason - To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

Construction Management Plan Condition (compliance)

The development shall be carried out in accordance with the approved Construction Management Plan.

Reason - In the interests of residential amenity and highway safety.

Temporary Facilities

Temporary facilities shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the construction period.

Reason - In the interests of highway safety.

Wheel wash

Development shall not commence until a fully operational jetted drive-thru bath type wheel cleaning apparatus has been installed within the site at the exit and the area between this and the public highway is hard surfaced in either concrete or tarmac and maintained free of mud, slurry and any other form of contamination whilst in use. All vehicles leaving the site shall pass through the wheel cleaning apparatus which shall be sited to ensure that vehicles are able to leave the site and enter the public highway in a clean condition and free of debris which could fall onto the public highway. The wheel cleaning apparatus shall be retained on site in full working order for the duration of the development. In the event the wheel wash unit becomes ineffective all vehicles will cease leaving the site until the wheel wash unit is fully working and the contractor will arrange a street cleanse of the affected streets.

Reason - In the interest of highway safety.

INFORMATIVES

Street Naming & Numbering - Section 17 - 18 Public Health Act 1925

The development will result in the creation of new street(s) and/or new dwelling(s) and/or allocate appropriate street names and property numbers. This procedure is applicable to the sub-division of premises, which will provide multiple occupancy for both residential and commercial buildings. Before development is commenced an application should be made, allowing 8 weeks to complete. Details are available on our website at the following link:- <https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/street-name-and-numbering/>

Should you require assistance please email snn@rutland.gov.uk. Please note this is not a function covered by your planning application but is a statutory obligation of the Local Authority, and must be dealt with as a separate matter following planning approval.

Utility Services - Section 50 NRSWA 1991

The development is likely to involve works within the public highway in order to provide services to the site or which will affect existing services. Such works must be licenced under the New Roads and Street Works Act 1991. It is essential that, prior to the commencement of such works, adequate time be allowed in the development programme for; the issue of the appropriate licence, approval of temporary traffic management and booking of road space. Further details can be obtained from our website and any queries can be emailed to highways@rutland.gov.uk.

Off-site Highway Works – Section 278 Highways Act 1980

The development involves extensive works within the public highway. Such works must be the subject of a legal agreement under Section 278 of the Highways Act 1980. It is essential that prior to the commencement of the highway works, adequate time is allowed in the development programme for; approval by the council of the design, contractors, technical vetting, safety audits, approval of temporary traffic management, booking of road space for off-site highway and service works and the completion of the legal agreement. Works must not commence until the legal agreement is in place and road space booked. Please email highways@rutland.gov.uk for further details.

Temporary Construction Access – Section 184 Highways Act 1980

This development involves the construction of a temporary construction access within the public highway to enable access by vehicles during the construction of the scheme.

These works must be carried out in accordance with details specified by Rutland County Council under the provisions of Section 184 of the Highways Act 1980. Works must not commence until a licence is in place and road space booked. Please email highways@rutland.gov.uk. Please note that road space will not be permitted until a licence under Section 184 has been provided.

Penalty for Depositing on the Highway - Section 148, Sub-Sec C Highways Act 1980

It is an offence to deposit anything including building materials or debris on a highway which may cause interruption to any user of the highway (including footways and verges). In the event that a person is found guilty of this offence, a penalty may be imposed in the form of a fine. It is the responsibility of the developer and contractor(s) to ensure that no building materials or debris are placed on or remain within the highway during or after the construction period.

Removal of Deposits on the Highway – Section 149 Highways Act 1980

If anything is so deposited on a highway as to constitute a nuisance, the Local Highway Authority may by notice require the person who deposited it there to remove it forthwith and if he fails to comply the Local Highway Authority may make a complaint to a Magistrates Court for a Removal and Disposal Order. In the event that the deposit is considered to constitute a danger, the Local Highway Authority may remove the deposit forthwith and recover reasonable expenses from the person who made the deposit. It is the responsibility of the developer and

contractor(s) to ensure that no building materials or debris are placed on or remain within the highway during or after the construction period.

LLFA Email 12 October 2021

59. I have now had chance to review the drainage document sent and can confirm the LLFA are satisfied with the document including drainage proposals and maintenance thereafter. Please could you append the following condition to the decision notice if you are minded to approve the application:-
60. The sustainable drainage scheme for this site shall be completed in accordance with the details set out in the Sustainable Drainage Assessment, Operation and Maintenance Plan dated September 2021 and thereafter managed and maintained in accordance with the Sustainable Drainage Assessment, Operation and Maintenance Plan dated September 2021.
Reason - To ensure that the principles of sustainable drainage are incorporated into this proposal and maintained thereafter.

Transport Strategy Manager Email 17/02/21

61. As per the criteria outlined in our local plan, staff cycle parking must be under cover and secure. Therefore the developer must ensure a canopy or other form of covering is provided (it is noted that a canopy is provided in Block Plan 1114803, however this isn't referred to in the transport assessment). To ensure security this provision should also be suitably lit. We would also request that due to the sites distance from Oakham town centre that an additional stand is provided - offering a total of 6 spaces.
62. Dropped kerbs with tactiles should be provided to the cycle parking area to enable cyclists to manoeuvre their bicycle into the parking area.
63. It is also requested that the design is revised to provide a wider area for cyclists, set further back. This is to enable users to turn their bicycle around without entering the carriageway.
64. When crossing roads, for safety pedestrians should take the shortest path (direct ahead and not moving diagonally). To ensure the safety of individuals crossing from the cycle parking area and car bays 1 and 2, it is requested that the plans are amended to ensure a suitable width pedestrian facility is provided directly opposite. At present there appears to be a narrow strip with adjacent railing, which restricts pedestrians from using it. In addition, there must be corresponding dropped kerbs with tactiles on the opposite side - to enable those with
65. Further consultation comments have been combined with RCC Highway comments and the issues raised have been addressed and there is no objection to the scheme.

Forestry Officer Email 06/07/2021

66. Need landscaping scheme with plants detailed.

Forestry Officer Email 23/03/2021

67. Prunus avium is a bad choice as it attracts birds resulting in bird poo and ultimately tree felling in medium term future. All trees can be replaced with Carpinus betulus 'Fastigiata Frans Fontaine' not to confused with just 'Fastigata'.
68. These trees have a very narrow and upright form. They will grow bigger than the variety Acer campestre suggested but will not be an inconvenience to the site. They will

complement the site and help soften the artificial landscape now occurring in this area.

69. The *Carpinus betulus* suggestion for hedging will incur an annual maintenance fee that increases the likelihood that this hedge will be removed in the medium or long term. Therefore I recommend *Cotoneaster horizontalis*. This shrub is slower growing and limited in height, which can reduce maintenance requirements by a third.

Anglian Water

70. The Planning & Capacity Team provide comments on planning applications for major proposals of 10 dwellings or more, or if an industrial or commercial development, 500sqm or greater. However, if there are specific drainage issues you would like us to respond to, please contact us outlining the details.
71. The applicant should check for any Anglian Water assets which cross or are within close proximity to the site. Any encroachment zones should be reflected in site layout. They can do this by accessing our infrastructure maps on Digdat. Please see our website for further information:

Public Protection Email 19 October 2021

72. I have no objection to the opening times and delivery times being synchronised

Public Protection Email 9 September 2021

73. I have been on site and looked at the new landscaping scheme and the calculations for noise and done some myself. I have also factored in Ben Burgess.
74. The difference between this and the McDonalds site was at the time of the McDonalds application there was housing application just west of where Ben Burgess is going.. Therefore, we pressed for the high acoustic fence on the chance this could have been developed.
75. As the chance of noise sensitive development being developed close by has receded and the acoustic measures at Ben Burgess are being implemented would be sufficient. I don't believe we need the acoustic fence now around the the southern boundary as well when you consider the other barriers that are going in.
76. I think the acoustic measures proposed being are a precautionary positive step even if they don't go to the southern boundary

Public Protection Email 9 September 2021

77. Re plant condition is acceptable.
78. No fixed plant and/or machinery shall come into operation until details of the fixed plant and machinery serving the development hereby permitted, and any mitigation measures to achieve this condition, are submitted to and approved in writing by the local planning authority. The rating level of the sound emitted from the site shall not exceed 44 dBA between 0700 and 2300 hours and 37 dBA between 0500 and 0700. Between 23:00 and 05:00 = 27dB. The sound levels shall be determined by measurement or calculation at the nearest residential premises. The measurements and assessment shall be made according to BS 4142:2014.

Public Protection Consultation Response 17 Feb 2021

79. '.....The lighting scheme should meet the E3 Environmental Zone of the Institute of

Ecology 15/09/2021

80. The landscaping plan is generally okay but lacks species diversity. The Ecological Constraints Assessment report (BMD, July 2021) makes reference to the provision of bat friendly planting, inclusion of pollen and nectar-rich planting and planting of a range of trees of varied, age structure and species. I don't believe this has been taken on board when developing the landscape plan. I recommend that the planting scheme should be of locally native species which is more beneficial for wildlife. I don't believe this has been taken on board when developing the landscape plan.
81. I previously asked for the Phase 1 Habitat Survey (referred to above) to be submitted; I was initially confused as I didn't recall you having sent it to me, however after looking through my emails I realised that it had been sent to me by the developer. I have attached it in case you haven't seen it (the title is a bit misleading 'Ecological Constraints Assessment'). It is acceptable and the recommendations within it should be followed

Ecology Consultation Response 26/02/21

82. The Badger Survey report (Bradley Murphy Design Ltd, December 2020) is satisfactory and I agree that no further surveys are required. Recommendations in the report (see section 6) should be followed and made a condition of any planning permission should it be granted.
83. I note that my colleague made recommendations for a Phase 1 Habitat Survey and a Badger survey to pre-app 2020/0167/PRE which encompasses this site. A Phase 1 Habitat Survey does not appear to have been submitted; please can you confirm whether this has been requested?

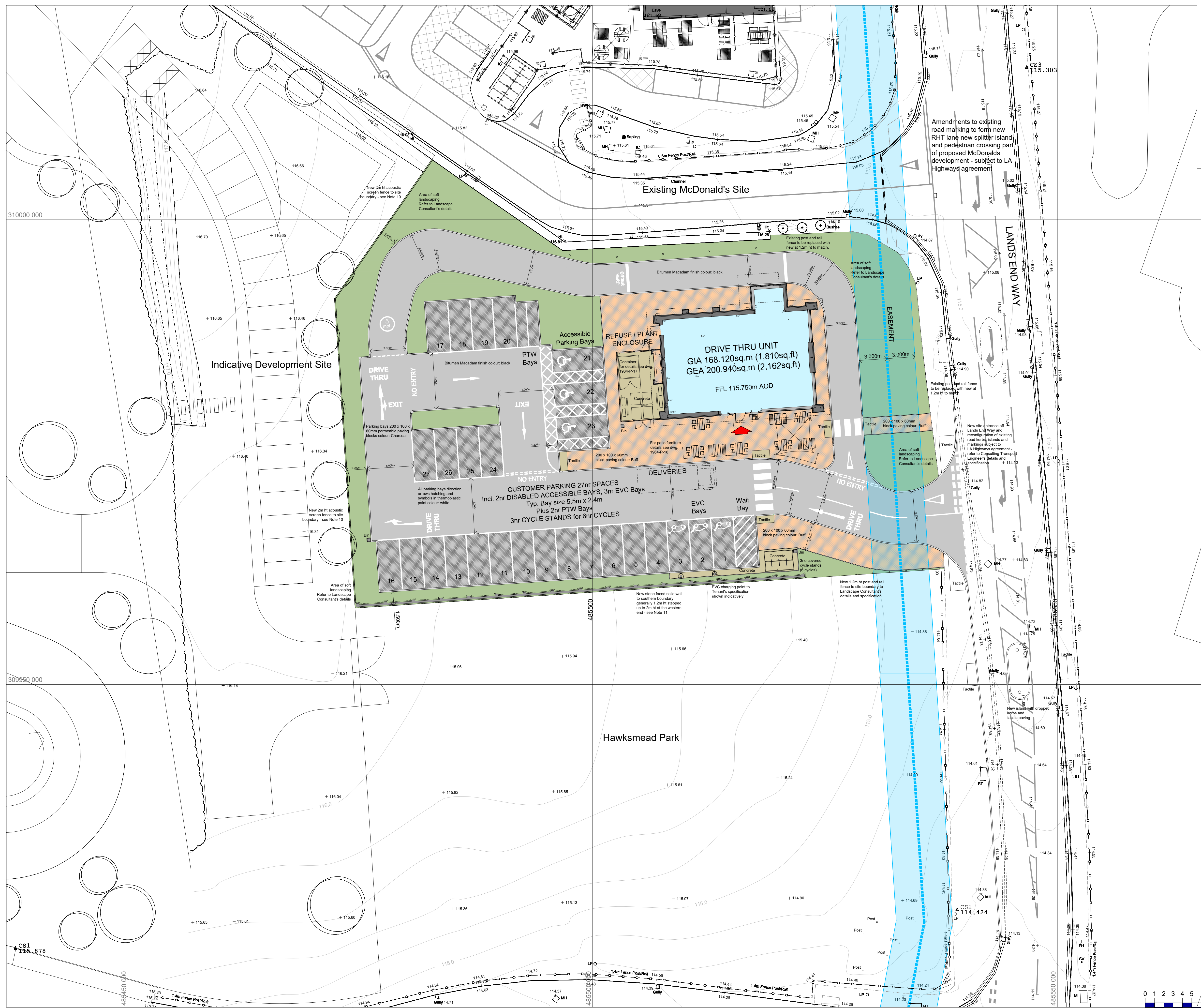
Neighbour Representations

84. No representations have been received

Conclusion

85. The relevant planning policies at national and local level have been reviewed and are supportive of proposals to develop a restaurant and drive thru falling with Class E of the Town and Country Planning Use Class order, with associated works adjacent the junction with Hackamore Way and Land End Way.
86. The proposed development would provide 15 full and part time jobs.
87. Sufficient parking has been provided on site. The applicant is willing to encourage more sustainable methods of transport which will be have been detailed in the accompanying Travel Plan.
88. The design and layout of the proposal is appropriate in the area. The materials, there colours proposed to be used on the building and the size and design of the building would not have an adverse impact on the surrounding area or the amenities of nearby residential properties.
89. The site represents an appropriate location for a drive-thru coffee shop.
90. Although the proposed development would be contrary to some of the Adopted Local Plan

Policies it would comply with chapter 7 (Ensuring the vitality of Town Centres) and chapter 11 (making effective use of land) of the NPPF (2021). It is also considered that in this instance having considered all of the material planning considerations and weighing them up in the planning balance that the development would provide wider economic benefits and that the application can be recommended for approval subject to the receipt of the completion of a Unilateral Undertaking for the provision of 2 waste bins it is recommended that conditional planning permission is granted



- NOTES Cont'd**
- Proposed Feature Wall: Generally 1.2m height stepped up to 2m height at the western end.
Stone faced feature wall comprising Nom. 30mm thk. quarried stone slips to match main building elevations e.g. Eurobruk Bradstone Rough Dressed Cotswold in mix of 65mm, 140mm, 215mm ht courses on backer panel. Joints in Europoint Light Sandstone premixed dry-pack mortar with bucket handle finish. Colour: Buff
Securely mortar fixed to 140mm thk. dense concrete aggregate block wall with pier reinforcement incorporating all necessary wall ties and movement joints and supported on concrete foundation to Consulting Engineer's details and specification.
Capping in decorative granite aggregate coping slabs e.g. Marshalls Saxon coping or similar and approved.
Colour: Buff

- Proposed customer refuse bins: 3 No. square wood-effect with galv. steel frame and liner, coated steel cover colour: Black. 36 litre capacity. 350 x 350 x 810mm h. Fixed to concrete pad or paving slabs depending on location.
- Proposed 2m height Acoustic Screen Fencing: Acoustic timber fence e.g. Jakoustic Reflective comprising 34mm horizontally laid interlocking boards supported on nom. 120 x 100mm split posts complete with capping and all to achieve 28 dB noise reduction to BS EN 1753-2:1998 at 25kg/m² superficial mass all to a Specialist Contractor's design, complete with concrete foundations to Consulting Engineer's details. Finish: Planed. Colour: Jakure treated (Natural)

- AMENDMENTS**
- | Issue | Date | Description |
|-------|------------|---|
| S | 30.09.2021 | PLANNING ISSUE Southern boundary treatment revised and Note 11 added. Note 10 specification of acoustic fence to western boundary revised following Client/LA comments. |
| R | 22.09.2021 | PLANNING ISSUE 1nr EVC bay added following Client comment. |
| Q | 16.08.2021 | PLANNING ISSUE Western site boundary treatment revised. |
| P | 27.07.2021 | PLANNING ISSUE Layout revised following Client/LA comments. |
| N | 05.07.2021 | PLANNING ISSUE Revised highway layout added - MBC dwg. 300 Rev. F. Received 05.07.21 |
| M | 02.07.2021 | PLANNING ISSUE Drawing revised following Client/LA comments. |
| L | 30.06.2021 | PLANNING ISSUE Revised highway layout added - MBC dwg. 300 Rev. D. Received 29.06.21 |
| K | 29.06.2021 | PLANNING ISSUE Drawing revised following LA comments. Parking layout amended with reduction in number of bays to 27. Pedestrian walkways and white lining to suit. |
| J | 24.03.2021 | PLANNING ISSUE Drawing revised following LA Highway comments. Access revised to Transport Consultant details. Cycle shelter relocated to suit. Pedestrian walkways added to car park aisles with vehicular one-way route. |
| H | 02.03.2021 | PLANNING ISSUE Cycle stand provision and shelter size increased with associated kerb alterations following receipt of LA comments 01.03.21. |
| G | 20.01.2021 | PLANNING ISSUE Boundary treatment revised following receipt of Client comments 18.01.21. |
| F | 17.12.2020 | PLANNING ISSUE Cycle shelter and key seller signs relocated following receipt of Tenant comments 17.12.20. |
| E | 17.12.2020 | PLANNING ISSUE Cycle shelter relocated following receipt of Client comments 16.12.20. |
| D | 16.12.2020 | PLANNING ISSUE EVC bays relocated following receipt of Client comments 16.12.20. |
| C | 16.12.2020 | PLANNING ISSUE Cycle shelter added. Number of lighting bollards reduced to match Tenant layout. |
| B | 16.12.2020 | DRAFT ISSUE Drawing revised following receipt of Client comments 15.12.20. |
| A | 10.12.2020 | DRAFT ISSUE Drawing revised following receipt of Tenant layout 09.12.20. Parking bays material revised following receipt of Cons. Engineer drainage strategy. Title block amends. |
| - | 26.11.2020 | FIRST ISSUE |

SAUNDERS ARCHITECTS
COVENTRY SOUTHAMPTON

5th Floor Eaton House 1 Eaton Road Coventry CV1 2FJ
Telephone: 024 7622 0387 Email: email@saundersarchitects.co.uk
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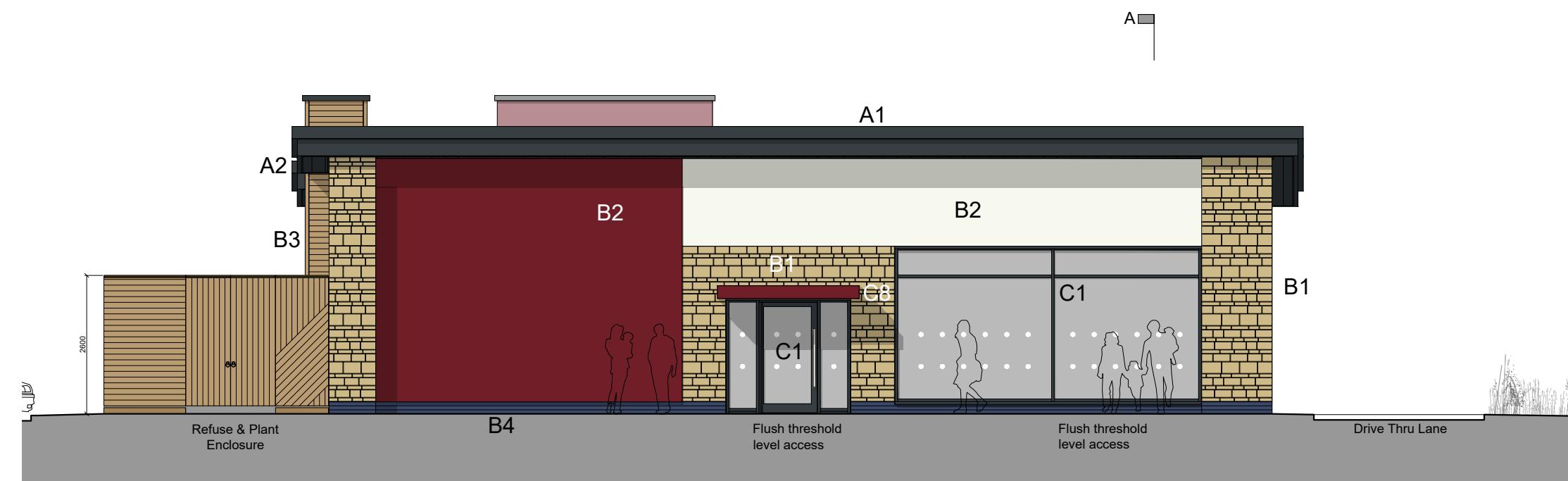
SITE PLAN PROPOSED

DEVELOPMENT SITE
Hawksmead Estate
OAKHAM
for Muffy Developments Ltd

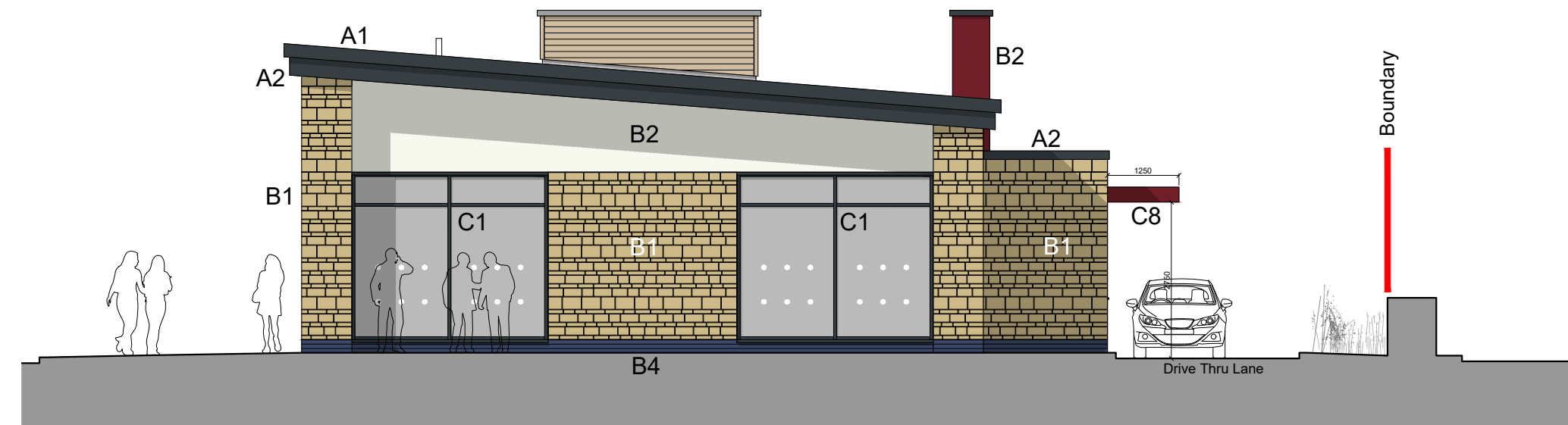
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Drawn RC	Date Nov. 2020
DRAWING No 1964-P-13	REVISION S

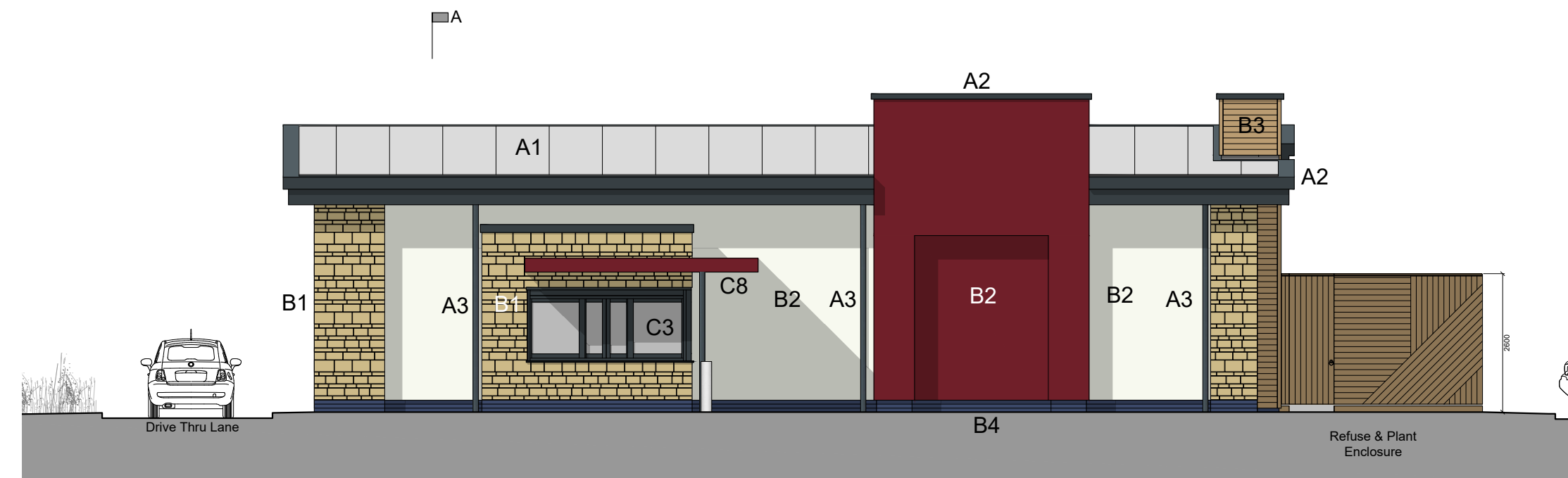
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Scale 1:200



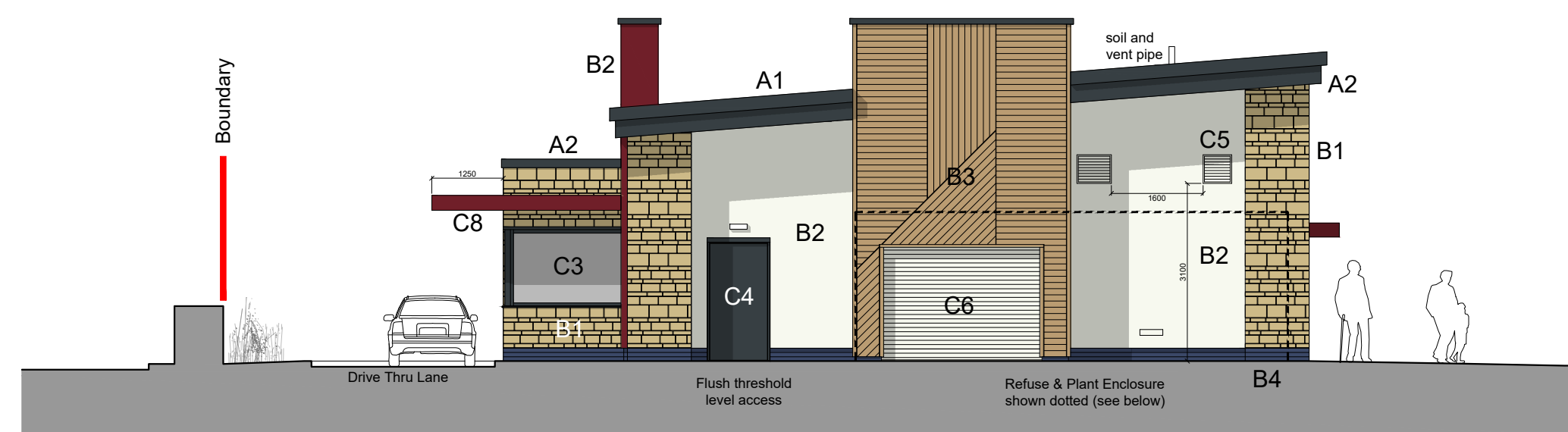
SOUTH ELEVATION



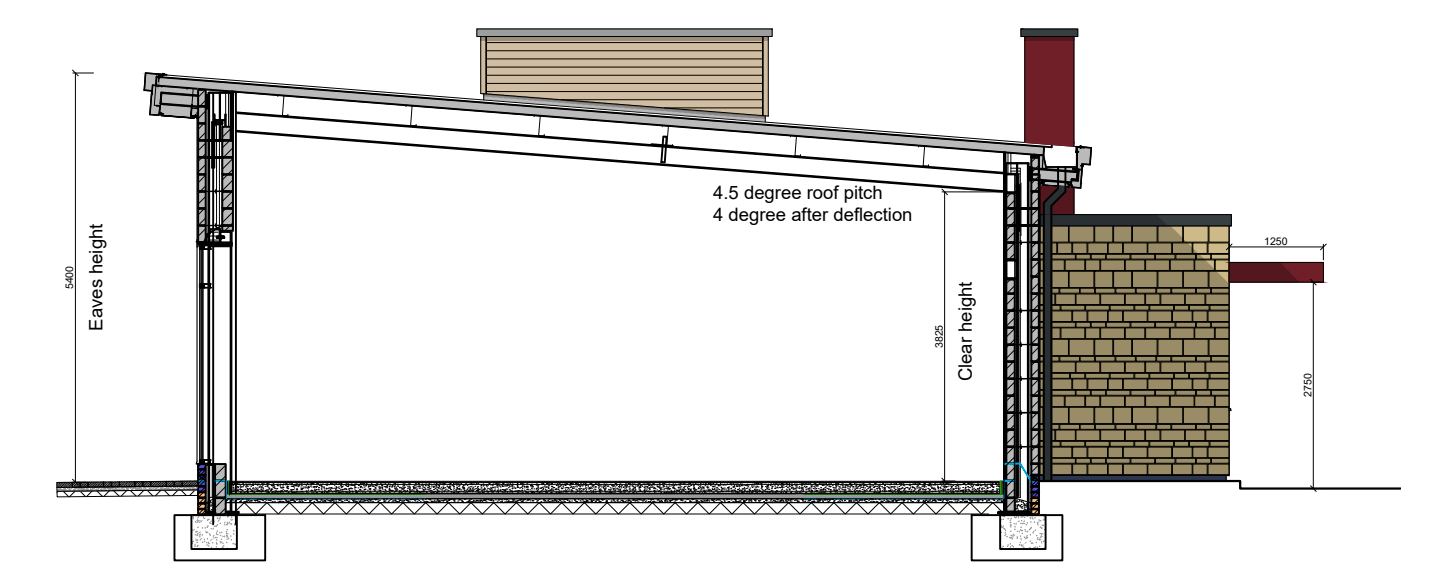
EAST ELEVATION (Facing Lands End Way)



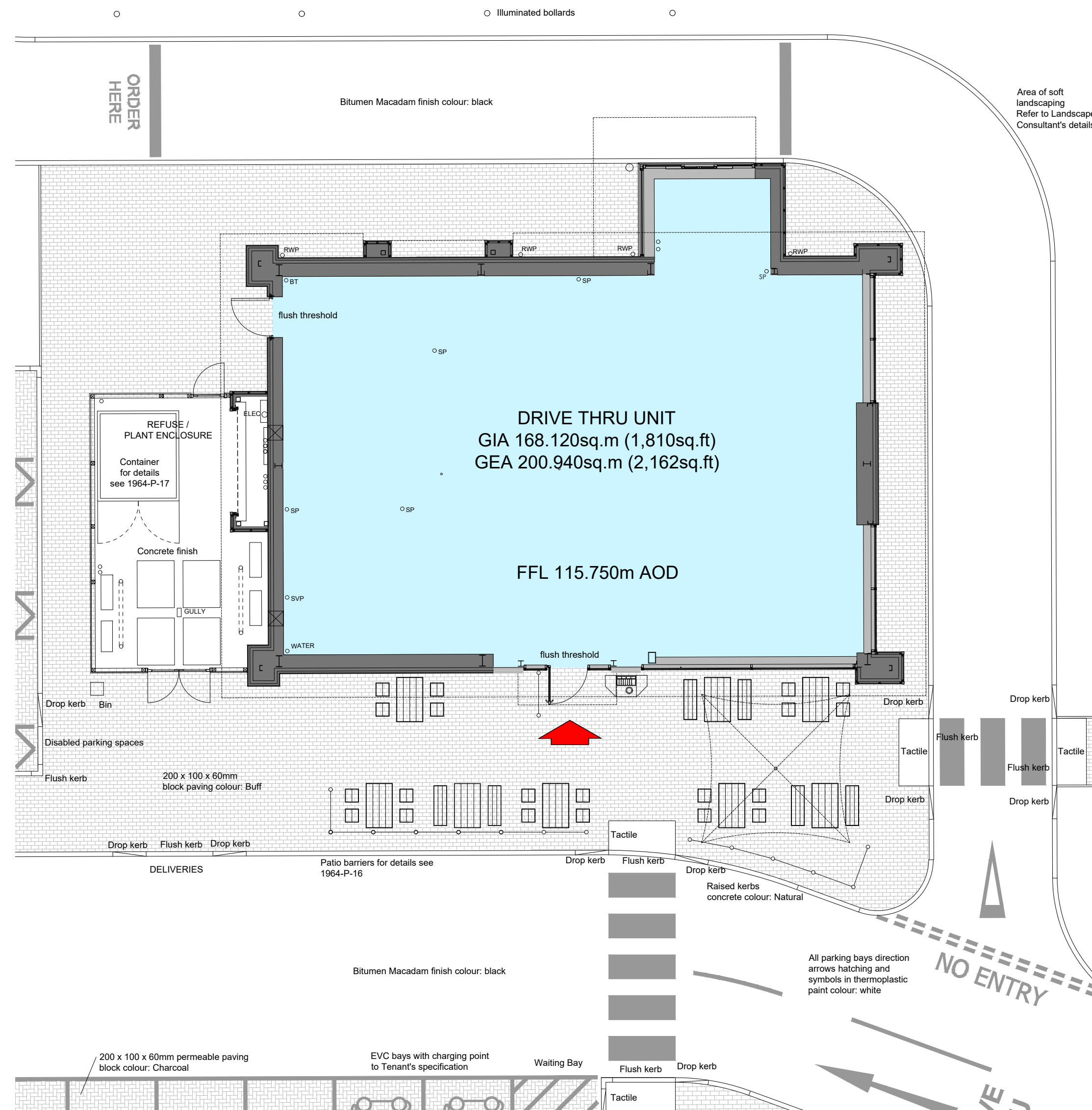
NORTH ELEVATION (Facing McDonald's)



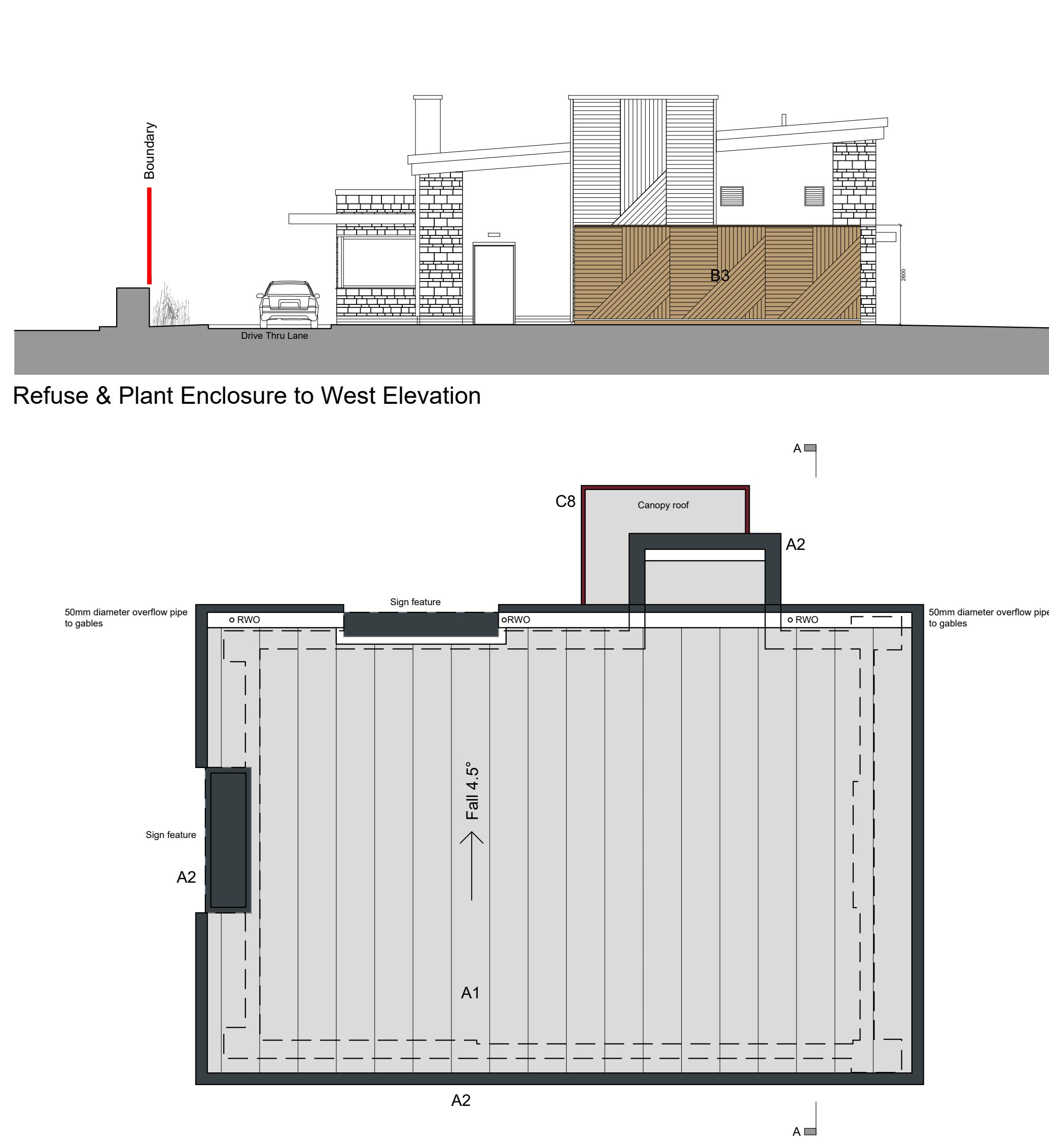
WEST ELEVATION



SECTION A - A



PROPOSED FLOOR PLAN



PROPOSED ROOF PLAN

- NOTES
- © Saunders Architects LLP
 - This drawing has been prepared from:
Ordnance Survey Superplan Data
© Crown Copyright obtained Nov. 2020
Scurr Architects McDonald's drawing
7499-SA-8681-A004C5,
dated Jan 2020
K Gannam Design drawing
1608-2 Rev. R, dated 18.11.2020
Castle Surveys Ltd Topographical survey drawing
20452-20-01 Rev. A, dated 19.11.2020
 - The proposals shown are subject to verification by confirmation of service routes.
 - Landscape proposals are indicative only for details refer to Landscaping Consultant's drawings and specification.
 - Tenant's site-wide signage scheme - refer to separate application to display advertisements.
Benson Signs Ltd signage pack:
Oakham - Lands End Way DT (SOTF) - PIM dated Sept 2020
 - All adverts to be subject to separate consent application

SCHEDULE OF EXTERNAL MATERIALS

ROOF COVERINGS	GENERAL
A1 ROOF Kingspan KS1000RW profiled composite insulated roof panels complete with all necessary components installed in strict accordance with manufacturer's details to achieve min. U-Value 0.18W/m ² K Finish: XL Forte 200 Colour: Goosewing Grey (BS 10 A 05) Internal lining: Bright White Polyester	C1 ENTRANCE DOORS AND WINDOWS Single manual swing door, sidelight and shop-front display windows to be formed in proprietary polyester powder coated aluminium framed curtain wall system with clear glazing all to Glazing Sub-contractor's details to achieve 1.8 W/m ² K U-value. Glazed doors U-Value 2.2W/m ² K. Glazing units in critical locations are to comply with Requirement K4 of Approved Document K and to be heat-soak tested toughened glass or laminated safety glass generally. Manifestation - by sub contractor to comply with Building Regulations requirements. Framing colour: Anthracite Grey RAL 7016
A2 EAVES & SOFFITS PPC Aluminium integrated fascia with secret & discreet fixings including all secondary support rails by Roofing & Cladding Sub-Contractor Fascia finished in polyester powder coating Colour: Anthracite Grey RAL 7016 Flat aluminium soffit complete with matching colour collar flashing to RWP's, secret & discreet fixings including all secondary support rails by Roofing & Cladding Sub-Contractor. Soffit finished in Colorcoat HPS2000 coating or equal Colour: Anthracite Grey RAL 7016	C2 -- -- C3 SERVICE BOOTH WINDOW Serving both windows to incorporate a bi-parting drive thru window to be supplied & fitted by Sherwood Aluminium Systems Ltd
A3 RAINWATER PIPES PPC Aluminium feature rainwater pipes complete with roding access. Colour: Anthracite Grey RAL 7016	C4 FIRE ESCAPE DOOR Single outward opening steel door and frame complete with multi-point locking system, panic release from inside only. Factory finished or site painted. Colour: Anthracite Grey RAL 7016
EXTERNAL WALLS	C5 LOUVRES Polyester powder coated air intake/ extraction louvres by Tenant. Colour: White RAL 9010
B1 STONE SLIPS Eurobrick Bradstone Rough Dressed Cotswold in mix of 65mm, 140mm, 215mm ht courses on backer panel. Joints in Europoint Light Sandstone premixed dry-pack mortar with bucket handle finish. Colour: Buff	C6 SHUTTER DOOR 2 m high manually operated roller shutter door. Colour Ral 9010 white
B2 RENDER Through coloured proprietary polymer modified render system on 12mm Knauf Aquapanel CP board on Benchmark render omega Colour: Wine Red RAL 3005 or White RAL 9010	C7 -- --
B3 TIMBER CLADDING Horizontal Western Red Cedar (Thuja Plicata) timber cladding with Sikens Col HLS Plus priming coat and 2 finishing coats for high viscosity fixed to treated timber sub-frame	C8 BOOTH & ENTRANCE CANOPIES PPC Aluminium integrated canopy with secret & discreet fixings including all secondary support rails by Roofing & Cladding Sub-Contractor. Fascia finished in polyester powder coating Colour: Wine Red RAL 3005
B4 PLINTH 3-5 course engineering brick plinth at ground level. Colour: Smooth Blue	

- E Additional stone slips treatment to elevations following LA & Client comments. 01.09.21
- D Additional stone slips treatment to elevations and signage omitted following LA & Client comments. Floor plan context co-ordinated with Site Plan 1964-P13P. 28.07.21
- C Totem revised to co-ordinate with Tenant signage application pack. Floor plan context co-ordinated with Site Plan 1964-P13N. 06.07.21
- B Stone slips added, roof mounted sign removed following LA comments. 15.01.21
- A Totem revised following receipt of Tenant signage pack. 21.12.20

AMENDMENTS

SAUNDERS ARCHITECTS
COVENTRY SOUTHAMPTON

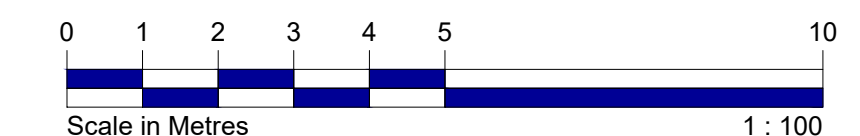
5th Floor Eaton House 1 Eaton Road Coventry CV1 2FJ
Telephone: 024 7622 0387 Email: email@saundersarchitects.co.uk
Saunders Architects is a trading name of Saunders Architects LLP
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PROPOSED FLOOR ROOF PLANS
ELEVATIONS & SECTION A-A

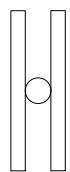
DEVELOPMENT SITE
Hawksmead Estate
OAKHAM
for Muffy Developments Ltd

SCALE 1:100@A1

Drawn RC	Date Dec. 2020
DRAWING No 1964-P-15	REVISION E



ROAD TRAFFIC SIGN



No Entry / Give Way
for sign locations
see drawing
1964-P-13

DoT Sign
616 NO ENTRY
600mm dia



DoT Sign
602 GIVE WAY
600mm deep triangle



NOTE:
None Illuminated signs mounted 1.8m high above ground level on 76mm dia powder coated grey steel post with cap set in to standard sign pole foundation base, size subject to Consulting Engineer's details. Overall length of pole to accommodate the sign fixing height above.

All adverts to be subject to separate consent application

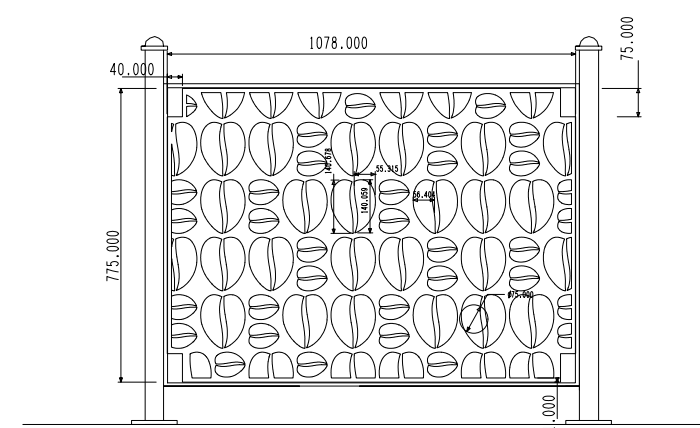
NOTES

- © Saunders Architects LLP
- Tenants Signs by Benson Signs Ltd
see details in signage pack:
Oakham - Lands End Way DT (SOTF) - PIM
dated Sept 2020

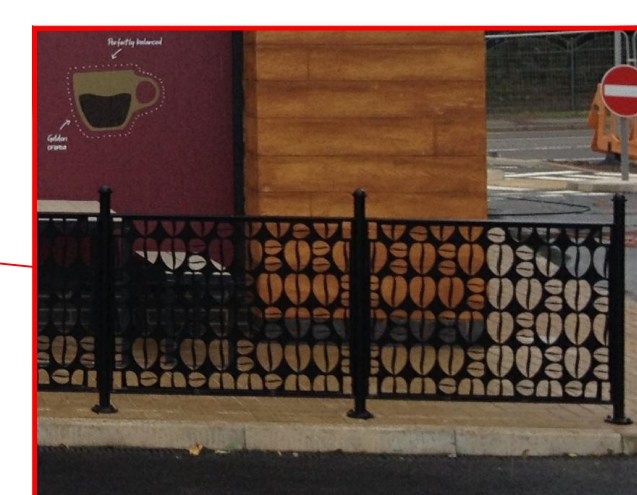
Dimensions m	Area m ²	Z (cm) closed	O (cm) open	S (cm) Side height	T (cm) Table clearance	Weight kg	Number of Arms
2 x 2	4	330	270	225	138	20	8
2,5 x 2,5	6,25	360	270	225	160	23	8
3 x 3	9	370	290	230	160	28	8
3,5 x 3,5	12,5	390	300	235	140	31	8
4 x 4	16	410	310	235	110	34	8
4,5 x 4,5	20	415	320	240	85	40	8
5 x 5	25	425	330	245	72	50	8

Jumbrella dimensions

160



Typical Balustrade Detail
Scale 1:20



Typical Balustrade Photo

-- FIRST ISSUE 21.12.2020

AMENDMENTS



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PROPOSED EXTERNAL DETAILS

DEVELOPMENT SITE
Hawksmead Estate
OAKHAM
for Muffty Developments Ltd

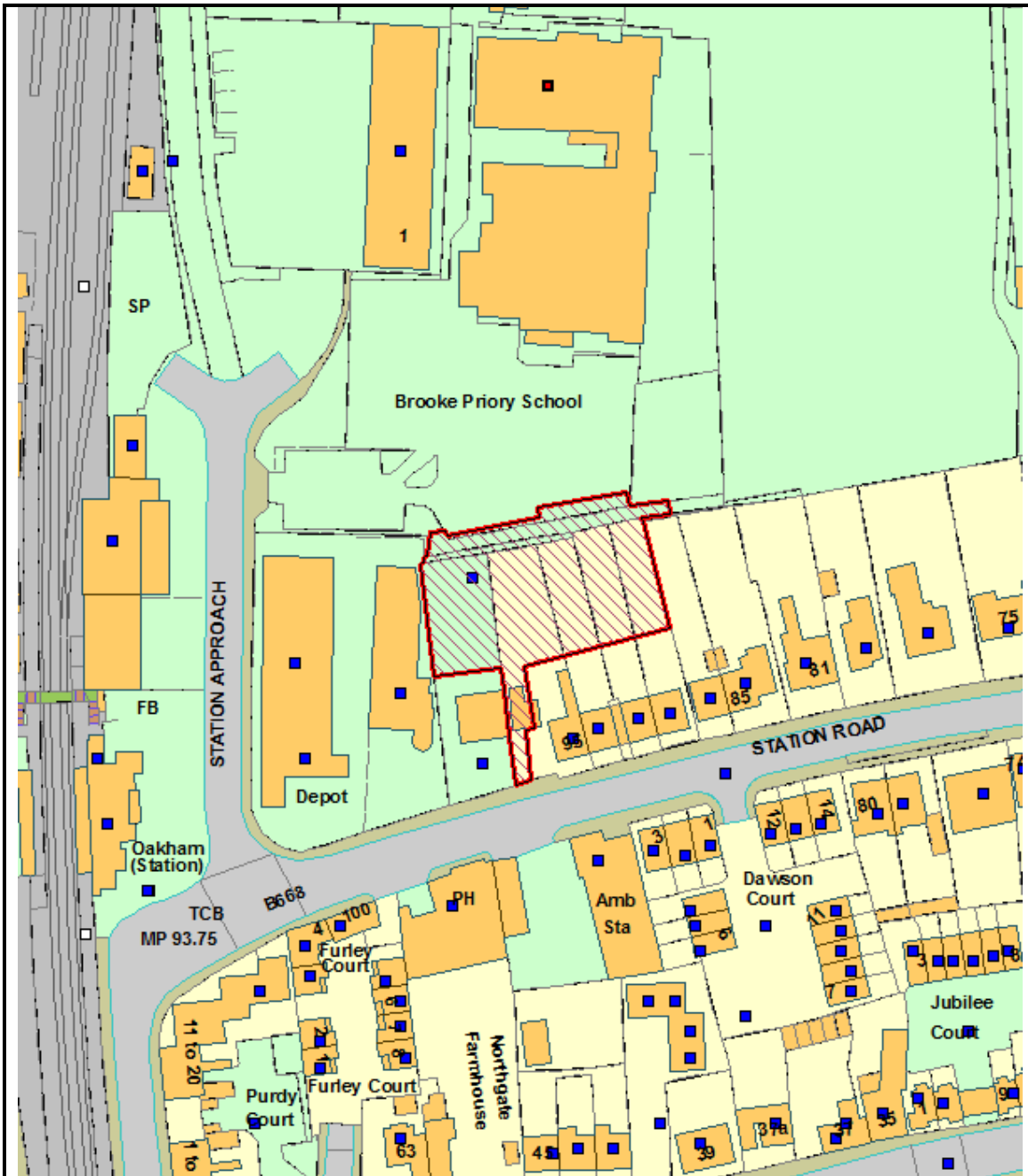
SCALE NTS @A3

Drawn RC Date Dec. 2020

DRAWING No 1964-P-16 REVISION

STREET FURNITURE ILLUSTRATIVE PHOTO

Typical Balustrade Jumbrella & Seating Layout
(for more information see Costa details)



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Ordnance Survey [100018056]



Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2021/0698/FUL	ITEM 3	
Proposal:	Construction of a new artificial multi use games area (MUGA) with associated sports lighting, fencing and ancillary features for pupils at Brooke Priory School. Includes a change of use from domestic gardens to school.		
Address:	Brooke Priory School, Station Approach, Oakham, Rutland, LE15 6QW		
Applicant:	Mr Michael Allen Brooke Priory School	Parish	Oakham
Agent:	Mr Brian Mullin Marrons Planning	Ward	Oakham North-East
Reason for presenting to Committee:	Member request		
Date of Committee:	23 November 2021		
Extension of Time	26 November 2021		

EXECUTIVE SUMMARY

The use is inappropriate due to its close proximity to residential properties, and would have a detrimental impact upon their residential amenity. The changes to the scheme from the earlier refusal would not abate this impact. It is also unclear from the information provided if the drainage proposal is acceptable due to outstanding information relating to the outfall in the interests of ensuring the proposal would not result in flooding within the area.

RECOMMENDATION

REFUSAL, for the following reasons:

1. The unauthorised change of use and physical changes to the site have resulted in the row of terrace properties directly to the south of the site (no. 95, 93, 91 & 89 Station Road) having their garden areas reduced from approximately 33-35m depth to approximately 12 metres under the current proposal. It is considered that the significant reduction in private amenity space as a result of the development has a detrimental impact upon the residential amenity of the occupiers of these properties. This detrimental impact would be exacerbated by the close and immediate proximity of the proposed Multi Use Games Area (MUGA), and associated infrastructure that would be required to facilitate it. The proximity of the MUGA would similarly adversely affect the existing quality of residential amenity enjoyed by the occupiers of the properties along Station Road to the east of the site, in particular no. 87 and 85 Station Road. As such the development would be contrary to Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).
2. It is unclear from the information provided if the drainage proposal is acceptable due to outstanding information relating to the outfall in the interests of ensuring the proposal will not result in flooding within the area. As such the development would be contrary to Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

Site & Surroundings

1. The application site is located on what was previously the rear garden area of a row of terrace properties north of the town centre. The site is also within Oakham Conservation Area.
2. The school to the north of the site has bought the terrace houses and associated gardens, and the application site has been physically separated by fencing from the terrace houses, with the land cleared of vegetation.

Proposal

3. The proposal is to use this land as a Multi-Use Games Area (MUGA). This includes the installation of sports flood lighting, fencing and ancillary features. Pedestrian and vehicular access to the site would be via an existing vehicular access off Station Road.
4. In addition to this, a change of use is sought for the change of use of the residential garden areas of the terrace properties that have been fenced off.
5. Proposed hours of use for the MUGA would be 8:00-18:00 Monday to Friday. The largest marked-out pitch area would measure 36m x 21m. Perimeter fencing would be 3m high rigid panel mesh, and floodlighting would be four post columns in each corner of the site, housing LED luminaires at a height of 8 metres. Ancillary features would be a storage container, a wooden storage bench, and no. 2 steel-framed shelters.
6. A similar application was refused planning permission on this site earlier this year under delegated powers (2020/0122/FUL) for the following reason;

'The unauthorised change of use and physical changes to the site have resulted in the row of terrace properties directly to the south of the site (no. 95, 93, 91 & 89 Station Road) having their garden areas reduced from approximately 33-35m depth to approximately 6.5 metres. It is considered that the significant reduction in private amenity space as a result of the development has a detrimental impact upon the residential amenity of the occupiers of these properties. This detrimental impact would be exacerbated by the close and immediate proximity of the proposed Multi Use Games Area (MUGA), and associated infrastructure that would be required to facilitate it. The proximity of the MUGA would similarly adversely affect the existing quality of residential amenity enjoyed by the occupiers of the properties along Station Road to the east of the site, in particular no. 87 and 85 Station Road. As such the development would be contrary to Section 12 of the NPPF (2019), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).'

7. In response to this refusal the applicant has altered the plans to show an increase in the lengths of the truncated gardens to the terrace properties owned by the school to approximately 12m in length. This has been achieved by removing the previously proposed cricket net at the southern boundary of the site closest to the residential properties.
8. The objections from local residents and the Ward Member are noted and have been given due consideration, as have other consultee comments.
9. The proposed plans are attached as an appendix.
10. The applicant's agent in response to consultation response from LLFA and RC Highways has stated that;

'...We noted with some concern an allegation of "severe" adverse residential impacts in the objection letters. This is not an accurate characterisation of how the educational activities would impact neighbouring residential properties.

A condition controlling the hours of use of the MUGA (thereby preventing weekend and afterschool use by third parties), in addition to limiting use of the facility only to the school, will ensure that only the school will use it only during their opening hours, and that the impacts (whilst no doubt perceptible during supervised physical education sessions) will neither be severe, nor unacceptable.

The proposals will provide a valuable educational facility to enhance the PE curriculum at the school, and in our view, this is achievable without compromising the rights of surrounding residents to experience peaceable enjoyment of their own gardens. We are optimistic that there will be a site visit during school hours so that the noise from outdoor physical education classes can be experienced by the Members to enable them to come to their own judgement. ...'

Relevant Planning History

Application	Description	Decision
2020/0122/FUL	Construction of Multi Use Games Area	Refused

Planning Guidance and Policy

National Planning Policy Framework (NPPF)

Chapter 8 - Promoting healthy and safe communities

Chapter 12 - Achieving well-designed places

Chapter 15 - Conserving and enhancing the natural environment

Chapter 16 - Conserving and enhancing the historic environment

Core Strategy DPD

CS07 - Delivering Socially Inclusive Communities

CS19 - Promoting Good Design

CS21 - The Natural Environment

CS22 - The Historic and Cultural Environment

CS23 - Green Infrastructure, Open Space, Sport and Recreation

Site Allocations and Policies DPD

SP5 - Built Development in the Towns and Villages

SP15 - Design and Amenity

SP17 - Outdoor Lighting

SP19 - Biodiversity and Geodiversity Conservation

SP20 - The Historic Environment

Oakham Neighbourhood Plan

An Independent Examiner has been appointed to examine the plan; it does not carry any material planning weight at this stage.

Consultations

Oakham Parish Council

11. Recommend approval but have concerns over the lighting near the residents' properties. Sports lighting not to be installed.

Highway Authority

12. In response to addition information submitted RCC Highways have raised objection Stating that 'It is unclear from the information provided if private surface water will flow on to the public highway from the new hardstanding proposed to the south of the MUGA. If Planning are minded to approve the application, this concern could be addressed by way of a suitably worded condition.
13. No objection to earlier application, subject to condition on external illumination.
'The proposed light source shall be so positioned and shielded, in perpetuity, to direct light away from the Highway.
The only lighting that may affect the highway is the flood lights positioned in the south-west corner of the site, or those pointing towards the south-west corner'

Ecology

14. No objections. I note that I made comments on an earlier planning application - 2021/0122/FUL - for this site. My previous comments still stand, and I cannot object to this planning application on ecology grounds.
15. The site is in an urban area with minimal vegetation. The areas adjacent to the site are lit by street lighting, therefore it is unlikely that the development will impact foraging bats. Part of the development will utilise existing back gardens which may result in a loss of vegetation but is unlikely to impact protected species. Therefore, ecology surveys are not required.
16. With regard to the loss of garden vegetation, compensatory planting of locally native species, elsewhere on the site would be welcomed.

Public Protection

17. No comments offered for current application – previous application comments as follows – 'I see the sites lighting has been designed to meet the E2 environmental zone as contained in the Institute of Lighting Professionals guidance notes on the reduction of obtrusive lighting. If timings and days of usage were limited to those expressed in the table of paragraph 3.2 of the Design and Access Statement then the impact on the adjacent residential premises would be limited and we would have no objection in terms of noise or lighting.'

Conservation Officer

18. (Verbal) Given its set back from prominent public viewpoints, and screening due to its location to the rear of the residential properties and adjacent land uses to the west and north, I would not wish to offer an objection on the grounds of detrimental impact upon the character or appearance of Oakham Conservation Area.

Local Lead Flood Authority

19. 'The drainage drawing for the application shows the pitches connecting "to existing outfall" – please could the applicant advise where this outfall goes, what other water is in this outfall and what the discharge rate will be to this outfall.
20. The system may not be able to cope with this additional flow and some of this surface water would have naturally soaked into the ground as the land was used as gardens.
21. Please could the applicant advise if the pitches will be used for other students other than Brooke Priory pupils and whether it will be rented out to sports teams?'

22. In response to the receipt of amended drawings and additional information received from the applicant's agent further comments have been received stating;

'...I note the invert level nor the discharge rate (existing or proposed) at the outfall have been provided. In addition it is not clear what the pipe diameter is beyond the proposed outfall point. This information is required to ensure the proposed drainage system is adequate.

I also note there appears to be a new hard paved area to the south of the MUGA between the existing access and the MUGA. Where will this area drain to, and what are the levels? Will surface water fall towards the public highway? Please note that private surface water must not flow on to the public highway. If the levels are such that this occurs, then additional drainage such as an access drain will be necessary across the existing access in the private area to capture any runoff before it enters the public highway.

I note from previous correspondence with Robyn, that you confirmed that the MUGA will be used only by pupils of the school within school times only. May I ask what the purpose of retaining the existing access off Station Road please? Is this for maintenance vehicles only? And how often are these vehicles going to be visiting the site?

I note there is an area outside of the site edged red, but within the blue edged site, to the side of this access. Will that be used for parking? I have looked through all the information on the portal including the design and access statement and it is not clear

At present, due to the above comments, the LHA and LLFA are unable to support this application for the following reasons:-

It is unclear from the information provided if the drainage proposal is acceptable due to outstanding information relating to the outfall. Reason: In the interests of ensuring the proposal will not result in flooding within the area.

It is unclear from the information provided if private surface water will flow on to the public highway from the new hardstanding proposed to the south of the MUGA. If Planning are minded to approve the application, this concern could be addressed by way of a suitably worded condition....'

Sport England

23. The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), whilst the school 'whole site' a playing field the location of the proposed MUGA is physically and functionally separate from and does not prejudice the use of the playing field. However, Sport England would wish to give the following advice to aid the assessment of this application.
24. General guidance and advice can however be found on our website: www.sportengland.org/planningapplications
25. The proposal involves sports facilities or facilities which encourage active recreation. Sport England supports the principle of facilities which encourage people who are inactive to be active and proposals which are in accordance with both government's Sporting Futures Strategy and Sport England new Strategy.
26. Our new Strategy 'Uniting The Movement' is a 10-year vision to transform lives and communities through sport and physical activity. We believe and will advocate sport and

physical activity as a big role to play in improving the physical and mental health of the nation, supporting the economy, reconnecting communities and rebuilding a stronger society for all. We will be a catalyst for change and join forces on 5 issues which includes connecting communities, connecting with Health and Wellbeing and Active Environments.

The new strategy can be downloaded from our website

27. We would in this regard support the use of the facility by the wider community, however, as the proposal does not involve the loss of playing field area, it is not something that we would actively pursue through a community use agreement. Similarly as the proposal does not result in the loss of playing field we would not seek to ensure that the proposal meets a strategic or wider sports development need. It is for the applicant to ensure that the specification of the facility is appropriate to their own needs for school sport development. In addition, it is not our role, in applications of this type, to comment on the suitability of the location, impacts upon residential amenity or other material considerations which may be appropriate in the determination of the application.
28. In line with the Government's NPPF (including Section 8) and PPG (Health and wellbeing section), we consider that the proposal will provide opportunities for school students to lead healthy lifestyles and create healthy communities..

NPPF Section 8: <https://www.gov.uk/guidance/national-planning-policy-framework/8-promoting-healthy-communities>

PPG Health and wellbeing section: <https://www.gov.uk/guidance/health-and-wellbeing>

Note:- There is a free online resource from Sport England (Use Our School) that offers further guidance and information for local authorities and other education providers on how to make the best use of school facilities for the benefit of the local community. It is especially useful for those who have responsibility within a school for establishing, sustaining and growing community activity on school sites. 'Use Our School' can be accessed here; www.sportengland.org/useourschool

29. This response relates to Sport England's planning function only. It is not associated with our funding role or any grant application/award that may relate to the site.

Neighbour Representations

30. 4 objections received from the local residents, on the following grounds;
- Detrimental impact upon residential amenity/Too close to residential properties
 - Loss of land formerly garden area to terrace houses – gardens have now been truncated/loss of green space
 - Light pollution from floodlighting during evening – is lighting necessary for school hours only?
 - Sound pollution and disturbance
 - Provision of floodlighting infers future prospect of use outside of school hours/evening
 - Resultant loss of habitat to variety of wildlife
 - School should consider developing a wildlife area/urban nature reserve to compensate
 - Oakham school have all weather surfaces that may be available for use/pupils have access to sports facilities
 - Possible increase in traffic/parking
 - Change of use of land will set an unwelcome precedent
 - Comments and observations on the assertions in the design and access statement

- Impact on bats from proposed floodlights/no ecology survey submitted – disagrees with LCC Ecology’s consultation comments
- Not sustainable development (replacement of trees/grass with plastic surface)
- Hours of use could change in future (condition)
- Height of lighting towers and fencing intrusive
- Detrimental impact on conservation area
- Pollution due to micro-fibre breakdown of AstroTurf (pollutant to animal life and children)
- Floodlighting would adversely change the nature of the residential area
- Application process – neighbour not consulted
- Reduction of development insufficient (pitch is still in the same location in relation to no. 87 & 85 Station Road.
- Lighting plan from previous application not carried over to this application

31. Additionally an objection has been received from Cllr Walters;

The decision notice from the original application lists a number of factors leading to the refusal.

This revised application does not adequately mitigate the substantive issue of the conversion of residential space and overbearing nature of the proposal in unacceptable proximity to residential dwellings with severe impact on residential amenity.

I ask that a further refusal notice is issued and that the applicant is instructed to convert all land to original use, and that failure to do so should result in enforcement notice.

Planning Assessment

32. The main issues are:

- Residential amenity
- Highways
- Conservation Area/Ecology
- Drainage

Impact on Residential Amenity

33. The unauthorised physical changes to the site have resulted in the row of terrace properties directly to the south of the site (no. 95, 93, 91 & 89 Station Road) having their garden areas reduced from approximately 33-35 metres depth to approximately 6.5 metres for the previous refusal, and currently proposed to be 12 metres. Notwithstanding the change from the previous refusal, it is still considered that the significant reduction in private amenity space as a result of the development has a detrimental impact upon the residential amenity of the occupiers of these properties.
34. This detrimental impact would be exacerbated by the close and immediate proximity of the proposed Multi Use Games Area (MUGA), and associated infrastructure that would be required to facilitate it. The proximity of the MUGA would similarly adversely affect the existing levels of residential amenity enjoyed by the occupiers of the properties along Station Road to the east of the site, in particular no. 87 and 85 Station Road). The changes to the scheme have not altered this position.
35. In establishing this position the comments from Public Protection regarding the proposed lighting and noise are noted, as are the proposed hours of use. Notwithstanding this, the close proximity and height of the proposed fencing and height of the lighting columns

would have a detrimental impact upon the openness and garden feel of these residential gardens (especially prior to the separation of the land via the erection of fencing).

36. In addition to this, while the school and its grounds are an existing use to the north of the site, the original length of the existing gardens for the terraces (as well as the existing gardens for the other houses along Station Road) provided/provides a buffer zone between the different use classes. Conversely, the proposed MUGA would bring a more intensive use much closer to these residential properties (not just the gardens but the houses as well), and in the case of no. 87 Station would result in their garden area being enclosed by the school use on two sides.
37. It is also acknowledged the school purchased the row of terrace properties to the south of the application site. However the quality and relationship of Rutland's housing stock should still be protected regardless of ownership.
38. The benefits of the proposal to the school in terms of P.E. curriculum is acknowledged, and has been assigned some weight, however this benefit would not outweigh or override the above identified detrimental impact upon the residential amenity of nearby residents.
39. Notwithstanding the changes to the scheme, it is still considered that the development would be contrary to Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).
40. With regard to other points identified by the objectors;
 - Any planning application should be judged on its merits, as opposed to speculation on future uses.
 - With regard to the loss of green space, were the proposal otherwise acceptable in terms of residential amenity a condition could potentially be imposed to secure suitable mitigation within the school grounds.
 - One of the grounds of objection related to a neighbour not being notified; for clarification, the application has been publicised in accordance with statutory requirements and the Council's Statement of Community involvement. Neighbour notifications will normally be limited to properties sharing a common boundary with an application site. In this particular case further neighbour letters were issued beyond this given the nature of the application, though not as far as the neighbour concerned.

Highway/access issues

41. The vehicular access off Station Road is existing, and this would be used for construction access and maintenance access. Pedestrian access is also via Station Road. The proposal would result in adequate access and would not have an unacceptable adverse impact on highway safety in accordance with the Section 9 of the NPPF (2019).
42. However RCC Highways have raised objection to the proposal as is unclear from the information provided if private surface water will flow on to the public highway from the new hardstanding proposed to the south of the MUGA due to the lack of detailed information received.

Conservation Area/Ecology

43. At the Statutory level, the Local Planning Authority is required to ensure that with respect to any buildings or other land in a conservation area, special attention shall be paid to the

desirability of preserving or enhancing the character or appearance of that area, through the Planning (Listed Buildings and Conservation Areas) Act 1990 at Section 72.

44. Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the National Planning Policy Framework (NPPF 2019). The NPPF advises that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.
45. The MUGA would be set back from Station Road and would not appear overly prominent within the streetscene given that it would be largely screened by the existing houses. Similarly the comments from the Conservation Officer are noted, and it is considered that the development would not cause harm to the character and appearance of Oakham Conservation Area, in accordance with Sections 12 and Section 16 of the NPPF (2021), Policies CS19 and CS22 of the Rutland Core Strategy (2011) and Policies SP15 and SP20 of the Site Allocations and Policies Development Plan Document (2014).
46. With regard to impact on bats as a result of the proposed lighting, clarification has been sought with Leicestershire County Council Ecology colleagues, however as the site is within an urban area an objection could not be justified on ecology grounds.

Drainage

47. In response to the original consultation response from LLFA the applicant's agent has submitted additional information in the form of Micro-drainage calculation (permeable storage -1 in 100 year +40%, a surface water maintenance schedule based on monthly, annually and as required activities, and a revised drainage plan.
48. In response additional information provided The LLFA has maintained an objection to the proposed scheme as it is unclear from the information provided if the drainage proposal is acceptable due to outstanding information relating to the outfall.
49. In addition it has been stated that it is unclear from the information provided if private surface water will flow on to the public highway from the new hardstanding proposed to the south of the MUGA.

Crime and Disorder

50. It is considered that the proposal would not result in any significant crime and disorder implications.

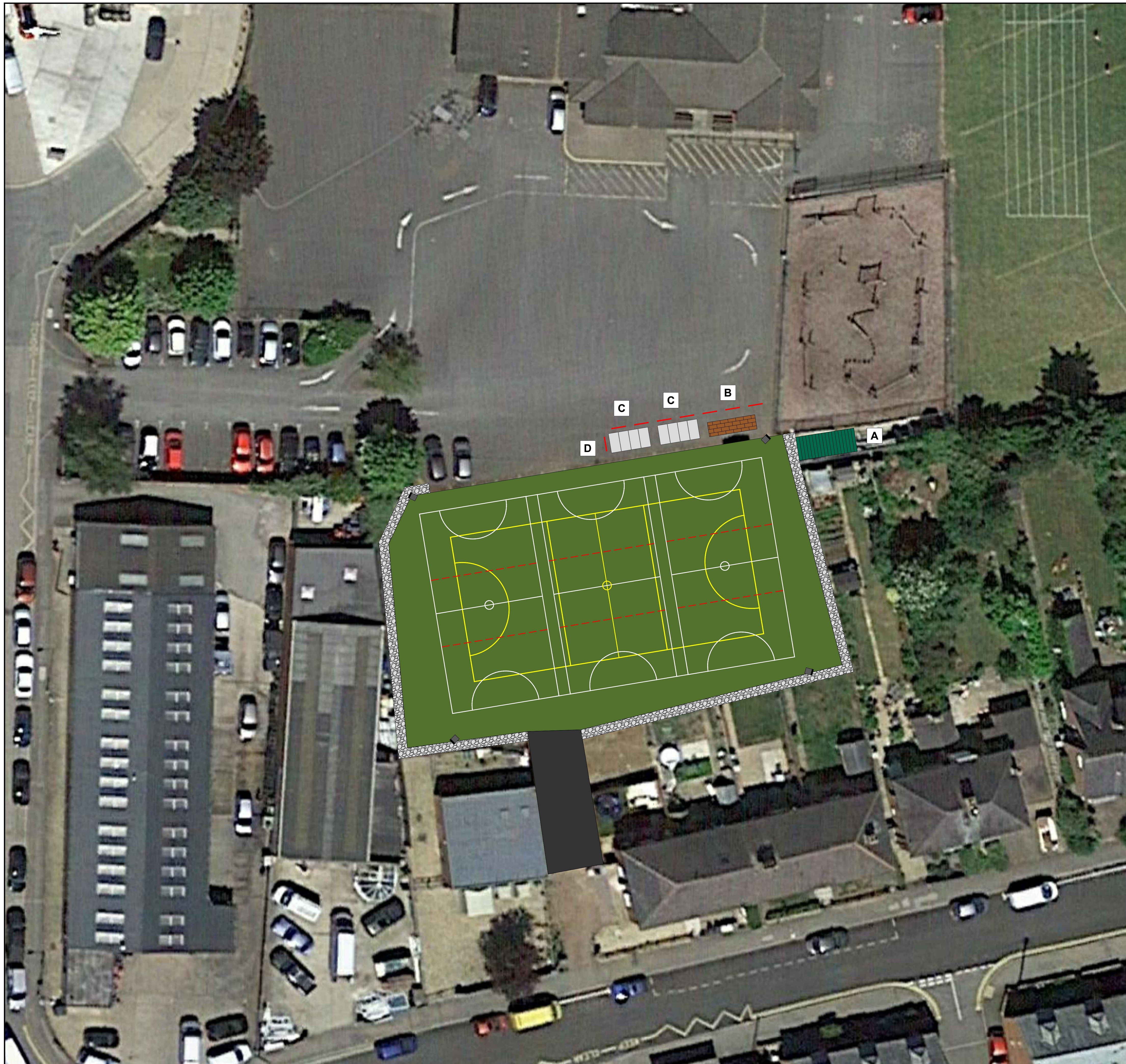
Human Rights Implications

51. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation. It is considered that no relevant Article of that act will be breached.

Conclusion

52. While the benefits to the P.E. curriculum and the school are acknowledged, as well as the changes to the scheme following the earlier refusal, this would not outweigh the detrimental impact upon the residential amenity of nearby residents that would result from the close proximity of the proposed use. As such the development would be contrary to Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

53. It is also unclear from the information provided if the drainage proposal is acceptable due to outstanding information relating to the outfall in the interests of ensuring the proposal will not result in flooding within the area. As such the development would be contrary to Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).
54. In addition to this, enforcement action is proposed to seek the re-instatement of the residential gardens of no. 95, 93, 91 & 89 Station Road.



NOTES / KEY:

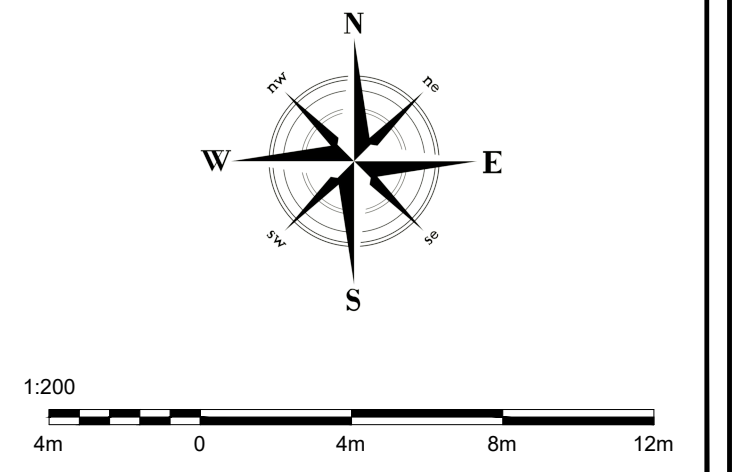
PROPOSED WORKS

ARTIFICIAL SAND DRESSED SURFACE - ■ [1,132M²]

HARD STANDING TARMAC SURFACE - ■ [83M²]

LOOSE STANDING STONE SURFACE - ■ [100M²]

INDICATIVE LIGHTING SHOWN FOR ILLUSTRATIVE PURPOSES WITH ACCURATE LOCATIONS DETAILED IN SUPPORTING PLAN

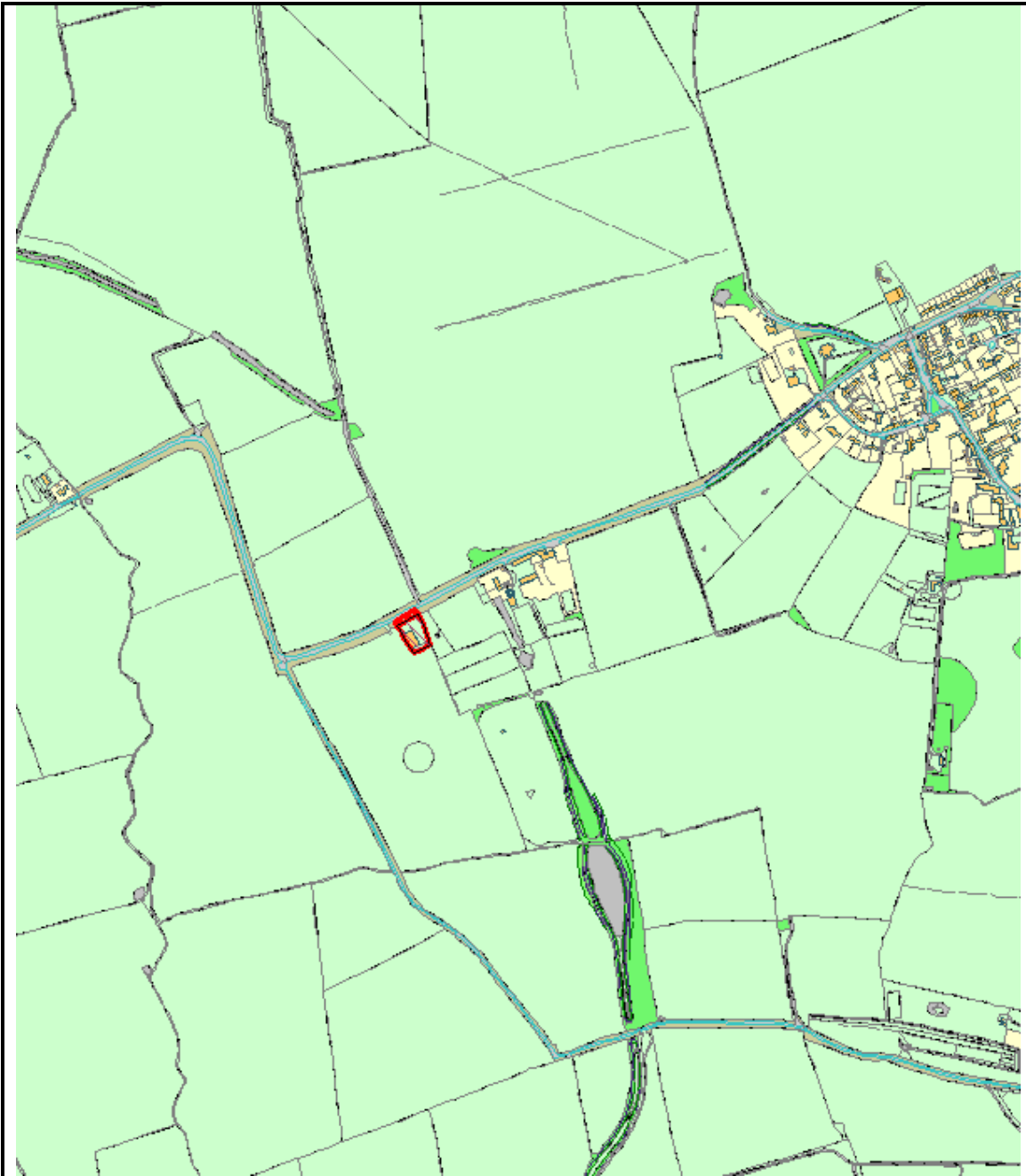


Project name: Brooke Priory School
Project type: Artificial MUGA Development
Drawing: Aerial View
Reference: NSBPS001
Revision: E
Date: 24/05/21
Drawn by: JP
Scale / Size: 1:200 / A1

nottssport Synthetic Surfacing / Multi-Sports

Head Office: Notts Sport Ltd, Bridge Farm, Holt Lane, Ashby Magna, Leicestershire, LE17 5NJ

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Ordnance Survey [100018056]



Rutland County Council

**Catmose,
Oakham,
Rutland
LE15 6HP**

Application:	2021/0816/FUL	ITEM 4	
Proposal:	Proposed construction of 2 no. dwellings, new vehicular access and associated works including demolition of existing buildings and foul water disposal.		
Address:	Land to the South of Teigh Road, Market Overton		
Applicant:	Mr R Evans Distinctive Developments Group Ltd	Parish	Market Overton
Agent:	Mr R Hammond, Scroxtton & Partners	Ward	Cottesmore
Reason for presenting to Committee:	At the request of a Local Member		
Date of Committee:	23rd November 2021		
Determination Date:	23rd August 2021		
Agreed Extension of Time Date:	30th November 2021		

EXECUTIVE SUMMARY

The principle of residential development here has been established through the granting of a previous Class Q Prior Approval. Nonetheless the proposal as revised when considered against the fallback position as to the development to be constructed under the Class Q Prior Approval, other material planning considerations would be contrary to local and national planning policies having a detrimental impact upon the surrounding area.

RECOMMENDATION

REFUSAL, for the following reasons:

1. The application site is located outside the Planned Limits of Development for Market Overton. Existing Local Plan Policy only allows for the conversion and re-use of appropriately and suitably constructed rural buildings for residential use in the countryside and does not apply to new build unless it is to meet affordable housing needs in accordance with the Council's Core Strategy affordable housing Policy CS11. Residential development is only acceptable in the countryside to meet an essential operational need for a dwelling to be located in the countryside or to meet an identified affordable housing need as set out in Core Strategy Policy CS11. There is no indication that the proposal is intended to meet the requirements for housing in the countryside. As such the development would be contrary to Policies CS3 (The settlement hierarchy), Policy CS4 (The location of development), of the Adopted Core Strategy and Policies SP6 (Housing in the Countryside), SP23 (Landscape character in the countryside), of the Site Allocations Development Plan Document 2014 and chapter 5 and 12, of the NPPF (2021).
2. The proposed development would result in a change in the character of the site from one that is currently agricultural to an overtly domestic character. The proposal would result in an increased footprint and height of built form that would diminish the openness and character of the site. The scale and design of the proposed dwellings and positioning in relation to the existing barn and adjacent open countryside would result in an undesirable change in character in this part of the village which would dominate the street scene with its formality and harm and diminish the rural appearance of this locality having a negative impact

3. Taking the above into account, it is considered that, by virtue of the design, scale and location the proposal would have a detrimental impact upon the character or appearance of the open countryside and local area contrary to NPPF 2021 (Section 12), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

Site & Surroundings

1. The application site is located on land approximately 700 metres to the west of the settlement of Market Overton and adjacent to the southern edge of the Teigh Road.
2. The application site comprises an existing 382m² six bay steel framed agricultural building and areas of external hardstanding. The site is generally enclosed on its northern and eastern boundaries by a mixture of planting. The southern and eastern boundaries are generally open.
3. The building and wider site adjoins existing land in agricultural use on its southern, eastern and western boundaries. The northern boundary adjoins the Teigh Road. Further open agricultural land lies beyond the Teigh Road to the north.
4. Vehicular access to the site is currently via an existing access to the Teigh Road from the northern site boundary.

Proposal

5. A Class Q Prior Approval application was approved (reference no. 2020/1369/PAD) for the conversion of the existing building to three dwellings. Rather than convert the existing barn in accordance with the prior approval, the current application now seeks permission for the demolition of the existing barn and the erection of two new detached two storey dwellinghouses including the re-siting of the vehicular access.
6. The principal two storey element of each building would be constructed from axe dressed or reclaimed limestone laid in coursed rubble fashion. The single storey elements would be constructed in reclaimed red brick. All roofs would have a blue/black natural slate finish.
7. The proposed gross internal floor area for Plot 1 excluding the car port is 250.8m².
8. The proposed gross internal floor area for Plot 2 excluding the car port is 292.8m².
9. The approved Class Q floor area is 464.94m² and the total proposed gross internal floor area for this latest scheme is 543.6m².
10. Plot 1 maximum height of 4.71 metres to the eaves, and maximum height of 7.48 metres to the ridge; and Plot 2 maximum height of 5.01 metres to the eaves and maximum height to the ridge of 7.78 metres. The existing building has a maximum eaves height of 4.4 metres and maximum ridge height of 6.6 metres.
11. The proposed scheme is larger in both floor area and height than the approved Class Q approval.
12. The applicant owns an area of land immediately adjoining the proposed dwellings and beyond the original application site. This is shown as a 'buffer zone on the submitted plans. The submission states that the primary function of the additional land is to facilitate the disposal of foul wastewater via a package treatment plant and appropriately sized disposal field capable of discharging average daily domestic flow rates of grey and black water from two dwellings.

13. Vehicular and pedestrian access is proposed via a slightly relocated new access off the Teigh Road. The existing access would permanently closed. A minimum of three parking spaces would be provided for each unit together with sufficient on site turning.

Relevant Planning History

2017/0462/PAD – Approved - Change of use of the existing building on site to two dwellinghouses pursuant to Class Q of the General Permitted Development Order 2015.

2020/1369/PAD – Approved - Change of use of the existing building on site to three dwellinghouses pursuant to Class Q of the General Permitted Development Order 2015

Planning Guidance and Policy

National Planning Policy Framework (NPPF)

Chapter 5 - Delivering a sufficient supply of homes

Chapter 9 - Promoting sustainable transport

Chapter 12 - Achieving well-designed places

Chapter 15 - Conserving and enhancing the natural environment

Site Allocations and Policies DPD

SP6 - Housing in the Countryside

SP15 - Design and Amenity

SP19 - Biodiversity and Geodiversity Conservation

SP23 - Landscape Character in the Countryside

Core Strategy DPD

CS04 - The Location of Development

CS19 - Promoting Good Design

CS21 - The Natural Environment

Officer Evaluation

Principle of Development

14. The Development Plan, specifically Policies CS4 and SP6, restricts new housing in the countryside to that which is necessary, usually for agriculture or forestry. This is supported by the advice in Paragraph 80 of the revised National Planning Policy Framework (NPPF).
15. CS4 states that conversion will only be permitted where the building is close to sustainable settlements and where there is no environmental impact. Policy SP6 builds on the Core Strategy and sets out where residential conversion might be allowed.
16. Since the introduction of Class Q permitted development rights, with no consideration of sustainability, this can be a material consideration in the determination of an application to convert a rural building, i.e. where there is a clear possibility and intention to use the Class Q rights. There was a Class Q approval granted here, and case law has established that a fallback position should be lent considerable weight.
17. The site is outside but adjacent the boundary of the Market Overton Conservation Area and the Planned Limits for Development for the village
18. The existing barn has approval to be converted to three dwellings, granted (Ref:2020/1369/PAD) under Class Q of the GPDO.

19. This is currently unimplemented. A condition of Class Q.2(3) requires the work to be completed within 3 years of the prior approval date. It is therefore still reasonably capable of being implemented.
20. The clear intention of Class Q is to make use of existing agricultural building stock irrespective of locational matters. It does not follow that this is a method to gain the construction of new dwellings that would side-step the spatial policies of the Development Plan or the Nation Planning Policy Framework.
21. Applications for planning permission requires development to be determined in accordance with the development plan unless material considerations indicate otherwise.
22. Paragraph 11 of the NPPF (2021) explains that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with the development plan without delay; or where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework that protect areas or assets of particular importance indicate development should be restricted.
23. It is considered that the proposed development would be contrary to National and Adopted Local Plan Policy as the development would result in a new dwellings in the open countryside. The existing local plan policy only allows for the conversion and re-use of appropriately and suitably constructed rural buildings for residential use in the countryside and does not apply to new build unless it is to meet affordable housing needs in accordance with the Council's Core Strategy affordable housing Policy CS11. Residential development is only acceptable in the countryside to meet an essential operational need for a dwelling to be located in the countryside or to meet an identified affordable housing need as set out in Core Strategy Policy CS11. There is no indication that the proposal is intended to meet the requirements for housing in the countryside.
24. It is considered that the proposed development would be contrary to Policies CS3 (The settlement hierarchy), Policy CS4 (The location of development), and CS19 (Promoting good design) of the Adopted Core Strategy and Policies SP6 (Housing in the Countryside), SP15 (Design and amenity) and SP23 (Landscape character in the countryside), of the Site Allocations Development Plan Document 2014 and Chapter 5 and 12, of the NPPF (2021). It is therefore necessary to establish whether any other material planning considerations exist that outweigh the policy objections. Class Q Prior Approval was allowed for the conversion of the existing farm building to three dwellings, this is specific consent under a separate piece of legislation and in no way means that the Local Planning Authority should be duty bound to grant a full planning permission for an alternative proposal contrary to National and Adopted planning policies. The view is held that the proposed scale and mass of the development and would provide no betterment to that which is approved under Class Q The proposal would have a significant adverse effect on the wider environment in comparison to that allowed under the class Q approval.

Neighbourhood Plan

25. Rutland County Council designated the whole of Market Overton in Rutland as the designated Neighbourhood Plan area following a statutory public consultation between 23 May and 04 July 2016. A neighbourhood Plan has not being adopted to date for the Parish.

Impact of the use on the character of the area

26. The site at present comprises a six bay steel framed agricultural building. The existing building has permission to be converted to three dwellings. The building set back into the site and partially screened and, despite being purely functional in its appearance, it is

- unassuming and a typical example of its type which can be found in most farm settings.
27. The current application proposes removal of the agricultural building, to which there is no objection, and replace them with two stone barn style house in a position forward of the existing buildings. The layout illustrates a departure from the character of the existing barn. The approved conversion retained the form and profile of the existing barn, with consolidated openings that maintained the character of the building.
 28. The proposed development would result in a change in the character of the site from one that is currently agricultural to an overtly domestic character. The proposal would result in an increased height and footprint that would diminish the openness and character of the site. Subsequently, the proposal would have a harmful effect on the character of the area.
 29. The Planning Authority have concerns with regard to the design and positioning of the proposed dwellings and its impact on the rural surroundings. Its design, proportions and position in relation to the existing barn and adjacent open countryside would result in an undesirable change in character of the scene in this part of the village to the detriment of the character and appearance of the area
 30. It is not considered that there are any benefits other than a temporary boost to the local building industry during the construction period and the addition of two additional units to the local housing stock and suggest that these cannot be considered to outweigh the permanent harm to the scene identified above.
 31. Dwellings of the scale and design proposed in such a rural location would dominate the street scene with their formality and harm and diminish the rural appearance of this locality, and have a negative impact.
 32. Whilst the applicant owns an area of land immediately adjoining the proposed dwellings shown as a 'buffer zone' on the submitted plans any use of this land to facilitate the disposal of foul wastewater and daily domestic flow rates of grey and black water from the two dwellings may constitute a change of use of the land. Should this land be required to facilitate a drainage strategy the red line site area would need to be increased to include this area of land.
 33. Taking the above into account, it is considered that, by virtue of the design, scale and location the proposal would have a detrimental impact upon the character or appearance of the open countryside and local area contrary to NPPF 2021 (Section 12), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

Impact on the neighbouring properties

34. There are no immediate neighbouring properties in proximity to the proposed development.
35. It is considered that the scheme would not result in an unacceptable adverse impact on the residential amenities of the occupiers of adjacent properties in accordance with Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

Highway issues

36. A new access point will be created with the existing access blocked off. ; The Highway Authority have no objection to the scheme. The proposal would result in adequate access, parking and turning facilities and would not have an unacceptable adverse impact on highway safety in accordance with Section 9 of the NPPF (2021) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).With regard to the

public right of way that runs through the site, the Public Right of Way Officer has no objection to the proposal, subject to notes to applicant (these are included).

Other Matters

37. The applicant has referred to a recently approved application in Caldecott (2021/0672/FUL) to justify the approval of this application.
38. Notwithstanding any fall-back position, every application should still be assessed on its merits. In the instance of the Caldecott application the proposed scheme would result in a reduced internal floor area (465m²) compared to the extant class Q approval (536m²). The proposed scheme in this case sees a considerable increase in floor area. This would be apparent if you did a comparator of the area of built form the existing buildings took up in the site areas compared to the proposed buildings. The Caldecott dwellings are sited mainly within the area of the existing building whereas this proposal has built form outside the confines of the existing building, and due to its location would have an adverse impact on the open countryside in the opinion of the local authority.
39. Due to the scale, footprint and design of the proposed properties, as opposed to the approved scheme, it is not considered that the proposed design of the new dwellings would represent a visual enhancement over the permitted Class Q conversion scheme.

Crime and Disorder

40. It is considered that the proposal would not result in any significant crime and disorder implications.

Human Rights Implications

41. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation.
42. It is considered that no relevant Article of that act will be breached.

Consultations

Parish Council

43. No objection

Highway Department

44. No Objections if built in accordance with Drawing No 1522 - 05 Rev A Hard Landscaping plan. The proposed access is positioned further east than the existing field access providing better vehicle to vehicle visibility in both direction. The access is of suitable width and materials

Archaeology

45. No objections

Ecology

46. No objection

Neighbour Representations

47. The Local Authority has received three letters of support for the proposal.

Planning Balance

48. The Framework seeks to contribute towards the achievement of sustainable development through meeting the needs of the present without compromising the needs of future generations. A key thread of this objective is to ensure that housing development is well located and supported by the necessary infrastructure and facilities.
49. Paragraph 11(d) of the Framework states that where there are no planning policies, or the policies most important for determining the application are out of date (including where a Council cannot demonstrate a five-year supply of deliverable housing sites), a decision maker should grant planning permission. This is unless the policies of the Framework provide a clear reason to refuse development, or any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. The Council does not have a 5-year Housing Land Supply (HLS).
50. As a consequence, this is of significant weight in favour of the proposal. Accordingly, the presumption in favour of sustainable development in Para 11(d) of the Framework is engaged.
51. However, the proposal would be located on a site with extremely poor accessibility that would therefore not be supported by the necessary infrastructure and facilities. Consequently, the adverse effects of the proposed development would significantly and demonstrably outweigh its benefits when assessed against the Framework as a whole. In addition the proposed development would result in a reduction in the number of dwellings from the approved class Q scheme from 3 to 2.
52. Consequently, even with the significant weight applied in favour of sustainable development, the benefits of the proposal do not outweigh the harm identified to the Council's spatial housing strategy or to the character and appearance of the area. Therefore, the identified conflict with the development plan is not outweighed by other material considerations.

Conclusion

53. The application site is located outside the Planned Limits of Development for Market Overton. Existing Local Plan Policy only allows for the conversion and re-use of appropriately and suitably constructed rural buildings for residential use in the countryside and does not apply to new build unless it is to meet affordable housing needs in accordance with the Council's Core Strategy affordable housing Policy CS11. Residential development is only acceptable in the countryside to meet an essential operational need for a dwelling to be located in the countryside or to meet an identified affordable housing need as set out in Core Strategy Policy CS11. There is no indication that the proposal is intended to meet the requirements for housing in the countryside. As such the development would be contrary to Policies CS3 (The settlement hierarchy), Policy CS4 (The location of development), of the Adopted Core Strategy and Policies SP6 (Housing in the Countryside), SP23 (Landscape character in the countryside), of the Site Allocations Development Plan Document 2014 and chapter 5 and 12, of the NPPF (2021).

54. The proposed development would result in a change in the character of the site from one that is currently agricultural to an overtly domestic character. The proposal would result in an increased footprint and height of built form that would diminish the openness and character of the site. The scale and design of the proposed dwellings and positioning in relation to the existing barn and adjacent open countryside would result in an undesirable change in character in this part of the village which would dominate the street scene with its formality and harm and diminish the rural appearance of this locality having a negative impact.

55. Taking the above into account, it is considered that, by virtue of the design, scale and location the proposal would have a detrimental impact upon the character or appearance of the open countryside and local area contrary to NPPF 2021 (Section 12), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

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PLANNING AND LICENSING COMMITTEE

23rd November 2021

APPEALS

Report of the Strategic Director of Places

Strategic Aim:	Delivering sustainable development	
Exempt Information	No	
Cabinet Member Responsible:	Councillor Ian Razzell - Portfolio Holder for Planning	
Contact Officer(s):	Penny Sharp, Strategic Director of Places	Tel: 01572 758160 psharp@rutland.gov.uk
	Justin Johnson, Development Control Manager	Tel: 01572 720950 jjohnson@rutland.gov.uk
Ward Councillors	All	

DECISION RECOMMENDATIONS

That the Committee notes the contents of this report.

1. PURPOSE OF THE REPORT

- 1.1. This report lists for Members' information the appeals received since the last meeting of the Planning & Licensing Committee and summarises the decisions made.

2. APPEALS LODGED SINCE LAST MEETING

- 2.1 None

3. DECISIONS

3.1 **APP/A2470/W/21/3270691 – Mr C Milburn – 2020/1062/FUL**

The Horse and Panniers, 12A Church Street, North Luffenham, Rutland, LE15 8JR
Application to regularise matters with regards the property being used as two separate dwellings.

Delegated Decision

Appeal Allowed – 21 October 2021

Dismissed insofar as it relates to the fixed louvres and internal courtyard wall.

- 3.2 **APP/A2470/Y/21/3270705 – Mr C Milburn – 2020/1063/LBA**
The Horse and Panniers, 12A Church Street, North Luffenham, Rutland, LE15 8JR
Application to regularise matters with regards the property being used as two separate dwellings.
Delegated Decision
Appeal Allowed – 21 October 2021
Dismissed insofar as it relates to the fixed louvres and internal courtyard wall.
- 3.3 **APP/A2470/W/21/3273066 – Mr Bradley Freeman – 2020/1253/OUT**
Land at A47, Glaston Road, Morcott, Rutland
Outline planning application for erection of 4 no. light industrial units together with associated parking and service yard. Use Class E(c)(iii), with some matters reserved.
Delegated Decision
Appeal Dismissed – 21 October 2021
- 4 APPEALS AGAINST ENFORCEMENTS LODGED SINCE LAST MEETING**
- 4.1 None
- 5. ENFORCEMENT DECISIONS**
- 5.1 None
- 6. CONSULTATION**
- 6.1 None
- 7. ALTERNATIVE OPTIONS**
- 7.1 Alternatives have not been considered as this is an information report
- 8. FINANCIAL IMPLICATIONS**
- 8.1 None
- 9. LEGAL AND GOVERNANCE CONSIDERATIONS**
- 9.1 As this is only a report for noting it has not needed to address authority, powers and duties.
- 10. EQUALITY IMPACT ASSESSMENT**
- 10.1 An Equality Impact Assessment (EqIA) has not been completed for the following reason; because there are no relevant service, policy or organisational changes being proposed.
- 11. COMMUNITY SAFETY IMPLICATIONS**
- 11.1 There are no such implications.

12. HEALTH AND WELLBEING IMPLICATIONS

12.1 There are no such implications

13. CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

13.1 This report gives details of decisions received since the last meeting for noting.

14. BACKGROUND PAPERS

14.1 There are no background papers.

15. APPENDICES

15.1 There are no appendices to the report.

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

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