

**21/03223/FUL**

**Applicant** Mr Harry White

**Location** Land North of Rempstone Road East Leake Nottinghamshire

**Proposal** The erection of 47 dwellings with associated access, parking and landscaping

**Ward** Leake

## THE SITE AND SURROUNDINGS

1. The application site comprises part of a large, former arable field immediately north-east of Rempstone Road, on the southern edge of the village of East Leake. To the north of the site is the Sheepwash Brook, beyond which are equine paddocks and the village of East Leake. A micro-propagation business, together with other commercial units on a former farm are located to the east, accessed off Loughborough Road. To the south is Rempstone Road beyond which is open countryside. Immediately adjacent to the western boundary is a large residential development (by Persimmon), accessed off Kirk Ley Road, which is currently under construction.
2. Until 2020 the site was agricultural in use and land levels slope downwards in a northerly direction from Rempstone Road towards the village. In January 2020 Reserved Matters for 235 dwelling on the site were approved and that development commenced in the latter part of 2020. The site is therefore currently a residential development site for new dwellings. A public right of way runs north/south roughly through the centre of site and onwards towards the village centre. The boundaries of the site comprise a mix of native hedgerows with trees.

## SITE HISTORY

3. Planning application ref 16/01881/OUT, an outline application for up to 235 dwellings, primary school, infrastructure, green space, associated surface water attenuation and landscaping was refused under Delegated Authority on 31st March 2017 on the following three grounds.
  - a. *The proposal would comprise residential development of a greenfield site outside of the built-up part of the settlement. The site is not allocated for development in the development plan and, although East Leake is identified as a key settlement for growth in Policy 3 of the Rushcliffe Core Strategy, the development would exceed the minimum target of houses to be provided in and around East Leake by over 160% when considered cumulatively with schemes already granted planning permission. This level of housing delivery for East Leake would be contrary to the Council's housing distribution strategy set out in Policy 3 and would lead to*

*the unplanned expansion of development significantly beyond the established built edge of the village with resultant adverse impact on its rural setting, poor connectivity to the village by car and non-motorised modes of transport and adverse impact on access to services.*

- b. The development would not provide a direct vehicular access to the adjacent residential development site under construction and, whilst there would be a connection to the village via a public footpath and potential pedestrian connections to the adjacent development site the only paved and lit pedestrian link that is clearly deliverable by the applicant at this time would be via proposed improvements to Rempstone Road, which would involve a walking distance in excess of the 1.25km to the village centre. It has not been adequately demonstrated that the development would integrate with or provide good connectivity with the existing settlement and would be contrary to Policy 14, particularly paragraphs 1 and 2 of the Rushcliffe Core Strategy and to Policy H6 (a) of the East Leake Neighbourhood Plan.*
- c. Whilst the application proposes to deliver a site suitable for the provision of a new primary school this level of provision is in excess of the need justified by the scale of development proposed and, in any event, would not provide any funding to provide such a facility. It would not therefore adequately or appropriately meet the requirements for improvements to primary school provision arising from the development or weigh in favour of the granting of permission. Furthermore, the applicant has not provided an undertaking to enter into an obligation to meet the requirements for improvements to secondary education provision arising from the development. The proposal would therefore be contrary to Policy 19 of the Rushcliffe Core Strategy, which requires all development to meet the reasonable cost of new infrastructure required as a consequence of the proposal. It would also be contrary to Policy H1(b) of the East Leake Neighbourhood Plan which requires all development in East Leake over a cumulative total of 400 dwellings to demonstrate that the provision of improved infrastructure can be delivered in time to serve the needs of the development.*
4. The application was the subject of an appeal, considered by way of a Hearing, and was subsequently allowed on 20th November 2017, subject to a number of conditions, a S106 agreement and a legal agreement relating to pedestrian access through the adjacent development site to the west.
5. A Reserved Matters application (ref 19/01770/REM) for the approval of 235 dwellings and associated appearance, landscaping, scale, layout and infrastructure works was approved under delegated authority on 31 January 2020.
6. In September 2020 an application for a Non-Material Amendment (20/01945/NMA) for substitute house types and changes to the road layout was not agreed as the changes were deemed to be materially different to the approved Reserved Matters layout.

7. A subsequent Reserved Matters application (ref 20/02300/REM) for the partial re-plan of approved application ref 19/01770/REM (for the matters refused under application 20/01945/NMA) was approved in December 2020.
8. In April 2020 a Full Planning Application (20/00888/FUL) for the erection of an additional 51 dwellings with associated access, parking and landscaping on the site was submitted and subsequently approved at planning committee (subject to the completion of the S106 agreement). The decision notice was issued in July 2021.

## **DETAILS OF THE PROPOSAL**

9. The application seeks full planning permission for an additional 47 dwellings on the site that was granted permission under 16/01881/OUT and 19/01770/REM (as amended by 20/02300/REM) for 235 dwellings.
10. This proposal would be on the same site that the scheme for the additional 51 dwellings was approved under application ref 20/00888/FUL. Therefore, the proposal is in essence for 4 fewer dwellings than already approved under application 20/00888/FUL.
11. The proposed access to the site comprises the existing (approved) singular vehicular access point off Rempstone Road, located in the centre of the south-eastern boundary.
12. The proposed site layout indicates that the 47 dwellings would be built within the approved site of the 235 houses granted reserved matters, and on the same site that the 51 additional dwellings were approval last year. As per the approved 51 dwellings, the proposed 47 dwellings would be sited in two separate locations: along the north-western boundary of the site between the approved development and the approved balancing pond features and along the north-eastern boundary between the approved development and the location of the proposed permanent primary school. The proposed 47 dwellings would therefore remain located broadly in the southern “two thirds” of the site, with the northern “third” reserved for a proposed balancing pond and a primary school site (as secured through the S106 agreement and now benefiting from outline planning permission) with the PROW remaining aligned through the centre of the wider development site.
13. The approved single access point off Rempstone Road would lead to a loop road around the site, off which access roads would create a number of cul-de sacs.
14. The existing PROW would remain on its current alignment and run through landscaped areas of an already approved centrally located Public Open Space (POS) which would include a Local Equipped Area of Play (LEAP) that both formed part of the scheme for the 235 dwellings, and those features are unaffected by the current proposal.

## REPRESENTATIONS

### Ward Councillor(s)

15. One Ward Councillor (Cllr Thomas) objects to the proposal citing the housing mix proposed compared to the requirements of Policy H3 of the Neighbourhood Plan.
16. One Ward Councillor (Cllr Shaw) also endorsed Cllr Thomas' objections.

### Town/Parish Council

17. East Leake Parish Council object to the proposal on the following grounds:
  - a) Housing mix does not comply with policy H3 of housing project, neither for this portion, nor for the whole site. And
  - b) Overall site was 30.6% for 2-bedroom properties, now reduced to 24.8% which is below the 30% threshold

### Statutory and Other Consultees

18. East Midlands Airport Have not commented on the current proposal but have previously advised that conditions seeking to control dust, to prevent light spill including from streetlights, restrictions on solar panels which can cause glint and glare and measures to prevent flocking birds being attracted to the site should be attached to any grant of permission. In the circumstances it seems necessary to attach such conditions to any grant of this permission.
19. The NHS Clinical Commissioning Groups (CCG) Request Section 106 (S106) contributions for Primary Health Care from this development. Officers however note that Primary Health Contributions are covered by the Community Infrastructure Levy (CIL) and therefore not through the S106 process.
20. The NHS Have also separately requested S106 contributions towards the impacts of this development on hospitals in the area.
21. Natural England Advise that they have no comments to offer but advise that the proposal should be assessed against their standing advice.
22. Nottinghamshire County Council as Highway Authority Initially commented that:
  - The shared private drive serving plots 256-264 should be increased in width to 4.8m plus 0.5m clearance either side, for a minimum distance of 8m to the rear of the highway boundary.
  - The dropped kerb serving the parking for plot 254 conflicts with the adjacent traffic calming feature. The layout should be amended to overcome this.
23. Amended plans should be submitted accordingly. Any amendments will also need to be updated as part of the S38 submission.

Revised plans were submitted seeking to address the concerns and the Highway authority subsequently advised that they do not object to the proposal subject to conditions being attached to any grant of permission.

24. Nottinghamshire County Council as Lead Local Flood Authority (LLFA) confirmed that they have no objections subject to conditions being attached to any grant of permission.
25. Nottinghamshire County Council (Strategic Planning) advised that County Education seek contributions towards the 10 additional primary school places generated by a development of 47 dwellings at a cost of £20,918 per place i.e., £209,180. They also make requests for contributions towards the eight additional secondary school places generated by the proposal and one post-16 place (NB Officers note that secondary education is covered by CIL). The County Contributions Officer also requested that any legal agreement also seeks to secure access to the school site through the development.
26. The Nottinghamshire County Council Community Liaison Officer for Heritage has previously advised that that the site does not immediately contain records on the Historic Environment Record (HER) and officers note that in relation to the scheme for 51 dwellings a desk-based assessment was provided that met the requirements of the Archaeology Team at the County Council.
27. Nottinghamshire County Council Public Rights of Way Team comments that: *“Public Footpath no 5 East Leake runs alongside the site and over the access roads included in this application. In the wider site applications, it has been accepted that if this is to be promoted as a cycle path it will need to be converted to a cycle track via the Cycle Track Act. Whilst it is not directly relating to this particular application, it has impacts on the access road crossing points and the Section 38 agreement for footway.”*
28. The Ramblers Association questioned whether there is an opportunity to make some improvement to the crossing of Rempstone Road where the existing right of way doglegs.
29. The Borough Council’s Planning Contributions Officer advised on the CIL liability for the development, estimating a receipt of £304,000 of which £212,800 would likely go towards items on the Borough Council's Strategic Infrastructure List, £76,000 likely towards the East Leake Neighbourhood CIL and £15,200 towards CIL Admin.
30. The Borough Council’s Conservation Officer does not object noting the distance to, and the intervening existing and approved buildings between the site and both the Conservation Area and the nearest listed building.
31. The Borough Council’s Environmental Sustainability Officer notes that whilst no ecological information has been provided but that the application is a re-submission of the previous scheme and the ecological information that accompanied that submission can be regarded in date. They do recommend that an updated appraisal is supplied, assessing if any ecological factors would be altered by the re-submission. They also recommend that the supplied Biodiversity Net Gain is reassessed to

determine if it is still accurate, however this can be carried out post determination and conditioned, it should however be supplied prior to commencement of any approved development.

32. The Borough Council's Strategic Housing Officer (affordable housing) does not object to the proposal.
33. The Borough Councils Planning Policy Team comment the site is within the housing site allocated in Policy 3.1 of the adopted Local Plan Part 2. They express concerns regarding the loss of open green space and effects on biodiversity noting the requirements of Policy 38 within the Local Plan Part 1. The Policy Team also referred to the requirements of Policy H3 in the East Leake Neighbourhood Plan.
34. The Borough Council's Community Development Manager has commented that the proposal would generate a need for on-site children's play provision, unequipped play/amenity public open space and allotments that should be secured through Section 106 contributions and that the indoor and outdoor sports provision will be addressed via the Community Infrastructure Levy (CIL) contributions. The Community Development Manager previously agreed that there was sufficient open space provision as part of the approved scheme for 235 dwellings to mitigate the total requirements of open space for both the approved and proposed development. This position has not changed as a result of the current revisions. S106 contributions towards off-site improvements for allotments and play provision were also requested.
35. The Borough Council's Environmental Health Officer does not object to the proposal subject to conditions being attached to any grant of permission.

### **Local Residents and the General Public**

36. A total of five (5) representation have been received, four (4) of them objecting to the proposal citing the following:
  - a. The proposal is on a green space of land that was developed as part of the Meadowcroft build - I am unsure how this required green space can now so quickly be built upon.
  - b. The proposed dwellings would be on an area that floods considerably during rainy months, which has become worse since the recent builds with no clear outlet for excess water identified.
  - c. There are limited facilities within East Leake for 47 additional dwellings; schools and doctors are oversubscribed, and the dentists has a 2-year waiting list.
  - d. The public footpath to provide access to nature will be redirected through a housing estate and connect to a path that is liable to flooding, therefore, removing access through to the village of East Leake - pedestrians will have no choice but to walk the busy roads of Rempstone or Loughborough road (which as no path) to be able to access the village once this path is closed off.
  - e. COP26 in Oct to Nov 2021 highlighting that climate change is real. Part of what is required from that agreement is to 'protect and restore ecosystems.'

- f. Meadowcroft- no longer a meadow. Skylark - total destruction of the perfect habitat for Skylarks and other species to thrive. Please do not let this go ahead.
  - g. It is time that Rushcliffe council stopped this attitude of discriminating against all species except humans. The beautiful surrounding countryside, which is home to many, many species, is being ripped up, destroyed and put under concrete for one purpose and one purpose only, and that is not for the benefit of the environment, wildlife and ecosystems.
  - h. The plot of land appears to be of the same size and presumably this means that a number of smaller houses for those of limited means have been changed to fewer larger dwellings.
  - i. East Leake needs more affordable housing, as far too many four- and five-bedroom properties are being built. Local young people and those who are older and hoping to downsize have no chance of buying property within the village.
  - j. The developers should have applied for this additional housing at the time of the original application.
  - k. Concerns about the number of parking spaces being allocated per house.
  - l. There is not enough provision for pedestrians and cyclists.
  - m. There has been little thought to pedestrian access to the village centre expect along busy roads, children should not be expected to walk along dark roads to get to the village.
  - n. The cause of the recent flooding in the village the worst seen in over a decade has not fully been established but the developments of farmland and the change of use of the land probably have an effect, so perhaps we should ensure that sufficient flood prevention is in place before we do any further development.
37. One (1) neutral response was received stating that they would like to see “hedgehog highways” to allow the safe passage of all wildlife through residential gardens.

## **PLANNING POLICY**

38. The Development Plan for Rushcliffe consists of the adopted Rushcliffe Local Plan Part 1: Core Strategy (December 2014) (LPP1) and the Rushcliffe Local Plan Part 2: Land and Planning Policies - adopted October 2019 (LPP2). The East Leake Neighbourhood plan also forms part of the Development Plan when considering applications in the East Leake area. Other material considerations include the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG) and the Rushcliffe Residential Design Guide 2009.

### **Relevant National Planning Policies and Guidance**

39. The National Planning Policy Framework (NPPF) includes a presumption in favour of sustainable development. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. There are three dimensions to sustainable development, economic, social and environmental.

40. The presumption in favour of sustainable development is detailed in Paragraph 11. For decision making this means; "c) approving development proposals that accord with an up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting planning permission unless; i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole."
41. Paragraph 68 requires Local Authorities to identify a supply of specific, deliverable housing sites for years one to five of the plan period (with an appropriate buffer) and developable sites or broad locations for growth for years 6-10, and where possible, for years 11-15 of the plan.
42. Paragraph 92 advises the decision maker to aim to achieve healthy, inclusive and safe places which: promote social interaction; are safe and accessible; and enable and support healthy lifestyles. Paragraph 93 further states that decisions should provide the social, recreational and cultural facilities and services the community needs, planning decisions should: a) plan positively for the provision and use of shared spaces, community facilities and other local services to enhance the sustainability of communities and residential environments.
43. Paragraph 100 requires decision makers to protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.
44. Paragraph 110 states that; *"In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Codes and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree."* Paragraph 111 goes on to state that; *"Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*
45. Paragraph 126 addresses the need for the creation of high-quality buildings and places being fundamental to what the planning and development process should achieve stating that *"Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."*

46. Paragraph 130 requires decision makers to ensure that developments will function well and add to the overall quality of the area; that they are visually attractive; and that they are sympathetic to local character and history; seek to establish a strong sense of place; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

### **Relevant Local Planning Policies and Guidance**

47. The Rushcliffe Local Plan Part 1: Core Strategy was formally adopted in December 2014. It sets out the overarching spatial vision for the development of the Borough to 2028.
48. The following policies in the Rushcliffe Local Plan Part 1: Core Strategy are also relevant:
- Policy 1 - Presumption in Favour of Sustainable Development
  - Policy 2 - Climate Change
  - Policy 3 - Spatial Strategy
  - Policy 8 - Housing Size, Mix and Choice
  - Policy 10 - Design and Enhancing Local Identity
  - Policy 16 - Green Infrastructure, Landscape, Parks and Open Spaces
  - Policy 17 - Biodiversity
  - Policy 18 - Infrastructure
  - Policy 19 - Developer Contributions
49. The Local Plan Part 2: Land and Planning Policies (LLP2) was adopted in October 2019 and the following policies in LPP2 are also considered material to the consideration of this application:
- Policy 1 -Development Requirement
  - Policy 3.1 - Housing Allocation – Land north of Rempstone Road, East Leake
  - Policy 12 - Housing Standards
  - Policy 17 - Managing Flood Risk
  - Policy 18 - Surface Water Management
  - Policy 29 - Development Affecting Archaeological Sites
  - Policy 32 - Recreational Open Space
  - Policy 37 - Trees and Woodland
  - Policy 38 - Non-Designated Biodiversity Assets and the Wider Ecological Network
  - Policy 39 - Health Impacts of Development
  - Policy 43 - Planning Obligations Threshold
50. The East Leake Neighbourhood Plan was adopted on 19th November 2015, and forms part of the Development Plan for the area. The following policies are considered relevant.

- Policy H1 - Number of New Homes
  - Policy H2 - Phasing of New Homes over the Period 2013 to 2028
  - Policy H3 - Types of Market Homes. On developments of 10 or more homes developers will provide a mixture of homes for the market that broadly reflects Rushcliffe Borough Council's and East Leake's most up to date assessments of housing needs derived from projections of household types, as follows; 1 and 2 bedrooms between 30% and 40%; 3 bedrooms between 40% and 60%; 4 bedrooms between 10% and 20%; 5 bedrooms between 0% and 5%. In addition, a diverse mix of home types within each of the categories will be provided in line with projected need.
  - Policy H4 - Aircraft Noise
  - Policy H5 - Design and Building Standards
  - Policy H6 - Sites where Housing Development will be Permitted
  - Policy T1 - New Development and Connectivity
  - Policy T2 - Strategic Network of Footpaths and Cycle paths
  - Policy T3 - Public Transport
  - Policy E1 - Containment of Built Environment
  - Policy E2 - Green Infrastructure: Wildlife and Rural Heritage
  - Policy E3 - Green Infrastructure within the Built Environment
  - Policy L1 - Playgrounds
51. Consideration should also be given to other Borough Council Strategies including the Sustainable Community Strategy, Leisure Strategy, Nature Conservation Strategy and the Borough Council's Corporate Priorities.
52. Conservation of Habitat and Species Regulations 2017, and the Wildlife and Countryside Act (as amended) 1981 - These regulations/legislations contain certain prohibitions against activities affecting European Protected Species, such as bats. These include prohibitions against the deliberate capturing, killing or disturbance and against the damage or destruction of a breeding site or resting place of such an animal. The Habitats Directive and Regulations provide for the derogation from these prohibitions in certain circumstances. Natural England is the body primarily responsible for enforcing these prohibitions and is responsible for a separate licensing regime that allows what would otherwise be an unlawful act to be carried out lawfully.
53. The Council as Local Planning Authority is obliged in considering whether to grant planning permission to have regard to the requirements of the Habitats Directive and Habitats Regulations in so far as they may be affected by the grant of permission. Where the prohibitions in the Regulations will be offended (for example where European Protected Species will be disturbed by the development) then the Council is obliged to consider the likelihood of a licence being subsequently issued by Natural England and the "three tests" under the Regulations being satisfied. Natural England will grant a licence where the following three tests are met:
- a) There are "imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment"

- b) There is no satisfactory alternative; and
  - c) The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
54. The Supreme Court has clarified that it could not see why planning permission should not ordinarily be granted unless it is concluded that the proposed development is unlikely to be issued a license by Natural England.
  55. Natural Environment and Rural Communities Act 2006 at Section 40 states that *"every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity."* Section 40(3) of the same Act also states that *"conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat."*
  56. Planning for Growth (Ministerial Statement 2011) emphasises the priority for planning to support sustainable economic growth except where this compromises key sustainable development principles. The range of benefits of proposals to provide more robust and viable communities should be considered and appropriate weight should be given to economic recovery.
  57. The Community Infrastructure Levy Regulations 2010 (As amended) places the Government's policy tests on the use of planning obligations into law.
  58. Equality Act 2010 - Under S149 of the Act all public bodies are required in exercising their functions to eliminate discrimination, advance equality of opportunity and foster good relation.
  59. Design Council Building for Life 12 - This assessment sets 12 criteria to measure the suitability of schemes and their locations in relation to design, layout, sustainability criteria, adaptability and effect of existing local character and reduction of crime, amongst other things.
  60. Environmental Impact Assessment Regulations - The outline planning application (16/01881/OUT) for the development of the 235 dwellings and supporting infrastructure was screened under the Environmental Impact Assessment Regulations 2018 prior to that application being submitted. Whilst this application 20/00888/FUL sits within the redline area of the 235 dwellings, it is a standalone planning application seeking full planning permission for 51 dwellings. The application only just passes the threshold for screening (the threshold being 50 dwellings) in its own right and even as a cumulative assessment of the wider development of 286 dwellings the current application does not significantly alter the parameters or the quantum of development that was secured through the appeal process and this development is considered to accord with the outline application that was initially screened. As such a formal Environmental Impact Assessment is not considered to be required for this application.

## APPRAISAL

### Principle of Development

61. Policy 3 of LPP1 identifies East Leake as a 'Key settlement identified for growth' and, furthermore, the principle of developing this site for housing was established with the granting of outline planning permission 16/01881/OUT. Despite the Borough Council initially refusing that application, the applicants appealed and following a Hearing, the Planning Inspectorate allowed the proposal, subject to a number of conditions and a S106 agreement. Whilst that application did set a quantum of development, that was only based on the level of development sought under the outline application. The Planning Inspector has not, in allowing the appeal determined the threshold for development on that site, merely determined the appeal before them.
62. Objections regarding the need for additional housing on the site were addressed in the granting of reserved matters for the additional 51 dwellings on the site.
63. Paragraph 3.26 of the LPP2 clearly identifies the application site at Land North of Rempstone Road as one of the two development sites within the Plan for development under Policy 3.1. Officers acknowledge that planning permission has already been approved for 235 dwellings at appeal, and subsequently the planning committee approved a further 51 dwellings on the site. The current application site is located within the area identified as part of Policy 3.1 in the LPP2 identifying it for development of "around" 235 dwellings and would be on the area of land that the additional 51 dwellings were previously approved. Therefore, for clarity this application (for 47 dwellings) would replace the approved 51 dwellings, not further add to them. The Planning Inspector, in their determination of the initial appeal that resulted in the allocation of the site accepted the sites relationship to the village, the walking distances to the village, the impacts on wildlife, ecology, as well as on the villages character and appearance, albeit in principle for a lesser quantum of development than would result from the current proposal on the site. Nevertheless, in granting permission under application 20/00888/REM for the 51 dwellings, the Borough Council has also accepted the impact of a greater number of dwellings on the services, infrastructure and impacts of flooding on the village than is currently being proposed.
64. This application proposes an additional 47 dwellings on the site (instead of the approved additional 51 dwellings), alongside both the approved 235 dwellings and also alongside the neighbouring approved development of circa 300 dwellings currently being constructed by Persimmon Homes to the west. Officers are therefore satisfied that the principle of dwellings on this site has already been established. Furthermore, the application is not for a new development site as some objectors have apparently misunderstood, but for a lower quantum of residential development on the site than is already permitted.
65. The proposal is therefore considered to broadly accord with the requirements of Policy 3 (Spatial Strategy) of the Rushcliffe Local Plan Part 1: Core Strategy. Officers note that Policy 3.1 states that the area shown

on the policies map is identified as an allocation for “around” 235 homes. The Policy does not seek to place an upper limit on the number of dwellings on this site as it does not state a maximum of 235 dwellings. What this application is seeking to demonstrate is that the proposed additional 47 dwellings are not demonstrably harmful to the environment, the character and appearance of the development or the amenities needed to support these additional dwellings, when compared to the fall-back position of the approved additional 51 dwellings.

66. In short, are the impacts of the totality of 282 dwellings on this site more harmful than the permission that already permit 286 dwellings to be built on the site?
67. Therefore, it is the impact of that additional development that must be assessed as part of the determination of this application, i.e. if the proposed resultant densities, the relationships to the surrounding landscape result in any demonstrable harm, and if these additional 47 dwellings have any significant impact on the amenities/services in the village and the highway network, and if so, if those impacts can be adequately mitigated through either planning conditions or S106/CIL contributions if appropriate.

#### Access

68. The site would be served by one single point of access off Rempstone Road, as already approved to serve the 235 dwellings. The previous application (for 51 dwellings) was accompanied by a Transport Technical Note prepared by BWB. It stated within the Technical Note that whilst the planning application was approved for 235 dwellings, the transport work considered the impact of up to 250 dwellings at the site. The current permissions considered the impact of the additional 36 dwellings, i.e., the scheme for 51 dwellings. The assessment concluded that the additional development would not result in a significant traffic impact, and as such no further assessment should be required. This position was accepted by both the Highway Authority and Members in their previous determination for the additional 51 dwellings on site.
69. The Highway Authority initially highlighted some technical issues with the proposed layout, regarding driveway widths and the location of dropped kerb relative to a traffic calming feature. They have not raised any other issues.
70. In response the applicants have amended the plans to address these two issues which affected a small number of plots. Having reviewed the information submitted the Highway Authority advised they do not object to the proposal subject to conditions being attached to any grant of permission.
71. The highway authority and the Borough Council have already accepted (through the grant of a greater quantum of development) that the impact of the development cannot be considered severe. Therefore, officers can only conclude that the principle of the development, and its impact on the highway network is acceptable.

72. The Highway Authority also advised that the internal layout has secured Technical Approval under Section 38 of the Highways Act 1980 for the adoption of the new roads. Officers understand that the S38 process has now been completed. The Highway Authority advised that the revisions addressed their previous concerns and concluded that subject to conditions being attached to any grant of permission, that there were no technical grounds to object to the proposal on either highway safety impacts on site, or on the wider road network as a result of the proposal.
73. Officers are therefore satisfied that the proposal accords with the requirements of Policy 1 (Development Requirements) of the LPP2 which seeks to secure, amongst other things, a suitable means of access for all new developments without detriment to the amenity of adjacent properties or highway safety and the parking provision in accordance with the advice provided by the Highway Authority.

### Appearance

74. The proposed housing development would be relatively low density still comprising around 35 dwellings per hectare, which, when read in the context of an overall development of 282 dwellings would not appear too dense in the context of its location with differing densities across parts of the site. The proposal still allows for open space as part of the development and landscaping to soften its overall appearance.
75. In support of the application, detailed plans and elevations of all the house types, illustrative street scenes, together with details of the construction materials, surfacing and boundary treatments have been submitted.
76. The proposed dwellings range from 2-bedroom maisonettes to 2-, 3- and 4-bedroom properties and would be of a high quality with many design details. Thirteen different house types are proposed. In terms of materials, the existing housing stock in East Leake comprises a range of construction materials, with variations of red brick found extensively throughout the village. The proposed construction materials would comprise the same range of materials approved as part of the 235 dwellings, namely three different brick types from the Ibstock range comprising Arden Olde Farmhouse, Windsor and Welbeck Red Mixture, together with pockets of Ivory Cladding on some front gables and to the elevations of some corner properties to create a visual break.
77. This would create a visually attractive and cohesive residential development which would respect both the established housing stock and the more recent housing developments within the village.
78. The application is therefore considered to accord with the requirements of Policy 1 (Development Requirements) of the LPP2 which seeks to secure that proposals will not impact on the amenity of any adjoining properties, provides a suitable means of access, provides sufficient space for ancillary amenity and circulation space, is of a scale, density, height, massing, design, layout and is constructed from suitable materials that are sympathetic to the area, as well as addressing other matters including but not limited to noise, impacts on wildlife, landscape character, heritage assets and energy efficiency requirements.

## Landscaping and Ecology

79. The current proposal does not include any areas of landscaping save for the frontages of plots. Detailed landscaping plans for the rest of the site, namely the sites frontage along Rempstone Road and for the open space in the middle of the site have already been approved.
80. The Planning Policy Team advise that of particular concern is the loss of open green space and effects on biodiversity. The site is located within the East Leake/Stanford Hall Ecological Network (Focal Areas) as identified within Appendix E of the Part 2 Local Plan. This identifies the improvements in habitat connectivity down the eastern fringes of East Leake through the enhancement of grassland and wetland habitats as objectives.
81. The Council's Environmental Sustainability Officer (ESO) reviewed the submission and noted that no ecological information had been provided with the application. However, the ESO also noted that this application is (in effect) a partial re-submission of planning application 20/00888/FUL, with ecological surveys completed originally in 2016, but last updated in August 2020 to enable the production of a Biodiversity Net Gain assessment. This ecological information can therefore be regarded in date. The ESO did however recommend that an updated appraisal be supplied, assessing if any ecological factors will be altered by the re-submission, prior to determination of this application.
82. They also recommend that the previously supplied Biodiversity Net Gain be reassessed to determine if it is still accurate, however the ESO noted that this can be carried out post determination and conditioned. They do however clarify that it should be supplied prior to commencement of any approved development.
83. Officers are mindful that the proposed development site overlaps with the area of the approved 51 dwellings. Officers also note that the ESO comments that the previous survey data is still in date. The ESOs recommendation that the updated appraisal be submitted was therefore not considered necessary, as the proposal site entirely overlaps the approved site of the 51 dwellings. Furthermore, the development of the 51 dwellings could still lawfully be implemented. For similar reasons, the request that the Biodiversity Net Gain assessment be updated to see if any factors will be altered by the re-submission is also not considered to be reasonable or necessary (two of the conditions to be considered prior to attaching a condition to any grant of permission).
84. The previous submission confirmed that the site currently comprises poor quality grassland ruderal habitats, ditch and plantations bound by species poor hedgerows with trees. As a result, whilst the proposal would not have a material impact on the favourable conservation status of a European protected species, provided mitigation measures are implemented, the development was identified as capable of provide opportunities for a net gain in biodiversity. As part of the previous submission, an ecological method statement incorporating reasonable avoidance measures (RAMs) was secured along with an ecological landscape management plan,

including a full metric biodiversity net gain assessment. That information was considered to be acceptable by the ESO, Nottinghamshire Wildlife Trust and ultimately the Local Planning Authority through the grant of permission by the Planning Committee.

85. The ESO previously advised that they were happy with the proposal to combine the two phases of development (from an ecological perspective) so that they are contiguous. Officers are also satisfied that the submission was a reasonable methodology and that the BNG calculator had been used correctly. However, the ESO did advise that the statement about "*whilst there is an overall loss in habitat units there is significant gain of hedgerow habitats, which is not taking into account by the calculator when providing an overall score figure of BNG. This binary assessment is therefore not considered appropriate for this site, and a more holistic approach to assessing BNG is required*", was more contentious.
86. This is because the metric does not allow the increase in hedgerow units to offset the loss in other habitats because the principles of biodiversity net gain is that habitats should replace like with like, i.e., grassland with grassland, not hedgerow for grassland. So, for example larger area of low-quality grassland could be replaced with a smaller area of high-quality grassland
87. The assessment demonstrates an overall biodiversity net loss of -4.49 habitat units, which is a -16.83% loss. However, a significant increase in hedgerow units of 6.94 units (+116.84%) is recorded. The Borough Council has previously accepted that the increase in hedgerow units should be used to offset the loss in habitat units. The guidance provided by CIRIA (2019) Biodiversity Net Gain - Principles and Guidance for UK construction and developments states that compensation should be "ecologically equivalent in type" unless justified by "delivering greater benefits for nature conservation".
88. The ESO has previously advised that it is fair to say that the current poor semi-improved grassland has low intrinsic biodiversity value, supporting a fairly low faunal population, some of which would be maintained through the provision of the smaller but higher quality neutral grassland and SUDs. They also commented that the hedgerow proposed, if managed appropriately, would also have higher intrinsic biodiversity value.
89. Therefore, officers were advised that it is unlikely that this type of replacement/substitution would be permitted under the proposed measures being brought forward by the Environment Bill 2019-21. However, at this time, as the legislation is not in place and as Rushcliffe Borough Council do not have any supplementary planning guidance or other form of policy which sets a specific target for biodiversity net gain, the ESO advised that officers can agree to this approach and accept the biodiversity net gains being offered for this development.
90. The ESO also previously advised that the previously submitted strategy includes a management plan and that they are satisfied that the proposed management plan is satisfactory and should be implemented. They also advised that public access is prevented in the proposed Skylark nesting area to reduce disturbance and should also be fenced with sheep netting

to reduce disturbance by pets; that all external lighting is designed to provide minimal sideways spread and makes use of low UV/warm spectral colour lighting (greater than 500nm or <3000K) and that monitoring reports should be copied to the local authority.

91. The application is therefore considered to accord with the requirements of Policy 16 of the LPP1 as it provides the requisite retention of green corridors through the site and links into the existing green infrastructure. The proposal is also considered to accord with Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological Network) of the LPP2 which seek to ensure net gain in biodiversity and improvements to the ecological network through the creation, protection and enhancement of habitats and through the incorporation of features that benefit biodiversity.

#### Open Space and Play Provision

92. The application site is defined by a red line on the plans which is drawn tightly to the edges of the 47 proposed dwellings and as such there is no open space or play provision proposed as part of this application. The Borough Council's Community Development Manager previously questioned the impacts of the then proposed 51 dwellings and whether the needs of the new residents were being mitigated, as it appeared that the proposal is increasing the housing numbers whilst simultaneously decreasing the amount of open space on the approved development.
93. The applicants have previously stated that the original application, for 235 dwellings could be accommodated on approximately 80% of the overall site, and this is what they secured permission for under application ref 19/01770/REM, as revised by 20/02300/REM. Whilst this may not have been explicitly stated in those submissions, the applicant is correct that the NPPF does require development to make efficient use of land. Therefore, the current proposal, which seeks to develop approximately 20% of the overall site is what the developer would term "white land" i.e., it is not open space, but land that they seek to develop later and therefore did not form part of the open space offering for the currently approved scheme of 235 dwellings.
94. If only 235 dwellings were to be built on the site, then this would result in a density of approximately 28 dwellings per hectare, and at that low density the developer has previously stated that the scheme would not be economically viable to deliver. In granting permission for the additional 51 dwellings the Borough Council has previously accepted the development of the site and that it would make a more efficient use of the site, as per the requirements of the NPPF, whilst still delivering an acceptable density of development in this location at approximately 35 dwellings per hectare.
95. Officers accept that a density of approximately 35 dwellings per hectare is acceptable in this location and is comparable to the density of the neighbouring site to the west, which itself was on the edge of the village when it was granted planning permission a number of years ago.
96. The Borough Council's Community Development Manager has reviewed the proposal and is satisfied that an on-site delivery of children's play areas and allotments is not achievable for this development due to how the

redline has been drawn. However, whilst accepting that there is no opportunity to provide any on site play provision or allotments, there are opportunities to make an off-site contribution to improve and enhance the current offering as part of the approved 235 dwelling scheme. As a result, either a scheme towards improvements on the wider site or, if this is not possible, off-site contributions for the children's play area (equipped) of £559 per dwelling are sought via the S106 agreement to be allocated towards the closest geographic play provision to the site, (which would be on the site that secured planning permission for 235 dwellings). This is required to mitigate the harm of the additional 51 dwellings to enhance the areas of the already approved site, which is in the applicant's ownership, to provide additional facilities and encourage better usage of the public areas beyond the approved equipped provision in the centre of the site. Off-site contributions of £73.00 per dwelling towards allotment provision are also sought.

97. Officers again noted that there was no ability to provide any additional open space within the redline boundary of the application site for the 47 dwellings. It was therefore requested, that as per the approved scheme for 51 dwellings, that the applicant demonstrate that the wider approved development provides enough public open space for the overall proposal of 282 dwellings.
98. The Community Development Manager advises that a scheme of 282 dwellings (the proposed 47 dwellings alongside the approved 235 dwellings) would normally also require the provision of 0.356ha amenity space. As it was not possible to deliver this "on-site". As part of the previous application the applicants were asked to calculate the level of provision of open space on the entire development of 286 dwellings to check if the provision complied with the policy requirement. The Community Development Manager advised that for the entire development of 286 dwellings an area of 0.36ha of open space would be required to mitigate the need arising based on their calculations. The supporting calculations submitted with the applicant's response confirmed that a total of 2.84ha of open space would be provided for the entire development of 286 dwellings. Therefore, whilst the proposal would not be able to provide the open space required for the 47 dwellings on-site, the wider development, within which the proposal would sit and form part of, would far exceed the required 0.356ha of open space provision for this totality of development.
99. Officers calculate that the open space around (but excluding) the central play area for the approved 235 dwellings is circa 0.54ha, so this area of open space alone would be large enough to provide sufficient open space for a development of 282 dwellings. On this basis the Community Development Manager advised that they are not objecting to the proposal subject to the financial contributions towards off-site improvements to equipped play provision and allotments being secured by S106.
100. Officers are therefore satisfied that the provision of open space, play space and allotments can be mitigated through off-site contributions, which in the case of play provision are requested to go towards the land and facilities surrounding the application. Furthermore, the adjoining development, as approved is considered to provide more than sufficient open space to

mitigate the harm of the approved and proposed development. The proposal is therefore considered to be capable of complying with the requirements of Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy which seek to deliver a range of housing types, sizes and choices across a development and to ensure that new housing developments make a positive contribution to the public realm and sense of place through the treatment of elements, preserve local characteristics and landscapes and create safe, inclusive and healthy environments accordingly. The proposal is also considered accord with Policies 1 (Development Requirements) and 12 (Housing Standards) of the Rushcliffe Local Plan Part 2: Land and Planning Policies.

### Layout

101. The proposed layout of the site, with the housing as a continuation of the approved built form located either side of the Public Right of Way that bisects the site is in general accordance with the parameters set out on the outline planning permission, as allowed at appeal.
102. The proposed housing development would be screened from the open countryside beyond the southern boundary by a deep landscape buffer measuring 25-40m in depth, and in due course by the approved 235 dwellings to the south of the areas proposed to be developed as part of this submission.
103. An approved central corridor of public open space would remain running through the centre of the wider site for its entire length from south to north. This would incorporate the existing public right of way and an equipped play area. This Public Right of Way (PROW) connects the site to the village centre via Burton Walk and links up with the proposed footpath linking the site with Brookside through the adjacent development to the west. The walking/travelling distances to the village have already been established and accepted through the appeal process as part of the 2016 outline permission for the 235 dwellings. That permission also secured the provision of a new, lit footway alongside Rempstone Road connecting to the top of Kirk Ley Road. This footway was upgraded to a pedestrian and cycle path as part of the permission for the temporary primary school on the neighbouring site as recently approved. This pedestrian and cycle path has now been installed and provides an alternative to the other footways into the village.
104. The proposal would provide nine affordable housing units, as required under Policy 8 of the LPP1, (3 x 2 bed homes, 2 x 3 bed homes and 4 x 2 bed maisonettes), of these 4 would affordable rent and 5 would social rent. The application was assessed in the context of the affordable housing tenure mix agreed under 19/01770/REM. The Affordable Housing Officer has compared what the applicant is providing and if it meets the Councils preferred mix when considering the site as a whole.
105. The Affordable Housing Officer notes that “*Whilst the absence of any affordable homes for sale (intermediate) is a divergence from the tenure mix set out within paragraph 3.8.9 the Core Strategy, the provision of rental accommodation to meet needs on the Housing Register is welcomed.*”

106. As the types of units broadly comply with the requirements set out in previous advice, Strategic Housing have stated that they have no fundamental objections to the affordable housing provision.
107. The dwellings located with corner plots have been designed to be dual aspect, so they address both road frontages. Each property would benefit from private garden areas, commensurate in size with the scale of the dwelling, and off-street allocated car parking. Some of the properties have garden sizes smaller than those stated within the Residential Design Guide Supplementary Planning Document (SPD), however the presence of the considerable on-site open space provision is considered to suitably mitigate for smaller gardens, as per the exceptions within the SPD. The SPD states that the availability of two or more of the exceptions stated will help in demonstrating why smaller gardens should be allowed, and the list includes "*The close proximity to public open space or accessible countryside*" and "*The development provides for a range of garden sizes including a proportion which are in excess of the referenced size requirements*" which the proposal is considered to comply with.
108. The Highway Authority initially objected to the proposal's layout citing several concerns regarding matters such as the width of driveways and the location of dropped kerb. Subsequently, revised plans were submitted that sought to address the above concerns and the Highway Authority advised that the matters regarding refuse tracking and private drive turning provision had been addressed.
109. The layout of the internal roads has also been subject to a technical approval checking process as part of a section 38 agreement of the Highways Act 1980. The Highway Authority are content to recommend approval of the application, subject to conditions being attached to any grant of permission.
110. The proposal does not affect the Public Right of Way that runs through the wider site which has been established through the 235-dwelling scheme.
111. The proposed layout is therefore considered to comply with Policies 8 (Housing Size, Mix and Choice) and 10 (Design and Enhancing Local Identity) of the LPP1 which seek to deliver a range of housing types, sizes and choices across a development and to ensure that new housing developments make a positive contribution to the public realm and sense of place through the treatment of elements, preserve local characteristics and landscapes and create safe, inclusive and healthy environments accordingly. The proposal is also considered accord with Policies 1 (Development Requirements) and 12 (Housing Standards) of the LPP2, which seeks to secure that the proposal will not impact on the amenity of any adjoining properties, provides a suitable means of access, provides sufficient space for ancillary amenity and circulation space, is of a scale, density, height, massing, design, layout and is constructed from suitable materials that are sympathetic to the area, as well as addressing other matters including but not limited to noise, impacts on wildlife, landscape character, heritage assets and energy efficiency requirements.
112. Policy 12 (Housing Standards) states that for developments of more than 100 dwellings, at least 1% should comply with the requirements of M4 (3)

(a) of the Building Regulations regarding wheelchair adaptable dwellings. The proposal includes 4 affordable maisonettes, of which 2 would be ground floor, this is well in excess of the 0.47 dwellings (1% of the 47 dwellings) needed to comply with the policy.

### Scale/Housing Mix

113. Officers have assessed both the current and the previous submission (for 51 dwellings) against Policy H3 (Types of Market Housing) of the East Leake Neighbourhood Plan which requires; 1 and 2 bedrooms between 30% and 40%; 3 bedrooms between 40% and 60%; 4 bedrooms between 10% and 20%; 5 bedrooms between 0% and 5%.
114. For the approved scheme the open market housing comprises twenty 2x bedroom properties and twenty-one 3x bedroom properties. That equated to 48% 2x bedroom and 52% 3x bedroom properties. That application therefore exceeded the requirements for two- and three-bedroom properties, whilst failing to propose any 4- or 5-bedroom properties. Whilst that proposal (for the 51 dwellings) did not strictly accord with the requirements of Policy H3, it did seek to address some of the imbalance permitted in allowing the approval of the adjoining development of 235 dwellings by increasing the provision of 2- and 3-bedroom properties.
115. The current proposal for open market housing comprises six 2x bedroomed properties, twenty-four 3x bedroomed properties and eight 4x bed properties. That equates to 16% 2x bedroomed properties, 63% 3x bedroomed properties and 21% 4 bedroomed properties. The Ward Members and the Parish Council are objecting to the proposal, solely on the basis that the housing mix as proposed falls below the policy provision for 2x bedroomed properties as set out in Policy H3 of the Neighbourhood plan.
116. The Parish and Ward Councillors state that when factoring in the breakdown across the whole site (affordable and open market housing) that the approved scheme (for 51 dwellings) provided 30.6% 2-bedroom properties. However, the current proposal (for 47 dwellings) now reduces the number of 2x bedroomed properties to 24.8% which is below the 30% threshold.
117. The applicant has reviewed the submissions for the entire site to get an accurate picture of the current demand level and enquires on Phase 1. They advise that there is a high density of smaller product on phase 1 with 74% of the development being 2- and 3- bedroom homes. The development has 188 private homes with only 9 five-bedroom homes and 39 four-bedroom homes. The developer comments that they have had many enquires for the larger product which they are not able to fulfil based on the current approvals. The applicant advises that as a snapshot of the secondhand market only two 5-bed homes are for sale and only 1 4-bed home so, which they argue demonstrates demand for the larger product.
118. The developer acknowledges that they have not introduced any further 5-bedroom homes, but that they have increased slightly the number of 3-bedroom dwellings and the 4-bedroom dwellings for the Phase 2 site. The applicant states that in an ideal world, they would introduce more 4 and 5

beds but an appreciation for the principal requirements for slightly smaller product e.g., 3-bedroom homes is reflected in the proposed mix. The applicant advises that due to lack of purchasers their 3 bed homes take longer to sell e.g., there is a 3-bed town house on the market for £322,995 which was released for sale on 5<sup>th</sup> November 2021 and still not sold as of the 4 February 2022. The applicant asserts that this is a snapshot of the current climate, however it reflects their best up to date forecasting for what is likely to be in demand. The developer also states that their 1-bedroom homes and 2-bedroom homes unfortunately do not receive the same level of interest.

119. With respect to the distribution of houses on site between the approved development of the additional 51 dwellings and the currently proposed 47-unit schemes, the below table shows how the approved 235 dwelling scheme is assessed against Policy H3:

<b>Policy H3 Market House Type</b>	<b>Req.</b>	<b>Approved REM (235)</b>
1&2 B	30-40%	26.6%
3B	40-60%	47.9%
4B	10-20%	20.7%
5+	0-5%	4.8%
<b>Total</b>	<b>-</b>	<b>100.0%</b>

120. As approved, this represents broad compliance with the required Policy H3 mix, and regardless was granted permission.

121. The following is the distribution when the 51 dwelling approval is factored in:

<b>Market House Type</b>	<b>Req.</b>	<b>Approved REM (235)</b>	<b>Approved 51</b>	<b>Combined Schemes</b>
1&2 B	30-40%	26.6%	48.8%	30.6%
3B	40-60%	47.9%	51.2%	48.5%
4B	10-20%	20.7%	0.0%	17.0%
5+	0-5%	4.8%	0.0%	3.9%
<b>Total</b>	<b>-</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

122. It is noted that the approved 51 dwelling scheme does not comply with the Policy H3 requirements on its own, although as a whole, it does comply when assessed against Policy H3.

123. The following is the distribution when the 47 dwelling approval is factored in:

<b>Market House Type</b>	<b>Req.</b>	<b>Approved REM (235)</b>	<b>Proposed 47</b>	<b>Combined Schemes</b>
1&2 B	30-40%	26.6%	15.8%	24.8%

3B	40-60%	47.9%	63.2%	50.4%
4B	10-20%	20.7%	21.1%	20.8%
5+	0-5%	4.8%	0.0%	4.0%
Total	-	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

124. In this instance, the proposed 47 dwelling scheme is on its own more (but still not totally) compliant with the policy H3 requirements and as a combined scheme demonstrates broad compliance, similar to that which is achieved by the original Phase 1 scheme with a short fall in the percentage of 1 and 2 bedroom properties proposed across the scheme as a total.
125. Officers acknowledge that the revisions to the current proposal result in a slight under provision of 1 and 2 bedroomed properties (24.8% compared to the minimum of 30%) across the development as a whole. Nevertheless, officers are also mindful of the wording of Policy H3 which states “*On developments of 10 or more homes developers will provide a mixture of homes for the market that broadly reflects Rushcliffe Borough Council’s and East Leake’s most up to date assessments of housing needs derived from projections of household types, as shown...*” i.e., between 30% and 40% for 1- and 2-bedroom properties.
126. Officers note the word **broadly** in the policy wording and whilst the objections from the Parish and Ward Councillors are also noted, officers also factored in the information provided by the applicant about the market forces at play at this time. Officers also note that the East Leake Neighbourhood Plan, which covers the plan period 2013-2028, was adopted 19 November 2015. Therefore, the information provided to evidence, and ultimately form Policy H3 would have been collated prior to that adoption date. Therefore, the evidence of local need/housing mix for Policy H3 is now over 6 years old and may have changed.
127. The applicant commented that “*the housing market is changing constantly, and we must take opportunities to react to it where we have not implemented a permission*” and the “*...reduction in units by 4 to 47 hopefully gives members the confidence that this is not simply an exercise to chase coverage*”. The applicant also pointed out that this application was not subject to a ‘free go’ and therefore they have invested significant application fee in seeking to effect this proposed change to respond to the market, advising that “*therefore it is not a case of trying to have our cake and eat it, hence the overall reduction in units.*”
128. Officers have considered all of the above information and have concluded that the proposed mix does broadly reflect the requirements of Policy H3, and as such do not agree with the Parish and Ward Councillors that the application should be refused solely on this issue.
129. Policy E1 (Containment of the Built Environment) of the East Leake Neighbourhood Plan seeks to protect the ridges around the village, by limiting the heights of any buildings on the slopes up to these ridges, although there is no maximum height specified. Ridge “A” runs along Rempstone Road, (to the south west of the site, and is the dominant southern view from the West Leake Road. The location of the proposed development is such that, from any public vantage point and from any

buildings that have a clear line of sight of the site, it would be read against the backdrop of the existing/approved development on this and the adjoining Persimmon Development. The proposed housing is of a similar scale and density to these adjoining developments and, therefore is considered to be in character with the existing approved forms of residential dwellings in this location.

130. The proposed scale of the development is therefore considered to comply with Policies 8 (Housing Size, Mix and Choice) and 10 (Design and Enhancing Local Identity) of the LPP1 which seek to deliver a range of housing types, sizes and choices across a development and to ensure that new housing developments make a positive contribution to the public realm and sense of place through the treatment of elements, preserve local characteristics and landscapes and create safe, inclusive and healthy environments accordingly. The proposal is also considered accord with Policies 1 (Development Requirements) and 12 (Housing Standards) of the LPP2 and is also in general accordance with the East Leake Neighbourhood Plan.

### Flooding

131. Residents have voiced concerns that yet more development in the village will further exacerbate existing known flooding and sewage systems issues experienced in the village. Officers note that the site is not within either Floodzones 2 or 3 and therefore a Flood Risk Assessment was not required. However, due to the known issues in the village, officers have liaised with the County Council, who are the Lead Local Flood Authority (LLFA), asking them to review the submission and comment on the proposal.
132. The LLFA advise that they have no objection to the proposal, subject to a condition requiring a detailed surface water drainage scheme based on the principles set forward by the approved Flood Risk Assessment (FRA) and Drainage Scheme has been submitted to and been approved in writing by the Local Planning Authority.
133. On the basis that the LLFA are not objecting to the proposal, officers are satisfied that the proposal meets the objective of Policies 17 and 18 of the LPP2 which state, inter alia, that planning permission will be granted for development in areas where a risk of flooding or problems of surface water disposal exists provided the development does not increase the risk of flooding on the site or elsewhere, and that development should be located taking account of the level of flood risk and promote the incorporation of appropriate mitigation measures into new development, such as sustainable drainage systems.

### Aircraft Noise

134. Policy H4 (Aircraft Noise) of the East Leake Neighbourhood Plan states that *"Where required following a noise assessment, planning conditions will be imposed to ensure that new dwellings include appropriate measures to mitigate the effects of aircraft noise."* The East Leake Neighbourhood Plan was adopted on 19 November 2015 and the outline appeal was granted on the 20 November 2017 following the hearing being held 6 days

earlier. Therefore, the Neighbourhood Plan was adopted and a material consideration at the time that the outline appeal was determined. The issue of compliance with the East Leake Neighbourhood Plan would therefore have been assessed at the Hearing, with the Inspector allowing the appeal. Nevertheless, the Policy remains a material consideration. The Environmental Health Officer has not made any comments regarding noise impacts or sources of noise in the area. It is also noteworthy that the National Air Traffic Service (NATS) have not previously raised any safeguarding objections to the proposed development of the site. As such the proposal is judged to be acceptable in terms of potential impacts from all noise sources, including aircraft noise.

135. The application is therefore considered to have adequately addressed the assessment of potential noise requirements, as per the intentions of Policy H4 of the East Leake Neighbourhood Plan.

#### Bird Strike

136. The Airport Authority have previously requested that a condition be attached to any grant of permission securing measures to prevent birds flocking to the site to prevent the risk of bird strike. Officers note that the current application does not propose any open space or any bodies of open water as part of this application, both features being part of the previous approved schemes. Officers also note that the Airport Authority did not request such a condition as part of the approved scheme for 235 dwellings and, therefore, as no open space or any bodies of open water are proposed, the scheme for 47 dwellings alone are unlikely to attract flocking birds to the site and as such, it is not considered necessary to attach such a condition.

#### Environmental Health

137. The Environmental Health Officer has noted that this is a partial re-submission of a previously approved scheme. They also note that the application is accompanied by a Construction Management Plan (CMP) detailing how matters of noise and dust emissions would be managed during construction works. Subject to conditions requiring that the CMP be adhered to, that if any unexpected contamination is discovered that the Local Planning Authority be notified within 48 hours and that any topsoil imported to the site is tested first the Environmental Health Officer does not object to the proposed revisions to the layout.

#### Adjacent School Site

138. In accordance with the requirements of the S106 and the outline permission for the 235 dwellings, part of the application wider site is required to facilitate a new primary school building, with the provision of the playground/outside space already secured on the neighbouring parcel of land that forms part of the Persimmon development. Following previous consultations with Nottinghamshire County Council's Education and Property Teams, they confirm that the size and location of the site for the new primary, to be located towards the northern boundary of the site, is acceptable in principle. This application does not impede the delivery of the school (which benefits from outline permission) and contributions

towards the impact of the 10 primary school children generated by this proposal can be secured via a S106 agreement.

139. The County Council Education Teams request for secondary school places (and a post 16 place) would be addressed through the CIL.
140. The County Council Education team also comment that *“The redline plan for the proposal site includes the access road to the site of the new school, which is to be transferred to the County Council under the extant permission for the wider site. The Council is due to enter into a land transfer agreement with the developer to secure access to the school site for construction traffic and it is important that any planning approval does not prejudice this agreement. The Council requests that the development is conditioned such that the Council is guaranteed access to the site for construction purposes to enable the school to be opened by the start of the new school year in 2023, and that access for pupils/parents is guaranteed thereafter until such time that the access road is adopted as public highway. The opening of the school is necessary to mitigate the impact of this development as there are no other options to accommodate occupants of the proposed housing (47 dwellings); the housing cannot be occupied until the new school is open and therefore this development should facilitate the advanced delivery of the school.”*
141. Officers note that a similar request was made in respect of the application for the 51 dwellings. Officers are mindful that the access to the school land is covered by Schedule 3 of the signed S106 relating to the original Outline approval which requires access up to the site. The actual transfer of the land will be on the basis of the School Land Undertaking. This application does not include the school land and these provisions are better established by the existing S106 (on the outline permission). Therefore, Officers do not think that the County Council's request is possible or reasonable and note that pedestrian/cycle access arrangements linking the site to the neighbouring Persimmon development have already been secured and delivered.

### Conclusion

142. The proposal is considered, on balance to be an efficient use of the allocated site. Officers note that the proposal, in combination with the already approved developments, does not strictly adhere to the quantum of development indicated in the Local Plan Part 2 allocation, nor is it, in isolation, able to provide on-site levels of biodiversity net gain, on site play provision, amenity open space or allotments. However, the 'additional' dwellings should be viewed as part of the wider development of this site and officers are satisfied that these matters can be adequately mitigated for the reasons expressed in the above report.
143. The proposed development is considered to be of a scale and density that is appropriate to its context and that any impacts of the development are capable of being mitigated through a combination of planning conditions, S106 contributions or CIL payments to the satisfaction of both technical consultees and officers. As such the application is recommended for conditional approval.

144. Negotiations have taken place during the consideration of the application to address adverse impacts identified by officers/to address concerns/objections raised in letters of representation submitted in connection with the proposal. Amendments have been made to the proposal, addressing the identified adverse impacts, thereby resulting in a more acceptable scheme and the grant of planning permission.

## RECOMMENDATION

It is RECOMMENDED that the Director – Development and Economic Growth is authorised to grant planning permission subject to the prior signing of a Section 106 agreement and the following condition(s)

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

[To comply with Section 91 of the Town and Country Planning Act 1990, as amended by the Planning & Compulsory Purchase Act 2004].

2. This permission shall be constructed in accordance with the approved plans and documents as stated in the drawing register, document reference H8112-ELP2-001-REV.D-DRAWING REGISTER dated 10.03.2022 and the following documents submitted under application ref 20/00888/FUL:
  - a) The Construction Environmental Management Plan: Biodiversity (CEMP) prepared by RammSanderson (report ref RSE\_3254\_01\_V3\_CEMP) dated February 2020;
  - b) The Biodiversity Offsetting Strategy prepared by RammSanderson (report ref RSE\_3433\_03\_V1) dated September 2020; and
  - c) The updated Preliminary Ecological Appraisal contained within the letter from RammSanderson (ref RSE\_3254\_L1\_V1) titled "Rempstone Road, East Leake - Ecology Update Survey" dated 21 October 2019.

[For the avoidance of doubt and to comply with Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy and Policy 1 (Development Requirements) Local Plan Part 2: Land and Planning Policies].

3. The materials, as specified on drawing number H8112/002/02 Rev F, shall be used for the external walls and roof of the development hereby approved. If any alternative materials are proposed to be used, prior to the plots affected by any proposed change of materials advancing beyond foundation level, details of any alternative facing and roofing materials to be used on their external elevations shall be submitted to and approved in writing by the Borough Council. Thereafter the development shall be undertaken in accordance with the materials as approved.

[To ensure the appearance of the development is satisfactory and to comply with Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy and Policy 1 (Development Requirements) Local Plan Part 2: Land and Planning Policies].

4. No dwelling shall be occupied until the vehicle access, parking, maneuvering and turning areas for that dwelling have been constructed in accordance with the approved drawings and are available for use. Thereafter they shall remain

as such for the lifetime of the development.

[To ensure a suitable access is provided in the interests of highway safety and to comply with Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy and Policy 1 (Development Requirements) Local Plan Part 2: Land and Planning Policies.]

5. No dwelling shall be occupied until the driveway and parking areas associated with that plot have been surfaced in a bound material for a minimum distance of 5 metres behind the highway boundary, and which shall be drained to prevent the discharge of surface water from the driveway to the public highway. The bound material and the provision to prevent the discharge of surface water to the public highway shall be retained for the lifetime of the development.

[In the interests of highway safety and to comply with Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy and Policy 1 (Development Requirements) Local Plan Part 2: Land and Planning Policies.]

6. No reflective materials, surfaces or finishes shall be used in the construction of any of the buildings or structures hereby approved.

[Reason: Flight safety; to prevent ocular hazard and distraction to pilots using East Midlands Airport].

7. Notwithstanding the provisions of Schedule 2, Part 14, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (or any order revoking or re-enacting that order with or without modification) no solar panels or solar photovoltaics may be installed on any of the dwellings hereby permitted without first obtaining planning permission to do so.

[Reason: To be able to first assess any impact on Flight safety, specifically to ensure that they would not cause any ocular hazard and distraction to pilots using East Midlands Airport].

8. The development hereby approved shall be carried out in accordance with the guidance and recommendations contained within the following documents submitted as part of application ref 20/00888/FUL:
  - a) The Construction Environmental Management Plan: Biodiversity (CEMP) prepared by RammSanderson (report ref RSE\_3254\_01\_V3\_CEMP) dated February 2020, specifically but not exclusively Section 4 "Practical Measures" and the relevant Figures in Section 5 "References" of the report;
  - b) The Biodiversity Offsetting Strategy prepared by RammSanderson (report ref RSE\_3433\_03\_V1) dated September 2020, specifically but not exclusively those contained within Section 5 "Management Plan" of the report; and
  - c) The updated Preliminary Ecological Appraisal contained within the letter from RammSanderson (ref RSE\_3254\_L1\_V1) titled "Rempstone Road, East Leake - Ecology Update Survey" dated 21 October 2019.

[For the avoidance of doubt, for reasons for flight safety as dust and smoke are hazardous to aircraft engines; dust and smoke clouds can present a visual hazard to pilots and air traffic controllers and to ensure the proposed ecological mitigation is undertaken in accordance with Policy 17 of the Rushcliffe Local

Plan Part 1: Core Strategy and Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological network) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

9. Prior to the first occupation of any dwelling hereby approved bat and bird boxes shall be placed on or built into the new dwellings and hedgehog boxes shall be located within retained hedgerows or ornamental planting in accordance with details first submitted to and approved in writing by the Local Planning Authority. Thereafter the bat, bird and hedgehog boxes shall be installed in accordance with the approved details and retained as such for the lifetime of the development.

[To ensure the proposed ecological mitigation is undertaken in accordance with Policy 17 of the Rushcliffe Local Plan Part 1: Core Strategy and Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological network) of the Rushcliffe Local Plan Part 2: Land and Planning Policies and the guidance contained within para xi of the updated PEA].

10. Any brash vegetation removed from site shall be chipped, and any small logs retained, and placed onsite within the site margins.

[To provide reptile and amphibian refuge habitats and ensure the proposed ecological mitigation is undertaken in accordance with Policy 17 of the Rushcliffe Local Plan Part 1: Core Strategy and Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological network) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

11. Prior to the installation of any lighting on site a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats and other nocturnal wildlife. The strategy should provide details of the chosen luminaires and any mitigating features such as dimmers; PIR sensors and timers. The strategy should also include a lux contour plan to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Furthermore, all lighting shall be capped at the horizontal. Thereafter all lighting shall be installed and retained in accordance with the approved details for the lifetime of the development.

[To safeguard bats and any other nocturnal wildlife in accordance with Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological network) of the Rushcliffe Local Plan Part 2: Land and Planning Policies and for Flight safety; to prevent ocular hazard and distraction to pilots using East Midlands Airport].

12. No hedgerows, trees, shrubs, brambles or long grass (over 100mm) shall be removed from the site between 1st March and 31st August (inclusive), unless a survey has been undertaken by a suitably qualified ecologist to assess the nesting bird activity on site during this period. If any nesting bird interest is found on the site, details of measures to protect any nesting bird found on the site, including the timescales for implementing and retaining said measures, shall be submitted to and be approved in writing by the local planning authority. Thereafter the approved measures shall be implemented and retained for the time periods set out in the approved details.

[To safeguard against any harm to nesting birds and their nesting sites in accordance with Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological network) of the Rushcliffe Local Plan Part 2: Land and Planning Policies.]

13. No development shall take place, (excluding topsoil strip, earthworks to form balancing ponds and foul sewer diversion, survey works in connection with ecology and archaeology), until the technical approval under S38 (or equivalent) has been agreed with Nottinghamshire County Council for the construction of the roads and associated works within the site. The development shall thereafter be implemented in accordance with the approved details and no dwelling shall be occupied until the roads necessary to serve that property have been constructed to base level.

[To ensure a suitable access is provided in the interests of highway safety and to comply with Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy and Policy 1 (Development Requirements) Local Plan Part 2: Land and Planning Policies.]

### **Informative Notes:**

Please be advised that all applications approved on or after the 7th October 2019 may be subject to the Community Infrastructure Levy (CIL). The Borough Council considers that the approved development is CIL chargeable. Full details of the amount payable, the process and timescales for payment, and any potential exemptions/relief that may be applicable will be set out in a Liability Notice to be issued following this decision. Further information about CIL can be found on the Borough Council's website at <https://www.rushcliffe.gov.uk/planningandgrowth/cil/>

This permission does not give any legal right for any work on, over or under land or buildings outside the application site ownership or affecting neighbouring property, including buildings, walls, fences and vegetation within that property. If any such work is anticipated, the consent of the adjoining land owner must first be obtained. The responsibility for meeting any claims for damage to such features lies with the applicant.

This grant of planning permission does not alter the private legal situation with regard to the carrying out of any works involving land which you do not own or control. You will need the consent of the owner(s) involved before any such works are started.

The applicant's attention is drawn to the new procedures for crane and tall equipment notifications, please see: <https://publicapps.caa.co.uk/docs/33/CAP1096%20E2.1%20September%202020%20FINAL.pdf>

A pre-start meeting to be arranged with EMA Safeguarding prior to construction starts. Email [ops.safety@eastmidlandsairport.com](mailto:ops.safety@eastmidlandsairport.com) with reference number 2019-S29 to arrange a meeting, due to the construction activity being under the approach to East Midlands Airport.

If the use of a crusher is required on site, this should be sited as far as possible

from nearby dwellings and be operated in accordance with its process authorisation.

Details of the sensitive lighting on site, as required by condition 11 should follow the guidance set out in Bats and Lighting in the UK (BCT and ILP, 2018). Therefore, associated site lighting proposals must consider the following:

- Avoid lighting where possible;
- Install lamps and the lowest permissible density;
- Lamps should be positioned to direct light to avoid upward spill onto any green corridors that could be used by commuting bats or features with bat roost potential;
- LED lighting - with no/low UV component is recommended;
- Lights with a warm colour temperature - 3000K or 2700K have significantly less impact on bats;
- Light sources that peak higher than 550nm also reduce impacts to bats; and
- The use of timers and dimmers to avoid lighting areas of the site all night is recommended.

Where new landscape planting is proposed native species commonly occurring locally should be specified and planting of species known to encourage invertebrates, particularly those that are night-flowering would be beneficial for foraging bats (further information can be found in para ix of the updated PEA.

The Borough Council is charging developers for the first-time provision of wheeled refuse containers for household and recycling wastes. Only containers supplied by Rushcliffe Borough Council will be emptied, refuse containers will need to be provided prior to the occupation of any dwellings. Please contact the Borough Council (Tel: 0115 981 9911) and ask for the Recycling Officer to arrange for payment and delivery of the bins.

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks.

The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.

It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council (or District Council) in writing before any work commences on site.