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Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2023/0991/FUL	ITEM 2	
Proposal:	Section 73 application to vary Condition No. 2 (Approved Plans) on Planning Permission ref: 2021/1268/FUL - Residential Development of 11 no. Dwellings. Amendments include the change of dwelling type on Plots 9 & 11 and adjustment on site of Plot 10. Plot 11 to change to a bungalow, requiring alteration to Plot 10 garden and variation to house type on Plot 9.		
Address:	River Gwash Trout Farm, Belmesthorpe Lane, Ryhall		
Applicant:	Simon Boon Homes Ltd	Parish	Ryhall
Agent:	Mr John Trotter Wythe Holland Ltd	Ward	Ryhall and Casterton
Reason for presenting to Committee:	Previous Committee Item/Departure from Development Plan		
Date of Committee:	27 February 2024		
Determination Date:	25 December 2023		
Agreed Extension of Time Date:	29 March 2024		

EXECUTIVE SUMMARY

Planning permission was granted last year for 11 dwellings. The site is adjacent to the Planned Limits of Development for Ryhall and accommodates trout lakes. Following a re-evaluation of the business, the lakes are no longer needed, and the site requires an alternative use. The principle of development has been established by the previous permission, and the changes to the proposal are acceptable on the grounds of visual amenity, residential amenity, highway safety, ecology, and drainage. An Affordable Housing Provider has not been found to take on the 3 units previously approved. Changing two of the three units to a First Homes scheme and seeking a commuted sum for the third is considered to be reasonable for this site. Approval is recommended subject to conditions and a new Section 106 legal agreement.

RECOMMENDATION

APPROVAL, subject to a Section 106 legal agreement, and the following conditions:

- 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.
- The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

01B Location Plan
02D Block Plan
03E Block Plan
04D Block Plan
05D Block Plan
06B Plot 1 Elevations and Floor Plans
07A Plots 2 and 3 Floor Plans
08B Plots 2 and 3 Elevations
09A Plot 4 Floor Plans
10B Plot 4 Elevations
11B Plot 5 Floor Plans

12A Plot 5 Elevations
13B Plot 6 Floor Plans
14B Plot 6 Elevations
15B Plot 7 Floor Plans
16A Plot 7 Floor Plans
17A Plot 7 Elevations
18B Plot 8 Floor Plans
19B Plot 8 Elevations
20C Plot 9 Floor Plans
21C Plot 9 Elevations
22C Plot 10 Floor Plans
23C Plot 10 Floor Plans
24A Plot 10 Elevations
25C Plot 11 Floor Plans
26C Plot 11 Elevations
27C Affordable Housing Location Site Plan
28B Plots 8, 9 and 11 Garage Plans
DWE/2794/01 Surface Water Drainage Strategy

Reason: For the avoidance of doubt.

3. Prior to the commencement of any above ground development, the following details to be used in the construction of the dwellings hereby approved shall be submitted to and be approved in writing by the Local Planning Authority. Development shall then take place in accordance with these approved details prior to the first occupation of the relevant dwelling.

- Sample/details of all external walling materials
- Sample/details of all external roofing materials
- Details of coursing of the walling materials
- Details of all doors and windows, dormer windows and rooflights
- Details of window reveals
- Details of garage doors
- Details of rainwater goods
- Details of cills, lintols and door hoods

Reason: To ensure that materials of an acceptable quality appropriate to the area are used and to accord with policy CS19 of the Core Strategy and Policy SP15 of the Site Allocations and Policies DPD.

4. Notwithstanding the details submitted and prior to the commencement of any above ground development, details of all boundary treatments, to include boundary treatment to separate the buffer zone from private gardens, shall be submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with these approved details prior to the occupation of each relevant dwelling and will thereafter be so maintained. At no point will the area highlighted on the approved plans as the buffer zone be incorporated into any domestic garden and shall remain solely as an ecological buffer zone.

Reason: In the interests of residential and visual amenity and to accord with policy CS19 of the Core Strategy and Policy SP15 of the Site Allocations and Policies DPD.

5. No development 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, 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 and to accord with policy CS19 of the Core Strategy and Policy SP15 of the Site Allocations and Policies DPD.

6. 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 and to accord with policy CS19 of the Core Strategy and Policy SP15 of the Site Allocations and Policies DPD.

7. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order revoking and re-enacting that Order with or without modification), all bathroom, en-suite and w.c. windows shall be glazed in obscure glass to a level equivalent to Pilkington Level 3 or above before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.

Reason: To protect the privacy and amenities of the occupiers of adjoining property and in accordance with Policy SP15 of the Site Allocations and Policies DPD.

8. Prior to the first occupation of the development hereby approved, details (including location and timeframe for installation) of bat and bird boxes, external lighting and hedgehog homes and fences to be installed on the dwellings or in the grounds in suitable positions, shall be submitted to and agreed in writing by the local planning authority. The agreed boxes, fences and homes shall be installed in accordance with the approved details prior to first occupation of the relevant dwelling hereby approved and thereafter retained.

Reason: Reason: In the interests of the protection of wildlife and their habitat and to comply with Policy CS21 of the Core Strategy and Policy SP19 of the Site Allocations and Policies DPD.

9. 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 in the interests of highway safety in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

10. Off-site highway works shall be completed in accordance with the details shown on the approved plans prior to first occupation of any dwelling hereby approved.

Reason: In the interest of highway safety in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

11. 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 in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

12. 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 and thereafter fully implemented.

Reason: In the interests of highway safety in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

13. All private vehicular and pedestrian accesses shall 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 in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

14. The proposed principal junction with the existing public highway shall be constructed up to and including at least road base level 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 in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

15. No dwelling shall be occupied until the access road linking that dwelling to the public highway has been completed to a minimum of base course level and footways shall be completed to surface course level. In the event any of the dwellings will be occupied prior to the access road 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 access road shall thereafter be completed in accordance with the approved timetable and phasing plan.

Reason: In the interests of highway safety in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

16. Prior to occupation of any individual dwelling the associated vehicle to pedestrian visibility splays shall be provided in accordance with the details shown on the approved layout plans and kept free of any obstructions over 600mm in height above ground level.

Reason: In the interest of highway safety in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

17. Vehicle to vehicle visibility splays as shown on the approved plans shall be provided at the new junction on to Belmesthorpe Lane prior to first use of the road and thereafter maintained and retained free from any obstructions over 600mm in height above ground height.

Reason: In the interest of highway safety in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

18. The developer shall contact the Local Highway Authority to agree the extent of a pre-condition highway survey and carry out a joint inspection of the condition of the public highway 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 shall take place on completion of the development.

Reason: In the interests of highway safety in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

19. No development shall take place, including any demolition work, until a Construction Management Plan has been submitted and approved in writing by the Local Planning Authority, which will include the following: -

- a) A scheme for monitoring, reporting and control of construction noise and vibration including hours of working and scope for remedial action.
- b) A scheme for the control of dust and scope for remedial action in the event that dust is identified as an issue, or any complaints are received.
- c) A scheme of chassis and wheel cleaning for all construction vehicles to include the details of location and specification of a fully working jetted drive-thru bath type wheel wash system together with hard surfacing laid between the apparatus and public highway in either concrete or tarmac, to be maintained free of mud, slurry and any other form of contamination during the period of construction with all exiting vehicles passing through. A contingency plan including, if necessary, the temporary cessation of all construction operations and movements to be implemented and any affected public highway thoroughly cleaned immediately with mechanical sweepers in the event that the approved vehicle cleaning scheme fails to be effective for any reason.
- d) Haul routes to the site and hours of delivery
- e) Measures to ensure that vehicles can access the site immediately upon arrival to ensure there is no park, waiting, loading/unloading or queuing on the public highway.
- f) Details of site compounds, storage area and contractor/visitor parking/turning.
- g) Details of the site enclosure or part thereof and gated site security.
- h) Confirmation of any tree protection measures.
- i) Confirmation that any demolition will be carried out in accordance with the ecological assessment.
- j) Details of site notice with contact details and a scheme for dealing with complaints.
- k) Details of any temporary lighting which must not directly light the public highway.
- l) Phasing plans where necessary.
- m) A scheme for recycling/disposing of waste resulting from the demolition and construction works.
- n) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

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

Reason: In the interests of residential amenity and highway safety in accordance with Policy SP15 of the Adopted Rutland Local Plan - Site Allocations and Policies Development Plan Document 2014.

20. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this

contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.

21. Prior to the construction above damp-proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason To prevent environmental and amenity problems arising from flooding.

Notes to applicant

Highways

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-nameand-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.

Pre-Commencement Highway Survey

Prior to the commencement of any work on the site, a joint inspection of the existing public highway, extent to be agreed once a haul route is agreed to within the CMP, should be carried out with the Highway Authority, including photographic evidence. The route should then be inspected again, after completion of the development and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at nil cost to the Highway Authority. The Area Highway Manager may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access for vehicles accessing the application site.

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.

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.

CIL

Rutland County Council became a Community Infrastructure Levy (CIL) Charging Authority on 1st March 2016. Full details of CIL are available on the Council's website www.rutland.gov.uk. The approved development may be subject to a Community Infrastructure Levy (CIL) liability.

IMPORTANT NOTE: The required CIL forms must be submitted to cil@rutland.gov.uk and acknowledged prior to commencing the development. Failure to do so could result in additional financial penalties. If you have not received an acknowledgement by the time you intend to commence development then it is imperative that you contact cil@rutland.gov.uk

If the development hereby approved is for a self- build dwelling, residential extension or residential annexe you may be able to apply for relief from CIL. Further details can be found on the Planning Portal:

https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/2

Anglian Water

- Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
- Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

- Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.
- Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.
- The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Site & Surroundings

1. The site is located on the western side of Belmesthorpe Lane to the south and east of the main parts of the village of Ryhall. The site is narrower to the east where the vehicular access joins the highway before widening out to run adjacent to the River Gwash.
2. The site forms part of the larger River Gwash Trout Farm and accommodates a portal framed agricultural building of 140 square metres and 13 rectangular fishponds.
3. There is housing abutting the north-eastern boundary of the site, the highway runs along the eastern boundary with the cemetery and sewage works beyond, sporadic housing to the south and the River Gwash to the west.

Proposal

4. The proposal comprises the erection of 11 dwellings. Plot 1 would front towards Belmesthorpe Lane with the vehicular access to the south. Plot 2 would face towards the access road with Plots 2-11 fanned around the turning area at the end of the access road.
5. A mix of housing is proposed and comprises single and two-storey dwellings, and an ecological buffer is included between the rear garden boundaries and the River Gwash.
6. The current Section 73 application seeks to vary condition 2, changing the approved plans, as set out below.
 - 02B Block Plan changing to 02D Block Plan
 - 03B Block Plan changing to 03E Block Plan
 - 04C Block Plan changing to 04D Block Plan
 - 05C Block Plan changing to 05D Block Plan
 - 17 Plot 7 Elevations changing to 17A Plot 7 Elevations
 - 20B Plot 9 Floor Plans changing to 20C Plot 9 Floor Plans
 - 21A Plot 9 Elevations changing to 21C Plot 9 Elevations
 - 22B Plot 10 Floor Plans changing to 22C Plot 10 Floor Plans
 - 23B Plot 10 Floor Plans changing to 23C Plot 10 Floor Plans
 - 25B Plot 11 Floor Plans changing to 25C Plot 11 Floor Plans
 - 26B Plot 11 Elevations changing to 26C Plot 11 Elevations

- 27B Affordable Housing Location Site Plan changing to 27C Proposed Site Plan Affordable Housing Location Plots 1, 2 & 3
7. These amendments propose changing Plot 11 from a two storey 4 bed house to a 3 bed bungalow, which then require an alteration to the garden area of Plot 10 to accommodate this, and a variation of house type for Plot 9.
 8. Additionally, Plots 1, 2 & 3 at the front of the site are proposed to change from affordable housing units to First Homes for Plots 2 & 3, and a cummuted sum for Plot 1 to cover the change to market housing.
 9. The approved and proposed block plans are attached as Appendix 1 & 2.

Relevant Planning History

2021/1268/FUL - Residential Development of 11 no. Dwellings. - Approved 23/06/2023

Planning Guidance and Policy

National Planning Policy Framework (NPPF)

Chapter 2 Achieving Sustainable Development
 Chapter 5 Delivering a Sufficient Supply of Homes
 Chapter 11 Making Efficient Use of Land
 Chapter 12 Achieving Well Designed Places

Core Strategy DPD (2011)

CS01 Sustainable Development Principles
 CS02 The Spatial Strategy
 CS03 The Settlement Hierarchy
 CS04 The Location of Development
 CS08 Developer Contributions
 CS10 Housing Density & Mix
 CS11 Affordable Housing
 CS19 Promoting Good Design
 CS21 The Natural Environment

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
 SP9 Affordable Housing
 SP15 Design and Amenity
 SP20 Biodiversity and Geodiversity Conservation

Supplementary Planning Documents

Design Guidelines for Rutland
 Planning Obligations
 First Homes Informal Planning Guidance

Officer Evaluation

Principle of Development

10. While the principle of development has been established through the extant planning permission last year, this is a significant material planning consideration weighing in support of the development. Notwithstanding this set out below is the analysis and rationale that lead to the previous approval for residential development of the site.
11. The application site is located outside but immediately adjoining the planned limits of development of the village. The emerging Local Plan has this site included within an updated Planned Limits of Development; however, this is not yet adopted and therefore does not carry any material weight. Policy CS4 of the Core Strategy and policy SP6 of the Site Allocations and Policies Development Plan Document restrict development outside the planned limits of the villages to those types of development suitable to a countryside location, with the proposed use not being of a class supported by those policies.
12. The principle of the development is therefore contrary to the policies set out in the development plan. Further consideration however must be given to the matter of principle in relation to both material considerations relevant to the scheme, and the position of the Local Planning Authority in respect of the five-year housing supply.
13. Until the 31st December 2022 the Local Planning Authority accepted that it was unable to demonstrate a five-year housing land supply, and that the tilted balance set out in paragraph 11(d) of the National Planning Policy Framework (2021) was activated. After the 31st December, the Local Planning Authority produced a 9-month update to the Five-Year Land Supply & Developable Housing Land Supply Report, which concluded that it could demonstrate a 6-year housing land supply, and therefore the tilted balance was no longer engaged.
14. The previous committee report referred to an appeal decision APP/A2470/W/22/3301737 (March 2023) for a different housing site. This appeal decision noted at paragraphs 21-26 that the Inspector considered some of the housing provision set out in the 9-month update could not be relied upon, concluding (at the time) as a result that the demonstration of a five-year housing land supply was brought into considerable doubt and therefore reverting back to the position that the Local Planning Authority cannot demonstrate a five-year housing land supply.
15. The Planning Inspector then further considered the matter of policies CS4, CS9 and SP6, with these policies identified in the Statement of Common Ground at that appeal as being out of date. The Inspector noted that in the absence of any further evidence on the matter from the Local Planning Authority regarding this position changing, the key policies remained out of date and did not serve to boost housing supply and therefore considered the tilted balance to be engaged in this respect.
16. Since this appeal, an updated Five Year Housing Land Supply assessment has been undertaken, and prepared using the latest housing need figures (which used updated government data). This report concludes that the council does have a deliverable 5 year supply; however, without the continuous and ongoing supply of sites provided by an adopted Local Plan it is important to continue to take a positive approach to applications which are considered to be appropriate and deliverable to maintain an ongoing five year supply.
17. With regard to the other matter in respect of the tilted balance, the Local Planning Authority considers the following. Policy CS9 is not a key policy for the determination of planning applications and therefore cannot be used to engage the tilted balance as set out in paragraph 11(d). Policy SP6 seeks to restrict development in the wider countryside

beyond the planned limits of development of the villages to that which is necessary to be so located. Paragraph 84 of the National Planning Policy Framework seeks to similarly restrict development in the countryside and therefore the Local Planning Authority considers that policy SP6 is not out of date and does not trigger the tilted balance.

18. Policy CS4 categorises the settlements within the county based on their sustainability criteria. It anticipates levels of development within the settlements up until 2026 and sets out an expected hierarchy within which development of certain types are likely to be acceptable based on an assessment of their sustainability and service provision. This approach is considered to be in accordance with that set out within paragraph 83 of the National Planning Policy Framework and despite the Inspector's findings in the aforementioned appeal decision there is no evidence to demonstrate that this approach is insufficient to ensure development of an appropriate number of houses to maintain the five-year housing land supply.
19. On the basis of the above assessment and acknowledging that the Planning Inspector's decision is a material consideration in respect of determining planning applications, the Local Planning Authority considered that the tilted balance is not engaged in respect of the age of the relevant planning policies or their compliance with the National Planning Policy Framework as a whole.
20. Notwithstanding the above conclusion in respect of the tilted balance, the Local Planning Authority has a duty to ensure it has a five-year supply of housing land for development. In ensuring the security of that five-year housing land supply, the Local Planning Authority must be conscious of the need to approve a sufficient number of schemes in sustainable locations to ensure that in the period up to the adoption of a new local plan, the housing land supply figure does not again fall below five years.
21. In respect of the current scheme there are several factors to weigh in the balance. In preparing a new Local Plan, the Local Planning Authority would consider the allocation of sites beyond the current planned limits of development of the towns and villages, likely incorporating those sites within re-drawn planned limits.
22. The application site was previously submitted for consideration within the withdrawn Local Plan, and a detailed site assessment was undertaken at that stage in respect of its suitability for allocation as a housing site within that plan (H1.15). In that assessment the site scored highly in terms of abutting the boundary of a Local Service Centre, being in close proximity to local services and facilities and being developable within a short time frame. No barriers to development were identified in this assessment. That assessment concluded that the site was suitable enough for inclusion within the that Local Plan as a proposed allocation.
23. The application is made in full, and the consideration of it in respect to provision of dwellings for the five-year housing land supply is therefore that it will commence delivering completions on site within year 3 rather than year 4 which would be the case if the scheme were in outline. This is a material factor in the consideration of the application.
24. As such, there is some conflict with policies with the site being beyond the settlement boundary as defined in the current Local Plan but is well related to the boundary (which is updated in the emerging plan to include this site). The site is not classed as previously developed under the definition in the NPPF; however, it has been operating as a trout farm for several years, accommodates an established vehicular access, large farm building and has a managed appearance with the formality of the rectangular bodies of water.
25. A convincing case has been provided in support of the application to demonstrate use of the site cannot viably continue as a trout farm. The owners are reorganising their business for financial, business and operational reasons and state that whilst the site has operated

for 25 years, nationally the sector is in decline, the site is supplied by water from the River Gwash which suffers from seasonal parasite problems that have worsened over the last decade to the extent that production during the warmer months is not now viable and that the operation would continue at their other site.

26. The principle of development is therefore a finely balanced consideration. This site previously scored positively on the assessment criteria used to assess the suitability of sites for allocation in the local plan review (now withdrawn). The site was allocated in that document before it was withdrawn in light of the St George's Garden village proposal.
27. The Council acknowledges the recent lack of 5-year housing land supply and the need to continue to ensure it has a 5-year supply until the matter is addressed in the long-term through the new local plan. Consequently, it is considered in this instance, given the previous support for the site in the local plan process, the site is classed as a preferential location for development in a sustainable location that will help to secure the 5-year housing supply in the longer term.
28. In this regard, it was also a relevant consideration at the time of the previous application that the proposal complied with the Adopted Interim Position Statement for Housing Development in that the application is submitted with full details of the proposed development and not in outline with a number of matters reserved, that the site is deliverable within a short timeframe, the site is sustainably located, of a scale and density appropriate to the settlement and the scale of the development will make a notable contribution towards housing supply over the five-year period.
29. On this basis, the proposal is supported in terms of the principle of development.

Housing Density

30. The site area comprises 0.494 hectares and 11 dwellings are proposed; this equates to a density of development of 22.67 dwellings per hectare. Whilst this is below the sought 30 dwellings per hectare each case must be considered on its merits. The site is irregularly shaped with a narrow entrance and a buffer is required adjacent to the River Gwash. Taking these factors into account, it is considered in this instance a lower density of development would be acceptable. Furthermore, as the site occupies an edge of settlement location, the transition between countryside and settlement can be more satisfactorily achieved visually through a less intensive form of development.

Design changes to approved scheme

31. The proposed design alterations to the scheme are relatively minor in nature in the context of the overall scheme. The changes are located in the southern section of the site. The main change is Plot 11 switching from a two-storey 4-bed property to a 3-bed bungalow with a hipped roof. It would have a larger footprint on site than the approved two storey house but would be sited further south and would have a reduced overall scale. This change is acceptable.
32. This amendment has a knock-on effect for the adjacent two plots, with the Plot of the bungalow increasing by taking some of the garden of plot 10, which in turn slightly alters dwelling 10's position. Finally, the house type of Plot 9 is changing - both of these changes are also minor in nature and acceptable and would comply with Policies CS19 and SP15.

Housing Mix

33. The housing mix was previously considered acceptable in providing 2, 3, 4 and 5-bedroom properties, a single storey dwelling and three affordable houses (2 x 2 bed, 1 x 3 bed). The only change in this regard is to the affordable housing mix, which is considered below.

Affordable Housing/First Homes/commuted sum

34. As previously approved Plots 1, 2 & 3 were to be affordable housing units. This is now proposed to be changed to First Homes for Plots 2 & 3, while a commuted sum payment would be required to account for the change of Plot 1 to market housing.
35. The justification put forward for this change is that the developer had an understanding with a housing association, but as it only involved 3 properties the association pulled out a few days after the s106 was signed.
36. The current difficult market conditions have resulted in providers seeking larger sites (usually around 15 affordable housing units) in order to make them viable. First Homes is a scheme developed by the Government to provide discounted market sale properties. The Council adopted First Homes Informal Planning Guidance on 24 May 2022 which sets local connection, key worker and income requirements to help to ensure that First Homes meet local need. This would be incorporated into a new Section 106 agreement.
37. There is no public subsidy in the First Homes scheme. They are sold by the developer without the involvement of a registered provider, at a 30% discount from Open Market Value. They are not shared ownership properties, as First Homes are sold freehold at a discount to eligible households without anyone holding onto any separate 30% share. After the initial sale of a property, subsequent sales would be at the 30% discount. This is controlled through the Section 106 agreement.
38. With regard to the commuted sum for Plot one, the applicant has provided build costs/infrastructure costs and land costs for Plot one. These costs would significantly exceed the £250,000 that the government sets as the maximum that a First Home can be sold for, and therefore this option is not viable for this plot. Consideration has also been given to reducing the size of the dwelling, however its size is proportional to its plot, and its scale compliments the adjacent semi-detached properties. The access to it can only be from the new development road, which due to the layout limits this frontage to one plot/house.
39. The proposed changes would require the creation of a new S106 legal agreement. This is considered to be an acceptable alternative under the circumstances, in order to bring the site forward. First Homes falls within the 'affordable housing' definition for planning purposes in the NPPF and would provide a robust alternative to traditional affordable housing. Additionally, given the above, it is also considered that a commuted sum for Plot 1 would be acceptable.

Visual Impact

40. The scheme is considered appropriate to the site and surroundings. Plot 1 would provide a frontage onto Belmesthorpe Lane to be in keeping with the more recent residential development immediately to the north of the site.
41. Within the site, Plots 2 and 3 would provide an active frontage adjacent to the internal access road with the remaining plots fanning around and fronting onto the highway. The dwelling types address the shape of the site with Plots 7 and 10 being L-shaped to reflect the corner nature of those plots. Garages occupy relatively prominent locations; however, these now have steeper pitches to respond better to the proposed dwellings.
42. The proposed dwellings would generally be set off the site boundaries which would reduce their visual impact from outside of the site. Appropriate boundary treatment, to assimilate the development into the bordering countryside, would be subject of a condition. A buffer zone is provided adjacent to the river; this area is beyond the domestic gardens.

43. The proposed house types are considered to be acceptable for the site and surroundings.
44. Overall, no objection is raised on visual grounds and the proposal complies with Policies CS19 and SP15.

Residential Amenity

45. The proposals have been carefully designed to ensure there would be no undue harm to occupiers of existing neighbouring dwellings. The north-eastern corner of the site borders the recent housing development; however, the separation distances and orientation of properties would ensure there would be a satisfactory relationship. No other existing dwelling would be unduly affected.
46. The proposals would result in a satisfactory level of amenity for future occupants. There would be no undue overlooking between properties, sufficient separation distances would be achieved, and adequate private rear gardens would be provided. The changes to the scheme would not alter this position.
47. Overall, the proposal is acceptable on the grounds of residential amenity and the proposal would comply with Policy SP15.

Highway Safety

48. Following revisions during the lifetime of the previous application the Highway Authority had no objections, subject to conditions and informatives. The proposed changes no do alter this position.
49. The proposal would use the existing access into the site and providing parking and turning for each dwelling.
50. Overall, the proposals are deemed acceptable in terms of traffic generation and impact on the local highway network, highway safety and parking provision, in accordance with Policy SP15.

Ecology

51. A preliminary ecological appraisal was submitted with the original application and concluded the trees on site had negligible potential to support roosting bats, the site and surrounds offer suitable foraging and commuting habitat for bat species, the building had negligible potential to support roosting bats and there was no evidence of bats. The report concluded no further bat surveys were required, there was no evidence of barn owls in the building and no further owl surveys were required, a wide range of birds were in the locality but that no further surveys were needed, no badgers or setts were found, the ponds were not suitable for great crested newts and no further surveys for reptiles or voles were needed. The report concluded the site is of moderate ecological potential and would benefit from the opportunity to enhancement through the development.
52. The County Ecologist raised no objection to the original application but sought a barrier to separate the rear gardens with the river buffer zone; this is achieved through a condition. A landscaping scheme would also be imposed to secure native species and an ecological gain. Ecology also have no objection to the proposed changes to the scheme.
53. Overall, the proposal is acceptable on ecological grounds and complies with Policies CS21 and SP19.

Crime and Disorder

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

Human Rights Implications

55. 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

Below is a summary of the comments. Full details can be viewed on the Council's website. (https://publicaccess.rutland.gov.uk/online-applications/?_ga=2.69299920.1503643438.1693558555-1954588303.1693558555)

56. **Parish Council**

The above application has been considered by the Planning Committee, and no objection has been raised.

57. **Highway Authority**

Whilst the building type is changing, the parking requirements don't appear to be changing as a result of the application, which means that the proposal is still in accordance with Rutlands parking policy.

I can't see any significant highways differences between the approved plans detailed under application number 2021/1268/FUL and that now proposed under application number 2023/0991/FUL.

I therefore have no highways objections to the variation of condition 2. Please append all highways conditions and informatives from application number 2021/1268/FUL to any granted consent.

58. **LCC Ecology**

I have no comments to make on these changes as they do not appear to be significant from an ecology perspective.

59. **Public Protection**

No objection

60. **Environment Agency**

No comment to make.

61. **Anglian Water**

No comments

62. **LCC Archaeology**

Do not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets. We would therefore advise that the application warrants no further archaeological action.

63. **Forestry Officer**

Request a tree survey, tree retention/removal plans, and tree protection plans all in adherence to BS5837:2012

64. **Housing Strategy**

As this is a section 73 application, great care should be taken in checking whether a new section 106 agreement is required. In any case, the developer has informed me that he intends to use two different forms of affordable housing provision which will require a fresh section 106 agreement.

65. **NHS Leicester, Leicestershire & Rutland CCG**

Impact of new development on GP practice

We acknowledge your letter for the above development which identifies a proposed housing development of 11 dwellings. We note that based on census data 2021, a household averages 2.42 patients per dwelling. The housing development will result in a minimum population increase of 26.62 patients.

Housing developments have known to put additional pressure on healthcare infrastructure and their requirements based in Primary, Community and Secondary Care facilities.

To ensure that the health and well-being of the local community is protected, S106 funding is essential to help mitigate/support the needs arising from an increase in population and is used towards increasing access to these services

Existing local GP provision affected by growth and therefore directly related to the housing development

ICB comment on proposed provision of health care facility within the development

GP Practices are contracted to provide healthcare provision for its registered patients. A practice is not able to refuse registration of new patients unless they have gone through a rigorous process and have been given approval to have a 'closed list'. Such cases are very rare and Leicester, Leicestershire & Rutland have no practices with a closed list. Any increase in patient registrations at a practice impacts a GPs clinical capacity and adds to their need of increasing that capacity.

We are requesting healthcare contributions to support the increased population and therefore improve primary care services for the area.

Community Infrastructure Levy requested

The ICB would like Rutland County Council to consider:

The development will generate 26.62 number of patients in the Rutland.

There is limited capacity at the GP practices above and any CIL contribution would be crucial for health infrastructure to support the increase in population.

The practices are already experiencing capacity issues in relation to their premises and would need to increase facilities to meet the needs resultant of this development; therefore both the ICB and the practice would wish for any secured contributions to be released.

66. **Police Architectural Officer**

I have now visited, and have reviewed the proposed development. The Belmesthorpe Lane vehicle access runs along the side of the site. Access leads centrally to toward the west side before internal roads allow access to all areas of the site and their associated dwellings.

Permeability is not an issue in my opinion due to the single vehicle entry point and no circulatory route creating an increased risk of crime.

Vehicle parking is in curtilage to dwellings, which does offer good natural observation. I would recommend consideration of gable end windows were possible to increase the possible natural observation available.

Consideration of the use of CCTV coverage is recommended but, in this case, due to the size and scale of the development may not be required.

Lighting throughout the site including the key vehicle entry point and other key areas such as vehicle parking, walkways and open space as well as water attenuation should be to BS5489. 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 1 m 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. Perimeter enclosure is recommended to be to a height of 1.8m in a material in keeping with the development. Retention of existing hedgerows is recommended to deter unauthorised access.

GENERAL RECOMMENDATIONS

All door and window sets will be to PAS24 (2022) which is now included in building regulations. There are other considerations such as BS6375 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 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.

- a) Street lighting columns to BS5489 are recommended.
- b) 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.
- c) 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 Data Protection Act.
- d) 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 clear field of vision.
- e) 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.
- f) Consideration of Secured by Design principles is recommended and information in respect to the different standards is available on request.
- g) Opportunities to explore the potential for S106/CIL funding should be undertaken with relevant parties is appropriate.

- h) Dwellings are recommended to have an alarm system to BS7958 with coverage of garages included where applicable.
- i) Commercial sites may benefit from smoke cloaking devices to deter access and reduce potential loss.
- j) An electrical spur is recommended under a section 38 agreement at each vehicular entry point leading into the development.
- k) Consideration of Park mark accreditation should be considered in the event of appropriate communal parking within the application.
- l) Consideration of Safe Routes through open space and walkways should account for the use of women and girls.

Neighbour Representations

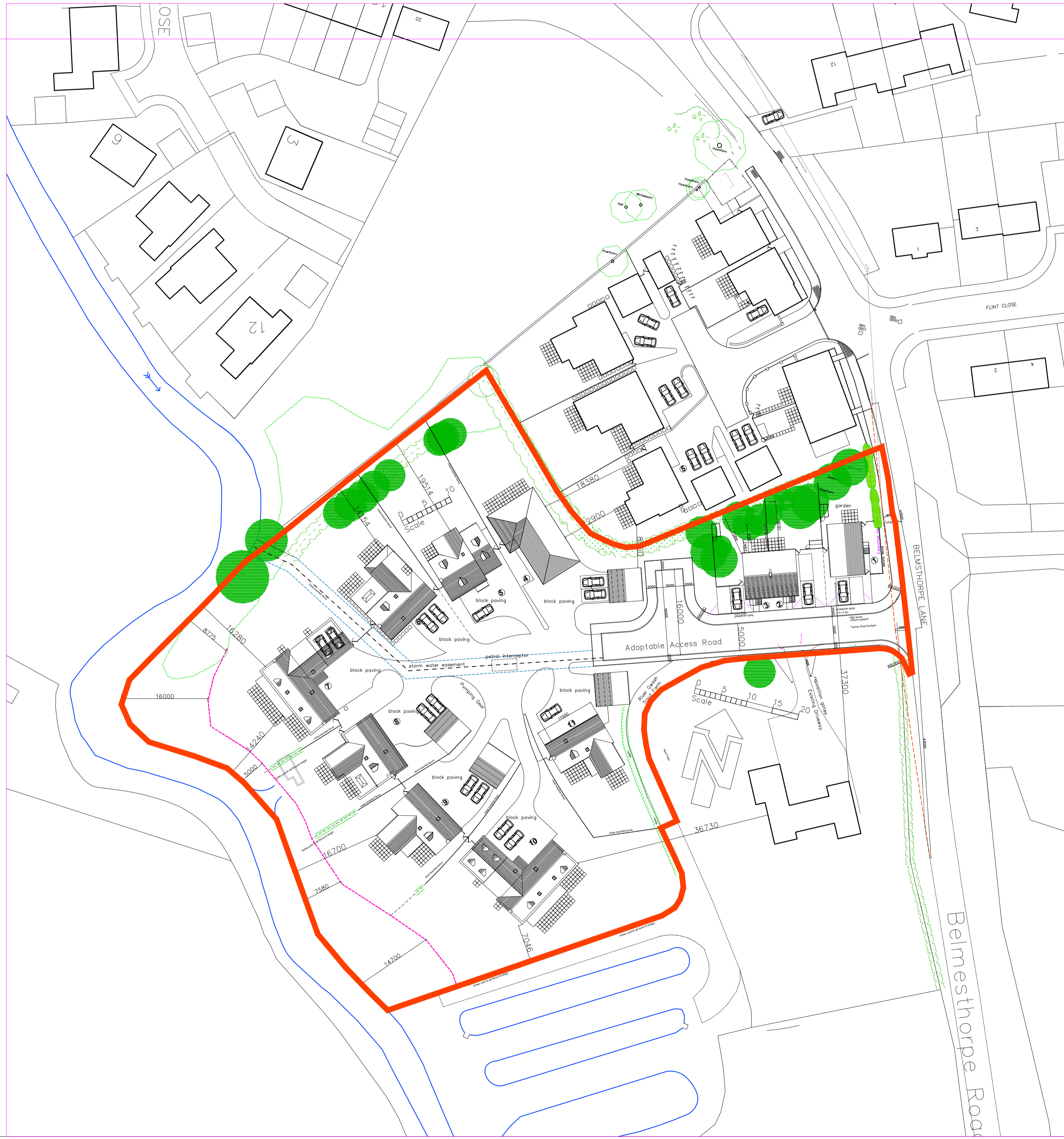
67. No comments received.

Legal Agreement

68. The previous application was subject to a Section 106 legal agreement to secure the provision and occupation of the affordable units. The changes to the scheme in the form of First Homes for Plots 2 & 3 and a commuted sum Plot 1 will require a new Section 106 agreement.

Conclusion

69. Taking the above into account, it is considered that subject to the imposition of conditions the application is acceptable in principle, would not result in harm to the visual amenities of the site and surroundings, would be acceptable in terms of residential amenity, ecology and highway safety. The changes to the scheme as a result of the Section 73 application does not alter this position or materially diminish the quality of the scheme. The proposal is in accordance with Sections 2, 5, 11 and 12 of the NPPF, Policies CS01, CS04, CS08, CS10, CS11, CS19 and CS21 of the Core Strategy, Policies SP1, SP5, SP9, SP15 and SP20 of the Site Allocations and Policies DPD.



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Project Residential Development River Gwash Trout Farm Belmesthorpe Lane, Ryhall			
Drawing Block Plan and Strip Elevation			
Wythe Holland Limited			
Chartered Architects Phone +44 (0)1780 757876 www.wytheholland.co.uk		10 Emlyn's Street Stamford, Lincolnshire PE9 1QP mail@wytheholland.co.uk	
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Section Along Access Road



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