

25/00191/HYBRID

Applicant Mr G Dawson

Location Land At Main Street Flintham Nottinghamshire

Proposal Hybrid planning application for a rural exception development, including full planning permission for 14 affordable dwellings including 6 discount market sales dwellings with associated provision of car parking, open space, landscape, access and infrastructure works, and outline planning permission for 3 enabling self-build market dwelling plots.

Ward East Bridgford

THE SITE AND SURROUNDINGS

1. The 1.2 hectare site comprises a field with the appearance of pasture and with an orchard covering the western part, located in countryside to the east of the built up part of Flintham, and within the Conservation Area. A public footpath crosses the site from Main Street in the south west to the eastern boundary. The site is enclosed by deciduous hedgerow and trees, and there are two gated accesses from Main Street. The north eastern boundary forms part of the Conservation Area boundary.
2. There is a terrace of cottages on the opposite side of Main Street, with the Grade II listed The Mowbray adjacent to the west, and the Grade II listed Flintham Pinfold close by to the east.
3. The Conservation Area Townscape Appraisal identifies the site as part of a larger positive open space (landscape), with the Main Street boundary hedge identified as a 'significant hedge', and all the buildings in the vicinity are identified as 'positive buildings' (special architectural or historic character). An 'important vista' is also identified from Main Street to the north through the orchard. The site is also subject to a Tree Preservation Order (TPO).

DETAILS OF THE PROPOSAL

4. This Hybrid application seeks permission for a rural exception development, including full planning permission for 14 affordable dwellings including 6 discount market sales dwellings with associated provision of car parking, open space, landscape, access and infrastructure works, and outline planning permission for 3 enabling self-build market dwelling plots.
5. Specifically, the eastern access from Main Street would be improved/widened and a road would be constructed to serve two terraces of 13 two & single storey houses of a traditional design sited around a parking/turning area on the eastern part of the site, with a 'Gatehouse' dwelling adjacent to the west of the access and Main Street boundary, with another parking area to the north.

6. A private drive from the road would serve 3 self-build houses on the northern part of the site. Pathways would be created around the remainder of the orchard, linking to the public footpath through the site. An orchard shed/store and playframe/swings are also indicated. A small pond close to the north east boundary would be filled in, and a new pond would be formed close by to the east.
7. The proposed development would involve the removal of around 24 trees, and a comprehensive landscaping scheme has been submitted.
8. The following documents have also been submitted:
 - Planning Policy and Heritage Statement
 - Design and Access Statement
 - Housing Needs Survey
 - Viability Assessment to establish Enabling Development
 - Management Plan for the delivery of discount market homes & open space
 - Transport Statement
 - Preliminary Ecological Appraisal Report
 - Arboricultural Implications Assessment and Method Statement
 - Flood Risk Assessment
 - Proposed Heads of Terms for a Section 106 Agreement.
9. As a result of consultation responses from the Borough Council's Strategic Housing Officer and Ecology & Sustainability Officer; a Biodiversity Net Gain Assessment has been submitted as well as additional supporting statements in relation to the design code, strategic housing, ecology and the public representations which have been considered as part of the assessment below.
10. The plans and details of the proposal can be found [here](#).

Changes to the Development Plan and Material considerations

11. The application is a resubmission of the previous scheme which was refused planning permission on 04.10.2023 with the decision being upheld by the Planning Inspectorate who dismissed the appeal on 18.03.2024.
12. An application for the same development was submitted in 24.10.2024 however the Borough Council took the view that as there were no changes to the Development Plan or changes to the material considerations surrounding the site at this point in time, the decision to exercise rights under 70A of the Town and Country Planning Act 1990 (as amended) to decline to determine this application declined was activated.
13. Within this current application, the applicants have stated that there are now changes to the Development Plan and several other different material considerations since the previous decision which are stated to be as follows;
14. The Greater Nottinghamshire Strategic Plan, produced by the Council in conjunction with Broxtowe Borough and Nottingham City Council completed its Regulation 19 consultation submissions on 16th December 2024 and subsequently again on 25th April 2025 following Gedling Borough Council's decision to withdraw from the Greater Nottingham Strategic Plan. The

applicant concludes therefore this is an emerging plan with which moderate weight can be assigned.

15. The applicant also argues that there are changes to material considerations which affect the proposal consisting of the following;
16. The new NPPF being adopted on the 12th December 2024. The applicant argues that the following changes and paras within the new NPPF are relevant to this application;
 - identification of key policies within the Framework (Paragraph 11.d.ii)
 - an updated approach to the effective strategic planning that includes matters associated with meeting housing needs (Paragraph 24)
 - a new position on the requirements of affordable housing meeting local needs in relation to major development (Paragraph 66)
 - a new position with regard to the provision of mixed tenure sites (Paragraph 71)
 - an updated position with regard to the contribution of small and medium sized sites (Paragraph 73)
 - an identification that the Council are required to reassess their Local Housing Need provision, having regard to the new standard method (which otherwise identifies a requirement to increase LHN provision from 609 to 830 homes) (Paragraph 78)
 - and further consideration with regard to the weight that should be applied towards the contribution of housing supply, and the achievement of well-designed places
 - Finally the anticipated adoption of the Rushcliffe Design Code SPD which would provide an additional basis of change to the material considerations associated with the application.
17. Officers consider that the changes to the Development Plan and change to the material consideration are sufficient to justify the validation of the application to allow consideration of these changes.
18. The proposed changes through the Greater Nottingham Strategic Plan are predominately associated with updating the delivery strategy for housing and employment, in terms of overall numbers and extending the plan period. The overall spatial strategy for delivery remains the same as the adopted core strategy, therefore Flintham is not a location where growth is being directed to other than for infill development and for affordable housing, where there is robust up-to-date local evidence. As such the Local Plan Policies should be given full weight.
19. The identified changes to the updated NPPF relate predominately to meeting housing need and the benefits of affordable housing, all of which are acknowledged. However, as the site is not allocated and the Borough Council is able to demonstrate an up to date 5 year housing supply, these updates to the NPPF do not alter the overall thrust of the Development Plan and National Guidance.

SITE HISTORY

20. 07/00127/FUL - Dwelling and vehicular access – Refused and appeal dismissed

21. 09/01746/FUL - Nine dwellings (Affordable Housing), access and car parking – Refused and appeal dismissed.
22. 11/01308/FUL - Nine dwellings (affordable housing), access and car parking – Refused and appeal dismissed.
23. 22/02257/HYBRID - Hybrid planning application for a rural exception development, including full planning permission for 14 affordable dwellings including 6 discount market sales dwellings with associated provision of car parking, open space, landscape, access and infrastructure works, and outline planning permission for 3 enabling self-build market dwelling plots – refused and appeal dismissed.
24. The application was refused on eight grounds with three grounds – archaeology, preliminary roost assessment and protected species considered to have been overcome at the time of the appeal. The full Inspectors report is available to view on the councils website - [appeal decision](#) but in summary the Inspector found substantial harm in respect of all of the main issues and concluded that the proposal conflicted with the development plan and that there are no material considerations which indicated that a decision be taken other than in accordance with it.

REPRESENTATIONS

Ward Councillor(s)

25. **Councillor Simms** no comments received.

Town/Parish Council

26. **Flintham Parish Council** objects on the following grounds:-
 - To preserve this mature orchard, within the conservation area, on the outskirts of the village with TPOs in place
 - The entry and exit to the site is dangerous, on this busy road with blind bends in both directions
 - There is no safe pedestrian passage to village amenities. The short extension of pavement and route through field is not a solution nor appropriate thus leaving the only option of walking on the narrow road with limited visibility. This is dangerous for both pedestrians and road users safety for all is paramount.

Statutory and Other Consultees

27. RBC Planning Policy and Strategic Housing Officer– Detailed comments are provided on the supporting information regarding housing need which are available to view on the website. It concluded :-
28. Policy 8 of the Local Plan Part 1 and Policy 22 of the Local Plan Part 2 supports the principle of a rural exception site to provide affordable housing adjacent to rural settlements within the Countryside, provided certain requirements are met.

29. Part 7 of Policy 8 of the Local Plan Part 1 states that where there is robust evidence of local need, such as an up to date Housing Needs Survey, rural exception sites will be permitted within or adjacent to rural settlements. A Housing Needs Survey Update Report for Flintham dated March 2024 has been provided by the applicant in support of the planning application. The comments provided above on behalf of Strategic Housing find that the submitted Housing Needs Survey is neither robust nor up to date. The applicant has not demonstrated that a local need exists to justify a rural exception site in Flintham. Therefore, the proposed development does not comply with Policy 8 of the Local Plan Part 1.
30. Part 2c) of Policy 22 of the Local Plan Part 2 supports the principle of an exception site for affordable housing in the Countryside. As discussed above, the applicant has not demonstrated that a local need exists to justify a rural exception site in Flintham.
31. However, if the applicant overcame this issue, the proposed development would need to demonstrate compliance with criterion a – e of Policy 22 Part 3 to be considered permissible development within the Countryside.
32. The additional information submitted during the course of the application relating to housing need has been reviewed and no further comments are made.
33. Rushcliffe Borough Council Conservation officer – Provides detailed comments on the application. Their comments are summarised as follows:-
34. Does not consider that the proposal would cause harm to the significance of the Listed Buildings or their settings. There is no historical link between the site and The Mowbray, and the pinfold would not be harmed by virtue of distance and intervening vegetation.
35. Strong concerns about the proposal and it is not supported for the same reasons the previous scheme was unsupported. Whilst a revised NPPF has been issued there have been no material changes with this related to design and the environment. There are no changes in the scheme which addresses concerns previously raised including the identified significant adverse impact on the rural character and setting of Flintham and the identified harm arising to the Conservations Areas special interest.
36. The site is an identified positive open space. Development on this site would have significant negative impacts on the special interest of the Conservation Area, including the uncharacteristic protrusion of development into a large area of uninterrupted open countryside, a negative impact on the appearance and character of the village in the area of Main Street / Town End Lane, and the loss of the protected trees.
37. The layout is not in keeping with the pattern of development in the village which consists of dwellings lining the streets, often quite tightly. Those proposed would have no active frontages with their arrangement relating more to a backland courtyard and forming a parking courtyard itself, which would be uncharacteristic of development within Flintham. This type of layout would be more suitable to a modern suburban development. The local area does not have a tradition of rhythmic rows of terraced houses like those proposed

despite some conjoined properties sharing party walls.

38. The character and appearance of the proposed dwellings is not reflective of the local vernacular and is indistinctive, possibly as a result of efforts to design a scheme that would be viewed unobjectionably, but is as a consequence also not particularly striking or engaging. Neither can they be said to be of a contemporary design although it is acknowledged that there is no strong precedence for contemporary design within the village. Whilst individual contemporary buildings might be a sensible approach, an estate of 14 might struggle to integrate with the character of the wider settlement.
39. The two-storey units proposed use a less than 45-degree roof pitch (approx. 41 degrees), which is not traditional, and the chimneys do not relate to any fireplaces and are purely decorative. The bungalows would not be reflective of a local style, and make use of features like finials to the ridges and front-facing chimney breasts which sit oddly and are not in keeping with local character and appearance.
40. In terms of materials, the dwellings seek to use stonework at the first-floor level. Where stone is used in Flintham it is generally found at ground floor level in the form of a plinth, and it is most commonly associated with converted outbuildings or farmhouses. The use of stone to residential upper registers is most commonly associated with Arts and Crafts style architecture, which these dwellings are not, and for which there is limited precedence locally anyway (little beyond a lodge to Flintham Hall at the opposite end of the Conservation Area). Concern that the proposed stone would end up being cast stone, despite the annotation of lias, which is not a traditional material and, given the affordable nature of the proposed dwellings, would have questions about the affordability to the scheme of a stone mason.
41. Concerns are also raised about the uncharacteristic parking areas proposed in multiple areas to the site which is not reflective of the local pattern, and which would appear out of keeping with the Conservation Area's character & appearance and create a development dominated by parking which itself would not represent good design.
42. The proposed surfaced pathways within the orchard area would formalise the existing orchard and diminish the rural character of those parts of the orchard which would be retained, and there could be future pressures to remove these for reasons of light and shading and leaf fall, particularly where located very close to dwellings and driveways.
43. The 3 self-build dwellings, which one might reasonably expect to be two storied in keeping with Flintham's vernacular, and the proposal is not supported for the similar reasons to those given above for the 14 dwellings. The pattern of development would not be in keeping with the Conservation Area as these would be set back more akin to suburban executive homes.
44. The necessary visibility splays for the vehicular access would require the loss of limited sections of the hedgerow and, whilst the majority appears shown as replanted the new hedge, it would be on a different alignment and no longer be subject to protections. If approved, conditions should be included to ensure that the replacement planting does take place and that the new hedge is retained for the lifetime of the development.

45. The site is identified as positive open space within the Conservation Area appraisal, Paragraph 220 NPPF 2024 (rev. Dec 2024, amended Feb 2025) states: Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 214 or less than substantial harm under paragraph 215, as appropriate.
46. The loss of the site as positive open space would represent the loss of another element identified as making a positive contribution to the significance of the Conservation Area. Whilst open space would remain on the site under the proposed development it would not be the same open space as currently identified as positive, but it would be smaller in extent, have a far different relationship with built form rather than the wider agricultural landscape beyond, as well as itself being crossed by surfaced paths and accommodating ancillary infrastructure such as play equipment.
47. The NPPF requires that in cases where proposals lead to identified harm then there is a need for a clear and convincing justification (Paragraph 213). There is case law, most explicitly within the Forge Field Society case that sets out that it is a legitimate exercise for the decision maker to consider whether the benefits of a scheme could be delivered in a way which avoids, or reduces, harm in assessing whether harm has a justification. The judge in that case made clear that this would include considering whether the development and its benefits, could be delivered on an alternative site. It is not considered that there is anything within the submission that rules out other sites being available to deliver this development and its benefits, with plenty of other undeveloped sites around the fringes of the village which might represent alternatives where heritage harm could be avoided, or greatly reduced. As such it is questioned whether the applicant has demonstrated that a clear and convincing justification for causing harm exists in this case.
48. For the reasons above, it is considered that development in this location would have a significant adverse impact on the rural character and setting of the village, and the character and appearance of the Conservation Area, thereby cause harm to its special interest. It is considered the harm to be towards the middle of the less than substantial scale. As a result, the proposal would fail to achieve the objective described as desirable within Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 of preserving or enhancing the character or appearance of that area and would thus engage a strong and statutory presumption against granting planning permission. As the level of harm is considered less than substantial, permission could still be granted if it is concluded that public benefits outweigh harm through application of the test within Paragraph 215 of the NPPF.
49. In applying this test, it should be noted that it is not to be applied as a simple balance. Public benefits must not simply outweigh harm but must do so to a sufficient degree to justify departure from the statutory presumption against granting planning permission arising from the conflict with the legal duty under Section 72 of the 1990 Act, in line with the requirement at Paragraph 212 of the NPPF requiring that great weight should be given to the assets conservation. Note however that the need for harm to be justified under Paragraph 213 precedes the balance test in Paragraph 216. As such it would seem illogical to argue that development should be permitted due to its benefits

if it has not been justified that the harm is necessary to secure those benefits.

RBC Design and Landscape Officer – Detailed comments have been provided in relation to the loss of trees and impact on the character of the area

50. Almost all the trees on the site are protected by a Tree Preservation Order made in 2010 which protects 4 individual trees and a group of 118 fruit trees. The majority of the protected trees are located in the western two thirds of the site with the only protected trees in the eastern third of the site all of which are located on the site boundary. The Orchard appears to date back to around the 1940's although much of the trees are much younger than that. More considered comments on the value and impact on the TPO'd trees are given below. The access into the site utilises an existing entrance, but this would need to be widened and in doing so it results in the loss of 2 BS5837 category 'B' trees and these are normally trees you would expect to see retained. The Walnut to the west of the access is one of the best trees on the site and is located in a prominent location as you approach the village from the east, the application should seek to retain this tree and sacrifice the tree to the east and the position of the gate house would need to be varied accordingly.
51. It is considered that plots 1-13 will not have a big impact on protected trees, but the access, gatehouse dwelling and parking spaces for the existing properties does impact on protected trees, as will the area of self-build which appears to require the felling of around 16 trees. In particular the loss of the trees where the entrance and gatehouse is located are in prominent part of the site and this will change its character and that of the approach into the village. The conservation area appraisal indicates this is a positive open space.
52. No objection is raised in relation to the boundary hedgerows being removed and replanted to enable visibility splays and this could be controlled through a detailed landscape condition. The tree protection plan in the arboricultural report is perhaps indicative, but it should also protect boundary trees and hedgerows on the eastern part of the site and the southern boundary as these would be at risk of construction damage. If permission were to be granted it is considered that a condition is needed to secure a more considered tree protection plan and this should split the site in two and consider the full and outline parts of the site separately.
53. Advice in relation to the procedural matters relating to the right of way is provided.
54. The following comments were provided to the Planning Inspector on the previous appeal and remain relevant and apply to this application:-
55. The purpose of a Tree Preservation Order is to protect trees where it is "expedient in the interests of amenity". Amenity is not defined in law, but Government advice makes it clear that trees should be visible from a public vantage point and considers other factors such as size and form, future amenity value, contribution to landscape or the character and appearance of a conservation area. Other factors such as nature conservation and climate change can be taken into account, but on their own do not warrant making an Order.
56. Whilst the tree survey classifies most of the trees on the site as a BS5837

category C - trees of low quality, this appears to be due to the fact most are young or semi-mature and as such they have not reached their full size and if retained will likely to continue to grow and will increase in size. The Council considers the trees important due to the contribution they make to the right of way through the site, views from the road and the character of the conservation area where there is a strong contrast between the enclosed main street and the small paddocks and fields which surround it. Despite being category C trees, they do offer high public amenity value as they enhance the public right of way which runs through the site. As pointed out above, most of the category B trees - those of moderate quality, are located where the access and gatehouse dwelling is located and the loss of these trees is in a prominent roadside location and close to the start of the public right of way.

57. Should be noted that the previous appeal statement placed great weight on the replacement planting having value in terms of wildlife and climate change, it is accepted there is value to this, but the statement gave little weight to the impact on public amenity value which is the primary purpose of the TPO. It is clear the combined loss of trees and the proposed development will have a negative effect on the public amenity value of the site through the loss of roadside trees and the introduction of the access road and gatehouse dwelling. The effect on users of the public right of way is likely to be more significant, as whilst the western section of the route will remain within an area of orchard, the character of the eastern half of the route will change as it will traverse an area of parking and vehicle access. It is not considered that the increased tree provision elsewhere on the site will offset the loss of public amenity to users of the right of way.

RBC Ecology and Sustainability Officer – Concerns raised. The Preliminary Ecological Appraisal (PEA) appears to have been carried out according to good practice and is in date until 1 May 2027.

58. A Bat activity survey has been recommended by the consultant ecologist, these surveys should be completed prior to determination of this planning application.
59. It is not possible to determine if this development will have a detrimental impact on populations of protected species at this time.
60. A statutory Biodiversity Metric has been supplied (completed 4 June 2025), this demonstrates a net loss of -22.1 habitat units (-100%) and a net loss of -2.87 hedgerow units (100.0%). This does not currently meet the regulations. It is noted that the baseline includes 0.86ha of Traditional Orchard (a priority habitat), this can only be replaced by the creation or enhancement of the same number of habitat units of Traditional Orchard. Offsite biodiversity net gain or statutory credits will be required to discharge the general Biodiversity Gain Condition. Offsite gains need to follow the Biodiversity Hierarchy.
61. Provided the Biodiversity Gain Hierarchy has been followed then purchase of statutory credits is acceptable.

RBC Environmental Health Officer – Has no objections subject to a condition to ensure the submission and approval of a Preliminary Risk Assessment of the nature and extent of any contamination affecting the site and any required remediation and a construction method statement.

NCC Planning – Comment on the proximity of the site to bus stops, and that a bus stop infrastructure contribution of £5,400 would be required. A request of £35,000 is also sought towards the cost of improving pedestrian access to the village such as but not limited to a footway or signing. A secondary education contribution of £90,810 (based on 3 pupils x £30,270 per place) to be used towards improving, remodelling, enhancing, or expanding facilities to provide additional permanent capacity within the Rushcliffe East planning area, to accommodate pupil growth from the development and a post 16 education contribution of £30,270 (based on 1 pupil x £30,270 per place) to be used towards improving, remodelling, enhancing, or expanding facilities to provide additional permanent capacity within the Rushcliffe East planning area, to accommodate pupil growth from the development.

NCC Highway Authority – There are no footways on the application side of Main Street in the vicinity of the site at present and only a short section fronting the properties opposite with no connections to the village. The site is also a considerable distance from other settlements with a greater range of facilities and services. It is noted that at the corner of Main Street to the west of the site there is a public footpath that links to Spring Lane. This is however a remote, rural unsurfaced footpath that is unlikely to be considered desirable by many users particularly in wet conditions and is likely to be used as a recreational route rather than accessing the village amenities and school.

62. The location of the site and lack of footway visibility will likely result in residents being discouraged from walking and instead will be reliant on the private care for accessing service and amenities.
63. The visibility at the proposed access stated in the Transport Statement would be acceptable based on measured vehicles speeds provided. It is noted that some of the hedgerow along Main Street will require relocating to enable the splays to be provided and in accordance with the Nottinghamshire Highway Design Guide hedges should not be planted within 1m of visibility splay to ensure the splays will not be encroached upon during periods of rapid growth. Pedestrian access is separate to the vehicle access and will use the existing currently unused field gate to the west of the site. In addition to the proposed link a 2m wide footway should be provided on Main Street across the site frontage which will require further hedgerow removal.
64. A raised crossing point on Main Street is proposed at the location of the new footpath connection, together with an extension of the southern footway. The raised crossing point is not appropriate and unnecessary for the likely pedestrian flows, and no details of the footway have been provided. Beyond the proposed footway, there is no further footway link to the village and it would have limited benefits in terms of a pedestrian link to the village.
65. The proposed bus stop to the front of the site will provide some benefit in terms of sustainable access although this is unlikely to significantly reduce the reliance on the private car for journeys.
66. The layout does not meet standards required for an adoptable road, and amendments to the internal layout and parking provision are recommended. It is noted that the layout appears to provide 4 unallocated parking spaces for properties on the west side of the main private drive. Whilst this provision would be desirable to reduce the potential for on street parking to occur they are

remote from the properties and may not be convenient to use. It is also noted that the location of the spaces are not well overlooked which may discourage use.

67. It is recommended that the above comments are considered by the applicant and amended details submitted accordingly.

NCC Rights of Way – Consider the proposed plans to divert the public footpath through the development onto a new alignment through an area of open space on a footway alongside the access road and a new path out of the site to the north west. Considers this is broadly acceptable but issues to be considered and confirmed prior to determination relate to width and surfacing and maintenance of the paths. Advice is given in relation to the process for diversion and delivery, temporary closure and suggested planning conditions. They object until further information is provided with regard to surface treatment and widths.

NCC Flood Risk – Has no objection but recommend a condition to ensure the submission, approval and implementation of a detailed surface water drainage scheme.

NCC Archaeology Officer – no new information has been provided in support of this application and the recommendations made previously remain. Data shows earthworks across the site and that mapping evidence suggests that the main street of the village may once have run through the site which certainly sits within the core of the Medieval village. There is potential for survival of Medieval village remains within the site and the submission of an archaeological desk based assessment (DBA) is recommended.

68. The archaeological potential of the site is not understood and further information is required in order to inform the potential and therefore risk to the development. In the response for the previous application it was made clear that there is high potential for medieval remains within the application site. Geophysical survey would potentially provide additional information and this has been recommended several times. Geophysical survey is a very minimal request for additional information, and it should be made clear that geophysical survey will almost certainly need to be supported by archaeological trial trenching. Trenching results are necessary to test the reliability of the geophysics results and are also essential for effective project risk management if permission is granted. Failing to adequately evaluate a site of this nature at an early stage could lead to unnecessary destruction of heritage assets, potential programme delays and excessive cost increases that could otherwise be avoided. Whether this is recommended prior to the application being determined or as a condition will depend on the information provided by a geophysical survey.

Nottinghamshire Area Ramblers – objects on the following grounds:-

69. The application is in the village conservation area. There is a larger brownfield site near to the A46 that is more than adequate to meet the affordable housing needs of the community.
70. The location includes a mature orchard with TPO which can be enjoyed from Flintham Footpath 4 which passes through the site.

71. As well as the loss of mature trees the amenity value of Footpath 4 would be further damaged by the restriction to the views of open countryside by the construction of the houses.

Historic England – Does not offer any specific advice and recommends seeking the views of specialist conservation and archaeological advisers.

Nottinghamshire NHS ICB – Since the number of dwellings is below the threshold for requesting a Section 106 contribution, they will not need to comment further.

NHS – No comments.

Nottinghamshire Police Design Crime Officer – Do not wish to add any further comments than those provided on the 22/02257/HYBRID and therefore requests that the Secured by Design standard is adopted as part of the development.

Campaign to Protect Rural England (CPRE) – object to the application on the following grounds :-

72. Object given the negative impact on the rural character and conservation area of Flintham, particularly through the loss of a traditional orchard supporting trees with protection orders and a number of Category B (of moderate quality and value). Regardless of the age of the orchard, it in itself provides a positive contribution to the significance of the conservation area.
73. Questions remain over the housing needs requirement in Flintham.
74. The style of the development proposed is not in keeping with the character area. Currently, this maintains a linear design with houses fronting directly on to the narrow streets and largely support the same building styles and materials.
75. It isn't clear when considering Biodiversity Net Gain, how the loss of -22.1 habitat units will be recreated and where, especially when considering the loss of 0.86ha of traditional orchard which is a priority habitat. A more appropriate site and one which is allocated in the Local Plan (Policy 24) and whilst pending determination, aims to provide affordable homes as part of the 114 dwellings.
76. Within the previous application under 22/02257/HYBRID, The Borough Council had appointed a firm of independent viability experts to review the application and to advise the Council on whether the enabling development is justified.

Local Residents and the General Public

36 written representations have been received with 30 raising objections and 6 supporting the application including letters from the applicant and previous land owner. The comments are summarised as follows.

Objections

- a) To build on an orchard green subject to a Tree Protection Order on a field site is itself wrong, but particularly when there is a viable and extensive brown field site, currently a massive eyesore, in the village (the old officer's mess / Islamic school site);

- b) Harm to the rural setting of the village and would fail to preserve or enhance the character and appearance of the conservation area, and layout would be akin to a housing estate;
- c) The site is just beyond a dangerous blind bend in the road already used by very heavy/long farm vehicles & HGVs, and the access has poor visibility. Any extra vehicle movement generated by housing in that area of the village would be problematic;
- d) Increased parking problems in the village;
- e) The housing survey is not representative and is at variance with the Parish Council's assessment, and the properties would be well out of reach for the majority, even with the discounted prices;
- f) No evidence of any registered housing provider interested in being responsible for the delivery of the development;
- g) The area is more than well served by the number of affordable houses being built in Bingham, 5 miles away;
- h) 17 units cannot properly be described as "small" within the Government's definition of rural exception sites;
- i) Numerous applications for building and affordable housing on the site have been refused and appeals dismissed including the recent application 22/02257/FUL;
- j) Extensive loss of wildlife, including from re-location of the pond;
- k) Surface water/flooding issues;
- l) No safe footpath access between the site and the main village, and no easy access to services/facilities;
- m) The 3 self builds would not be sold or offered to villagers; the affordable units would not be affordable;
- n) Any traffic calming and street lighting would be totally out of character for the village;
- o) Who would be responsible for maintenance of the pond, trees, ground maintenance and play equipment etc;
- p) Believe that the field across the road from the site would be used for storage of machinery while the development is carried out which would be dangerous;
- q) Could set a precedent for further development;
- r) Should be using brownfield land first for development;
- s) A planning application is in for 114 houses on the former Islamic institute site which will provide sufficient housing including affordable housing for the village;
- t) transport statement is not accurate – incorrect information regarding bus availability;
- u) concern over relocation of pond;
- v) inappropriate location for families;
- w) road floods and the loss of the orchard will make this worse.

Support - detailed letters of support from 6 individuals (including the applicant) have been received which are available to view on the website and summarised below.

- a) Seems to be very sympathetic with attractive houses and in keeping with the rural aspect of the site and the retention of many of the fruit trees & also new planting keeps a very pleasant aspect;
- b) Provision has been made to take current car parking on the side of the road opposite to the site into the site which is a huge safety aspect;

- c) There is provision for a footway into the current rural footpath which will make it unnecessary to walk along the two blind bends (with no footpath) into the village;
- d) Extremely desirable as current properties in Flintham (rent or buy) are very expensive and usually "children of the village" have to move away to find accommodation;
- e) Would draw the community together;
- f) several allegations over suggested pattern of unfairness and obstruction from local interested parties.

PLANNING POLICY

- 77. The Development Plan for Rushcliffe consists of the Rushcliffe Local Plan Part 1: Core Strategy (2014) (LPP1) and the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) (LPP2).
- 78. Other material considerations include the recently adopted Rushcliffe Design Code, National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 79. In accordance with planning law, decisions should be made in accordance with the Rushcliffe Development Plan unless material considerations indicate otherwise.

Relevant National Planning Policies and Guidance

- 80. The NPPF includes a presumption in favour of sustainable development.
- 81. There are three objectives to sustainable development: economic, social and environmental. The environmental objective refers to 'contributing to protecting and enhancing our natural, built and historic environment'.
- 82. Section 5 (Delivering a sufficient supply of homes) states that in rural areas, decisions should be responsive to local circumstances and support housing developments that reflect local needs. It encourages Local Planning Authorities to support opportunities to bring forward rural exception sites that provide affordable housing to meet identified local needs.
- 83. Section 12 (Achieving well-designed places) states that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area not just for the short term but over the lifetime of the development, are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change, with a high standard of amenity for existing and future users.
- 84. Section 15 (Conserving and enhancing the natural environment) states that decisions should contribute to and enhance the local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including trees and woodland, and should minimise the impacts on and providing net gains for biodiversity.

85. Section 16 (Conserving and enhancing the historic environment states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 215 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposals.
86. The definition of 'Rural exception sites' in the Glossary of the NPPF is as follows:
- 'Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding.'
87. Full details of the NPPF can be found [here](#).
88. As the proposal has the potential to have any impact on the setting of heritage assets, there is specific legislation which also forms a material consideration, which is as follows. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess, section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Relevant Local Planning Policies and Guidance

89. The following policies in LPP1 are relevant:
- Policy 1 – Presumption in Favour of Sustainable Development
 - Policy 3 – Spatial Strategy
 - Policy 8 – Housing Size, Mix and Choice
 - Policy 10 – Design and Enhancing Local Identity
 - Policy 14 – Managing travel demand
 - Policy 11 – Historic Environment
 - Policy 17 – Biodiversity
 - Policy 19 – Developer Contributions.
90. Policy 3 sets out the spatial strategy for housing delivery in the Borough which seeks to ensure that sustainable development will be achieved through a strategy which promotes urban concentrations by directing the majority of development towards the built-up areas of Nottingham and Key Settlements. In other settlements, such as Flintham, the Core Strategy, at para 3.3.17, envisages that development should be for local needs only through small scale infill development or on exception sites.

91. Policy 8 requires residential development to provide and contribute towards a mix of housing tenures, types and sizes. Part 7 of the Policy confirms that rural exception sites will be permitted within or adjacent to rural settlements where robust evidence of a local need is provided, such as an up-to-date Housing Needs Survey.
92. Policy 10 states that all new development should be designed to make a positive contribution to the public realm and sense of place whilst also being adaptable to meet evolving demands and the effects of climate change. All developments should be assessed in terms of its density and mix; materials, architectural style and detailing, and its impact of heritage assets. Specifically, part 4 of the Policy states that developments must be designed in a way to conserve local heritage assets and preserve or enhance their settings.
93. Policy 11 supports development proposals where the historic environment and heritage assets and their settings are conserved and/or enhanced in line with their interest and significance.
94. The following policies in LPP2 are relevant:
- Policy 1 – Development Requirements
 - Policy 12 – Housing Standards
 - Policy 13 – Self-Build and Custom Housing Provision
 - Policy 18 – Surface Water Management
 - Policy 22 – Development within the Countryside
 - Policy 24 – Redevelopment of former Islamic Institute, Flintham
 - Policy 28 – Conserving and Enhancing Heritage Assets
 - Policy 29 – Development Affecting Archaeological Sites
 - Policy 34 – Green Infrastructure and Open Space Assets
 - Policy 37 – Trees and Woodlands
 - Policy 38 – Non-designated Biodiversity Assets in the Wider Ecological Framework
 - Policy 43 – Planning Obligations Threshold.
95. Policy 1 states that permission for new development will be granted provided that, amongst others:
- * there is no significant adverse effect upon the amenity, particularly residential amenity of adjoining properties or the surrounding area, by reason of the type and levels of activity on the site, or traffic generated;
 - * a suitable means of access can be provided to the development without detriment to the amenity of adjacent properties or highway safety;
 - * the scale, density, height, massing, design, layout and materials of the proposal is sympathetic to the character and appearance of the neighbouring buildings and the surrounding area;
 - * there is no significant adverse effects on important wildlife interests and where possible, the application demonstrates net gains in biodiversity.
96. Policy 13 encourages self-build and custom homes provided they meet the following criteria:

- a) The development is in an appropriate location subject to compliance with all other relevant policy requirements in the Local Plan and national policy, including Green Belt, landscape, historic and environmental designations;
 - b) It is of a high standard of design and does not adversely affect the area by reason of its scale, bulk, form, layout or materials;
 - c) It would not cause a significant adverse impact on the amenity of nearby residents or occupiers; and
 - d) There is no significant adverse impact on highway safety and adequate provision for access and parking is made.
97. Policy 22 states that and beyond the Green Belt and the physical edge of settlements is identified as countryside and will be conserved and enhanced for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources, and to ensure it may be enjoyed by all. Specific uses are permitted within the countryside, including exception sites for affordable housing, provided that (amongst others) the appearance and character of the landscape, including its historic character and features such as habitats, views, settlement pattern, rivers, watercourses, field patterns, industrial heritage and local distinctiveness is conserved and enhanced.
98. Policy 24 identifies the former Islamic Institute to the west of the village as a brownfield site suitable for the delivery of around 90 homes.
99. Policy 28 requires proposals that affect heritage assets to demonstrate an understanding of the significance of the assets and their settings, identify the impact of the development upon them and provide a clear justification for the development. Part 2 of the Policy sets out criteria that the proposed development will be assessed against.
100. Policy 29 states that where development proposals affect sites of known or potential archaeological interest, an appropriate archaeological assessment and evaluation will be required to be submitted as part of the planning application. Planning permission will not be granted without adequate assessment of the nature, extent and significance of the remains present and the degree to which the proposed development is likely to affect them.
101. Policy 34 lists specific Green Infrastructure assets which will be protected from development which adversely affects their green infrastructure function, unless the asset is proven to no longer exist and the benefits of the development in that location outweigh the adverse effects of the asset. Traditional orchards are identified as one of the protected Green Infrastructure assets.
102. Policy 37 states that adverse impacts on mature trees must be avoided, and that planning permission will not be granted for development which would adversely affect an area of ancient, semi-natural woodland or an ancient or veteran tree, unless the need for, and public benefits of, the development in that location clearly outweigh the loss.
103. The Borough Council's Affordable Housing Supplementary Planning Document (SPD) states that, in accordance with Policy 8 of the Local Plan Part 1, rural exception sites will be permitted within or adjacent to rural settlements, provided robust evidence is provided of affordable housing needs, such as an

up-to-date Housing Need Survey. A Housing Need Survey will be considered out-of-date when it is greater than three years old.

104. The SPD also confirms that planning permission for exception sites will be accompanied by a Section 106 agreement which retains local connection restriction on both rented or intermediate (home ownership) properties to ensure they remain available to local residents in housing need in perpetuity.
105. The Rushcliffe Design Code – a supplementary planning document has been adopted by the Borough Council on 1 September 2025. This sets out the design requirements for new development in Rushcliffe Borough and will be used in the determination of planning applications.
106. The policies in the Core Strategy, Local Plan Part 2 and the Rushcliffe Design Guide are available in full along with any supporting text on the Council's website [here](#).

APPRAISAL

Principle of Development

107. The site is located outside the built-up part of Flintham in countryside and, as noted above, a brownfield site to the west of the village is allocated in LPP2 for the delivery of around 90 homes. There is an outline planning application currently being considered by the Borough council under reference 24/00981/OUT
108. The NPPF definition of rural exception sites refers to 'small' sites. Whilst there is no definition of 'small', Flintham is a settlement of circa 238 dwellings, and 17 dwellings would represent approximately a 7% increase which, it is considered, would not be 'small'. Furthermore, whilst major and minor development isn't used to define large and small scale development Here, the proposal of 17 dwellings would represent a major development, and given small scale nature of Flintham, it is considered that a major development should not be considered as 'small'.
109. It is also worthy to note that the appeal Inspector dealing with the previous application came to same overall conclusion, and states within Para 35 of the appeal decision as follows;

'I do not consider that the appeal proposal would be a small site, such that it would benefit from the policy support of the Framework. I therefore find that having regard to its context, it is not of an appropriate scale for a rural exception site.'
110. As noted in the written representations, there are few local services in Flintham (primary school, public house) and, in view of this and in the absence of a continuous footway between the site and built-up part of the settlement, it is very likely that future occupants would be heavily reliant on the use of private vehicles to access the majority of day-to-day services which would conflict with one of the fundamental objectives of sustainable development.
111. The site is also within Flintham Conservation Area and comprises an orchard/pasture land with a number of mature trees and enclosed by

deciduous hedgerow. The site makes a significant positive contribution to the rural character & appearance of the surroundings, the strong rural character & appearance of this part of the Conservation Area, and the rural setting of the village. To reflect this, the site is identified as part of a larger positive open space (landscape), with the Main Street boundary hedge identified as a 'significant hedge' in the Conservation Area Townscape Appraisal. The site is also subject to a Tree Preservation Order.

112. One of the three objectives to sustainable development in the NPPF is the environmental objective – 'to protect and enhance our natural, built and historic environment'. Section 15 of the NPPF states that planning decisions should 'contribute to and enhance the natural and local environment by' amongst others 'recognising the intrinsic character and beauty of the countryside'.

113. This is reinforced by Policy 22 of LPP2 which also lists uses which will be permitted in countryside, including exception sites for affordable housing, provided that the appearance and character of the landscape is conserved and enhanced.

114. In this case, the site is clearly outside the built-up part of Flintham, within countryside. At this point, it is worthy to note that the appeal Inspector at para 15 of the appeal decision strongly reinforces this view stating as follows;

'I acknowledge the dwellings next to and opposite the site. However, despite them, I do not consider that the appeal site could properly be described as within or adjacent to the village as envisaged by the policy. When either walking or driving along Main Street, eastwards or westwards, the site has a strongly rural and out-of-settlement character. This is itself reinforced by the public right of way through it, its partly-planted, partly-open appearance and the views through and across the site to the open countryside beyond. The strong hedgerow boundaries to Main Street around the site also add to this'

115. The proposal, which has not been altered from the previous scheme under application Ref. 22/02257/HYBRID would involve the loss of trees and part of the boundary hedgerow, and the construction of an access road with footways, two terraces of dwellings, four detached dwellings, parking/turning areas and pathways covering the majority of the site, would significantly erode the rural character of the site and surroundings and, by virtue of its layout, form, scale and design, would result in an urbanising effect.

116. The appeal Inspector for the previous scheme shared this concern and at Para 19 of the appeal decision states;

'As I have found that the proposal is neither within nor adjacent to the village or its built-up-area, I cannot consider that the layout, form and scale of the proposal is appropriate for the rural, open character of the site and its surroundings.'

117. Further harm to the character and appearance of the site is identified by the Inspector through the design of the proposed development. In Para 21 of the appeal decision the Inspector states;

'I acknowledge the attempt to mimic the broad style of historic development in the village, with built form extending backwards from strong frontage

development. However, I do not consider that the proposal successfully mimics this. To my mind it has a very different layout and relationship to the road and the public domain, with the parking and turning areas, and inward facing, faceted terraces giving the proposal an urban character, atypical of the rest of the village'

118. The Inspector also found the loss of trees at the site would also result in harm to the rural open character of the site and the area around it. Para 23 of the appeal decision states;

'The loss of trees across the site, as well as the need to improve the access and vision splays, and the creation of the surfaced path, play area and parking area through what trees remain would, in my opinion, further harm the rural and open character of the site and the area around it.'

119. Therefore, whilst Policy 22 of LPP2 allows for exception sites for affordable housing, in light of the above it is considered that the proposal would not conserve or enhance the appearance and character of the landscape, and would have a significant adverse impact on the open character and nature of the countryside.

120. Moreover, as the development would result in the loss of part of an orchard and a number of other trees which strongly contribute to the character of the site and surroundings, it is considered that the proposal is also contrary to Policies 34 and 37 of LPP2.

121. For the same reasons stated above relating to the impact on the countryside, and due to the layout & form of the development which is uncharacteristic of the built environment of Flintham, and the design of the dwellings which does not reflect local character, it is also considered that the proposal would have a significant adverse impact on the rural character & setting of the village, and the character & appearance of the Conservation Area, thereby cause harm to its special interest.

Housing Need

122. In terms of evidence to demonstrate the need for the development, the updated Housing Needs Survey (HNS) is acknowledged. However, the Strategic Housing Officer is not satisfied that the submitted housing survey provides a robust justification and points to several areas in which the submitted Housing Needs Survey lacks up to date and relevant evidence. These includes the following;

- Reference to a housing needs survey for Orston undertaken by Midlands Rural Housing, which is from 2014, and relates to Orston rather than the Flintham
- Reference to the 2021 version of the National Planning Policy Framework (NPPF), which has been superseded
- The electoral ward of Thoroton has been used to gain context on house price data as there was insufficient data available for Flintham. Extending the study area to ward level is not appropriate as it greatly increases the study area beyond Flintham, which can lead to a distortion in house price data

- The electoral ward for Flintham illustrated on Map 2 is incorrect. Therefore, the use of ward data within the HNS is incorrect
 - It is argued within the submitted HNS that the population change in Flintham between 2011-2021 of a loss of 32 people stated to be significant.
 - The claim that the key finding in chapter 3 is that younger people are leaving Flintham due to a lack of growth in housing stock is unfounded as no supporting qualitative research is given
 - The household survey was conducted in January and February 2022 and no updated household survey has been undertaken to support this application.
123. Overall, the Strategic Housing Officer is of the view that that a low response rate to the household survey coupled with the misinterpreted housing register data cannot be considered a robust evidence base used to estimate the need and demand for additional housing in Flintham and cannot be used to justify that there is a local need for the proposed development.
124. The applicant provided a further statement, however no new evidence was supplied, just reiterating the original conclusion from the previous survey. As such the view of the Strategic Housing Officer remained unchanged and it is therefore considered that the applicant has not demonstrated that a local need exists to justify a rural exception site in Flintham. Consequently, the proposal is also contrary to Policy 8 of LPP1 and the Council's SPD on Affordable Housing.
125. Within the previous application under Ref. 22/02257/HYBRID, an independent viability expert was instructed to review the submitted evidence and advised that they concur with the applicant, in that the affordable dwellings would only be viable if 3 self-build plots are constructed on the site. They also found that, with the 3 self-build plots, the scheme could meet the CIL payment of £135k, and an additional surplus of £63k to meet any other Council planning policies that may be relevant.
126. However, as there is no demonstrated local need for the development, the 3 self-build dwellings would be unnecessary and unjustified. Furthermore, as they would contribute to the adverse impacts and harm identified above, the 3 self-build plots would be contrary to Policy 13 of LPP2.

Heritage Matters including Archaeology

127. The comments from the RBC Conservation Officer are noted which conclude that Development on this site would have significant negative impacts on the special interest of the Conservation Area, including the uncharacteristic protrusion of development into a large area of uninterrupted open countryside, a negative impact on the appearance and character of the village in the area of Main Street / Town End Lane, and the loss of the protected trees.
128. Furthermore, the appeal Inspector, in Para 27 of the appeal decision, assesses the impact on the character of the conservation area arising from the proposed development and states;

'almost the whole of the site would be subject to change, with built development in some areas, and active intervention in others. This would fundamentally

reduce the positive contribution the site makes to the significance of the CA as a heritage asset.'

129. Given the above, it is considered that proposal would result in harm that would be towards the middle of the less than substantial scale contrary to the aims of Policy 11 of LPP1 Policy 28 of LPP2.
130. As a result, the proposal would fail to achieve the objective described as desirable within Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 of preserving or enhancing the character or appearance of that area and would thus engage a strong and statutory presumption against granting planning permission. As the level of harm is considered less than substantial permission it is acknowledged that this could still be granted if it is concluded that public benefits outweigh harm through application of the test within Paragraph 216 of the NPPF.
131. In applying this test, it should be noted that it is not to be applied as a simple balance. Public benefits must not simply outweigh harm but must do so to a sufficient degree to justify departure from the statutory presumption against granting planning permission arising from the conflict with the legal duty under Section 72 of the 1990 Act, in line with the requirement at Paragraph 212 of the NPPF requiring that great weight should be given to the assets conservation.
132. In line with the housing need considerations above, it is considered that the applicant has not demonstrated that a local need exists to justify a rural exception site in Flintham.
133. The lack of justification for the development weighs strongly against the development and provides no justification for allowing a development which would harm the Conservation Area Consequently. Therefore, there is a strong and statutory presumption against granting planning permission, and there would be no public benefits arising from the development to outweigh the harm, as required by the NPPF.
134. In line with the Conservation Officer comments, it is not considered that the proposal would cause harm to the Listed Buildings or their setting.
135. In terms of the impact on Archaeology, it is noted that during the course of the appeal on the previous application, agreement had been reached in terms of dealing with potential archaeological remains via condition. This approach was accepted by the appeal inspector and as such it is considered that a suitably worded condition attached to any grant of planning permission would be appropriate to safeguard any archaeological remains.

Design Code

136. The Rushcliffe Design Code Supplementary Planning Document was adopted by the Borough Council on 1 September 2025.
137. The SPD supplements the Rushcliffe Local Plan (Part 1: Core Strategy and Part 2: Land and Planning Policies) and national planning policies and guidance. The SPD sets out the design requirements for new development in Rushcliffe Borough.

138. Officers have carried out an assessment of the proposed development against the relevant design code criteria and have found the proposal to be contrary to a number of the design criteria code. The criteria which the proposal would be contrary to are listed below with commentary justifying the position on each point.
139. C1.29 Proposals for private drives must justify why an adopted tertiary street cannot be used instead.
140. The applicant has confirmed that the proposed access roads would not be constructed to adoptable standard and as such they would be classified private drives. No justification has been provided as to why these access roads could not be adopted tertiary streets.
141. C1.30 Private drives must not serve more than 5 dwellings. The proposed development consists of 14 dwellings being served by private drives and as such does not comply with this criteria.
142. C1.31 All private drives must have an entry point via a crossover maintaining pedestrian and cycle priority and have a dwelling terminating the view. The layout of the proposed development does not include details of a crossover and does not include a dwelling terminating the view on the eastern road. The proposal therefore does not meet this criteria.
143. C1.36 EV charging infrastructure must be provided in shared areas of parking. Level of provision to be agreed with Local Planning Authority and Local Highways Authority. No details of EV charging infrastructure have been provided and as such it has not been demonstrated that this criteria has been met.
144. C1.39 Proposals for new properties or use of land must clearly set out waste collection strategies. No details of bin storage details have been provided and as such it has not been demonstrated that this criteria has been met.
145. C1.40 Bin storage must be enclosed to provide a positive outlook for residents and designed to be robust, secure and ventilated. No details of bin storage details have been provided and as such it has not been demonstrated that this criteria has been met.
146. C2.1 Proposals must have regard to 1) the relevant Area Type vision (see page 8); and 2) the Area Type worksheets (see pages 28-103 of the Baseline Appraisal) taking into account the development pattern of the local area, such as building lines, plot structure and grain.
147. The area would fall into the 'Rural' area type with the vision for this described as follows

'To keep villages as villages in scale and appearance, whilst adding new qualities to the local character. To maintain the agricultural character of the countryside and avoid urbanising 'creep' into rural and farming areas, including an appropriate and sensitive approach to the conversion of rural buildings. Continue a tradition of conserving, restoring and enhancing the diversity of landscapes, historic farmsteads, wildlife and the wealth of natural resources,

ensuring it may be enjoyed by all.'

148. The character of this section of Main Street consists of individual and groups of terrace dwellings which are accessed directly from Main Street and are often located close to the boundary with the highway. There are no dwellings served by shared private drives or cul-de-sacs within the local vicinity. The proposed development is therefore not in keeping with the local character, with the scale and layout of the proposed development resulting in an urbanising creep into the open countryside. The proposal is therefore in direct conflict with criteria C2.1.
149. C4.2 SuDS features must incorporate resilient planting suitable to wet and dry conditions. No information has been submitted in relating the planting within the suds area. It has therefore not been demonstrated that criteria 4.2 has been met.
150. C4.3 Management and maintenance plans must be provided for all new SuDS features. No management and maintenance plans have been submitted. It has therefore not been demonstrated that criteria 4.3 has been met.
151. C4.4 All new homes with gardens, planting areas and/or access to communal planting must be fitted with water butts of a minimum 200 litre capacity. No details of water butts to be provided have been supplied. It has therefore not been demonstrated that criteria 4.4 has been met.
152. C4.6 A minimum of two swift bricks per dwelling must be provided in new residential development in addition to any other ecological enhancements (including BNG). No details of swift bricks have been provided. It has therefore not been demonstrated that criteria 4.6 has been met.
153. C4.8 Robust boundary materials (including 'internal' fences) must be fitted with hedgehog holes in addition to any other ecological enhancements (including BNG). No details of hedgehog holes have been provided. It has therefore not been demonstrated that criteria 4.8 has been met.
154. C4.15 Public realm design proposals must be informed by an analysis of anticipated (in the case of proposed new public realm) movement patterns by users through and within the space, including desire lines. There have been no analysis of movement patterns supplied. It has therefore not been demonstrated that criteria 4.15 has been met.
155. C4.16 Level access must be provided to all areas of public realm within new development. Where changes of level are required they must be considered in terms of how they promote or restrict access and be clearly communicated. There has been no details how access to public realm areas will be clearly communicated. It has therefore not been demonstrated that criteria 4.16 has been met.
156. C4.17 Play spaces must be located to create a balance of provision across new developments. There have been no precise details of play areas supplied. It has therefore not been demonstrated that criteria 4.17 has been met.
157. C4.19 Management and maintenance plans must be provided for all proposed play spaces. There has been no information submitted in relation to the

management and maintenance of play areas. It has therefore not been demonstrated that criteria 4.19 has been met.

158. C4.22 Proposals for new residential development must provide a well connected street network within the development and enable connections beyond the site boundary. The site is not well connected to existing street network as there is no footway linking the development to the village. The proposal therefore does not meet this criteria.
159. C4.23 Major new development must provide integrated active travel routes as part of a safe, attractive and coherent network. C4.24 Walking and cycling routes must be lit to increase safety and accessibility and designed appropriately for their setting and context. There has been no information on lighting. Accordingly, these criterion has not yet been met.
160. C4.25 Management plans must highlight areas of landscape, SuDS and play areas for adoption with information on layout, materials, construction details and soft landscaping. A management plan has not been submitted for the landscaped, suds or play areas. It has therefore not been demonstrated that criteria 4.25 has been met.
161. C4.26 Management plans must indicate:
 - Land to be adopted by the highway authority
 - Land to be adopted by the Borough Council, a town council or parish council
 - Land managed by a management company
 - Land managed by private landowners.
162. A management plan has not been submitted for the landscaped, suds or play areas. It has therefore not been demonstrated that criteria 4.26 has been met.
163. C4.28 Management plans must ensure the successful establishment and continued thriving of all plants and trees, and replacement of all dead or dying trees/plants for a period of 5 years. A management plan has not been submitted for the landscaped, suds or play areas. It has therefore not been demonstrated that criteria 4.28 has been met.
164. C4.29 Developers must create a Habitat Management and Monitoring Plan (HMMP), employing strategies that encourage biodiversity as per section 4.2 Biodiversity. a Habitat Management and Monitoring Plan (HMMP) has not been submitted.
165. C4.30 Management plans must outline the goals and purposes of different landscape elements (Sections 4.1, 4.2, 4.3, 4.4, 4.5, 4.6) and describe the strategies to be implemented for their achievement. A management plan has not been submitted for the landscaped, suds or play areas.
166. The Design Code provides guidance of the minimum level of rear garden areas within section 2.7. For a 3 bedroom dwelling this is set at 90m². It is noted that the affordable dwellings proposed within this application would have gardens sizes ranging in size from 65-75m². While this is lower than the standard set by the Design Code, it is recognised that there are shared communal spaces included within this proposal which would help to off set this short fall private

amenity space.

167. It is acknowledged that a number of these criteria could potentially be achieved through the submission of further information, as officers have raised a number of concerns including the principle of development at the site, further information has not been sought in this instance in order to avoid abortive costs for the applicant. However on fundamental elements of the Design Code it is considered that a refusal of planning permission is justified on these grounds.

Ecology and Trees

168. The proposed development will lead to a loss of 0.86ha of traditional orchard, a priority habitat. The Rushcliffe Local Plan Part 2: Land and Planning Policies, Policy 38 Non-designated Biodiversity Assets and the wider ecological network states "Developments that significantly affect a priority habitat or species should avoid, mitigate or as a last resort compensate any loss or effects". It should be demonstrated by the applicant that this hierarchy has been followed for this habitat. This follows the advice within Para 193(a) of the NPPF. The applicant is proposing to compensate for the resultant loss of habitat off site.
169. With respect to ecology, the Borough Council has a legal duty when determining a planning application for a development which may have an impact on protected species. The species protection provisions of the Habitats Directive, as implemented by the Conservation (Natural Habitats Etc) Regulations 1994, contain three tests which Natural England must apply when determining a licence application. This licence is normally obtained after planning permission has been obtained. However, notwithstanding the licensing regime, the Planning Authority must also consider these tests when determining a planning application. A Planning Authority failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations. The three tests are:
- a) the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
 - b) there must be no satisfactory alternative; and
 - c) favourable conservation status of the species must be maintained.
170. A Preliminary Ecological Appraisal (PEA) has been submitted which has been deemed to be carried out in good practise. Within this survey, the Ecologist recommends that further Bat Activity Survey should be completed.
171. While these surveys have been requested, the applicant has set out that they do not intend to submit further surveys and wish for the application to be determined based on the submitted Preliminary Ecology Appraisal and the Preliminary Roost Assessment.
172. The applicant has made clear the reasons for taking this approach being due to previous situation within the appeal dealing with application Ref. 22/02257/HYBRID. Within this appeal, the consultant ecologist made recommendations (in Section 4 of their report addressing enhancements for bat roosting) and the Borough Council's Ecology Officer had stated that the enhancements should be implemented as a condition of any planning permission.
173. The applicants have highlighted that within the appeal decision (at paragraph

6), the Inspector confirmed that the Preliminary Roost Assessment (PRA) had been undertaken, and considered that the proposed condition resolved the reason for refusal on the grounds relating to the lack of bat activity survey.

174. However, on review of the Preliminary Roost Assessment, officers have raised concerns that this document has not surveyed all of the trees identified for removal on the landscape plan. This is explained further below.
175. Para 2.2 of the Preliminary Roost Assessment states as follows;

‘The PRA focussed on 30 trees which will be affected by the proposed development as well as providing an overview of the wider site and the surrounding landscape for bat roosting, foraging, and commuting habitat.’
176. This is also consistent with Appendix 3 of the PRA which also indicates 30 trees are to be removed.
177. However, the submitted landscape plan shows 38 existing trees to be removed.
178. Given the above, there is significant doubt as to whether all of the trees on the site identified for removal within the landscape plan have been fully surveyed. Furthermore, there is evidence within the Preliminary Ecology Appraisal that at least one of these trees which is not included in the PRA survey (Tree Ref. T40) has the potential for bat roosts.
179. It is therefore concluded that there is not sufficient information to demonstrate that bat habitats would not be impacted by the proposal, contrary to the aims of Policy 38 of LPP2 and Para 193 of the NPPF.
180. The application is supported by a Biodiversity Net Gain Metric which confirms that the proposal would result in the loss of 22.1 habitat units and 2.87 hedgerow units.
181. The comments from the Senior Ecology and Sustainability Officer have been sought on these matters who confirms that the supplied metric has not demonstrated the required on site Biodiversity Net Gain and off site units or statutory credits are therefore required.
182. The Ecology Officer also confirms that offsite gains must follow the biodiversity hierarchy and demonstrate that they could not be delivered onsite, they must also be registered with the national biodiversity gain sites register, and allocated to the development; and have the value in relation to the development as specified in the BGP and legally secured for at least 30 years. The applicants’ ecologist within the submitted BNG assessment confirms that given the proposed vegetation clearance of the site to facilitate the provisioning of urban infrastructure, including large amounts of sealed surfaces, it is unlikely that net gain will be achieved within the site’s red line boundary. Off-site compensation will likely be required.

Highway Safety

183. In relation to highway safety matters Policy 1 (Development Requirements) of the LPP2 requires the following criteria to be met;

'a suitable means of access can be provided to the development without detriment to the amenity of adjacent properties or highway safety and the provision of parking is in accordance with advice provided by the Highways Authority;'

184. Policy 14 'Managing Travel Demand' of the Local Plan Part 1: Core Strategy sets out that the need to travel, especially by private car, will be reduced by securing new developments of appropriate scale in the most accessible locations following the Spatial Strategy in Policy 3 (Core Strategy).
185. Para 115 of the NPPF seeks to ensure that safe and suitable access to the site can be achieved for all users.
186. The comments from the Highway Authority are noted, including the lack of footpath which would encourage the reliance of private vehicles and parking layout being remote from the properties they serve as not being well overlooked which could discourage use.
187. The applicant has been made aware of these comments and invited to make changes to address and improve the scheme in this respect. However, the applicants have confirmed that they do not intend on making changes to the scheme and would wish for a determination on the scheme as submitted.
188. With this in mind, and as the Highway Authority have not raised an objection to the scheme on Highway safety grounds, with the access to the site and visibility deemed to be acceptable, it is considered that a refusal on highway grounds could not be justified.
189. Furthermore, conditions could be attached to any grant of planning permission which require further details in terms of surfacing, drainage and precise parking details in order to ensure highway safety at the site.

Flood Risk Drainage

190. The application site is located within flood zone 1 which refers to land with the lowest probability of flooding, defined as having a less than a 0.1% (1 in 1000) annual probability of river or sea flooding.
191. In terms of surface water flooding, there are small portions of the site which have a medium or high chance of flooding from surface water.
192. The comments from the LLFA are noted which raise no objection to the proposed development on the basis that a condition is attached to any grant of planning permission which requires the submission of a detailed surface water drainage scheme.
193. With such a condition in place, it is considered that the proposal is acceptable from a flood risk perspective.

Infrastructure Requirements

194. Policy 43 of LPP2 relates to planning obligations.

195. Planning obligations may be sought from developments of more than 10 dwellings or 1,000 square metres or more gross floorspace for the provision, improvement or maintenance, where relevant, of the following infrastructure:
- I. Health;
 - II. Community and sports facilities;
 - III. Green Infrastructure and recreational open space;
 - IV. Biodiversity Mitigation and compensation;
 - V. Education; and
 - VI. Highways, including sustainable transport measures.
196. Following consultation response from the County Council and requests for infrastructure contributions contained within the response, the agents have confirmed agreement to the requests. The agreed Heads of terms for a S106 agreement attached to any grant of planning permission is as follows;

Infrastructure Contribution	Amount
Bus Stop Infrastructure contribution	£5,400 is paid towards one new bus stop fronting the site
Improving pedestrian access to the village such as, but not limited to, a footway or signing	£35,000
secondary education contribution	£90,810 (based on 3 pupils x £30,270 per place) to be used towards improving, remodelling, enhancing, or expanding facilities to provide additional permanent capacity within the Rushcliffe East planning area, to accommodate pupil growth from the development
A post 16 education contribution	£30,270 (based on 1 pupil x £30,270 per place) to be used towards improving, remodelling, enhancing, or expanding facilities to provide additional permanent capacity within the Rushcliffe East planning area, to accommodate pupil growth from the development
BNG	off-site biodiversity off-setting, having regard to the BNG Part 1 and Metric
Affordable Housing	Securing the development for affordable housing

197. Any Legal agreement would also need to secure that the proposed self build homes are developed in accordance with specific requirements to meet that definition and the provision of on site open space and its maintenance is secured.

Conclusion

198. The proposed development seeks planning permission for a rural exception site consisting of 14 affordable dwellings including 6 discount market sales dwellings and 3 enabling self-build market dwelling plots.

199. The application site has been assessed as not falling into the definition of a rural exception site by virtue of its size, as the scale of the development would not be considered small-scale in the context of Flintham. Furthermore, the submitted Housing Needs Survey is neither robust or up-to-date, and, therefore, it has not been demonstrated that there is a local need for the proposed development.
200. There has also been identified harm to the rural character of the site and surrounding countryside as well as impact to heritage assets in the form of adverse impact on the character and appearance of the Conservation Area. The application is also not in compliance with the adopted Rushcliffe Design Code.
201. Due to the nature of Flintham, which has very limited day to day services, it is considered that future residents of the proposed development would be heavily reliant on the use of private car to access for day-to-day services/facilities. The development would therefore result in new residential development within an unsustainable location.
202. Moreover, the proposal would result in the unjustified loss of trees and hedgerows that form a high value priority habitat and it has not been adequately demonstrated that the proposed development would safeguard bat habitat.
203. For the above stated reasons, it is considered that the proposal would conflict with local and national policy guidance and the statutory duty under S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Whilst the provision of affordable housing weighs in favour of the scheme its provision on this site does not outweigh the harm that has been identified above and it is recommended that planning permission be refused. It is not considered that there is any material change in circumstances to overcome the planning inspectorates conclusions on the previous appeal.

RECOMMENDATION

It is **RECOMMENDED** that **planning permission be refused** for the following reasons:

1. **Policy 3 (Spatial Strategy) of the Rushcliffe Borough Local Plan Part 1: Core Strategy sets out the spatial strategy for housing delivery in the Borough which seeks to ensure that sustainable development will be achieved through a strategy which promotes urban concentrations by directing the majority of development towards the built-up areas of Nottingham and Key Settlements. In other settlements the Core Strategy at para 3.3.17 envisages that development should be for local needs only through small scale infill development or on exception sites. Paragraph 3.9 of the Local Plan Part 2: Land and Planning Policies lists a number of smaller settlements which are capable of accommodating a limited number of dwellings. Paragraph 3.10 states that beyond these allocations, development will be limited to small scale infill development, defined as development of small gaps within the existing built fabric of the village or previously developed sites whose development would not have a harmful impact on the pattern or character of the area. The**

application site is outside the built-up part of the settlement of Flintham within the countryside and the proposed development would not, therefore, constitute infill development. Furthermore, the submitted Housing Needs Survey is neither robust or up-to-date, and, therefore, it has not been demonstrated that there is a local need for the proposed development. The proposed development is, therefore, contrary to Policies 3 (Spatial Strategy) & 8 (Housing Size, Mix and Choice) of the Rushcliffe Local Plan Part 1: Core Strategy, and Policies 13 (Self-Build and Custom Housing Provision) & 22 (Development within the Countryside) of the Rushcliffe Local Plan Part 2: Land and Planning Policies, and the Borough Council's Affordable Housing Supplementary Planning Document.

2. The National Planning Policy Framework (NPPF) defines rural exception sites as 'small' sites. Flintham is a settlement of circa 238 dwellings, and 17 dwellings would represent approximately a 7% increase which, it is considered, would not be 'small' in the context of the small-scale nature of Flintham. The development would not, therefore, represent the type of small scale rural exception development envisaged by the NPPF.
3. The site is located outside the built-up part of Flintham in countryside and the proposed development, by virtue of its layout, form, scale and design and involving the loss of trees and boundary hedgerow, would have a significant adverse impact on the rural open character of the site and surrounding countryside, and would result in an unacceptable urbanising effect. The proposed development is, therefore, contrary to the environmental objective and Section 15 (Conserving and enhancing the natural environment) of the National Planning Policy Framework, Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy, and Policies 1 (Development Requirements), and 22 (Development within the Countryside) of the Rushcliffe Local Plan Part 2: Land and Planning Policies.
4. The proposed development, by virtue of its layout, form, scale and design and involving the loss of trees and boundary hedgerow, would have a significant adverse impact on the rural character & setting of the village, and the character & appearance of the Conservation Area, thereby cause harm to its special interest. The proposed development is, therefore, contrary to the environmental objective and Section 19 (Conserving and Enhancing the Historic Environment) of the National Planning Policy Framework (NPPF), Policy 11 (Historic Environment) of the Rushcliffe Local Plan Part 1: Core Strategy, and Policy 28 (Conserving and enhancing heritage assets) of the Rushcliffe Local Plan Part 2: Land and Planning Policies. The harm would be less than substantial and the proposed development would, therefore, fail to achieve the objective described as desirable within Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 of preserving or enhancing the character or appearance of that area. Consequently, there is a strong and statutory presumption against granting planning permission, and there would be no public benefits arising from the development to outweigh the harm, as required by the NPPF.
5. There are very limited day-to-day services/facilities in Flintham and limited public transport and, in view of this and the lack of a continuous

footway between the site and built-up part of the settlement, it is very likely that future occupants of the proposed development would be heavily reliant on the use of private car to access for day-to-day services/facilities. The development would, therefore, be unsustainable and contrary to Policies 1 (Presumption in favour of sustainable development) and 14 (Managing travel demand) of the Rushcliffe Local Plan Part 1: Core Strategy.

6. The proposed development would result in an unnecessary and unjustified loss of trees, including part of an orchard, which are subject to a Tree Preservation Order and are identified as a priority habitat. These features make an important positive contribution to the rural character of the site and surroundings. The proposed development is, therefore, contrary to the objectives of the environmental objective of the National Planning Policy Framework, and Policies 34 (Green Infrastructure and Open Space Assets), 37 (Trees and Woodlands) and 38 (Non Designated Biodiversity Assets and the wider ecological network) of the Rushcliffe Local Plan Part 2: Land and Planning Policies.
7. The proposed development has been assessed against the adopted Design Code SPD and has been found to be contrary to the following design code criteria C1.29, C1.30, C1.31, C1.36, C1.39, C1.40, C2.1, C4.2, C4.3, C4.4, C4.6, C4.8, C4.15, C4.16, C4.17, C4.19, C4.22, C4.23, C4.24, C4.25, C4.26, C4.28, C4.29, C4.30. The proposed development therefore does not meet the level of design quality required by the Design Code SPD and is therefore contrary to Paragraph 139 of the NPPF which states that development that is not well designed should be refused especially where it fails to reflect local design, taking into account supplementary planning documents such as design guides and codes.
8. It has not been adequately demonstrated that the proposed development would safeguard bat habitat by virtue of a flawed and incomplete Preliminary Ecology Survey and Preliminary Roost Assessment. The proposed development is therefore contrary to the aims of Policy 38 of the Rushcliffe Local Plan Part 2: Land and Planning Policies and Paragraph 193 of the NPPF.