

BOROUGH OF KETTERING

Committee	Full Planning Committee - 21/12/2010	Item No: 5.3
Report Originator	Michael Boniface Development Officer	Application No: KET/2010/0654
Wards Affected	Burton Latimer	
Location	Hawthorn Road (land off), Burton Latimer	
Proposal	Outline Application: Residential development of 80 no. dwellings	
Applicant	Burton Land Ltd	

1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED, subject to a S.106 OBLIGATION being entered into by 23/12/10, and to the following conditions, or if not entered into by that date, refused:-

1. Approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

REASON: In order to secure a satisfactory development in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

2. Plans and particulars of the reserved matters referred to in condition 1 above, relating to the siting, design and external appearance of any buildings to be erected, and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

REASON: In order to secure a satisfactory development in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

3. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this planning permission.

REASON: To comply with Section 92 of the Town and Country Planning Act 1990 and to prevent an accumulation of unimplemented planning permissions.

4. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended) and to prevent an accumulation of unimplemented planning permissions.

5. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of the approved scheme of remediation as contained in the Soiltechnics report STE1302L-G01 must not commence until conditions A and B have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

A. Implementation of Approved Remediation Scheme

The approved remediation scheme as contained in the Soiltechnics report STE1302L-G01 must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

B. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition A.

REASON (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

6. No development shall take place until a plan prepared to a scale of not less than 1:500 showing details of existing and intended final ground and finished floor levels has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details. REASON: To preserve the character of the area and to protect the privacy of the occupiers of adjoining properties in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

7. Prior to the commencement of the development, full details of lockable bin and cycle storage facilities including their design, materials, location, exact dimensions and openings shall be submitted to and approved in writing by the local planning authority. The bin and cycle stores shall be provided in accordance with the approved details prior to the first occupation of the development and shall be permanently retained in that form for the purposes of storing bins and cycles only.

REASON: To ensure adequate amenities are provided for this development in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

8. Before the development hereby permitted is begun, a scheme for generating 10% of the predicted energy requirement of the development from decentralised renewable and/or low carbon sources (as defined in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007) or any subsequent version) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is first occupied and shall remain operational for the lifetime of the development.

REASON: In the interests of energy efficiency and sustainable construction in accordance with policy 14 of the North Northamptonshire Core Spatial Strategy.

9. Before the development hereby permitted is begun, a scheme demonstrating how the development will incorporate techniques of sustainable construction and energy efficiency, provision for waste reduction and recycling and provision for water efficiency and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with these approved details.

REASON: In the interests of energy efficiency and sustainable construction in accordance with policy 14 of the North Northamptonshire Core Spatial Strategy.

10. Prior to the commencement of development, a scheme detailing the security measures/standards to be incorporated within the development with reference to the ACPO 'Secured By Design' scheme shall have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with these approved details.

REASON: To reduce the potential for crime in accordance with policy 13 of the Core Spatial Strategy for North Northamptonshire.

11. No development shall take place on site until details of the width, alignment, gradient, sight lines and type of construction proposed for the roads, footways and accesses, including all relevant horizontal cross sections and longitudinal sections showing the existing and proposed levels, together with details of street lighting and the method of disposing of surface water, and details of a programme for the making up of the roads and footways have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced, or buildings occupied, whichever is the sooner.

REASON: To ensure that the roads are constructed to a satisfactory standard in accordance with policy 13 of the Core Spatial Strategy for North Northamptonshire.

12. Prior to the commencement of development, full engineering, drainage, street lighting and constructional details of the off site highway works identified within section 10 of the submitted Transport Assessment (Revision A, November 2010) shall be submitted to and gain the written approval of the local planning authority. Such details as may be agreed shall thereafter be completed to the satisfaction of the local planning authority prior to occupation of the first dwelling hereby permitted.

REASON: In the interests of highway safety in accordance with policy 13 of the Core Spatial Strategy for North Northamptonshire.

13. No development shall take place until a scheme to address ecological interests within and in the vicinity of the site in accordance with the 'Conclusions and Recommendations' of the submitted reports 'Extended Phase 1 Habitat Survey' (March 2010) and 'Reptile Survey' (April 2010) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for implementation of the proposed measures. Thereafter, the scheme shall be fully implemented in accordance with timetable approved.

REASON: To protect ecological interests within the site in accordance with PPS9 and policy 13 of the CSS.

14. A management plan for enhancement and creation of biodiversity, management responsibilities and maintenance schedules for all landscape areas, other than small, privately-owned domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development or any phase of the development, whichever is the sooner. The management plan shall include measures for the management, enhancement and maintenance of the Hogs Hollow County Wildlife Site (to the extent shown blue on the submitted Location Plan) adjoining the western site boundary, as well as a scheme for the future maintenance of any on-site balancing ponds/water bodies. The management plan shall be carried out as approved.

REASON: To protect and enhance ecological interests in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy and PPS9.

15. The details of Landscaping within the development required as part of the Reserved Matters shall include a landscape buffer between the boundary of the site and the adjacent Hogs Hollow County Wildlife Site along with native species hedgerows to the southern boundary of the site.

REASON: To protect and enhance ecological interests in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy and PPS9.

16. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme indicating the positions, design, materials and type of screen walls and fences to be erected. The building shall not be occupied until the scheme has been fully implemented in accordance with the approved details.

REASON: In the interests of the privacy of the occupiers of proposed and existing residential properties in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

17. No development shall take place until a surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented in accordance with the approved details prior to occupation of any dwelling hereby approved.

REASON: To prevent an increased risk of flooding to the site and surrounding area in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

18. No development shall take place until a scheme, including phasing, and future management and maintenance arrangements, for the provision of mains foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented in accordance with the approved details prior to occupation of any dwelling hereby approved.

REASON: To prevent flooding, pollution and detriment to public amenity and biodiversity through provision of appropriate water infrastructure in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

19. No development shall commence unless and until details of a scheme for ensuring water efficiency during construction has been submitted to and approved in writing by the Local Planning Authority, and the development shall thereafter be carried out in accordance with the approved details.

REASON: To ensure water efficiency in accordance with policy 14 of the North Northamptonshire Core Spatial Strategy and PPS1.

20. No development shall commence unless and until details of a scheme for ensuring waste minimisation and re-use during construction, and to provide recycling facilities for residents, has been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

REASON: To ensure waste minimisation and recycling in accordance with policy 14 of the North Northamptonshire Core Spatial Strategy and PPS1.

21. Prior to the commencement of development, a scheme for the provision of fire hydrants shall be submitted to and approved in writing by the Local Planning Authority and the development shall be undertaken in accordance with the approved scheme.

REASON: In the interest of fire safety in accordance with policy 6 of the North Northamptonshire Core Spatial Strategy.

22. Notwithstanding the submitted details, the Reserved Matters application shall include a revised Acoustic Assessment to identify current noise impacts on the development (including the nearby railway) along with a scheme of mitigation measures to be incorporated within the dwellings. The scheme shall ensure that the good standards outlined within BS8233:1999 for residential accommodation are achieved. The development shall not be carried out other than in accordance with the approved scheme and the scheme shall be fully implemented before any of the permitted dwellings are occupied.

REASON: To ensure that acceptable noise levels within the dwellings and the curtilages of the dwellings are not exceeded in the interests of residential amenity in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

23. With the exception of the details required by condition 17 and 18 above, the development shall not be carried out other than in accordance with the submitted 'Flood Risk Impact Assessment Report' (April 2007).

REASON: To clarify the terms of the permission and prevent flooding in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy and PPS25.

24. Prior to the commencement of development, full details of the improvements and construction details proposed to Bridleway UA12, including details of the crossing created by the vehicular access hereby approved shall have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be fully implemented prior to first occupation of the development hereby approved.

REASON: To mitigate impacts on the existing public right of way in the interests of amenity in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

Notes (if any) :-

- This planning permission is subject to "pre-commencement" conditions which require details/drawings to be submitted to and approved in writing by the Local Planning Authority before ANY development may lawfully commence. Any development commenced in breach of these "pre-commencement" conditions will be unauthorised, a breach of planning control, and liable to immediate Enforcement and Stop Notice action.

Justification for Granting Planning Permission

The proposal is in accordance with national and local policies as set out in Planning Policy Statements/Guidance Notes 1, 3, 5, 9, 13, 23, 24 and 25, Policies 2, 11, 13b, 14, 44 and MKSM SRS Northamptonshire 1 and 4 of The East Midlands Regional Plan, Policies 1, 6, 7, 9, 10, 13, 14 and 15 of the North Northamptonshire Core Spatial Strategy, and Policies 35, 39 and B5 of the Local Plan for Kettering Borough. The proposal is also in accordance with adopted Supplementary Planning Document 'Open Space' and 'Sustainable Design'. There are no material considerations that indicate against the proposal.

Officers Report –TO BE COMPLETED

3.0 Information

Relevant Planning History

KET/2008/0390 – Residential development – REFUSED 15/09/2008

KET/2009/0546 – Residential development for 80 dwellings (all matters reserved except access) – REFUSED 28/01/2010 and DISMISSED at appeal 17/09/2010

Site Description

Officer's site inspection was carried out on 06/10/2010.

The site measures 3.2 hectares in area and is located to the south west of the town. The application site is located outside the town boundary for Burton Latimer and as such is classified as open countryside. The site is characterised by grassland and is well used for dog walking with various unofficial paths created within the site. There is a public footpath that runs adjacent to the northern boundary of the site. Land levels slope significantly downwards in a westerly direction.

Residential development stands to the north (Diana Way) and east (Hawthorn Road and Hillcrest Avenue) of the application site comprising a mix of modern detached, semi detached and terraced dwellings. Land to the south and west largely comprises open agricultural land. Land associated with Bosworths Nursery and Garden Centres is located to the south and there is mature woodland to the west known as Hogs Hollow, a County Wildlife Site.

Proposed Development

This is an outline application for 80 dwellings with all matters reserved except for access. Properties are to be a mixture of two, two and a half and three storey dwellings.

The applicant suggests that a net development density (omitting open space and site constraints) equates to approximately 35 dwellings per hectare.

Vehicular access is to be gained from Diana Way and Hawthorn Road/Hillcrest Avenue.

Any Constraints Affecting The Site

- The site is located within open countryside.
- There is a public right of way that runs along the northern boundary of the site.
- Hogs Hollow (County Wildlife Site) is located to the west of the application site.
- Tree Preservation Order adjacent to site.

4.0 Consultation and Customer Impact

Parish/Town Council

Objection for the following reasons:

- Agree with the Inspectorates report dated 17th September 2010, specifically paragraphs 57 and 58 which raise concerns about the safety and functioning of local roads and the transport network.
- An unacceptable highway safety impact would result.
- Burton Latimer has surpassed its quota for houses to year 2021 by 178 dwellings.
- Application does not address the Inspectors concerns.
- There is no demand for housing; there are sufficient deliverable sites.
- Maintaining a 5 year supply of housing has no significance.
- Paragraph 71 of PPS3 should be amended.
- Local people oppose the development.

Highway Authority

Objection. As submitted and without alteration it is considered that the applicant has failed to adequately assess the implications and effects of the development on the local and wider highway network and as a consequence has failed to provide sufficient or adequate mitigation for any such effects. There are currently a number of matters which do not accord with the Inspectors previous decision or the Guidance on Transport Assessment. Many of these matters may be easily addressed but require the submission of additional information. Specifically, there are concerns regarding the proposed improvements to public transport provision.

Highway Agency

No objection.

Environmental Health

No objection. Provided the remediation measures outlined within the submitted contamination assessment 'STE1302L-G01' are implemented there would be no adverse impact to human health; this should be secured by condition. Subsequent applications would need to be accompanied by a Noise Assessment along with mitigation measures to protect future residents against noise and vibration from the adjacent railway.

KBC Housing

Comments that the Borough has a high level of social housing need and 30% should be secured in line with the CSS. Predominantly, family houses are needed and the proposed housing mix needs to be reconsidered.

Northamptonshire Police

No objection. Comments regarding traffic calming measures and access for fire appliances. Furthermore, the indicative layout proposed presents a number of potential issues in terms of crime and anti-social behaviour and should be given further consideration.

Primary Care Trust

Financial contributions should be sought towards mitigating the impacts of the development upon local healthcare facilities.

Northants Bat Group

The Ecological Information submitted suggests that bats may cross the site to reach foraging habitats. If this is the case then some mitigation may be necessary and this should be identified through a further survey.

Natural England

No objection. The conclusions and recommendations of the submitted habitat survey and reptile survey are supported and these should be secured by way of condition. A landscaping scheme should be secured which makes provision for a landscape buffer to the boundary with the adjacent wildlife site and an ecological management plan would be necessary. A footpath link to Hogs Hollow would be supported.

The Wildlife Trust

The submitted Habitat Survey and Reptile Survey are welcomed and the conclusions and recommendations should be secured by condition. Care should be taken to avoid disturbance of the adjacent Wildlife Site. It is disappointing that the proposal does not address green infrastructure and connectivity matters.

North Northants Badger Group

No record of badgers having a sett on the site although a condition should require further survey works along with appropriate mitigation where necessary.

Northamptonshire County Council

Financial contributions should be sought from the developer to mitigate the impacts of the development upon local libraries, Fire and Rescue Service and Education facilities. The application should also demonstrate how techniques of waste reduction/minimisation have been considered.

NCC Archaeology

No objection. The applicant has provided sufficient information to assess the archaeological significance of the site. Archaeological evaluation was undertaken in March and April 2010 and two reports produced which indicate that despite the presence of late Iron Age and Roman activity to the northern boundary of the site, the activity does not extend into the development area. It is therefore unlikely that the development will have significant impacts on important archaeological deposits.

KBC Community Services

Financial contributions should be sought towards mitigating the impact of the development upon local open spaces and community facilities.

Environment Agency

No objection. The submitted Flood Risk Assessment is acceptable and the proposed mitigation measures are proportionate to the scale, nature and location of the development. Comments are however made regarding the proposed surface water drainage scheme and a condition would be necessary to ensure further

details. Although Broadholme Sewage Treatment Works and the sewerage network currently have capacity to deal with the proposed development, the number of outstanding planning permissions currently exceeds this capacity. Anglian Water have identified a strategic scheme of improvements and these are due to be delivered within 2-4 years. It will however be necessary at present to impose a condition requiring a scheme and phasing for the provision of mains foul water drainage in line with the available capacity.

Anglian Water

Anglian Water is obliged to provide water and wastewater infrastructure for new housing under the Water Industry Act 1991. Foul drainage from the development is in the catchment of Broadholme Sewage Treatment Works which has available capacity for these flows. The current proposals would lead to an unacceptable risk of flooding downstream and mitigation in the form of pipe upgrading or alternative manhole connection would be necessary. The drainage strategy for the site should cover the procurement of the improvement works and this should be secured by condition. An appropriate surface water strategy/flood risk assessment should also be secured by condition.

Neighbours

25 letters of objection for the following reasons:

- The application has only just been refused at Public Inquiry and circumstances have not changed.
- Highway safety, traffic and congestion.
- Scale of development.
- Loss of amenity.
- Loss of trees and green space.
- Noise and disturbance.
- Loss of light/overshadowing.
- Loss of privacy/overlooking.
- Impact on wildlife.
- Inappropriate location in open countryside.
- Lack of infrastructure in Burton Latimer.
- Flooding.
- Visual impact.
- Burton Latimer has met its housing quota.
- Abuse of the planning system.
- Impact on public right of way.
- Lack of employment.
- Crime and anti-social behaviour.
- Incorrect information submitted.
- Light pollution.
- Site is used for walking.

5.0 Planning Policy

National Policies

PPS1 – Delivering Sustainable Development

PPS3 – Housing

PPS5 – Planning for the Historic Environment

PPS9 – Biodiversity and Geological Conservation
PPG13 – Transport
PPS23 – Planning and Pollution Control
PPG24 – Planning and Noise
PPS25 – Development and Flood Risk

Development Plan Policies

East Midlands Regional Plan

2 – Promoting Better Design
11 – Development in the Southern Sub-area
13b – Housing Provision (Northamptonshire)
14 – Regional Priorities for Affordable Housing
44 – Sub-area Transport Objectives
MKSM SRS Northamptonshire 1
MKSM SRS Northamptonshire 4

North Northamptonshire Core Spatial Strategy

1 – Strengthening the Network of Settlements
6 – Infrastructure Delivery and Developer Contributions
7 – Delivering Housing
9 – Distribution and Location of Development
10 – Distribution of Housing
13 – General Sustainable Development Principles
14 – Energy Efficiency and Sustainable Construction
15 – Sustainable Housing Provision

Local Plan

35 – Housing: Within Towns
39 – Housing: Affordable Housing

Supplementary Planning Documents

Open Space, September 2008
Sustainable Design, February 2009

6.0 Financial/Resource Implications

Section 106 obligations required towards:

- Education.
- Highways and Public Transport.
- Open Space and Community Facilities.
- Libraries.
- Fire and Rescue Service.
- Affordable Housing.

7.0 Planning Considerations

The key issues for consideration in this application are:-

- 1 Principle of Development;
- 2 Access, Highways and Parking;

- 3 Design, Character and Appearance;
- 4 Impact on the Character of the Countryside;
- 5 Neighbouring Amenity;
- 6 Environmental Matters;
- 7 Flooding and Drainage;
- 8 Ecology;
- 9 Archaeology;
- 10 Impact on Public Rights of Way;
- 11 Crime and Disorder;
- 12 Sustainable Design and Construction;
- 13 Developer Obligations.

1. Principle of Development

A planning application for residential development was refused under reference KET/2008/0390 on 15th September 2008. Refusal reasons related to the location of the site within open countryside, the overprovision of housing within Burton Latimer, inadequate Transport Assessment, insufficient information relating to house types and tenures, and failure to provide necessary infrastructure through the provision of a S106 agreement.

The applicant subsequently sought to address these concerns and submitted a further planning application in October 2009 under reference KET/2009/0546. Having considered the proposals, this application was also refused by the Council due to concerns relating to the location of the site in open countryside, an overprovision of housing in Burton Latimer which did not accord with the spatial vision for the area (laid out within the development plan), failure to demonstrate that no adverse impacts would result to ecological or archaeological interests, and failure to provide necessary infrastructure improvements through the provision of S106 obligations.

This refusal of planning permission became subject of an appeal and was considered by an Inspector appointed by the Secretary of State at Public Inquiry 26th-28th May 2010. During the appeals process additional survey works were undertaken and information submitted in regards to ecology and archaeology and these matters were resolved subject to appropriate conditions. The remaining matters were thoroughly considered by the Inspector who concluded that the location and impact on the development on open countryside was not so significant as to warrant the refusal of planning permission. Furthermore, whilst noting that the proposal would result in the housing provision for Burton Latimer exceeding that envisaged within the Core Spatial Strategy (CSS), there was no evidence to suggest that this would result in adverse impacts or that the spatial vision for the area would be jeopardised. Ultimately, the Inspector dismissed the appeal on the sole grounds that the application failed to adequately assess the impact of the development upon the highway network and that the submitted Unilateral Undertakings did not make provision for appropriately justified contributions.

This application now proposes the same development as previously submitted but contains additional information in the form of an updated Transport Assessment and Travel Plan. It is also expected that a Legal Agreement or Unilateral Undertaking

will secure developer obligations. The very recent appeal decision discussed above therefore represents a material consideration in the determination of this planning application and this should be afforded significant weight.

The Development Plan for Kettering Borough currently consists of the North Northamptonshire Core Spatial Strategy (CSS) adopted in June 2008, the East Midlands Regional Plan adopted March 2009 and saved policies from the Local Plan for Kettering Borough and the Northamptonshire County Structure Plan. The CSS provides the key local planning policy framework which will guide the constituent Local Authorities in their preparation of site allocations Development Plan Documents (DPD's) or Area Action Plans (AAP's) as well as the key policy guidance for determining individual planning applications. Section 38(6) of the Planning and Compulsory Purchase Act 2004 makes it a legislative requirement for Local Planning Authorities to ensure that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The CSS provides the spatial vision for North Northamptonshire and outlines the need to deliver quality housing and jobs alongside infrastructure, services and facilities. It aims to achieve greater self sufficiency for North Northamptonshire by directing development principally to the urban core which comprises the three Growth Towns of Corby, Kettering and Wellingborough. As well as regenerating the Town Centres, the growth agenda will also be delivered by the provision of sustainable urban extensions to those growth towns which will provide major locations for housing and employment and help to reinforce the roles of those settlements.

Policy 9 of the CSS states that priority will be given to the reuse of suitable previously developed land and buildings within urban areas. Further development requirements will be focused on a small number of sustainable urban extensions (SUE's) at the Growth Towns and site specific Development Plan Documents may identify opportunities for smaller scale SUE's at Smaller Towns and Rural Service Centres. In the case of Kettering Borough, it is anticipated that such smaller scale SUE's will be located at Rothwell and Desborough in accordance with the emerging Rothwell and Desborough Urban Extension AAP. Burton Latimer is identified as a Small Town. The CSS clearly states that new building development in open countryside outside the SUE's will be strictly controlled.

The current scheme does not constitute a Sustainable Urban Extension in the context of the CSS as it is solely a residential scheme. As discussed above, SUE's are to be delivered in appropriate locations within North Northamptonshire through the plan making process and policy 16 of the CSS states that provision will be made for a wide range of services, facilities and infrastructure alongside such proposals.

The application site is located outside the settlement boundary of Burton Latimer within open countryside as defined by saved policies 7 and 35 of the Local Plan for Kettering Borough. These policies state that planning permission for development will not be granted except where otherwise provided for in the plan. Furthermore, policy RA5 states that residential development will not be permitted in the open countryside unless it is for the purposes of agriculture or forestry; reuses or

conserves a rural building; provides affordable housing to meet local needs in accordance with policy RA7; is a replacement of an existing dwelling; or is a gypsy site. This application does not accord with these policies.

The application is therefore located in open countryside where restrictive policies seek to prevent development in order to protect its intrinsic character and to promote more sustainable patterns of development. While this is so, the Inspector concluded in relation to the previous appeal that this did not present an overriding factor where other material considerations indicate in favour of the development. There is therefore a policy presumption against development in open countryside but this must be weighed against other policy considerations as set out below.

It should be noted that the CSS requires delivery of 4923 dwellings within the Borough during the period 2001 – end of March 2010 (as set out within the Table 3: Average Annual Housing Provision Rates 2001 – 2021). In fact, 4934 dwellings have been delivered during this period and the Council is therefore exceeding the required delivery projections. It can be argued therefore, that development should continue to be delivered in accordance with the spatial vision for the area as set out within the adopted CSS.

Policy 10 of the CSS sets an indicative housing requirement for Burton Latimer of 700 dwellings from 2001-21. Current figures collected by the Council up to the end of March 2010 confirm that 289 dwellings have been completed and there is outstanding consent for 592 dwellings. The total completions and outstanding consents therefore amount to 881 dwellings, exceeding the 700 dwellings indicative requirement despite only being half way through the period. If this development were allowed, this figure would be increased by 80 dwellings to 961 dwellings, significantly exceeding the housing provisions envisaged by the CSS.

Policy 13b of the East Midlands Regional Plan states that housing numbers in excess of those stated in the regional plan should be tested by Local Authorities through their development plan documents. No provision is made within the current Development Plan for additional development in the Small Town of Burton Latimer and the requirement of 700 dwellings would be exceeded.

This matter was considered in some detail during the Public Inquiry for the previous planning application and the Inspector concluded that there was no evidence to suggest an overprovision of dwellings would be detrimental to the town, its infrastructure or facilities. To the contrary, it was concluded that the range of services, facilities, public transport and other infrastructure serving the town were adequate to support the development subject to developer obligations being secured through a S106 obligation. Furthermore, there is no evidence to suggest that the proposed development would jeopardise the ability of the LPA to otherwise implement the spatial vision laid out within the CSS. There is no reason to believe that this situation has now changed, no infrastructure concerns have been raised by statutory consultees or service providers and this indicates that the development remains appropriate. Indeed, in the absence of any changed policy of circumstances it is likely that the Council would be found unreasonable in refusing planning permission on these grounds at any subsequent appeal.

The government has signalled an intention to abolish Regional Spatial Strategies in order to remove top-down targets for housing provision in favour of local target setting. In light of this the Chief Planning Officer wrote to Local Planning Authorities on the 6th July 2010 suggesting that authorities who wish to review housing requirements for their areas “should quickly signal their intention to undertake an early review so that communities and landowners know where they stand”. The North Northamptonshire Joint Planning Unit subsequently consulted the Council on an intention to undertake such a review of housing figures within the CSS. The Council’s Planning Policy Committee resolved to respond to this consultation recognising that Kettering Borough Council has performed well in meeting its housing requirements in the past, but that establishing a 5 year housing land supply still presents a challenge, particularly due to the current economic climate. This could influence the ability of the Council to meet its ongoing housing provision requirements as laid out within the adopted CSS.

Despite this, it is important to note that attempts by the Government to revoke Regional Plans have to date been found unlawful by the High Court and as such, the East Midlands Regional Plan (and the housing allocations contained within) remain part of the development plan. Furthermore, these housing requirements are adopted more locally within the Core Spatial Strategy. Following the High Court judgement that revocation of Regional Plans is unlawful without the introduction of legislative provisions, the Secretary of State and Communities Chief Planning Officer issued advice on the 10th November that the intention to abolish Regional Plans is a material consideration for the purposes of determining planning applications. This advice has also been challenged by judicial review where it is alleged that an intention to abolish Regional Plans is in fact immaterial to decision making. Pending the outcome of this challenge, the Governments advice to Local Planning Authorities is to consider individually the weight which should be attributed to such statements in light of the above matters.

In considering this, Members are directed by law contained within Section 38(6) of the Planning and Compulsory Purchase Act 2004 which states “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”. It is therefore considered that the application should be determined in accordance with the adopted development plan as discussed above. Whilst there may be an intention to revoke Regional Plans or revise housing allocations for the area, none of these matters are currently enshrined within law or the development plan. Very limited weight should therefore be attributed to these matters. Furthermore, the Joint Planning Unit has suspended its intention to revise CSS housing allocations in light of these legal challenges and this matter can be afforded no weight at present.

PPS3 is a material consideration in the determination of residential planning applications. Paragraph 69 stipulates that in deciding planning applications for housing, local planning authorities should have regard to:

- Achieving high quality housing.
- Ensuring developments achieve a good mix of housing, reflecting the accommodation requirements of specific groups in particular families and older people.

- The suitability of the site for housing, including its environmental sustainability
- Using land effectively and efficiently
- Ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for the area and does not undermine wider policy objectives.

PPS3 further states that planning authorities should maintain an up to date five year supply of deliverable housing sites. Paragraph 71 states “Where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites, for example, where Local Development Documents have not been reviewed to take into account policies in this PPS or there is less than five years supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in this PPS including the considerations in paragraph 69”.

The Council has been working hard to establish a 5 year housing land supply in accordance with this guidance but is currently unable to do so. The previous appeal decision on this site (KET/2009/0546) also considered this matter and the Council presented evidence of current housing land supply at Public Inquiry. In this case, the Inspector concluded that the Council could only demonstrate a 4.6 year housing land supply. While the supply is not therefore far removed from the necessary 5 year supply, PPS3 is clear that applications should be viewed favourably where the 5 years supply cannot be demonstrated. Furthermore, the guidance does not preclude a longer housing land supply being achieved. This is an important material planning consideration and should be afforded significant weight in favour of granting planning permission.

In the absence of a 5 year housing land supply, applications should be considered with reference to the above criteria set out in paragraph 69 of PPS3:

Achieving high quality housing -

This application seeks outline planning permission only and does not provide specific detail as to the exact design and layout at this stage. There is no reason to believe however that high quality housing cannot be achieved within the scheme; the detailed matters would be subject to consideration by the Council at the Reserved Matters stage.

Ensuring developments achieve a good mix of housing, reflecting the accommodation requirements of specific groups in particular families and older people -

The application proposes a mix of house types, sizes and tenures which again would be subject to consideration at the Reserved Matters stage. Furthermore, a legal agreement would secure provision of 30% affordable housing which is to comprise a 60/40 tenure split between social rented and shared ownership in accordance with an up to date Housing Market Assessment.

The suitability of the site for housing, including its environmental sustainability –

The previous appeal decision concludes that the site is suitable for development despite being Greenfield in nature and located in open countryside. The Inspector concluded that the site does not offer significant amenity value or landscape quality and therefore in the absence of a 5 year housing land supply, the proposal should

be viewed favourably. The development would provide residential development in line with the government's growth agenda. The site is served by a range of services and facilities within the town including public transport. Further infrastructure improvements are to be secured as developer obligations.

Using land effectively and efficiently –

The application seeks outline planning permission for 80 dwellings. The applicant suggests that a net development density (omitting open space and site constraints) equates to approximately 35 dwellings per hectare. This is considered an appropriate density for the site location on the edge of the town and would make an efficient use of land without compromising the form, character and appearance of the surrounding area.

Ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for the area and does not undermine wider policy objectives –

Concerns regarding the impact of the development on the spatial vision for the area as set out within the CSS have been discussed above. While the proposed development does not fully accord with the spatial vision outlined within the CSS, the previous appeal decision concluded that the scheme would not result in significant adverse impact and therefore in the absence of a 5 year housing supply, the application should be viewed favourably. No material changes in policy or circumstances have taken place in the interim period to the extent that would now indicate that an alternate view should be reached. Developer obligations would be secured through a legal agreement including financial contributions towards mitigating impacts upon local infrastructure; subject to these obligations, no adverse impact upon local infrastructure or facilities have been identified. There is therefore no reason to conclude that the proposed development would jeopardise the spatial vision otherwise being implemented and recent appeal decisions (KET/2009/0546 - Land off Hawthorn Road, Burton Latimer and KET/2009/0474 – Land at Harrington Road, Rothwell) strongly support this conclusion.

In summary, the Council cannot demonstrate a 5 year housing land supply. Under these circumstances, PPS3 makes it clear that planning applications should be viewed favourably subject to consideration of the matters discussed above. There are no significant adverse impacts which can be demonstrated as a result of the proposed development. As such, planning permission should be granted.

2. Access, Highways and Parking

Access is a matter to be determined as part of this outline application. The application proposes two points of vehicular access to the site, one from Diana Way and another from the corner of Hawthorn Road and Hillcrest Avenue. This approach is considered acceptable in principle, as is the general design of the access points and circulation routes within the site. A technical specification would need to be secured by condition for approval by the Planning Authority, particularly as the detailed design is likely to change at the Reserved Matters stage.

The application is accompanied by an updated Transport Assessment which seeks to demonstrate that the development would not result in any adverse impact upon the highway network. The Highway Authority has raised concerns that the

submitted information does not fully address the Inspectors previous concerns or comply with the Guidance for Transport Assessment. The applicant has been made aware of these concerns and further information has now been submitted in an attempt to address these outstanding issues. The Highway Authority has been re-consulted and the Council is currently awaiting additional comments. Members will therefore be updated on the night of the committee.

This is an outline application with details of the specific house types and layout of the scheme currently reserved for future consideration. The proposed parking provision is currently unknown and it would not be appropriate to stipulate a number until further information is forthcoming through the Reserved Matters applications.

3. Design, Character and Appearance

This is an outline application with all matters reserved except access however an indicative layout has been provided along with scale parameters which suggest a mix of house types ranging between two and three storeys.

The layout attempts to address Hawthorn Road with a strong and active frontage achieved through 2-3 storey development. Given that the surrounding development solely comprises two storey developments, buildings of a similar scale are likely to be most appropriate. It is noted that the scale of properties reduces along the southern boundary with the open countryside and this would provide a welcomed transition between the built environment and the undeveloped agricultural land beyond. This transition is not provided along the western edge of the site however and this represents a concern. Many of the houses present a street facing orientation so as to provide an appropriate level of activity and visual interest from the main public routes. However, the scheme centres on a large block of terraced properties arranged at a right angle to the highway. This provides a front to back relationship between dwellings, means that parking courtyards are hidden behind rear garden fences (out of view of occupants) and that gable ends address main through routes. Overall, the proposed design is poorly considered and does not achieve high quality housing in accordance with paragraph 69 of PPS3, nor would it achieve the high standards of design in response to context required by PPS1 and CSS policy 13. That said, the submitted drawing is indicative only and does not provide the definitive proposals. Design and layout are reserved for future consideration and subject to appropriate consideration during subsequent application, a high quality scheme of 80 dwellings within the scale parameters specified could be achieved within the site. It would not be appropriate to refuse planning permission on the basis of an indicative layout however the applicant should be aware that a much higher quality proposal will be required at the Reserved Matters stage.

4. Impact on the Character of the Countryside

The site falls within the 'Central Northamptonshire Plateaux and Valleys' area defined by the Northamptonshire Environmental Character Assessment. This document offers an evaluation of the differing landscape characteristics across the county and suggests that the area in question is likely to be sparsely settled, retaining a remote, vacant character with wide views over the surrounding landscape. Furthermore, it is noted that pasture on steeper land and surrounding villages represents an important contrast to the prevailing arable character. The site

is considered to accord with this character description and adds to the overall scenic quality of the countryside. The site currently presents a distinct open and rural character enjoyed by members of the public for recreation.

Open countryside possesses distinct intrinsic value and is characterised by its open, undeveloped and rural appearance. This is particularly important in the context of the site, given its topography and location, visible from many vantage points. In particular, a public bridleway runs along the northern boundary of the site allowing access and pleasing views across the open countryside. The proposed development would significantly alter this character to the detriment of the visual amenity of the area. Although unofficial, there are also a number of informal footpaths across the site used by local residents

It is therefore considered that the development would result in adverse impact upon the character and appearance of the rural countryside. While this is so, it must be remembered that in the absence of a 5 year housing land supply, PPS3 requires Local Planning Authorities to view planning applications favourably. This matter was considered by the Inspector in relation to the previous appeal on the site where it was acknowledged that an adverse impact would result. The Inspector concluded however that the site did not exhibit any special landscape quality or character and that the harm identified would not result in such adverse impact as to outweigh the need to provide a deliverable 5 year supply of housing in accordance with the Government's growth agenda.

5. Neighbouring Amenity

The site adjoins residential development along its north and eastern boundary. While the provision of 80 dwellings accessed from relatively small estate roads will increase traffic movements and activity, the land use is compatible with the surrounding properties and the impact of these additional movements would not result in such detriment as would warrant refusal of the application.

Again, the detailed design and layout of the buildings is not subject of consideration at this stage and the implications upon neighbouring occupants cannot therefore be fully considered in accordance with CSS policy 13 until the Reserved Matters stage.

6. Environmental Matters

The underlying geology across Northamptonshire commonly presents unacceptable levels of naturally occurring arsenic, vanadium and chromium which can present a risk to human life. The applicant has submitted an Environmental Assessment which suggests remediation measures. Implementation of this strategy would need to be secured by condition if planning permission were to be granted along with a requirement to report discovery of any further contamination.

A noise assessment would also need to accompany any subsequent Reserved Matters application which identifies noise sources (with particular reference to the nearby railway line) and propose appropriate mitigation measures to be incorporated within the building designs to ensure an acceptable living environment for future occupants.

7. Flooding and Drainage

The applicant has submitted a Flood Risk Assessment in support of the application which suggests a number of mitigation measures. Subject to these measures being secured, the Environment Agency is satisfied that the development would not be at undue risk of flooding, nor would it cause flooding elsewhere. A scheme for surface water drainage should be required by condition as insufficient information has been provided with the application.

The development would be served by Broadholme Sewage Treatment works which is nearing capacity and subject to a phased scheme of improvements. The development should therefore be phased in accordance with these works and this could be secured by a further condition.

Anglian Water has commented that the submitted Drainage Strategy and Flood Risk Assessment are inappropriate for their purposes at present and could result in flooding downstream. The foul sewer would need to be increased in size, or the flows connected to a different manhole. A condition should secure details of the proposed solution. Further details relating to surface water drainage should also be secured.

8. Ecology

The application is accompanied by an Extended Phase 1 Habitat Survey (March 2010) and a Reptile Survey (April 2010) which assess the potential for adverse impact on wildlife and biodiversity. The documents conclude that the site has limited ecological value and that the habitat would provide limited potential for protected species. Whilst this is so, a number of conclusions and recommendations are made relating to the timing of any clearance works, securing drainage proposals, and the implementation of a landscaping scheme. The introduction of bird and bat boxes in the adjacent woodland would also be beneficial. A condition should be used to ensure that the development is carried out in accordance with the conclusions and recommendations of these reports.

It is noted that the site falls within a Green Infrastructure corridor. While this does not present an overriding constraint in this instance, proposals for the introduction of a landscaping scheme will help contribute to connectivity between the adjacent wildlife site and the brook to the south.

9. Archaeology

Archaeological evaluation including trial trenching and a geophysical survey was undertaken in March and April 2010 and a report 'Archaeology Assessment and Evaluation' accompanies the application. The evidence indicates that despite the presence of late Iron Age and Roman activity to the northern boundary of the site, the activity does not extend into the development area. It is therefore unlikely that the development will have significant impacts on important archaeological deposits and no further investigation or works are therefore required in this regard.

10. Impact on Public Rights of Way

Public bridleway UA12 runs across the northern boundary of the site and while it would be retained within the development for the most part, the proposed vehicular access from Diana Way would intersect it. A raised crossing point would therefore

need to be provided along with dropped kerbs in order to provide continuity and safety for pedestrians. This could be secured by way of condition if planning permission were to be granted.

The County Rights of Way team has also commented that a claim has been submitted in respect of an additional footpath within the site. Given that this is an outline application with reserved matters yet to be considered there is no reason why such a footpath could not be accommodated within the scheme. This is not however a definitive Right of Way at present and limited weight should therefore be attached to this consideration

11. Crime and Disorder

Northamptonshire Police have raised concerns that insufficient information has been provided to allow specific detailed comments however a number of conditions and informative notes are suggested to deal with security measures within the scheme. It is suggested that the development should achieve the 'Secured by Design' standard. As discussed in the design section above, the submitted layout includes parking areas and green spaces behind boundary fences, incorporates rear courtyards, alleyways and open spaces that are not overlooked, all of which exacerbate crime. Such matters would need to be considered at the Reserved Matters stage in relation to the specific design proposals presented.

12. Sustainable Design and Construction

Policy 14 of the Core Spatial Strategy requires that development meet the highest viable standards of resource and energy efficiency and reduction in carbon emissions. Schemes should demonstrate techniques of sustainable construction and energy efficiency, provision for waste recycling/reduction and provision for water efficiency and water recycling. The applicant suggests that the scheme would comply with Building Regulations and that further details would be provided within a Reserved Matters application. Policy 14 and the Sustainable Design SPD strive to achieve standards above the statutory minimum required by the Building Regulations. Furthermore, no provision is made for achieving 10% of the demand for energy through renewable or low carbon sources as required by policy 14. Further details would therefore need to be secured by way of conditions to ensure compliance with policy 14 of the CSS.

13. Developer Obligations

In order to mitigate the adverse impacts of the development upon local infrastructure in accordance with policy 6 and 15 of the CSS, developer obligations would need to be secured as follows:

- 30% affordable housing.
- Highways contribution.
- Education contribution (in accordance with LEA formula).
- Open space and leisure contribution along with onsite provision of amenity green space.
- Libraries contribution.
- Fire and Rescue contribution.
- 5% monitoring charge.

Although the applicant has referenced certain contributions in the submission, no S106 agreement or Unilateral Undertaking was submitted with the application, nor has one been forthcoming in the meantime despite requests. The applicant suggests that an appropriate undertaking is to be submitted imminently. This recommendation to approve planning permission is therefore subject to appropriate Developer Obligations being secured by 23rd December 2010. In the absence of such obligations, planning permission should be refused.

Conclusion

The proposed development accords with both national and local planning policy and there are no material planning matters that indicate against the scheme. There has been a recent appeal decision relating to this site and for the same development. This appeal decision concluded that the development was appropriate with the exception of concerns relating to highway safety and capacity, and appropriate developer obligations. Subject to these matters being resolved prior to determination, planning permission should be granted.

Background Papers

Title of Document:

Date:

Contact Officer:

Michael Boniface, Development Officer on 01536 534316

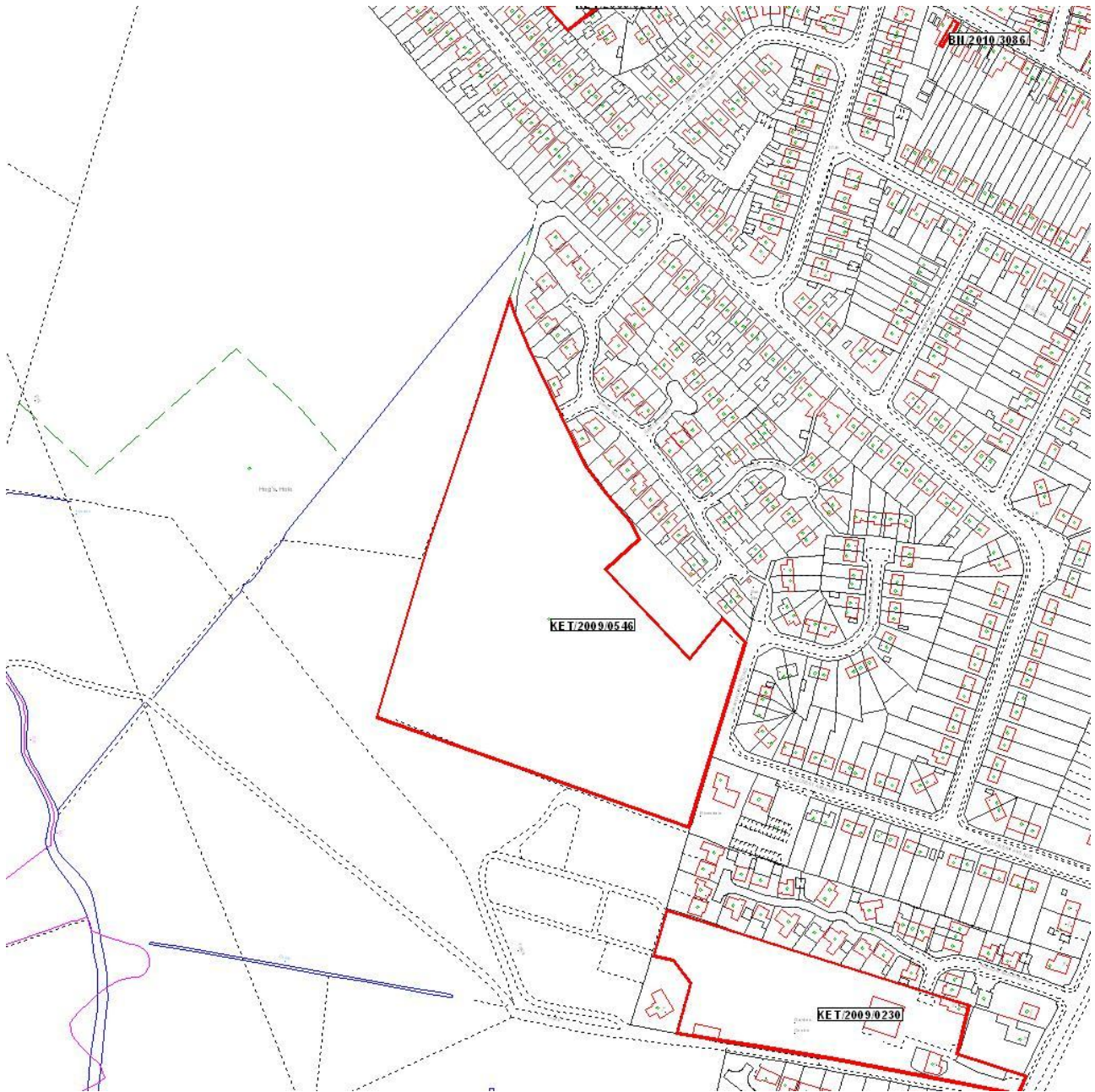
Previous Reports/Minutes

Ref:

Date:

SITE LOCATION PLAN

Hawthorn Road (land off), Burton Latimer
Application No.: KET/2010/0654



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