

Application:	2021/1423/MAO	ITEM 1	
Proposal:	Erection of up to 50 no. dwellings with associated access, highways, open space and drainage infrastructure (all matters reserved except access).		
Address:	Land On The North Side Of, Cold Overton Road, Langham, Rutland		
Applicant:	Langton Homes	Parish	Langham
Agent:	Andrew Granger & Co.	Ward	Langham
Reason for re-presenting to Committee:	Legal Advice Received		
Date of Committee:	28 April 2022		
Determination Date:	7 March 2022		
Agreed Extension of Time Date:	6 May 2022		

Background

- Members of the Committee considered this application at the meeting on 15 March when it was resolved by 5 votes to 4 to refuse planning permission. Before a decision could be issued, the applicant served the Council with a Pre-Action Protocol letter claiming that the decision would be unlawful and requesting that it be re-considered by the Committee. The letter means that if the decision had been issued the applicant would make a claim to the Court for Judicial Review.
- There are 3 main grounds for this assertion:
- The challenge is to the resolution made by the Council's Planning and Licensing Committee on the 15 March 2022 to refuse a planning application for the development the subject of application 2021/1423/MAO.

4. Ground 1

The members at the Committee made their decision on incorrect information namely on the status of the draft Local Neighbourhood Plan ("LNP") status and the interpretation of the policies to be taken into account when paragraph 11(d) is engaged.

5. Ground 2

The members of the Committee took into account immaterial considerations relating to the previous planning history of the site.

6. Ground 3

Consistency in decision making, in terms of the lack of sustainability of the development as far as local amenities within the settlement. However, planning permission has been granted for the adjacent land under reference 2020/0380/OUT.

Response

7. Ground 1 – Made Langham Neighbourhood Plan and its review

The Council has to concede that the Parish Council's comments to the Committee on the status of the LNP review were factually incorrect. It is also clear that the Council cannot demonstrate a 5-year land supply, therefore paragraph 11(d) is fully engaged. The age of the current made Langham Neighbourhood Plan means that it does not fulfil the criteria set out in paragraph 14 of the NPPF. Specifically, the applicants claim relates to the weight given to the LNP review and how much that influences the operation of Para 14 of the

NPPF. Members were correctly advised of the status of the LNP review in the original report. During the meeting it was suggested that the LNP review was out for Regulation 16 consultation and members consequently lent weight to the Plan. As advised, the LNP review is not yet out for Reg 16 consultation. Before this can happen, it needs to be approved by Cabinet. This is scheduled for consideration at the meeting of Cabinet scheduled for 17th May 2022.

There would then be a 6 week consultation period, followed by an independent examination, then a Referendum which this Council would organise. Only after that process could the LNP review be considered by Council for it to be declared 'made' and hence carry full weight as part of the Development Plan. This is a lengthy process and is unlikely to be complete until much later this year.

Following the initial 6 week Reg 16 consultation on the pre-submission version there may be evidence of community support for the plan. However, the plan may not be legally compliant and has not been tested against the Basic Conditions. As such, little weight can be given as the Plan has not been tested and may be subject to change following consultation and examination.

The weight to be lent to the LNP review is therefore less than members afforded to it at the previous meeting. It is not of sufficient status or weight sufficient to outweigh the NPPF. The advice in Para 11(d) of the NPPF should therefore be followed.

It is noted that the LNP review does acknowledge that this site may come under pressure for development due to the Local Plan being withdrawn from Examination and sets out a requirement for a buffer zone to protect the quiet tranquil nature of Ranksborough Park as follows (Policy RS4b):



Figure 7.10a: Proposed buffer zone around the residential homes for over 55s at Royale Ranksborough Hall.

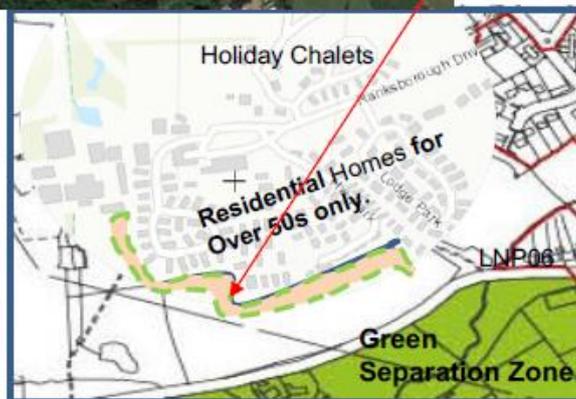


Figure 7.10b: View across proposed Buffer Zone.

47 It is based this plan will not be needed

Whilst this calls for a buffer zone of 20 metres, the application does show a buffer zone in this Area, albeit 10m. This policy carries little weight at this stage so 20 metres cannot be insisted upon.

8. Ground 2 – Immaterial considerations

The Council accepts the applicant's assertion that there being a previous planning history of the site. The planning committee report made no reference to their being any planning history on the site. Furthermore, officers did clarify the planning history status and pointed out that circumstances were very different now to any historic decision. It was also pointed out to members at the Committee meeting that it was an immaterial planning consideration, and members had to consider the application before them. Notwithstanding officers making representations at the meeting to direct members to deal with the application before them, it is accepted that inference could be made in terms of information relating to the previous planning history of the site being considered by members in making their decision.

9. Ground 3 – Consistency

The Committee report to members set out the position in respect of the planning permission for an adjacent site. It was re-iterated at the Committee meeting by officers that planning permission had been granted for the development on the adjoining site. The Council accept that the sustainability of this development is to be deemed similar to the adjoining site however it is important to note that there are significant differences:

The adjoining site was granted planning permission in October 2020 when the LNP had allocated the site as an expansion site for development, the Council could demonstrate a 5 year housing supply and consequently, the Councils policies were not out of date so para 11(d) did not apply.

Notwithstanding that members had read the Committee report before the meeting and officers did respond to questions raised at the Committee to the best of their knowledge, the points raised in the Pre-Action Protocol Letter could purport to uncertainty, particularly in respect of the status of the LNP and the weight to be given to the DLNP, together with the planning history of the site and the legal basis for their decision making in terms of engagement of paragraph 11 and consistency in decision making.

Conclusion

10. Members must reconsider the application in the light of these clear facts now set out. Failure to do so could end with a decision being quashed in the Court with not insignificant costs to the Authority.
11. In view of the planning policy situation set out in the original report and the fact that there are no technical or amenity issues in relation to developing the site, the recommendation remains to grant outline planning permission as set out on 15 March.
12. The original main report is attached to this report as Appendix A.

APPENDIX A

Original Report to Committee on 15 March 2022

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Applicant:	Langton Homes	Parish	Langham
Agent:	Andrew Granger & Co.	Ward	Langham
Reason for presenting to Committee:	Policy and objections		
Date of Committee:	15 March 2022		
Determination Date:	7 March 2022		
Agreed Extension of Time Date:	25 March 2022		

EXECUTIVE SUMMARY

The site is adjacent to a recently approved outline application and shares the same access. There would be some impact on residents at Ranksborough Hall but a revised Masterplan has moved the development away from the common boundary, which is single storey in that part of the site. In view of the lack of a 5 year housing land supply, the application is recommended for approval as there are no other conflicts with policies of the development plan or the NPPF which cannot be overcome by conditions. Para 11(d) of the NPPF is engaged and permission should therefore be granted.

RECOMMENDATION

APPROVAL, subject to the completion of a s106 agreement to provide affordable housing and the provision and maintenance of open space, and the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
Reason – To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the appearance, landscaping, layout and scale have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason - The application as submitted does not provide sufficient particulars for consideration of these details.
3. The development shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
Reason – To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. The Reserved Matters shall provide for a maximum of 50 dwellings.
REASON - The provision of a greater number of dwellings would reduce the space available for open space, sustainable drainage, ecological interests and result in a cramped form of development and in accordance with Policies SP5 and SP15.

5. The Reserved Matters shall be based upon the following plans and documents:

- Drainage Strategy Plan ADC2813/DR/051 P2 contained the ADC Report ADC2813-RP-C
- Proposed Access Junction Layout plan ADC2813-DR-001-P3.
- The recommendations for biodiversity enhancements in sections 4 and 5 of the Feasibility Study For Biodiversity Net Gain by Fauna Forest Ecology dated February 2022.

and shall have regard to:

- The revised Illustrative Master Plan Ref. GL1655 SK1, received on 25 February 2022.
- The Design & Access Statement, Goldby & Luck, November 2021.

REASON - To ensure that the final development accords with the parameters set out in the outline application has an acceptable relationship with the adjoining properties, provides adequate open space and a sustainable drainage scheme and in the interests of proper planning.

6. No development shall commence until details of existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme before any dwelling is first occupied.

Reason: To ensure that the relationship of the proposed dwellings to each other and to adjacent dwellings is acceptable, in the interests of residential amenity.

7. No development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the dwellings to which they relate being first occupied and thereafter be retained in the approved form.

Reason: To ensure that appropriate boundaries are installed in the interests of visual and residential amenity.

8. The landscaping scheme to be submitted as part of the reserved matters shall be designed in accordance with the Feasibility Study For Biodiversity Net Gain by Fauna Forest Ecology dated February 2022.

Reason: To ensure that the development provides the requisite increase in biodiversity for the site.

9. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details, approved in Condition 2 above, 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, in the interests of residential and visual amenity.

10. No development shall take place within the application site 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.

11. No development shall take place until the existing trees on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping / shown to be retained on the approved plan, have been protected by the erection of temporary protective fences in accordance with BS5837:2012 and of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil shall be placed or stored there. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left unsevered.

REASON- The trees are important features in the area and this condition is imposed to make sure that they are properly protected while building works take place on the site, in accordance with Policy SP15.

12. The development hereby permitted will be restricted to a maximum discharge rate of 5l/s for the whole site in accordance with the Flood Risk Drainage Strategy Addendum Version 3.

Reason: To ensure that there is no flood risk off the site resulting from the proposed development.

13. The development hereby permitted shall not commence until full details of the design, implementation, maintenance and management have been submitted to and approved in writing by the local planning authority. Those details shall include:

- a) Information about the temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters;
- b) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts and ditch clearance where relevant);
- c) Flood water exceedance routes, both on and off site;
- d) A full capacity and condition assessment of the existing ditches from the discharge point, upstream for 500m and downstream to through Langham Brook to Whissendine Brook;
- e) A timetable for implementation;
- f) Site investigation and test results to confirm infiltrations rates; and
- g) A detailed management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

Reason : To ensure that the proposed development can be adequately drained whilst ensuring there is no flood risk on or off the site resulting from the proposed development.

14. The development hereby permitted shall not commence until Land Drainage Consent has been granted for the outfall into the adjacent ordinary water course.

REASON: To prevent the increased risk of flooding off-site resulting from the proposed development.

15. Car parking including garages and turning shall be provided in accordance with the approved layout plans prior to the first occupation of the dwellings to which it relates. 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.

16. Any new trees located within 5m of the existing or proposed 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.

17. All vehicular and pedestrian accesses will be designed to prevent the discharge of surface water from the development onto the existing or proposed 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.

18. The carriageway of the proposed principal junction with the existing public highway shall be constructed up to and including at least road base level or be constructed as a temporary access and be available for use prior to the commencement of any development including the delivery of materials.

Reason: To ensure that the junction is available for use at the outset in the interests of highway safety.

19. No dwelling shall be occupied until the access road or driveway linking that dwelling to the public highway has been completed to a minimum of base course level and shared surfaces and footways/cycleways shall be completed to surface course level. In the event any of the dwellings will be occupied prior to the carriageway serving that property being fully surfaced then a timetable and phasing plan for completing the roads shall be submitted to and approved in writing by the Local Planning Authority. The carriageways shall thereafter be completed in accordance with the approved timetable and phasing plan.

Reason: In the interests of highway safety.

20. Prior to first occupation of any dwelling, vehicle to vehicle visibility splays of 2.4m x 25m at internal junctions, vehicle to pedestrian visibility splays of 2m x 2m at all vehicle accesses and forward visibility splays of 25m shall be provided in accordance with the details shown on plan the approved plan.

Reason: In the interest of highway safety.

21. The developer shall carry out a joint pre-condition highway survey for the full extent of highway including verges with the Local Highway Authority 500m

either side of the proposed access on Cold Overton Road before site traffic commences. The results of the inspection will be provided by way of a photographic survey by the developer to the Local Highway Authority. A similar inspection will take place on completion of the development to assess any damage and remediation required.

Reason: In the interests of highway safety.

22. No development shall take place 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:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works
- Hours of working on site

Reason: To ensure that the development is carried out in a manner that minimises disruption to the highway network, in the interests of highway safety and in accordance with Policy SP15.

23. The development shall be carried out in accordance with the recommendations in Chapters 4 and 5 of the Preliminary Ecological Appraisal Report by Fauna Forest Ecology, dated November 2021.

Reason: To ensure that the ecological interests of the site are protected during and after the development.

(Highway and Drainage conditions subject to final comments)

Informatives:

- CIL note
- Highway informatives

Site & Surroundings

1. The Site comprises an agricultural field located off Cold Overton Road to the west of the village centre of Langham.
2. The Site covers an area of approximately 3.75 ha (9.3 acres) and consists of a single arable field. Sloping from north to south by around 5 metres, the field is bounded to the south by a significant hedge on Cold Overton Road; to the west by open countryside; and to the north/east by residential properties located within Ranksborough Hall and the previously consented scheme for 18 residential dwellings (ref. 2020/0380/OUT).

3. The Site is located outside of the “Planned Limits of Development”, as set out in the Council’s Development Plan Inset Maps. It is therefore considered as “open countryside” in accordance with policy, although it adjoins the existing – and consented – built form of the village.
4. The Site is not within the designated Conservation Area for Langham, the boundary of which adjoins the previously approved outline site to the east although there is nothing of particular historic or architectural interest to the west of the A606.
5. The Site is located solely within Flood Zone 1 of the Environment Agency’s Flood Risk Maps. Therefore, the Site is assessed as having low risk of flooding (less than 1 in 1000 annual probability of river flooding).
6. Overhead lines cross the south west corner of the site and the applicants retained adjacent land to the west.

Proposal

7. The proposal is an outline application for permission in principle to erect up to 50 dwellings. Access to the site is included for full approval and would share the access with the recently approved Neighbourhood Plan site to the east. Pedestrian access for the development is proposed through the neighbouring development, utilising the existing footpath link to The Range, which forms parts of a public right of way – Footpath E151.
8. The illustrative Masterplan indicates that the dwellings adjacent to Ranksborough Park would be bungalows with room in the roof to minimis impact on the single storey lodges at Ranksborough. A revised Masterplan is attached at the Appendix.

Relevant Planning History

None

Planning Guidance and Policy

National Planning Policy Framework (NPPF) 2021

Chapter 2 – Achieving Sustainable Development (inc Para 11(d) – (See text in Appendix)

Chapter 5 – Delivering a sufficient supply of homes

Chapter 11 – Making efficient use of land

Chapter 12 – Achieving well designed places

Site Allocations and Policies DPD (2014)

SP5 - Built Development in the Towns and Villages

SP6 - Housing in the Countryside

SP9 - Affordable Housing

SP15 - Design and Amenity

SP20 - The Historic Environment

SP23 - Landscape Character in the Countryside

Core Strategy DPD (2011)

CS04 - The Location of Development

CS03 - The Settlement Hierarchy
CS08 - Developer Contributions
CS10 - Housing Density & Mix
CS11 - Affordable Housing
CS19 - Promoting Good Design
CS22 - The Historic and Cultural Environment

Neighbourhood Plan

The Langham Neighbourhood Plan allocated the approved site to the east with which this site would share access. The Plan contains the following relevant policies:

Policy HR1a Demographics & Housing – Number of Houses

Policy HR1b Demographics & Housing - Demographic Provision

Policy HR2c Important Green Spaces – Preservation of Housing Densities

Policy HR4a Housing Design & Layout – Multiple New Housing

Policy PSS5: Public Services –Essential Utilities Provision (SUDS & Flood Risk)

Policy D2: Areas of Housing

Policies D3a: Buildings (Design)

Policies D3b: Layout

Policies D3c: Boundaries

Policies D3d: Roofs and Chimneys

Policies D3e: Windows and Doors

Policy D3g: Driveways

Policies D3h: Building Materials

Officer Evaluation

9. The main issues are planning policy, highway safety, residential amenity, drainage, ecology, and provision of affordable housing.

Principle of the use

10. The site is outside the PLD for Langham in the current Development plan.
11. In view of the withdrawal of the Local Plan Review, the Council can no longer demonstrate a 5 year Housing Land Supply as required by the NPPF. On this basis Para 11(d) of the NPPF is engaged and the housing locational policies of the current development plan are to be considered out of date. This means that the Para 11(d) carries significant weight in the determination of this application. The current figure is 3.4yrs supply. This will be updated again at the end of March.
12. There is therefore a presumption in favour of sustainable development. Langham is a sustainable settlement. The scheme also meets the 3 test of sustainability, i.e., economic, social and environmental as set out in NPPF para 8.

13. Para 11(d) of the NPPF and its footnote make it clear that where there is no 5 year housing land supply, the locational policies of the Development Plan are to be considered out of date and permission should be granted unless doing so would cause harm to other up to date policies such that they would outweigh the benefits of providing housing.
14. The Core Strategy DPD and SAP DPD and the Neighbourhood Plan are still within their plan period. However, only the adjacent site has come forward for development out of those put forward for development in the NP. The NP assumes 58 new dwellings up to 2036. This scheme will result in 68 on the 2 sites which whilst above the NP aim assists in the delivery of the County wide housing supply which carries significant weight.
15. However, policies are out-of-date for the purposes of paragraph 11(d) of the NPPF if they have been overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy, or for some other reason, so that they are now out-of-date.
16. Whether a policy is out-of-date and, if so, with what consequences, are matters of pure planning judgement, not dependent on issues of legal interpretation.
17. The situation here relates to the foot note in the NPPF para 11(d) which clearly states that the circumstances where the policies which are most important for determining the application are considered out-of-date include
“for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”.
18. Para 14 of the NPPF states that in situations where the presumption applies, the adverse impact of allowing developments that conflict with a Neighbourhood Plan will likely outweigh the benefits significantly and demonstrably provided that the NP has been in place for no more than two years and the housing land supply figure is more than three years. In this case the NP is well over 2 years old so para 14 does not apply.
19. In this case there is no significant harm to any other policies that would suggest setting aside Para 11(d) and as such, the Application should benefit from the presumption in favour of sustainable development.

Design/Layout

20. The illustrative layout follows the advice in the Rutland Design Guide in that it provides clusters of outward facing dwellings such that no rear boundaries face onto a road. The road hierarchy is appropriate with smaller lanes and shared surfaces bearing off the main access road.

21. The detailed reserved matters layout would need to include street trees as required by the NPPF, although trees are indicated along the side of access roads.
22. The scheme provides a generous amount of open space and a play area.
23. The Masterplan indicates a range of house types including bungalows which would fulfil the aims of the NP in provision of accommodation for over 55's, young families and those wanting to get on the housing ladder via Affordable units.
24. The final design and layout would be dealt with at reserved matter stage.

Impact of the use on the character of the area

25. The site is set behind a good roadside hedge. The site slopes gently up to the southern boundary of Lodge Park. The illustrative Masterplan indicates that development would assimilate well into the local landscape with a large area of open space fronting Cold Overton Road. The applicant has been requested to pull the development away from the Lodge Park boundary and leave a c10 metre landscaped strip to minimise the impact on those residents.
26. A revised Masterplan has now been received showing this amendment which will reduce the impact on Lodge Park considerably.

Impact on the neighbouring properties

27. The main neighbouring properties are located on the southern edge of Lodge Park at Ranksborough Hall. They are single storey lodges located close to the boundary of this site with conservatories and short gardens.
28. Members are aware that no-one has a right to a view and whilst the development of the site would be disappointing for those on the southern edge of Lodge Park, this is not a reason for refusal in itself.
29. The revised Master plan includes a 10m landscape strip between the boundary of Lodge Park and the rear boundaries of the single storey dwellings on plots 5-16.
30. There may be some short term disturbance from construction phase but members are also aware this is not a reason for refusal.

Heritage

31. No impact on heritage assets subject to pre-commencement archaeological investigation. It is not considered that a pre-determination survey is required on this site.

Highway/Drainage issues

32. The outline permission on the adjacent site includes the provision of a new pedestrian crossing on the A606 close to The Range. This facility would also give access to the main part of the village from the proposed site as it links through. The final comments of the highway authority are awaited and will be covered in

the Addendum as set out in the Consultations below. There is no fundamental objection in principle. The same applies to surface water drainage.

Ecology

33. The existing field is cropland of little ecological value. Most value is in the trees and hedgerows around the site which would be retained other than for the point of access. The submitted Bio-diversity Gain report sets out that the baseline ecological unit value for the site as existing totals 8.79 habitat units with 7.82 hedgerow units. The proposed site totals habitat 13.48 units and 9.06 for hedgerow units. Thus, the proposed development of the site achieves an increase of 4.69 habitat units and 1.24 hedgerow units, an increase over baseline of 53.47% in habitat units and 15.74% for hedgerow units.

Noise

34. There could be some noise during construction but members are aware that this is not a reason for refusal as it is short lasting. A construction management plan is sought via the conditions.

Section 106 Heads of Terms

- Provision of Affordable Housing
- Provision and maintenance of open space and equipment

Crime and Disorder

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

Human Rights Implications

36. 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.

Consultations

37. Langham Parish Council

We would oppose this application for three main reasons:

1. It is well outside the Planned Limits of Development (unlike the 18-house development which abuts the PLD) and is deemed to be in the open countryside. There are a number of Policies that prevent development in the Open Countryside.
2. It is a site that has been considered and dismissed in the Langham Neighbourhood Plan ' both 2017 version and the emerging 2022 version.

3. Impact on the traffic situation on the small country road (Cold Overton Road) that is too narrow to have pavements and takes all cars to the dangerous junction of Cold Overton Road and A606.

These arguments are supported by policies from the NPPF, the Rutland Core Strategy, SAPDP and withdrawn Rutland Local Plan, and by Policies in the Langham Neighbourhood Plan 2017 and emerging LNP 2022. Our comments are in italics following each Policy.

NPPF

119. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land. Land is neither brownfield nor adjacent to the PLD ' it is open countryside.

174b. Planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. This proposal will remove a large field, that is full of wildlife, from the Langham countryside.

105. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This proposal will put 100 more cars onto a narrow country road, which joins the main A606 at a very dangerous junction. There is very poor public transport service to Langham and so the need for car journeys will be essential even to travel to the other side of the village to the Village Hall, churches, and Community Park.

There is poor public transport to and from Langham with buses only running once an hour until 18.03 with no service on Sundays. It is expected that traffic will increase through Langham once the Melton Bypass is completed.

Core Strategy and SAPDP

CS2 Spatial Strategy

a) focussing new development in the most sustainable locations, primarily in the towns and the local service centres away from areas prone to flooding and ensuring that development is accessible by other modes of transport without reliance upon the private car; (see Policies CS3, 4) This proposal is ONLY accessible by car.

There are no pavements along Cold Overton Rd and no room to provide any.

b) new development being of an appropriate scale and design that reflects local character and is consistent with maintaining and enhancing the environment and contributes to local distinctiveness; (see Policies CS19, 21, 22) This proposal does not sustain the open countryside that is key to the setting of Langham village.

l) protecting and enhancing open spaces and 'green infrastructure networks in order to promote healthy communities and enhance the rural setting of the towns and villages; (see Policy CS23). This proposal takes a large swathe of countryside which has not been deemed as appropriate for development by RCC.

o) protecting and enhancing the natural environment. Proposal consumes and removes permanently a large area of natural environment.

CS3 Settlement Hierarchy: Whilst the settlement hierarchy calls for housing in Local Service Centres such as Langham, there is a category called 'Countryside' that does

not! This proposal is not within the PLD or designated development sites of Langham but is in the protected open countryside.

CS4 The Location of Development. The Local Service Centres can accommodate a level of growth mainly through small scale allocated sites ' approximately 2.4 new homes per year. The proposal is not small scale, it is not an allocated site, and it accounts for 20 years' worth of housing growth in 1 year; this would prevent the more sustainable approach of careful and gradual growth over 20 years. Development in the countryside will be strictly limited to that which has an essential need to be located in the countryside. This development is not only NOT essential, but the speed of growth would be detrimental to the sustainability of Langham as a community.

CS21 The Natural Environment: The quality and diversity of the natural environment of Rutland will be conserved and enhanced. All developments must respect and enhance the character of the landscape. This proposal will concrete over acres of natural environment. This field is noted for a range of wild birds and small mammals and its loss would impact the biodiversity of this area (see LNP 2022 Rural Setting, Biodiversity)

CS23 Green Infrastructure, open space and recreation: The existing green infrastructure network will be safeguarded by c) resisting development resulting in the loss of green infrastructure. Proposals involving the loss of green infrastructure will not be supported unless there is no longer a need for that infrastructure, or it can be replaced elsewhere. There is no need for so many houses in Langham, and so absolutely no necessity to lose any green infrastructure. Neither is there any way that another field can be created to replace this one.

SP6 Housing in the Countryside: New housing development in the countryside will not be permitted except where it can be demonstrated to be essential. Any such development should not adversely affect the character and landscape of the area. This development is not essential, is not actually needed, is not wanted and will certainly seriously damage both the character and the landscape of this part of Langham.

Withdrawn Rutland Local Plan

SD1 Sustainable Development Principles: New development in Rutland will be expected to

b) locate the development where it minimises the need to travel. Langham is poorly served by buses, there is no public footpath to this site and the car is the only means of reaching all services.

c) make the most productive use of previously developed land'.and land on the edge of PLD before development of new green field land is considered. There is allocated land on the edge of the PLD identified, there is brownfield land within the PLD identified. These must be considered before the use of this green field site.

l) maintain and enhance the county's environmental'..assets together with their setting. A 50-home housing estate will not enhance the beauty of the countryside in this location.

EN1 Landscape Character Impact: The distinctive character of Rutland's landscape will be conserved and, wherever possible, enhanced. This proposal will concrete over a significant part of open countryside.

All development proposals will be assessed in relation to local distinctiveness and sense of place, community value of the landscape and open spaces, visual intrusion and impact on remoteness and tranquillity, Neighbourhood Plan Policies. This proposal will fundamentally alter the character of this part of the countryside, will impact the remoteness and tranquillity of Ranksborough park retirement community, and is completely at odds with the Langham Neighbourhood Plan (2017 and emerging 2022) where this site is clearly assessed and dismissed.

EN9 The natural environment strategic policy: new development will be expected maintain, enhance, restore, or add to biodiversity. No concrete and brick development replacing an open green field surrounded by hedges and woodland can meet this criterion.

EN10 Blue and Green infrastructure: The existing blue/green infrastructure will be safeguarded by resisting development that results in the loss of blue/green infrastructure or harm to its use. This development would destroy a field and all wildlife habitat it offers.

Present LNP

HR3b ' land allocation: (This Policy details those sites that, through careful selection using both the RCC criteria for site allocation and community acceptability criteria, have been selected to support the predicted growth of Langham to 2036.) The proposed site is NOT one allocated through this process.

Support Document SD 4a Site Assessment: (Pages 4, 18, 24, 25, 26, 37 and 38 show that the site LNP05 was put forward and failed to meet the requirements, and so was not included as a preferred site) The site was deemed inappropriate for development and so was refused as a possible site for development in the LNP2017.

Emerging new LNP

Policy SG3 Site Allocation: (This Policy details those sites allocated in the 2017 LNP that are still appropriate and available, and that will accommodate the required growth for Langham over the 19 years to 2041) The proposed site is NOT one of the sites allocated in the emerging new Langham neighbourhood Plan.

Policy RS1 Landscape Character: The landscape character of the countryside within the parish boundaries (Figure 0.1), including arable and grazing land belonging to landowners, will be safeguarded, and rural views preserved.

Any development, residential or commercial, permanent, or temporary, which might change the nature of Langham's rural setting and character, or that will fundamentally alter or block the countryside views is not acceptable. This to be achieved by:

safeguarding and protecting the open landscape and setting of the village by ensuring any necessary development is restricted to selected sites (see Policy SG3) on the outer edge of the PLD and is of a size, location and nature to minimise the impact on the appearance and public enjoyment of the countryside. The proposed development is in direct contravention of this policy.

Policy RS2 ' Development in the Countryside: Taking 'countryside' to be that part of Langham Parish that sits outside the Planned Limits of Development, the following will apply:

1. residential development in the countryside will be restricted in line with the policies of the Rutland Core Strategy & SAPDP, and Policies RS1 and SG3 of this Plan. This includes:

- a. individual houses and housing developments.
- b. residential caravan sites (including mobile homes and park homes) which are treated, in law, the same as housing developments.

The proposed development is not in line with this policy

Within the documents there are presumptions, inconsistencies and important issues and decisions that still need to be resolved.

Some examples:

' In the Design and Access Statement about Ranksborough Park:

'the grounds of the hall are now the location of a modern holiday lodge park'

This is only partly true. Most of Ranksborough Park is permanent residential retirement homes which the proposed new development abuts.

' Assessment 3.0

'Existing tree cover at boundaries should be retained where possible'

The tree cover must be retained. By using 'where possible' this gives the developer carte blanche to remove trees, flora and fauna wherever they wish.

The mature hedgerows, tree groups and trees (many identified as High and Moderate retention value in the tree survey) are key to the bio-diversity of the area, Residents of Cold Overton Road and Ranksborough enjoy the variety of birds, bats, owls that are frequently heard.

' Transport

There is no public footpath to this site. It is expected and presumed that residents will use the footpath through the estate to The Range and then access the school and other facilities via the crossing on the A606. This is neither reasonable nor practical as it is much shorter in distance for the residents to use the Cold Overton Road entrance, this will lead to further increase in car use and/or children walking along a dangerous road with no complete footpath to the village. This is not acceptable. Already the area around the school is fraught with danger and angry residents due to excess and dangerous parking by parents using the car in the school run. The problem will be greatly exacerbated by extra cars from the development.

' Drainage

The method of sewerage removal has not yet been defined or confirmed. This depends on several factors beyond their control e.g., ownership of footpath. This is unacceptable.

' Rights of Way

Rights of way must be diverted as these are ancient pathways which afford people countryside views and walks. These must be retained to ensure the ambience and character of the village and not moved for the convenience of developers.

' Ecology appraisal

The field survey was taken on the 7th October so this is only a brief snapshot of the wildlife and flora and fauna of the development area. Within the Ecology Appraisal it was stated that the survey was not undertaken at the optimal time of year therefore cannot count as a true reflection of the ecology of the area.

Summary.

Langton Homes has acquired a piece of open countryside in the parish of Langham that would never get planning permission under normal circumstances ' countryside,

no pedestrian access possible, remote from village amenities, excessive size of development, more than is required by the community and the county, negative impact of difficult traffic flow. However, they are understandably looking to develop it. However it (along with the 18 home development next door for which they have received planning permission) will increase the size of the village by 10% in a few years, whereas the Langham Neighbourhood Plan, and RCC guidance, requires a growth of no more than 7% over 20 years.

It would seem that the developers are trying to capitalise on the lack of a more up-to-date Rutland Local Plan, but the emerging Langham Neighbourhood Plan ' ready for National Assessor early in the New Year- opposes this development strongly. The National and County Policies have been detailed above.

Recommend Refusal.

38. Archaeology

Thank you for your consultation on this application. We recommend that you advise the applicant of the following archaeological requirements.

We welcome the geophysical survey and note that the illustrated masterplan has excluded part of the potential archaeology. However there is still potential for archaeological remains to be impacted by the rest of the development.

In accordance with National Planning Policy Framework (NPPF), Section 16, paragraph 194, the development area is of archaeological interest and also has the potential for further unidentified archaeological deposits. Based upon the available information, it is anticipated that these remains whilst significant and warranting further archaeological mitigation prior to the impact of development, are not of such importance to represent an obstacle to the determination of the application (NPPF paragraph 195).

While the current results are sufficient to support the planning decision, further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme.

NPPF paragraph 205, states that Local Planning authorities should require developers 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.

In that context it is recommended that the current application is approved subject to conditions for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary by 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.

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, and with relevant Chartered 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 the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. 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 mitigation 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.

39. Ecology

The Preliminary Ecological Appraisal Report (Fauna Forest Ecology Ltd, November 2021) is satisfactory, the recommendations in the report must be followed (and made a condition of any planning permission granted) including requirements for additional surveys:

- Hedgerows on site should be retained. Recommendations in section 4.5 of the report regarding hedgerows must be followed; "No hedgerow sections should be removed until they have been assessed by a suitably

qualified ecologist to ascertain if they qualify against the Hedgerow Regulations Act, 1997.

- As specified in section 4.7 of the report "If any trees (including trees adjacent to the site) are to be thinned, felled, or subjected to artificial nocturnal light spill, they should be mapped by the developer then surveyed from ground level by a suitably qualified ecologist with a view to identify their potential roosting value. Following this, any trees found to be suitable for bat roosting may need to be climbed for further inspection and / or surveyed during nocturnal hours following best practice guidelines".
- As per section 4.8 of the report a pre-commencement badger check will be required.
- With regard to birds, as per section 4.1. of the report recommendations for surveys should be followed.
- As per section 4.19 of the report "A suitably qualified ecologist should be present during the removal of hedgerow when creating the access route to site. During this period, the ecologist should undertake a thorough search for great crested newt (and other amphibian presence) presence, then continue to carry out a watching brief until the vegetation has been removed from site. If evidence of great crested newts is discovered, works must halt immediately, Natural England may need to be contacted for advice and there may be a requirement for a mitigation licence to be in place (issued by Natural England) before works can continue.
- Reasonable Avoidance Measures (RAMS) as set out in section 5 of the report should be followed.

I can see from the Illustrative Master Plan that an area of the site has been allocated for what appears to be biodiversity enhancements/green space. As per my previous comments, The NPPF (180. d)) states that 'opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate'. A biodiversity net gain calculation (using the DEFRA Metric 3.0) is required to demonstrate how biodiversity net gain is to be delivered on the site and should be submitted (in Excel format) with an accompanying outline biodiversity enhancement report/plan. This is required to ensure that net gains/losses and the broad principles for addressing losses can be understood by the LPA when determining the application. The standard hierarchy of Avoidance-Mitigation-Compensation has to be followed. Applying the mitigation hierarchy means aiming to retain habitats in situ and avoiding or minimising habitat damage so far as possible, before looking to enhance or recreate habitats either on or off-site. A BNG metric will determine whether the proposed biodiversity enhancements will achieve BNG.

Update 2 March 2022

Following a conversation with the ecologist yesterday, and submission of the amended BNG Metric, I can now confirm this is acceptable as is the Feasibility Study for Biodiversity Net Gain report (Fauna Forest Ecology (February 2022).

40. Highways

The highway authority had some initial concerns about the access and permeability.

The applicant has responded with revised proposals and comments to overcome these concerns.

The highway authority now has no objection subject to the imposition of conditions.

This issue will be set out in more detail in the addendum.

Lead Local Flood Authority

Similarly the LLFA had initial concerns about the lack of sustainable drainage proposals within the scheme.

Following a review of Flood Risk Drainage Strategy Addendum Version 3, the LLFA are now satisfied that all previous comments have been addressed satisfactorily and the site will be limited to a discharge rate of 5l/s. As such, the LLFA will recommend approval of the proposals subject to conditions. This issue will also be set out in more detail in the addendum.

41. Public Protection

No objections

42. Leics & Rutland Bridleway Association

Thank you for your letter/email alerting us to the documents for this application.

As the applicants have moved the site entrance towards Langham village and the development does not intrude onto the claimed bridleway, I do not think we have any further comments to make.

43. Leicestershire Police Architectural liaison Officer

I am writing to you in my capacity as the Leicestershire Police Designing out Crime Officer (DOCO). Leicestershire Police have no formal objections in principle to the application however we would like to make the following observations.

In relation to the Proposed Erection of 50 no. dwellings and associated access, highways open space and drainage infrastructure (all matters reserved except access). At Land on The North Side Of Cold Overton Road, Langham, Rutland.

I have now visited, and have reviewed the proposed development. There is a proposed vehicle access via an entry point to the west of the site. Internal roads then allow access to all areas of the proposed development. There are no internal roads to the open space to the west of the site. There are no permeability issues as the site only has one vehicle entry point.

Vehicle parking is in curtilage throughout the site in close proximity to the dwellings and consideration of gable end windows is recommended to allow improved natural observation by residents and neighbours.

Lighting throughout the site including the key vehicle entry point and other key areas such as open space should be to BS5489. A Section 38 Agreement is requested to install an electrical spur to the nearest lampposts would allow immediate installation. All pedestrian or cycle walkways should be illuminated likewise.

Consideration of the use of CCTV coverage of the key vehicle entry point is recommended to include Automatic Number Plate Recognition capability. This will add an element of general security to the development providing improved security. In the event of it being required appropriate General Data protection Act signage would need to be displayed. Due to the size and scale of this site I recommend consideration of CCTV be considered prior to occupancy.

Wheelie bin storage and Cycles should be stored in secure areas where possible to avoid the potential for criminal use, as a ladder, mode of removal or arson risk for Bins or mode of escape in respect to Cycles.

Foliage is recommended to be to a height of 1m and trees are recommended to be trimmed to have no foliage lower than 2m from the ground. This will provide a 1m clear field of vision. Bin and cycle storage is recommended to be within the perimeter of dwellings with rear shed or garage storage recommended. Perimeter enclosure is recommended to be to a height of 1.8m in a material in keeping with the development.

General Recommendations

All door and window sets will be to PAS24 (2016) which is now included in building regulations. There are other considerations such as BS 6375 Security Locking and Fire Security and BS EN 50486 in relation to Audio and Video door entry systems. Consideration should be made to identify the most appropriate option for this site. Dwellings are recommended to have an Alarm System to BS7958, but there are other options on the Secured by Design portal which include BS6799 in relation to wire free alarm systems. Also BS EN 50131 and PD 6662 in relation to wired systems.

1. Street lighting columns to BS 5489 are recommended.
2. Appropriate fencing should be used to enclose the perimeter and is recommended to be 1.8m in height. This can be via planting or manufactured fencing.
3. Key access points leading into the development should be considered for CCTV coverage supported by lighting to allow identification during day and night. This would allow vehicle and facial recognition in key areas. Appropriate signage should be in place to be compliant with the Data Protection Act.
4. Natural surveillance should be possible via ground level foliage being trimmed to 1m high and trees to have no foliage lower than 2m from the ground to allow a clear field of vision.
5. Vehicular parking is recommended to be in curtilage as part of the dwellings where possible. Communal parking should be supported by natural observation, lighting and be set in clearly defined areas to deter unauthorised access.
6. Consideration of Secured by Design principles is recommended and information in respect to the different standards is available on request.
7. Opportunities to explore the potential for S106/CIL funding should be undertaken with relevant parties if appropriate.

8. Dwellings are recommended to have an Alarm System to BS7958 with coverage of garages included where applicable.
 9. Commercial sites may benefit from smoke cloaking devices to deter access and reduce potential loss.
 10. An electrical spur is recommended under a section 38 agreement at each vehicular entry point leading into the development.
 11. Consideration of Park Mark accreditation should be considered in the event of appropriate communal parking within the application.
 12. Consideration of safe routes through open space and parks is recommended for consideration in respect to vulnerable groups including girls and women.
- Should you require any further information please do not hesitate to contact myself and I will be happy to assist.

44. Environment Agency

No comments

Neighbour Representations

45. Objections have been received from 14 local residents. The objections are summarised as follows:

- Increase traffic – dangers on A606 – Langham needs a bypass
- Village infrastructure impacted
- Impact on the over 55's residents only on Lodge Park
- Loss of remoteness and tranquillity
- Loss of views
- Impact of construction
- Impact on bats present in Lodge Park homes
- Not allocated in Neighbourhood Plan
- No need or desire for this in Langham
- Impact on local wildlife and habitat
- Roadside hedgerow is a habitat
- Risk of flooding
- Regrettably this application is happening due to Rutland C having not, as it were, rubber stamped the St Georges Barracks proposed development and putting the whole county's plans into limbo and at the mercy of Central Government overruling planning refusals for 4 years.

Conclusion

46. The development would provide much needed new housing including 30% affordable units. The development has no impact on areas or assets of particular importance as expressed in the NPPF and does not result in any adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. In view of the lack of a 5 year HLS the application should be approved in accordance with Para 11(d) of the NPPF.