



Meeting: **Development Control and Regulatory Board**

Date/Time: **Thursday, 12 September 2019 at 2.00 pm**

Location: **Sparkenhoe Committee Room, County Hall, Glenfield**

Contact: **Mr E. Walters (Tel: 0116 3052583)**

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Membership

Mr. J. G. Coxon CC (Chairman)

Mr. I. E. G. Bentley CC	Mr. W. Liquorish JP CC
Mr. M. H. Charlesworth CC	Mrs. J. Richards CC
Mr. B. Crooks CC	Mr. S. D. Sheahan CC
Mr. D. A. Gamble CC	Mrs. M. Wright CC
Mr. T. Gillard CC	Mr. M. B. Wyatt CC
Mr. D. Harrison CC	

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– Notices will be on display at the meeting explaining the arrangements.

AGENDA

Item

1. Minutes of the meeting held on 11 July 2019. (Pages 3 - 6)
2. Question Time.
3. Questions asked by Members under Standing Order 7(3) and 7(5).
4. To advise of any other items which the Chairman has decided to take as urgent elsewhere on the agenda.
5. Declarations of interest in respect of items on the agenda.
6. Presentation of petitions under Standing Order 36.



Reports of Chief Executive and Director of Environment and Transport on Public Rights of Way.

7. Application for a Definitive Map Modification Order - Proposed addition of a public footpath T104 at Sketchley Lane, Ratcliffe Culey (Hinckley and Bosworth District). (Pages 7 - 66)

Reports of the Chief Executive on Planning Applications - County Matter Applications.

8. 2019/0601/04 (2019/VOCM/0107/LCC) - Tarmac Trading Ltd - Application to vary Condition 2 of planning permission 2018/1136/04 to extend the deadline for restoration from the 4th May 2019 to 31st December 2019. Application to vary Condition 37 of planning permission 2018/1136/04 for the approved restoration plan (proposed amendment to hedge location and retrospective amendment to pond location) - Cadeby Quarry, Brascote Lane, Cadeby. (Pages 67 - 84)
9. 2018/1457/03 (2018/CM/0147/LCC): Tarmac Trading Ltd. - Extension of sand and gravel working with restoration to agriculture - Shawell Quarry, Gibbet Lane, Shawell. (Pages 85 - 118)

Reports of the Chief Executive on Planning Applications - County Council Applications.

10. 2018/2083/03 (2018/REG2Mi/0236/LCC): Leicestershire County Council - Application for a new 2-storey classroom block - Fernvale County Primary School, Somerby Road, Thurnby. (Pages 119 - 134)
11. 2019/0533/04 (2019/Reg3Ma/0110/LCC): Leicestershire County Council - Construction of an 80 Place ASD/Communication and Interaction School together with all external works - Former Newlands Primary School, Moore Road, Barwell. (Pages 135 - 154)
12. Any other items which the Chairman has decided to take as urgent.
13. Chairman's announcements.



Minutes of a meeting of the Development Control and Regulatory Board held at County Hall, Glenfield on Thursday, 11 July 2019.

PRESENT

Mr. J. G. Coxon CC (in the Chair)

Mr. I. E. G. Bentley CC
Mr. G. A. Boulter CC
Mr. M. H. Charlesworth CC
Mr. T. Gillard CC
Mr. D. Harrison CC

Mr. D. Jennings CC
Mrs. J. Richards CC
Mr. S. D. Sheahan CC
Mrs. M. Wright CC
Mr. M. B. Wyatt CC

22. Minutes of the previous meeting.

The minutes of the meeting held on 13 June 2019 were taken as read, confirmed and signed.

23. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 35.

24. Questions asked by Members.

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

25. Urgent items.

There were no urgent items for consideration.

26. Declarations of interest in respect of items on the agenda.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

Mr. G. A. Boulter CC declared a personal interest which may lead to bias in agenda item 9: Application by Everards Brewery Ltd to divert part of Public Footpath Z17 at the Horse and Trumpet Public House, Oadby and Wigston, as he had already submitted representations objecting to the application and he had registered to address the Board as an objector, before being asked to substitute at the meeting. Mr Boulter stated that once he had made his oral representations to the Board he would leave the room for the remainder of that agenda item.

27. Presentation of petitions.

The Chief Executive reported that no petitions had been received under Standing Order 36.

28. Application by Mr. and Mrs. Allen to divert Public Bridleways D6 and D43 at Quenby Hall, in the Parish of Hungarton (Harborough District).

The Chief Executive reported that further objections had been received relating to the application which required a detailed written response therefore this agenda item was withdrawn and deferred to a future meeting of the Board in order for a full response to be provided to members.

29. Application by Dunton Bassett Parish Council to add a Public Footpath (Y108) from Ashby Parva Road to Leire Lane in the Parish of Dunton Bassett (Harborough District).

The Board considered a joint report of the Chief Executive and the Director of Environment and Transport, a copy of which, marked 'Agenda Item 8', is filed with these minutes.

RESOLVED:

That an Order be made under the provisions of Section 53 of the Wildlife and Countryside Act 1981 to add a Public Footpath to the Definitive Map from Ashby Parva Road to Leire Lane in the parish of Dunton Bassett of a width of approximately 1.6 metres as shown on Plan no. M1039/R attached to the report

REASON FOR DECISION:

The application satisfies the relevant statutory criteria because the evidence shows that a Footpath subsists or is reasonably alleged to subsist along the route claimed.

30. Application by Everards Brewery Ltd. to divert part of Public Footpath Z17 at the Horse and Trumpet Public House, Wigston (Oadby and Wigston Borough).

The Board considered a joint report of the Chief Executive and the Director of Environment and Transport, a copy of which, marked 'Agenda Item 9', is filed with these minutes.

In accordance with section 4.14 of the Members' Code of Conduct Mr. G. A. Boulter CC addressed the Board regarding the application. Mr Boulter stated that the footpath was part of the ancient route to London and raised concerns regarding the public enjoyment of the footpath, the impact of smokers using the raised patio area and Anti-Social Behaviour. Mr Boulter asked for the knee high fence which was proposed to be erected along the edge of the footpath to be regularly maintained as in the past concrete bollards had been damaged.

(Mr Boulter CC, having declared a personal interest which might lead to bias, left the meeting during consideration of the application.)

In accordance with the procedures for making representations to the Board Mr. D. Lucas spoke as an objector and Mr. M. Roe (Marrons Planning) spoke on behalf of the applicant.

Members were of the view that the knee high fence which was proposed to be erected along the edge of the footpath should be higher and more robust so that it did not pose a danger to patrons of the public house as they left the building and could not be broken by cars colliding with it. Members were happy for the precise specifications of the fence to be agreed between the applicant and officers.

Members also suggested that the footpath could be marked with a plaque to inform the public that this was the ancient route to London.

RESOLVED:

- (a) That an Order be made to divert Public Footpath Z17 (part) at the Horse and Trumpet Public House, Wigston, as shown on the Plan no. 2490/P appended to the report.
- (b) That a fence be erected along the edge of the 2.5 metre wide proposed new footpath, of a size and design, to be agreed with the County Planning Authority, that would not constitute a tripping hazard.

REASONS FOR DECISION:

The application satisfies the relevant statutory criteria set out under the provisions of the Highways Act 1980, namely that the diversion is expedient in the interests of the person(s) stated in the order, the path will not be substantially less convenient to the public as a consequence of the diversion and, and the diversion will have no significant effect on public enjoyment of the path as a whole.

The erection of the fence is in order to prevent patrons of the Inn obstructing the footpath with their cars and the size and design should ensure the health and safety of patrons of the Inn.

(Note: Mr Boulter CC then returned to the meeting).

31. 2019/0854/07 (2019/CM/0091/LCC): Ibstock Brick Ltd. - New building for brick-drying and manufacturing equipment including new dryer flues and dump stack, also renewal and relocation of dust extractors, conveyors and waste bins, and partial demolition of existing dryer building to create a stock yard - Ellistown Brickworks, Whitehill Road, Ellistown, LE57 1HY (North West Leicestershire District).

The Board considered a report of the Chief Executive, a copy of which, marked 'Agenda Item 10', is filed with these minutes.

The local member Mr. D. Harrison CC stated that he welcomed the application particularly the potential drop in noise at the site of 3dB from that currently experienced.

RESOLVED:

- (a) That the application be permitted subject to the conditions nos. 1 to 6 as set out in the appendix to the report;
- (c) That the Board confirms (as required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) that

in dealing with the application the County Council worked in a positive and proactive manner, taking account of paragraph 38 of the National Planning Policy Framework.

32. Planning Applications Issued from 1 April to 30 June 2019.

The Board considered a report of the Chief Executive, a copy of which, marked 'Agenda Item 11', is filed with these minutes.

RESOLVED:

That the report be noted.

33. Tree Preservation Orders from 1 January to 30 June 2019.

The Board considered a report of the Director of Environment and Transport, a copy of which, marked 'Agenda Item 12', is filed with these minutes.

RESOLVED:

That the report be noted.

2.00 - 3.20 pm
11 July 2019

CHAIRMAN



DEVELOPMENT CONTROL AND REGULATORY BOARD

12 SEPTEMBER 2019

APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER
PROPOSED ADDITION OF A PUBLIC FOOTPATH T104 AT
SKETCHLEY LANE, RATCLIFFE CULEY

JOINT REPORT OF THE CHIEF EXECUTIVE AND THE DIRECTOR
OF ENVIRONMENT AND TRANSPORT

PART A

Purpose of the Report

1. The purpose of this report is to seek the Board's determination of an application by Witherley Parish Council to add a Public Footpath T104 to the Definitive Map and Statement of public rights of way. The route is between Sketchley Lane and Public Footpath T34 in the village of Ratcliffe Culey in the Parish of Witherley (Borough of Hinckley and Bosworth). The claimed footpath is approximately 40 metres long and 2 metres wide and runs alongside a garage and two gardens belonging to two cottages, one of which is the village post office. The route is shown on Plan No. M1109P, attached as Appendix A to this report.

Recommendation

2. It is recommended that an Order be made under Section 53 of the Wildlife and Countryside Act 1981 to add a Public Footpath to the Definitive Map as shown on Plan No. M1109P attached as Appendix A to this report.

Reason for Recommendation

3. The application satisfies the relevant statutory criteria because the evidence shows that a Public Footpath subsists or is reasonably alleged to subsist along the route claimed.

Resources Implications

4. The County Council as Highway Authority has a legal responsibility to ensure the highway is open and available to the public and also for the clearance of naturally growing surface vegetation on public rights of way. If the claimed

route was added to the Definitive Map this would add an extra 40 metres of footpath to the rights of way network. This amounts to about £50 per annum on current funding.

Circulation under the Local Issues Alert Procedure

5. A copy of this report has been sent to Mr. I.D. Ould OBE CC (Market Bosworth Division).

Officers to Contact

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PART B

Background

6. On 17th July 2017, the County Council received an application from Witherley Parish Council for the addition of a public footpath in the village of Ratcliffe Culey to the Definitive Map. (a copy is attached as Appendix B). The claimed footpath shown as A to B on plan M1109P (Appendix A) is approximately 40 metres long and 2 metres wide and would connect Sketchley Lane to footpath T34. It runs alongside a garage (at Point A) and two gardens belonging to Numbers 14 and 16 Sketchley Lane, No.16 is also the village post office. The land over which the footpath runs is not registered at the Land Registry and no one has come forward to claim ownership so there is no landowner known to the Council.
7. Witnesses report that the claimed route was blocked in the 1970s, and therefore the date when the status of the route was first brought into question is difficult to establish exactly due to the lapse of time. The date used for the brought into question date has therefore been set as 1970. For the purposes of a Definitive Map Modification Order the 20 years user evidence must be counted back from then so the period of 20 years is from 1950 to 1970.
8. Since the blockage of the claimed path in around 1970, the route has been out of use. However, it is still discernible on the ground but is overgrown in parts.
9. The application was triggered when the parallel footpath T12 was closed in April 2015 because a farm building alongside that path had become unsafe, leading to people trying to use Sketchley Lane and the claimed path as an

alternative route. This provided the impetus for the Parish Council to try and resolve what they felt was a long-standing problem.

10. The Application to add the path to the Definitive Map is supported with seven user evidence forms and seven letters. An extract of the Enclosure Award and 3 historic maps are also supplied with the application and are attached as part of Appendix B.

Legal Considerations

11. The Board must have regard to the legal considerations set out in the Wildlife and Countryside Act 1981 and the Highways Act 1980 as detailed below.

Wildlife and Countryside Act 1981

12. The County Council's obligations are set out in Section 53(2) of the Wildlife and Countryside Act 1981 which states:-

As regards every Definitive Map and Statement the {County Council} shall -

- (a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence before that date, of any of the events specified in subsection (3); and
- (b) as soon from that date keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence....of any of those events, by order make such modifications to the map and statement as appear to them to be required in consequence of the occurrence of that event.

13. Section.53(3) states that the events referred to in subsection (2) include:-

(3) (c) the discovery by the authority of evidence which when considered with all relevant evidence available to them shows:-

- (i) that a Right of Way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a Right of Way to which this part applies.

Test A and Test B

14. The issue before members is to decide if the application satisfies the requirements of Section 53. The Board therefore has to be satisfied when it considers the evidence available whether the case for the application satisfies either of the following two tests. These are usually referred to as Test A (that a Right of Way does subsist) or Test B (that it is reasonably alleged to subsist) over the land.
15. To meet Test A the Board has to be satisfied that on the balance of probabilities a Right of Way is more likely than not to exist over the land in

question. Test B sets a lower standard of proof, and it is generally accepted to mean that the case has been established to the extent a reasonable person, having properly evaluated the evidence, could conclude there was a reasonable case that a Right of Way existed.

16. Although Section 53 enables the County Council to decide whether an Order should be made it does not help local authorities to understand what constitutes good or sufficient evidence of the legal existence of a Public Right of Way. This is set out in the Highways Act 1980, detailed below.

Highways Act 1980

17. Section 31 of the Highways Act 1980 states that:-

- (1) Where a way over any land, other than a way of such character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.
- (2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by notice such as mentioned in subsection (3) below or otherwise.
- (3) Where the owner of the land over which any such way as aforesaid passes:-
 - (a) has erected in such a manner as to be visible to persons using the way a notice inconsistent with the dedication of the way as a highway, and
 - (b) has maintained the notice after the 1st January 1934, or any later date on which it was created.

The notice, in the absence of proof of a contrary intention, is sufficient evidence to negate the intention to dedicate the way as a highway.

18. Therefore if the application and any other evidence shows there to have been uninterrupted, unchallenged use over a period of at least 20 years on a route which can be identified with some certainty and such use is of a kind which in itself amounts in law to a right of user (as opposed to a mere licence or being invited onto the land) then the law assumes that there is an implied dedication by the owner of the land of a Right of Way. This implied dedication can be rebutted if the owner can show that there was no intention to so dedicate the land as a Right of Way.
19. A landowner can show there was no intention to dedicate the land as a Right of Way by producing evidence that users were successfully challenged or asked to leave the land. A landowner can also obstruct the route to prevent public use of it: this will be sufficient to prevent the route becoming a Right of Way if done for that purpose. The interruption need only be of a brief period. Section 31 also allows the landowner to rebut any claim of a Right of Way by

erecting prominent signs which clearly indicate that there is no Right of Way and that the land is not subject to any such user right.

20. The landowner's actions must be open and obvious to anyone who might use the route. It is not sufficient for the landowner to tell other third parties or even their own solicitor they had no intention to dedicate the way. Therefore records such as diaries, correspondence, or private journals are not sufficient evidence there was no intention to dedicate once public use under Section 31 has been established. The users must have been made aware of the landowner's intentions.
21. Therefore it has to be determined if the usage claimed by the applicants or others is sufficient in itself to establish an implied dedication under the provisions of Section 31 of the Highways Act 1980. If so then it must be considered if the landowner has successfully rebutted any such implied decision.
22. On the evidence available the Board must therefore first decide if there has been use of the route by the public for at least 20 years uninterrupted and unchallenged prior to this being brought into question.
23. The Board must then decide if that presumed dedication by the owner is affected by any action taken by the relevant owner during that time to challenge or show by some sufficiently overt act that there was no intention to dedicate the way.

PART C

Evidence

24. This section examines all the evidence relevant to the case, including the Definitive Map, historical maps, the Enclosure Award, aerial photographs, user evidence, representations from interested parties and a site survey.

Definitive Map of Leicestershire

25. The following surveys, draft editions and published editions of the Definitive Map have been investigated. The claimed path is visible as a narrow strip on the background mapping but has not been picked out as a public footpath.

- i. **Parish Survey Map and Statement dated June 26th 1952**

The parish survey was done in preparation for the first ever Definitive Map of footpaths for the County of Leicestershire. It was completed by the Parish Council. The Survey map and statement have a different numbering system to the subsequent Definitive Map. Footpath T34 is referred to as Footpath No.10 and T12 as Footpath No.11. The parish survey did not include the claimed path; however Footpath No. 10 is

described as “from Ratcliffe turn to Sketchley Lane adjoining No.11 and thence to Sheepy”. This is only possible if Sketchley Lane extended along the claimed path to meet footpath No.10, and it can be seen from the map that Footpath No.10 comes to meet the end of the claimed route. It should be noted that 1952 is within the relevant period. A copy of the Parish Survey is attached as Appendix I.

ii. 1952 First Definitive Map and Statement

The claimed path is not shown on the Definitive Map and Statement as a public right of way, although the route of it can be seen on the base map as an extension of Sketchley Lane. Footpath T34 meets the end of the claimed path, although mention of Sketchley Lane in the statement has been dropped. A copy is attached as Appendix J.

Historical Maps

26. There were two early 19th century mapmakers who surveyed and produced maps of Leicestershire: King and Greenwood. King's Map does not extend to Ratcliffe Culey. Greenwood's Map of 1826 (attached as Appendix C) is not in sufficient detail to distinguish the claimed route and does not show footpath T34 although Sketchley Lane can be made out which the claimed path links to.

Ordnance Survey 1815 Map Survey

27. Sketchley Lane can be seen at this time. These surveys do not show rural footpaths. A copy is attached as Appendix D.

Ordnance Survey Maps

28. The three maps below do show the claimed route as part of Sketchley Lane extending as far as the field where footpath T34 is adjacent to the field boundary. T34 might have been immediately reached through a gate or stile at the end of Sketchley Lane. The claimed route is not straight but kinks to the west, a feature that becomes more pronounced on later maps.

i. 25" (1:2500) Scale Map First Edition 1886 (XXXIV.7)

The map shows the claimed route as part of Sketchley Lane. The footpath to Ratcliffe Bridge (T34) bends in to meet the claimed route. A copy is attached as Appendix E.

ii. 25" (1:2500) Scale Map 1903 Edition (XXXIV.7)

The map shows the claimed route as part of Sketchley Lane. The footpath to Ratcliffe Bridge (T34) bends in to meet the claimed route. A copy is attached as Appendix F.

iii. (1:10560) Scale Map 1925 Edition (XXXIV.7)

The map shows the claimed route as part of Sketchley Lane. The footpath to Ratcliffe Bridge (T34) bends in to meet the claimed route. A copy is attached as Appendix G.

Ratcliffe Culey Enclosure Act 1766

29. A copy of the Enclosure Award was supplied with the application. There is no surviving plan for the award, but the text describes two footpaths which are of interest. The first description corresponds to the current day footpath T34.

One publick (sic) footway leading from the town street of Ratcliffe Culey in the usual tract through and over one ancient inclosure (sic) called the Tammy Croft into the lane near to Ratcliffe Culey stone Bridge and which said footway shall be deemed and taken to be the common footway to lead from Ratcliffe Culey towards the Mythe House Pinwall Grange and Polesworth.

30. The second description corresponds to the current day footpath T12.

One other publick (sic) footway leading from the town street of Ratcliffe Culey in the tract hitherto used through and over ancient inclosures called the Kings Yard and Kings Meadow to a footpath or bridge leading over the river into the Lordship of Little Sheepy and which said footway shall be deemed and taken to be the common footway to lead from Ratcliffe Culey towards great Sheepy and Little Sheepy.

A plan showing the locally understood location of the field names Tammy Croft, Kings Yard and Kings Meadow is attached as Appendix H.

31. The two descriptions in the Enclosure award are for separate footpaths. One starts on the town street and leads to Sheepy, the other starts on the same town street and leads to the Stone Bridge. There is no suggestion that the two paths join together to reach Main Street as is the case on the current Definitive map. It is therefore quite possible that the route for the footpath from Main Street to the stone bridge ran along Sketchley Lane and the claimed route.

Aerial Photographs

32. The 1969 aerial photograph has been studied in relation to this case. The claimed path is partly visible as a narrow route between hedges. The date

would be just a few years before the path was reportedly blocked. The photo is attached as Appendix K

Additional Evidence

33. The following documents have also been examined.

i. Abstract of the Title Messrs D A Axott Ltd

The abstract plan corresponds well with the Ordnance Survey map of 1884 and shows the route of the claimed path as an extension of Sketchley Lane running to end adjacent to footpath T34. A copy is attached as Appendix L

ii. 1925 Handover Plan

The handover plan was drawn up in 1925 when the Rural District Council relinquished responsibility for vehicular highways to the County Council. It shows the extents considered to be publicly maintainable at the time and was to ensure continuity through the transfer from one authority to the other. The maintainable extent of Sketchley Lane is coloured in green on the handover plan and corresponds to the highway extent of the current day. The continuation of Sketchley Lane which is now claimed as a footpath is not coloured green so this provides evidence that the claimed route is not a carriageway. This does not exclude the possibility that the claimed route was considered to be a footpath. A copy is attached as Appendix M.

iii. Land Registry Plans

The entire route comprising the current claimed footpath is excluded from the titles on each side. This is consistent with the publicly maintainable portion of Sketchley Lane which is not registered to any landowners. A copy is attached as Appendix N.

User Evidence

34. The User evidence in support of the application is in the form of a mixture of user evidence forms and letters of support from 13 witnesses. Seven people have completed user evidence forms, one of whom has included a letter, while six have provided letters only. All the witnesses have lived in Ratcliffe Culey although some have now moved away. Nine of the witnesses have provided evidence that they used the path within the relevant 20 year period, one was using it before the period, and three did not specify when they used the path. This evidence indicates that the route in question has been used as of right by the public for a period of 20 years

prior to 1970 when the path's status was brought into question. The user evidence is summarised in paragraphs below.

35. It is 47 years since the claimed path was blocked so it is perhaps not surprising that some of the dates given are approximate. A bar chart showing usage is attached as Appendix O.
36. The user evidence form asks a series of questions regarding the character and use of the path, and the answers given are summarised below.
37. **The Route:** Seven witnesses have provided a plan with their user evidence form. These are from the same source derived from Ordnance Survey mapping so there is no discrepancy in the route depicted. The descriptions in the letters of support accord with the evidence forms so there is no doubt as to the route claimed by the parish council.
38. **Type of use and status:** Ten of the witnesses report using the path on foot and not by any other means, so they are consistent in alleging that the claimed route is a footpath. Three witnesses do not specify type of use.
39. **Purposes of using the path:** Eight of the witnesses describe their use of the path as recreational, some used it as children to go and play in the River Sence. There is also anecdotal evidence that in the early 20th Century children from Ratcliffe Culey used Sketchley Lane and the claimed path to walk to school in Sheepy, until a school was opened in Ratcliffe Culey in the 1920s. The other witnesses do not comment.
40. **Bringing into Question:** Six witnesses report that they stopped using the path when it was blocked with hedge cuttings. This is reported to have been in the early 1970s, but the current postmistress whose father ran the post office at the time refutes that this happened. One witness records that the path was still in regular use when he arrived in the village in 1971, so the 20-year period has therefore been taken to start in 1950 and to run until 1970. The path has not been regularly used since then. The other witnesses do not comment.
41. **The Twenty-Year Period:** Ten witnesses have supplied evidence of use. The span of use of the path is from the 1930s up to the closure after 1971. One anonymous witness describes using the path in the 1930s and 1940s. One describes using it during the 1940s and 1950s. Four witnesses have used the path for a period in excess of 20 years, and two of those cover the whole 1950 to 1970 period. Eight witnesses report they were using the path up until, or shortly before, it was blocked off and their evidence falls into the relevant period. It should be noted that it is not necessary for all the witnesses to have used the path for the relevant period, instead all the evidence added together should cover the relevant period. Taken together there is continuous use for 35 years, so the 20-year period between 1950 and 1970 has been met. The other witnesses do not list years of use.

42. **Frequency of use:** Six witnesses report using the path occasionally. One says twice weekly, one several times a month and one once or twice a year. The other witnesses do not comment.
43. **Use by other people:** All the seven witnesses who filled in user evidence forms report that they saw other people using the path, one expands to say many, one reports that it varied, the other five do not comment.
44. **Use by tenants and employees:** None of the correspondents state that they were tenants or employees of the farm reached by using the path. It should be noted that the path itself is unregistered and has no known owner.
45. **Use by permission:** If a path or way is used by permission of a landowner then that use cannot be as of right. It is therefore important to determine if permission to use this path was given by the landowner, or a previous one. There is no known landowner for this land and in addition, eight of the witness's report that they did not seek or were granted permission to use the path. The other witnesses do not comment.
46. **Interruptions to use:** Seven of the witnesses report there were no interruptions to their use before the path was blocked off. The other witnesses do not comment.
47. **Verbal actions by the owner to prevent use :** Eight of the witnesses report they were not verbally deterred from using the path before the path was blocked off. The other witnesses do not comment.
48. **Actions by the owner to prevent use with structures:** Eight of the witnesses report they were not deterred from using the path by physical structures erected by any landowner before the path was blocked off. The other witnesses do not comment.
49. **Actions by the owner to prevent use with signs:** Eight of the witnesses report not seeing any signs erected by any landowner deterring them from using the path. The other witnesses do not comment.

Characteristics of the Path

50. **Structures facilitating the use of the path:** Eight witnesses report a stile on the claimed path, and one a fence. Seven of the witnesses who report the stile clarify that it was at the end of the claimed route giving access to the field therefore onto Footpath T34. The other witnesses do not comment.
51. **Width of the path:** Three witnesses describe the width of the path as between six and twelve feet, two as two to three yards, two as eight to ten feet and one as six feet. The width of the claimed path on the map does vary along the route. Measurement from the map gives a minimum width

of six feet and a maximum of 17 feet so these descriptions are all within the measured range. The other witnesses do not comment.

52. **Clear definition of the path:** Eight witnesses describe the path as well defined. This concurs with the fact that it ran between hedge rows. The other witnesses do not comment.
53. **Surface of the path:** Three witnesses describe the surface of the path as being gravel, two as earth and two as earth and stone. The other witnesses do not comment.
54. **Maintenance of the path:** Eight of the witnesses report they were not aware of any repairs to the path's surface or any structures along it. The other witnesses do not comment,

Summary of User Evidence

55. The four main issues relating to whether a public footpath has come into existence are:-
 - a) Was the path used for a continuous 20 years?
 - b) Was the path used as of right?
 - c) Was the use of the path interrupted?
 - d) Have the owners take reasonable actions to prevent the dedication of public rights?
56. Looking at the user evidence and the answers to the relevant questions it appears that the route has been used for a period of twenty years or more, that it has been used as of right rather than by permission, that use has not been interrupted, and that the landowners do not appear to have taken any reasonable actions to prevent access or erect and maintain signs within the twenty year statutory period.

Evidence of Rebuttal (Objections to the Application)

57. In the following section of this report the objectors' comments are written in italics, followed by the comments of the Director of Environment and Transport in plain type:-

Miss K Horton

58. Miss K Horton has supplied a representation attached as Appendix P. She makes 5 points as follows:
59. *Point (i). Her family have been resident in Ratcliffe Culey for 100 years, and her Aunt still lives at 12 Sketchley Lane, this property has rights to access a water pump in front of 14 Sketchley Lane. She believes the claimed path exists solely to provide access to the pump.*
60. LCC comment – The pump is marked with a letter P on the OS first edition 1886 map, about one third of the way along the claimed route. However,

the path runs further to the field boundary so is unlikely to have been solely to access the water pump.

61. *Point (ii). There is no documentary evidence to support the existence of the path.*
62. LCC comment – All the documentary evidence relating to the path has been examined in detail above and does support the application although it is not conclusive by itself.
63. *Point (iii). In recent years Miss Horton and Miss Boyt resident at No.16 (the Post Office) have told prospective path users that it is not a public right of way.*
64. LCC comment – The relevant period is from 1950 to 1970 so evidence of intention not to dedicate needs to date back to this time.
65. *Point (iv). There is no need for the path as footpath T34 can be accessed from Main Street by a path adjacent to Hunt's Farm (Redhouse Farm).*
66. LCC comment – There is an alternative route but the matter to be considered is whether the claimed path exists, not if it is needed.
67. *Point (v). Grass snakes occupy the area including the claimed path.*
68. LCC comment- Any works necessary if a public right of way is established can be carried out in winter to minimise any impact on snakes.

Miss A Boyt

69. *Miss A Boyt states she does not object, although she refutes the allegation that the path was blocked when her father cut down a hedge. She is also concerned that care should be taken not to adversely affect the grass snakes.*
70. LCC comment- Any works necessary if a public right of way is established can be carried out in winter to minimise impact on snakes.

Summary of Objections

71. The objection can be summarised as five points as follows:

Point (i).The path was private to give access to a water pump.

Point (ii).There is no documentary evidence to support the path.

Point (iii.). Residents have told prospective walkers that there is no public right of way.

Point (iv).There is no need for the path.

Point (v). Grass snakes have been seen in the area.

72. It should be noted at this point that for objections to be relevant in the meaning of the Act, they must show that action was taken by the landowners to inform the public that use of the claimed path was not as of right. Actions that would qualify for this include maintenance of notices and approaching walkers to inform them the path was not public. To consider these in turn;
73. Point (i). No evidence has been provided to back up the assertion that the path was purely for private use to access the pump, and in addition the location of the pump on old maps is only part way along the claimed path.
74. Point (ii). The claimed path is clearly shown on old maps in the same way as the rest of Sketchley Lane which is now public highway. The extent of the claimed path is not registered with the Land Registry, which is also the case for the length of Sketchley Lane which is recorded as carriageway on the highway extents, and this is suggestive that the claimed route is part of an ancient highway.
75. Point (iii). This is relevant evidence to show intention not to dedicate the path for the dates on which users were challenged, but the challenge was not during the 20-year period under consideration so does not act against this claim.
76. Point (iv). This is not considered relevant under the meaning of the act.
77. Point (v). If the path is found to be public, mitigation against disturbing snakes could be made, for instance clearance work would be carried out in the winter months when snakes are hibernating.

Site Survey by Leicestershire County Council

78. A site survey of the claimed path was made by an officer of the Council on 23rd November 2018. A plan showing the results of the survey with photos is attached as Appendix Q.
79. Photo Q1. The path starts at the end of the adopted part of Sketchley Lane and then turns left between the hedge to No.14 and a timber garage. This part is overgrown from both sides and from the ground but is walkable. There is a telegraph pole in the path.
80. Photo Q2. The path then bends to the right running between hedges and separated from the garden to No.14.
81. Photo Q3. On reaching the garden to No.16 there is no hedge between the claimed path and the garden. At the far side of No.16 there is a hedgerow made stock proof with the addition of an old pallet.
82. Photo Q4. On the other side of the hedge footpath T34 runs along the edge of the field known as The Clift. If the hedges were trimmed the available width of the path would be about 2 metres. There are no signs

along the claimed route, and there are no structures along the route apart from the hedges on both sides and the pallet in the hedge boundary of the field.

Consultations

83. Consultations with interested parties, user groups and utilities were also carried out by the County Council between the 6th February 2019 and 7th March 2019. The Leicestershire branch of the Ramblers Association, the Leicestershire Footpath Association, the Parish Meeting, Harborough District Council and utility companies were all consulted. There were no objections received.

Conclusion

84. The path was called into question when it was blocked in the early-to-mid 1970's. The exact year is now hard to establish. Users suggest it was blocked when a hedge between the path and the garden to 16 Sketchley Lane was pulled out, but this is disputed by the owner in residence. It is clear however that it has not been in regular use for many years. The date used for the purposes of the Application is 1970.
85. In support of the existence of the path both user and documentary evidence has been supplied and found. User evidence has been supplied by 13 people. Given the time elapsed this is a reasonable number of witnesses, their evidence is consistent and there can be no doubt as to the line of the claimed path. The 20-year period prior to 1970 is covered.
86. Early maps show that Sketchley Lane has existed at least since the early 19th Century. The Enclosure Award of 1760 has no surviving plan, but the written description of the path running from Ratcliffe Bridge to Main Street (now called T34) is consistent with a route using the claimed path and Sketchley Lane and makes no mention of joining the path to Sheepy as it does today. The first edition Ordnance Survey Map of 1885 shows the claimed path as continuous with the current publicly maintainable part of Sketchley Lane, and the footpath from Ratcliffe Bridge curves to meet the end of claimed path before running on to join the path to Sheepy (now called T12).
87. The surrounding Land Registry titles all exclude the claimed path along with the rest of Sketchley Lane and this is an indication that the whole of the route has public rights. Put together the documentary evidence supports the user evidence and claimed route.
88. Information supplied by residents of Sketchley Lane to rebut the claim has been carefully considered. Their position can be summed up as a view that the claimed path was a private track or occupation road, to be used to access the water pump and maybe the field known as The Clift. Some of the points made do not rebut the evidence rather they suggest reasons

why the claimed path is not needed, and as such are not strictly relevant. The point is also made that there is no documentary evidence to show the path existed. Some evidence of challenge to use is supplied, but this is outside of the claim period.

89. To sum up, user evidence is backed up by the unregistered nature of the land parcel, and the documentary record. The historic evidence suggests that the claimed route was part of the footpath to Ratcliffe Stone Bridge laid out at the time of the Enclosure Act in 1760. Even if this is considered to be inconclusive, the usage between 1950 and 1970 would be sufficient to create a public footpath along the claimed route. The challenge from residents is not sufficient to call into doubt the evidence in favour of the path.

Equality and Human Rights Implications

90. The E.U. Convention Rights and the Articles that set out the rights of individuals (such as respect for family life) can impact on certain decisions where the County Council is making decisions or setting policy of public access and Rights of Way issues. However, this impact is confined to the exercise of those powers and functions the County Council has to exercise discretion about proposals that require a balance between the benefits of the scheme and the potential adverse implications for landowners and others.
91. On Rights of Way applications, proposals to divert a Right of Way or to use statutory powers to compulsorily create a new Right of Way should have reference to the Convention on Human Rights and take these issues into account when deciding if that scheme should proceed.
92. However, applications submitted to the County Council under the Wildlife and Countryside Act 1981 for a Definitive Map Modification Order have limited discretion. These applications do not create new footpaths etc., but only grant recognition of existing Rights of Way that, in this case, may have been deemed to have been dedicated by the landowner, even if only by default. For that reason, arguments based on a potential breach of any of the Article rights have no relevance to such applications. The Secretary of State has indicated that objections based on such rights will not be regarded as relevant.
93. It is considered that there are no equality and human rights implications arising from this report.

Background Papers

User Evidence Forms
Email from Miss A Boyt

Appendices

- A. M1109P Proposal Plan
- B. Copy of the Application from Witherley Parish Council
- C. Greenwoods Map of 1826
- D. Ordnance Survey of 1815
- E. Ordnance Survey 25-inch map published 1886
- F. Ordnance Survey 25-inch map published 1903
- G. Ordnance Survey 25-inch map published 1925
- H. Map of field names
- I. Witherley Parish Council survey and schedule of 1952
- J. First Definitive Map 1952
- K. Aerial photo taken in 1969
- L. Abstract of title form 1912
- M. Handover Map for highways transferring from Hinckley UDC to Leicestershire in 1925
- N. Land Registry Map Search showing extent of registered titles
- O. User evidence bar chart
- P. Representation from Ms K Horton
- Q. Photo survey of the claimed route dated November 2018

Form PT634

APPLICATION FOR DEFINITIVE MAP MODIFICATION ORDERWILDLIFE AND COUNTRYSIDE ACT 1981
DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF LEICESTERSHIRE

Please complete this form and return it together with Form PT636, and any evidence you wish to submit, to: Safe and Sustainable Travel Team, Environment and Transport Department, Leicestershire County Council, County Hall, Glenfield, Leicester, LE3 8RJ.

I/We, WITHERLEY PARISH COUNCIL ^{ANGELA FORSYTH} CLERK
of WITHERLEY PARISH COUNCIL

hereby apply for an Order under Section 53(2) of the Wildlife and Countryside Act 1981, modifying the Definitive Map and Statement for the area by

~~*adding a footpath/bridleway/byway open to all traffic~~

~~*deleting a footpath/bridleway/byway open to all traffic~~

~~*upgrading the footpath/bridleway~~

~~*downgrading the bridleway/byway open to all traffic~~

~~*varying the particulars in the Definitive Statement relating to the footpath/bridleway/byway open to all traffic~~

(*delete as appropriate)

which runs from SKETCHLEY LANE, RATCLIFFE CULEY
to (T34) SHEEPY MAGNA ROAD TOWARDS ATHERSTONE
as shown on the attached plan.

I/We attach copies of the following documentary evidence (including statements of witnesses) in support of this application:

List of Documents

Maps 1903, 1925, 2005. (Ordnance Survey)
Land Registry map
Copy of Enclosure Award 1767 (part)
Letters from previous path users (Total 4)
photographs:

Signed.....

Dated.....

1.0.1.2017.

How we use your information

Any information you provide will be used in accordance with the Data Protection Act 1998 and other relevant legislation. The information will be used to consider your application for a Definitive Map Modification Order. A copy of your application (including your name and address) will be published online in order to meet statutory requirements. Other personal details (such as telephone numbers, email addresses and signatures) will be removed before publication.

Form PT636

CERTIFICATE OF SERVICE OF NOTICE:**APPLICATION FOR DEFINITIVE MAP MODIFICATION ORDER**

WILDLIFE AND COUNTRYSIDE ACT 1981

DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF LEICESTERSHIRE

Please complete this form and return it together with Form PT634, and any evidence you wish to submit, to: Safe and Sustainable Travel Team, Environment and Transport Department, Leicestershire County Council, County Hall, Glenfield, Leicester, LE3 8RJ.

IN ~~the~~ *Angela Forsyth*
of *Witterley Parish Council*

Hereby certify that the requirements of paragraph 2 of Schedule 14 of the Wildlife and Countryside Act 1981, have been complied with.

Names and addresses of owners and occupiers of land on whom Notice has been served

Amanda Boyt 16 Sketchnley Lane, Ratcliffe Culey
Georgina Boyt 16 Sketchnley Lane, Ratcliffe Culey

Form PT635

NOTICE:**APPLICATION FOR DEFINITIVE MAP MODIFICATION ORDER**

WILDLIFE AND COUNTRYSIDE ACT 1981

DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF LEICESTERSHIRE

Applicants must complete this notice and send a copy to all landowners and occupiers who may have an interest in the land affected by the application.

To:.....

of:.....

Notice is hereby given that on the(date),

I/We,

of.....

Made application to Leicestershire County Council, for an Order under Section 53(2) of the Wildlife and Countryside Act 1981, modifying the Definitive Map and Statement for the area by

*adding a footpath/bridleway/byway open to all traffic

*deleting a footpath/bridleway/byway open to all traffic

*upgrading the footpath/bridleway

*downgrading the bridleway/byway open to all traffic

*varying the particulars in the Definitive Statement relating to the footpath/bridleway/byway open to all traffic

(*delete as appropriate)

which runs

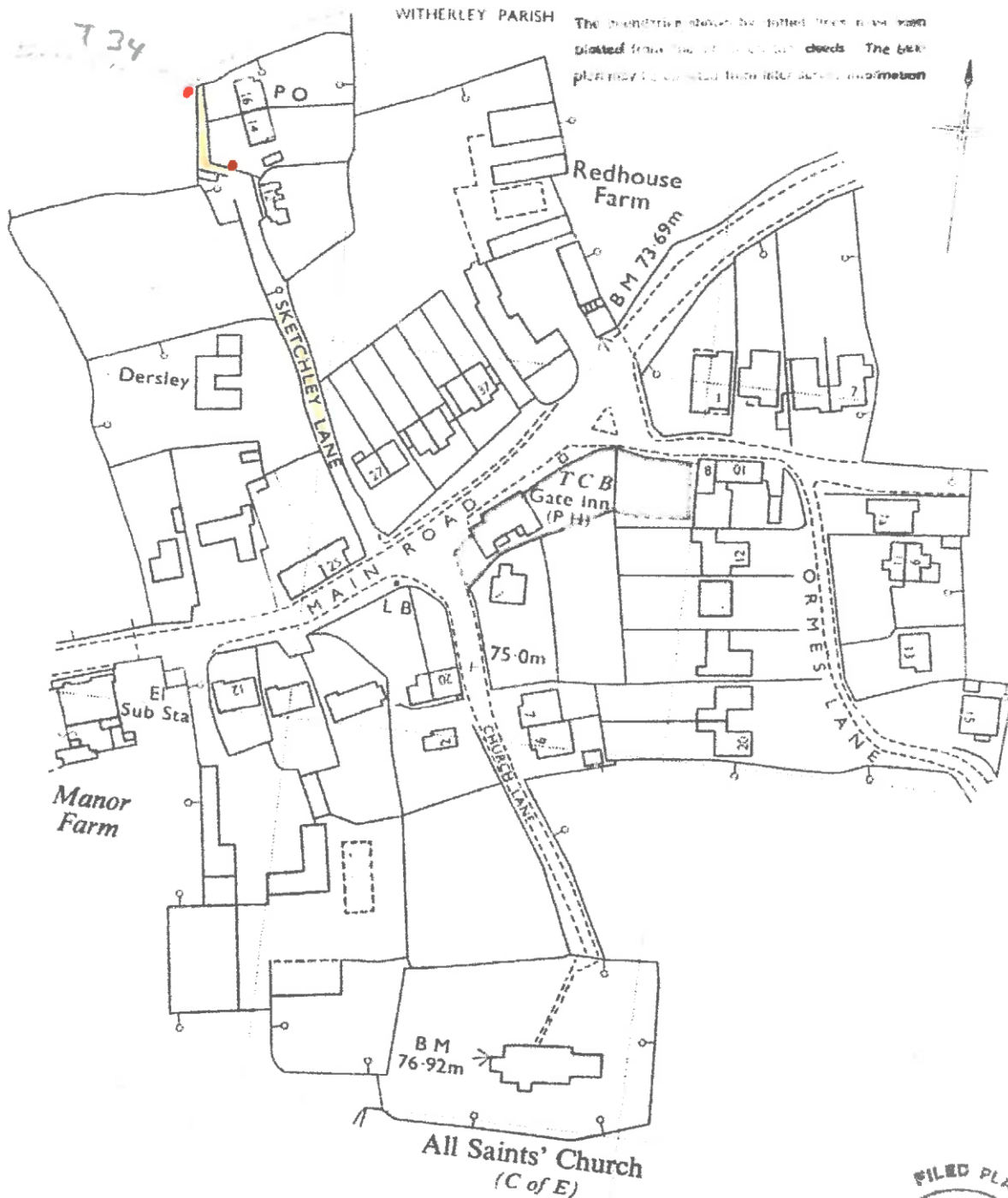
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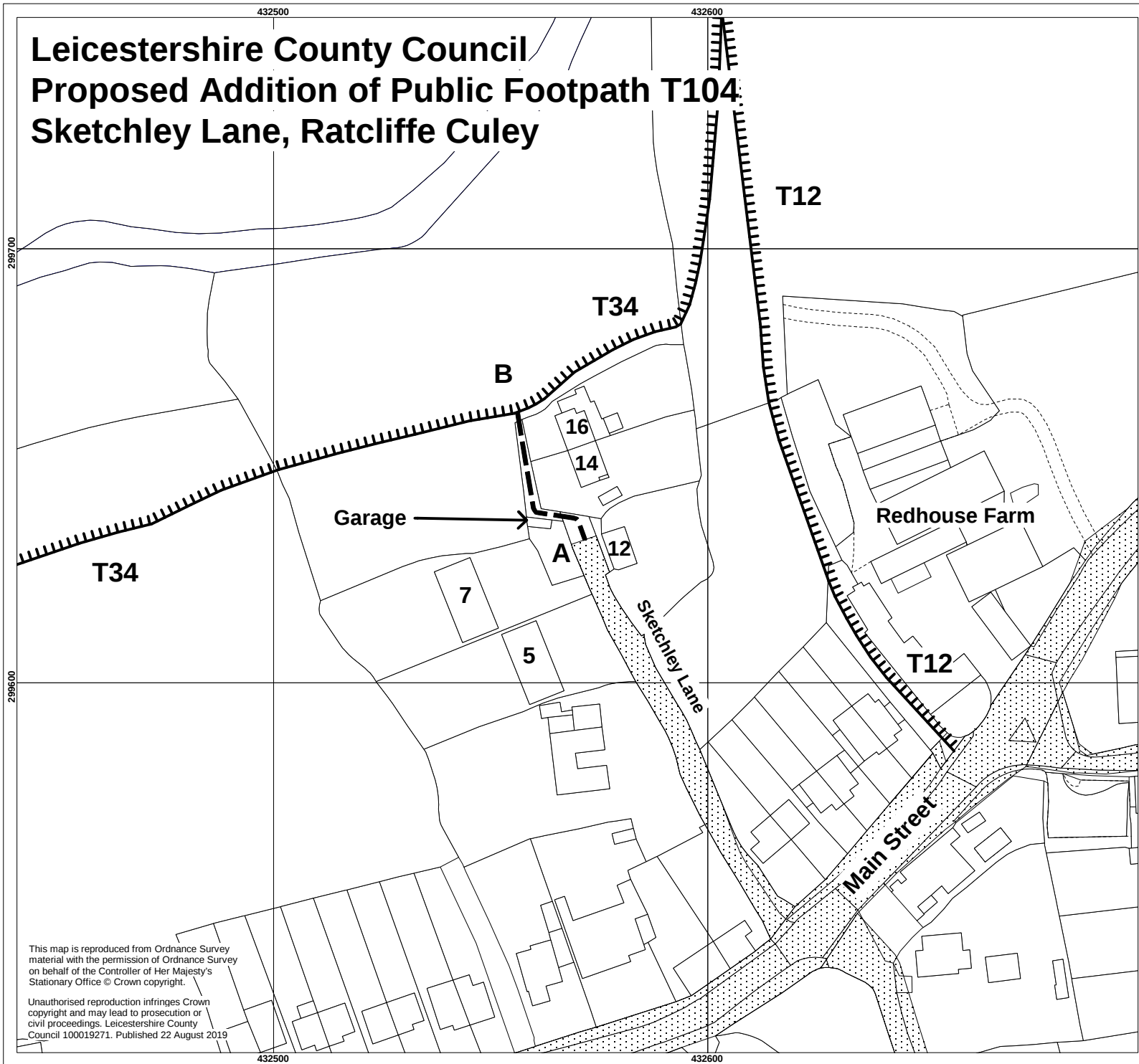
as shown on the attached plan.

Signed.....Dated.....

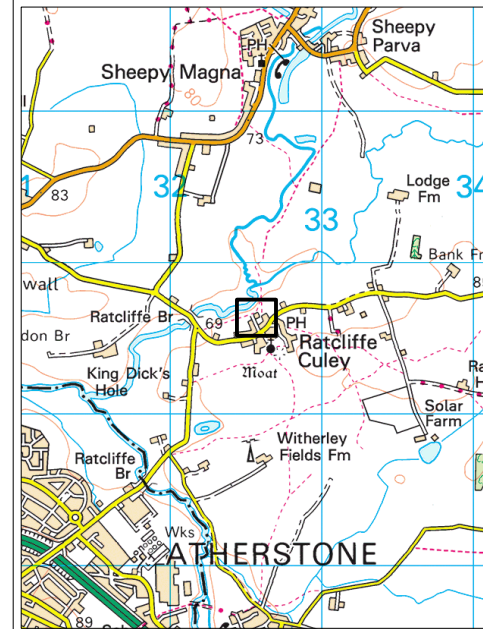
H.M. LAND REGISTRY		TITLE NUMBER	
		LT 278367	
ORDNANCE SURVEY PLAN REFERENCE	SP 3299	SECTION A	Scale 1:1250 Enlarged from 1:2500
COUNTY LEICESTERSHIRE	DISTRICT HINCKLEY AND BOSWORTH	(c) Crown copyright 1982	



Leicestershire County Council Proposed Addition of Public Footpath T104 Sketchley Lane, Ratcliffe Culey



Location Plan



Key

- Footpath T104 A-B to be added
- Other Public Footpaths

Environment & Transport Department,
County Hall, Glenfield,
Leicestershire LE3 8RJ
email footpaths@leics.gov.uk
Director Ann Carruthers



**Leicestershire
County Council**

Plan No.M1109P

Scale 1:1250

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Sketches, June 1894

DE 491 / 28-29-30.

RATCLIFFE CULEY ENCLOSURE ACT 1766.AWARD 2. APRIL 1769
EN/A/261/1

AWARDS FOR NINE PUBLIC FOOTWAY + ROADWAYS IN THE PARISH OF R.C

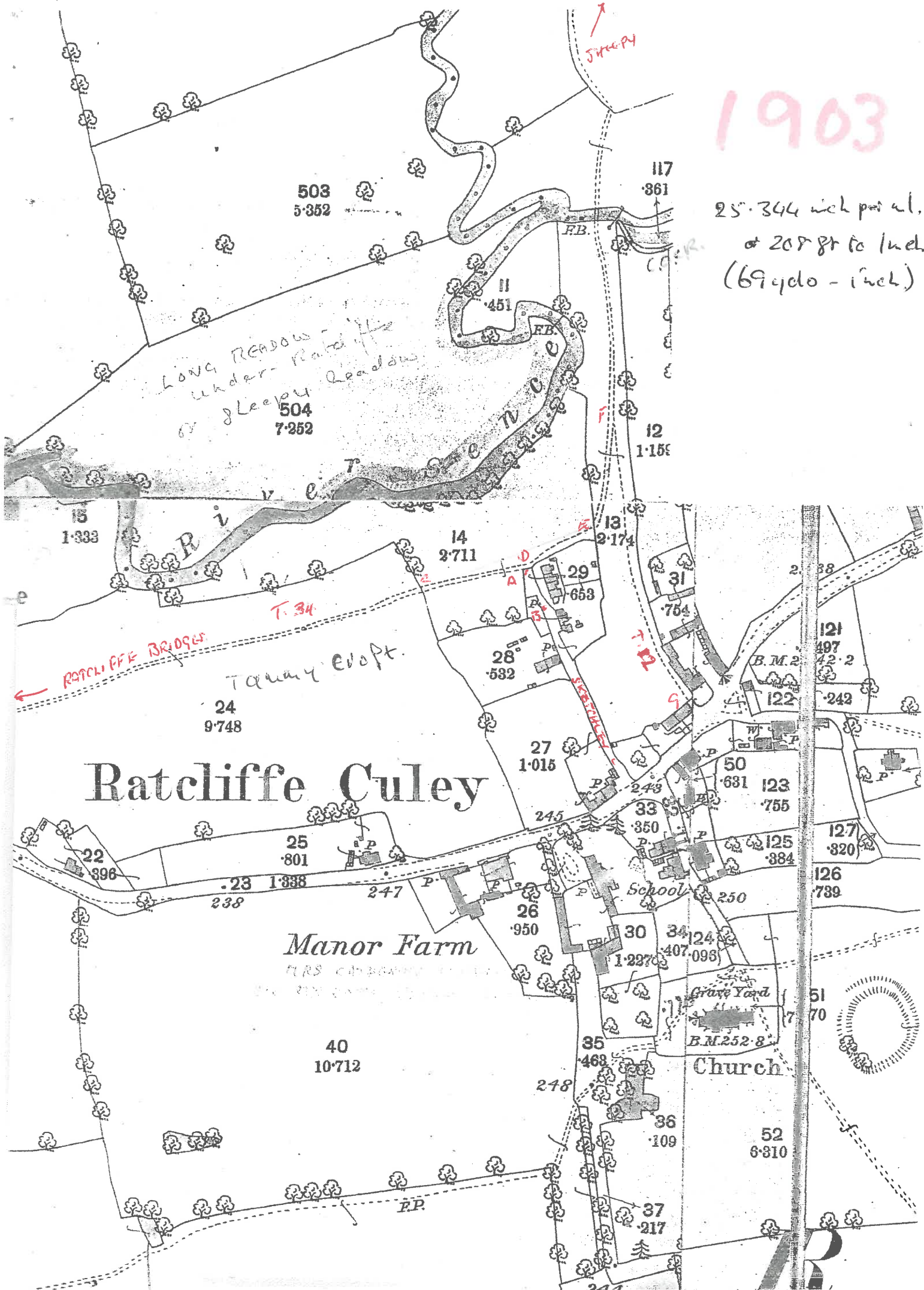
3.

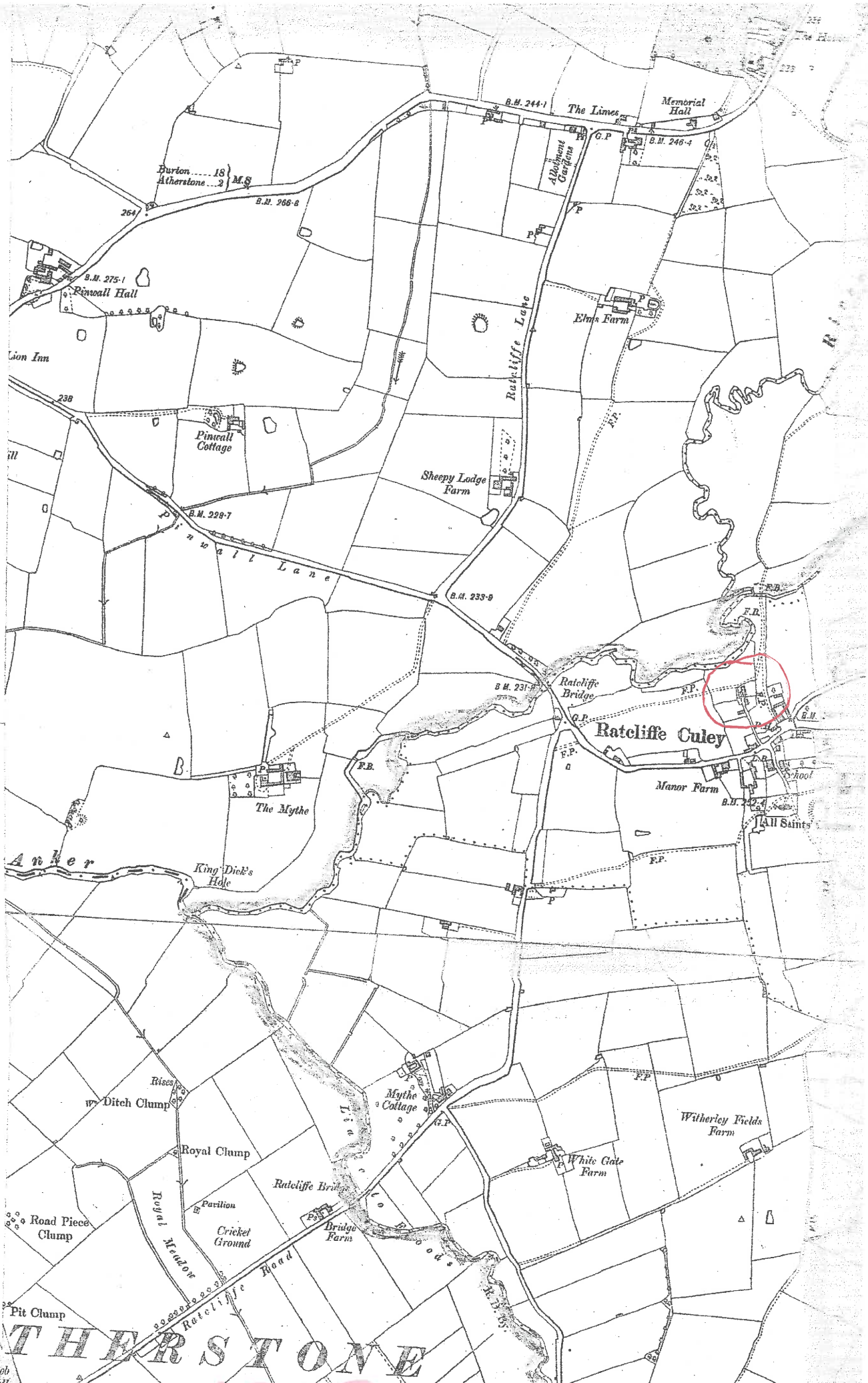
One publick footway leading from the town street of Ratcliffe Culey in the usual tract through and over one ancient Inclosure called the Tannycroft into the lane near to Ratcliffe Culey Stone bridge and which said footway shall be deemed and taken to be the common footway to lead from Ratcliffe Culey towards the Mythe House, Pinwell Grange and Polesworth.

4.

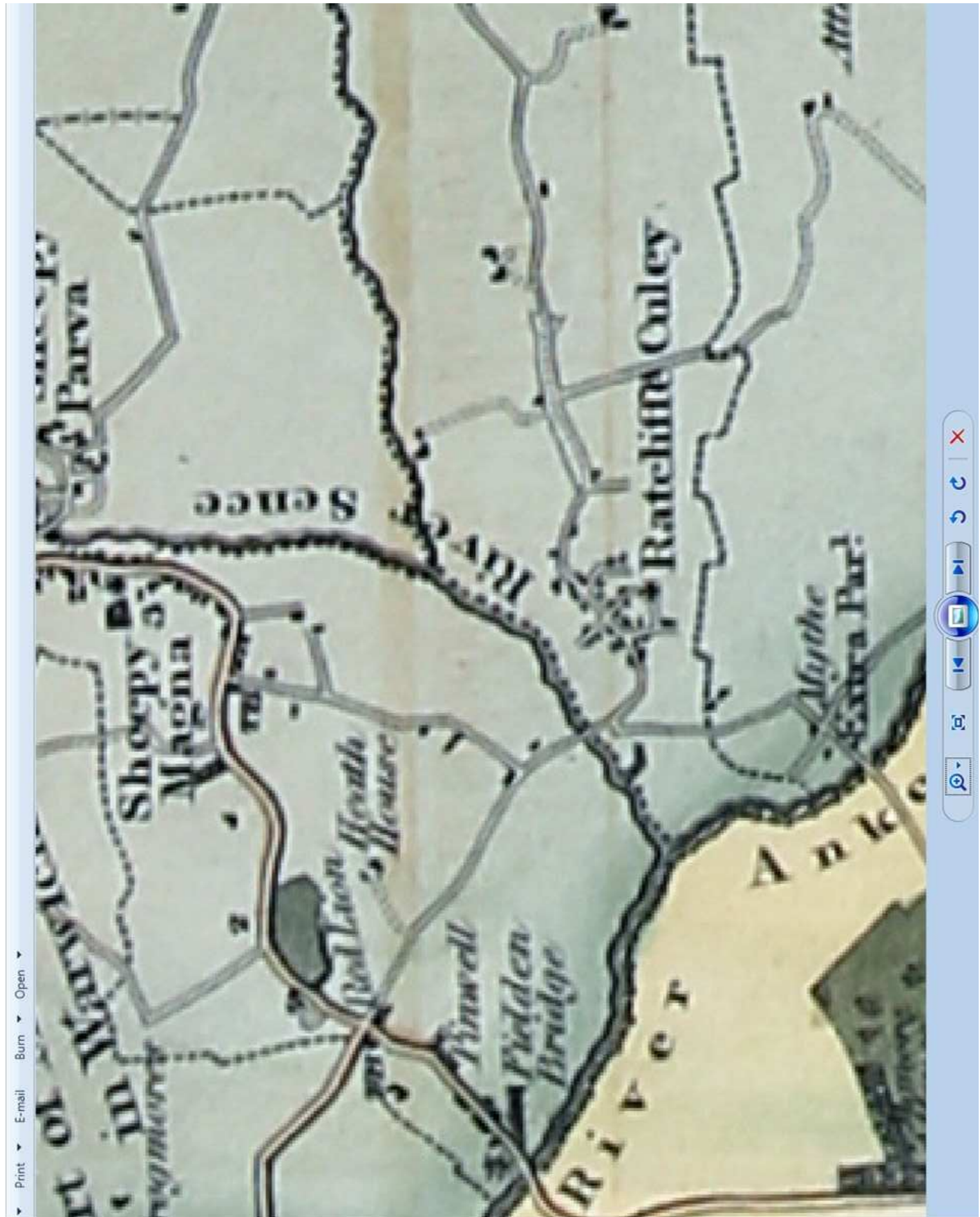
One other publick footway leading from the Town Street of Ratcliffe Culey in the tract hitherto used through and over ancient Inclosures called the Kings Yard and Kings Meadow to a footpath or bridge leading over the river into the lordship of Little Sheepy and which said footway shall be deemed and taken to be the common footway to lead from Ratcliffe Culey towards Great Sheepy and Little Sheepy.

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(69 ydo - inch)









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Leicestershire XXXIV.7 (Atherstone; Grendon; Sheepy; Witherley)

Surveyed: 1885

Published: 1886

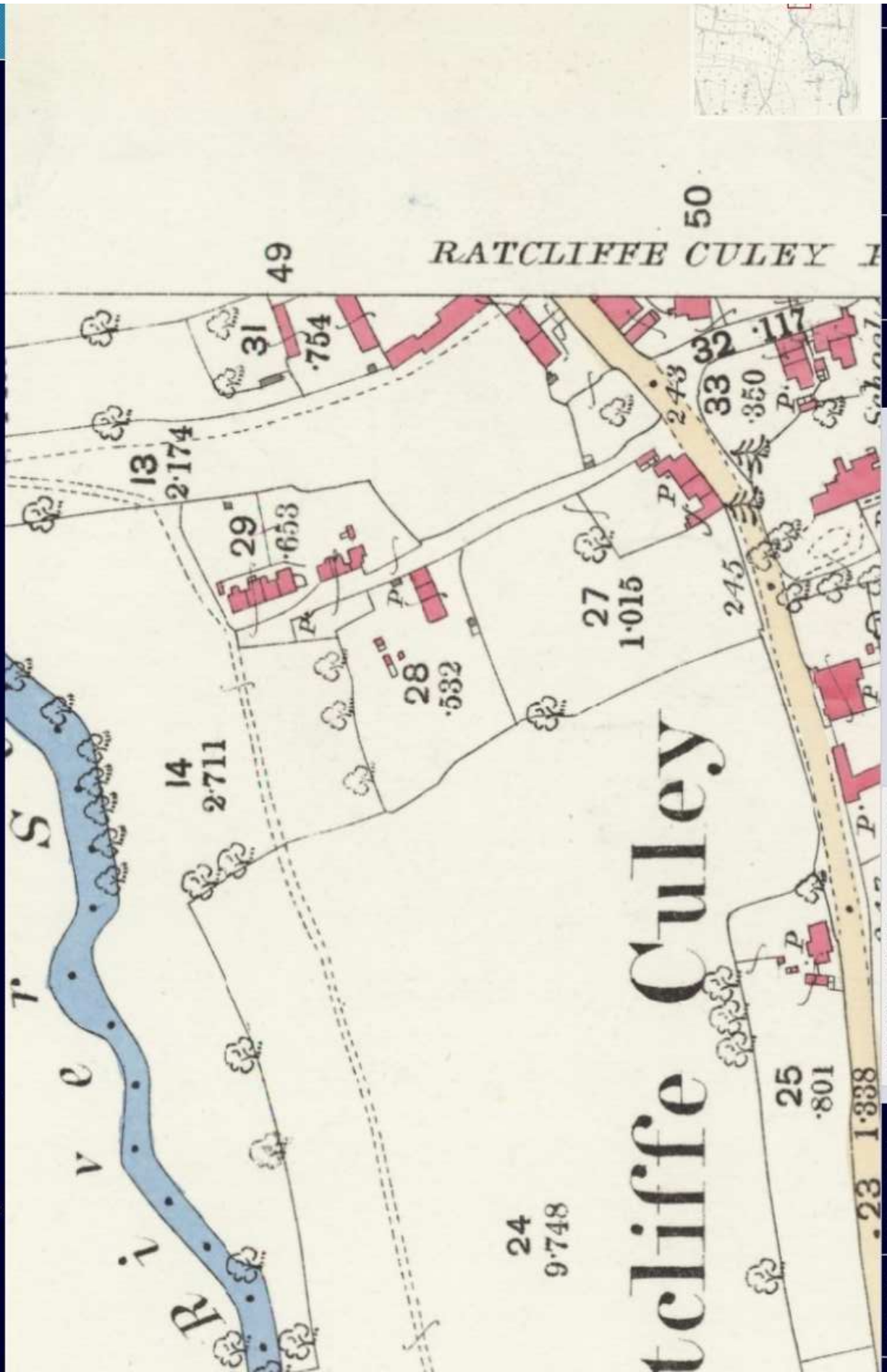
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ome > OS 25 inch England and Wales, 1841-1952

Order

Keyword search



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Home > OS Six-inch Scotland 1892-1960; or England and Wales, 1842-1952

☒ Find a place:
☒ Search Gazetteer ☐ UK ☐ World
 Type a placename... or
 Search by National Grid Reference:
 Type Grid Ref...

☒ Search OS six-inch 1888-1913 names:
 Type an 1888-1913 name...
 Search County: Choose...
 Choose an historic map overlay:
 Select a category: Great Britain
 Select a map / map series: OS Six Inch, 1888-1913
 Zoom to this map / map series:
☐ Change transparency of overlay:

These overlay lists automatically update to those covering the map

View the individual sheets of this OS six-inch mapping by selecting "Find by place" above

How many location? ☐

Leicestershire XXXIV.NE, Revised: 1901, Published: 1903

Tiles © ArcGIS NLS Historic Maps Subscription

43259
-1.520°
52° 35' 33" N 1°

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Leicestershire XXXIV.NE (includes: Sheepy; Witherley.)

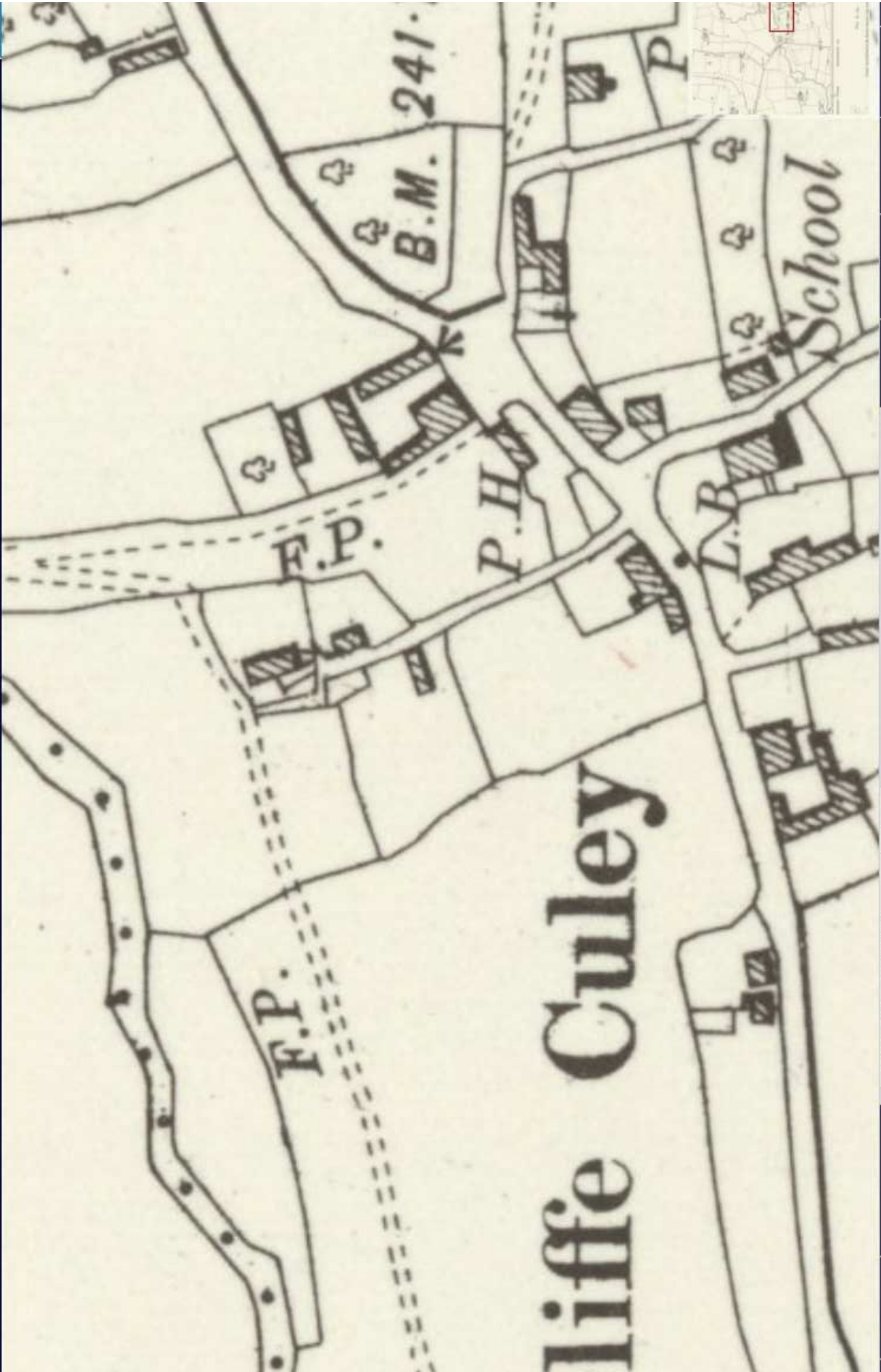
Revised: 1922

Published: 1925

Keyword search

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ome > OS Six-inch England and Wales, 1842-1952



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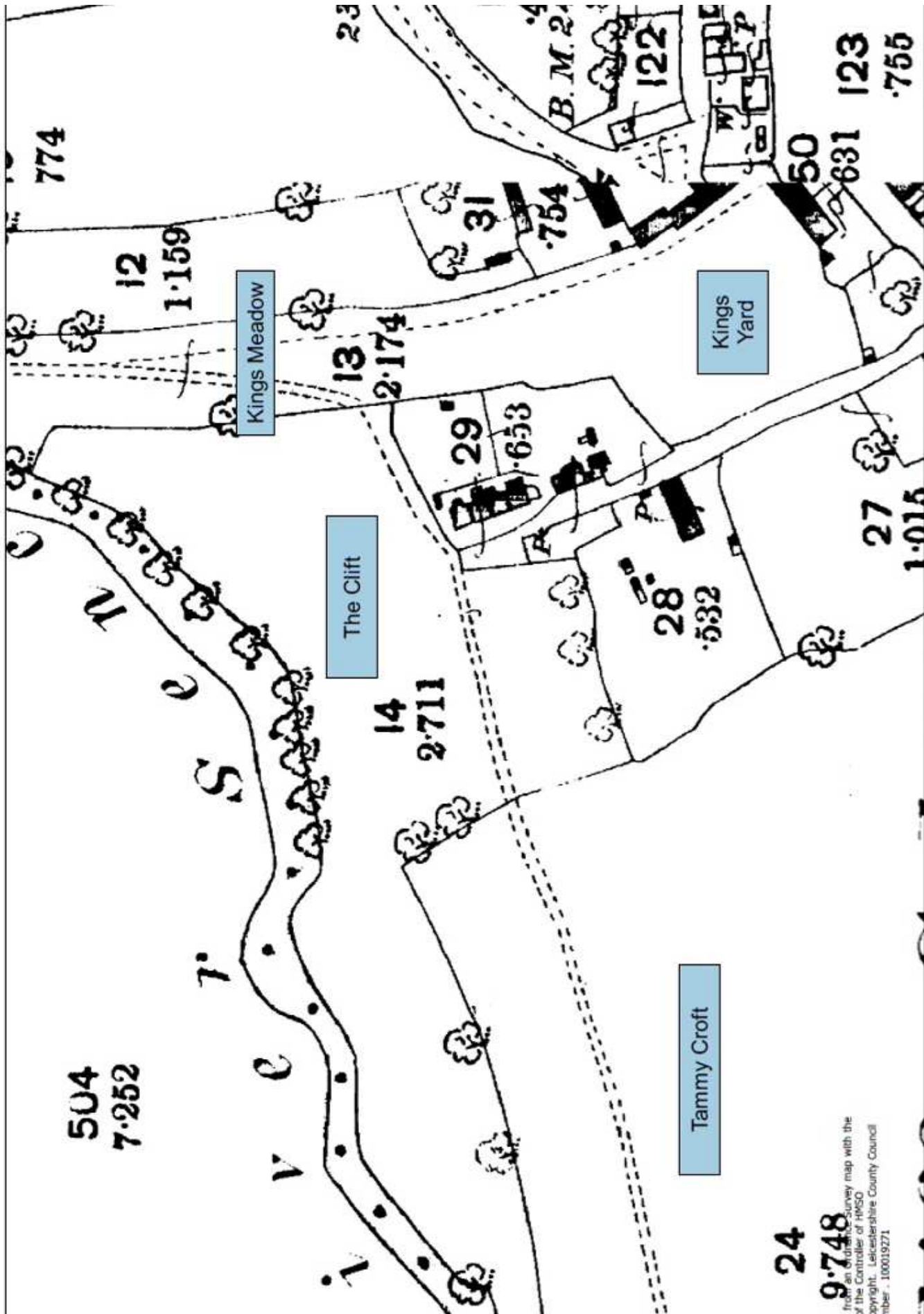
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Strategic Property Services
Corporate Resources Dept
County Hall, Glenfield
Leicester LE3 8RE



1:1250 @ A4 Landscape
Stephen Tipping
23/10/2018

Ratcliffe Field Names

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NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949
SURVEY OF RIGHTS OF WAY

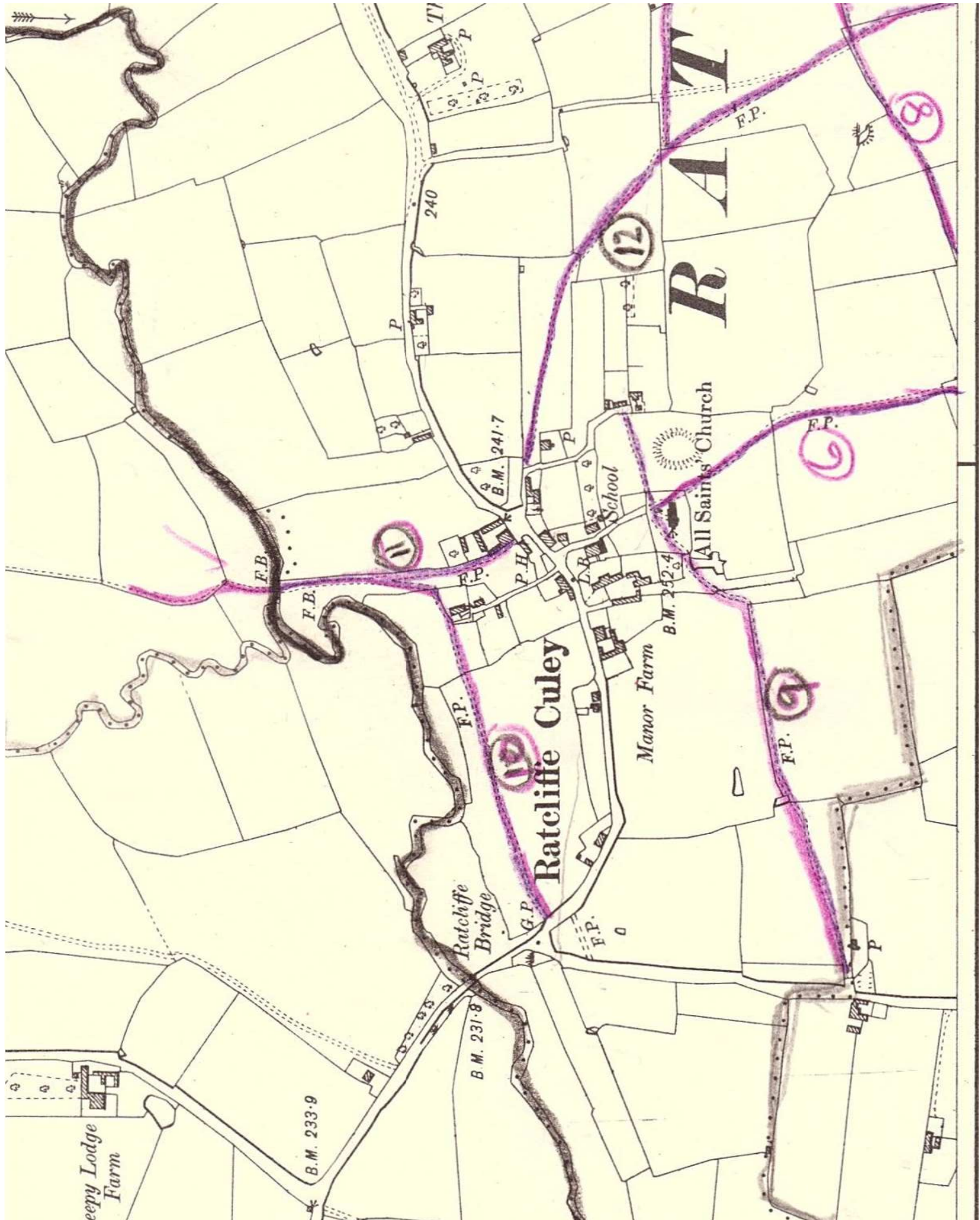
In completing this form due regard should be had to the information contained in the pamphlet "Survey of Rights of Way" issued by the Ministry of Town and Country Planning

(2) Kind of path	(3) Name of path (if any)	(4) Starting and finishing point and concise information about features on the path (vide pages 11, 12 and 13 of pamphlet)	(5) Grounds for believing path to be public	(6) Condition of path	(7) How suitable, i.e. whether ridden
Footpath	—	From Pythe Cottage Corner to Silson Bridge	No evidence	Unusable	Not
Footpath	—	Wharfedale Road to Vine Cottage from Kalscliffe Leasing	Unknown	Unusable	—
Footpath	—	From Kalscliffe Turn to Sketchley Lane adjoining N. 11 and thence to Sheepy	used in living memory, ploughed up.	—	—
Footpath	—	From side of Red House Farm joins us. 12 thence to Sheepy from Ormes Lane to Mill, Barne	— do. —	Fair	Used
Footpath	—	From N. 12 to Barn leading to Kalscliffe House to	No evidence.	No trace.	—
Footpath	—	Starting opposite Kalscliffe House to Kalscliffe School	No evidence.	No trace.	—
Footpath	—	—	No evidence.	Not known	—

Surveyed by John Harris Address Bradford Date 1950

W. H. Harris

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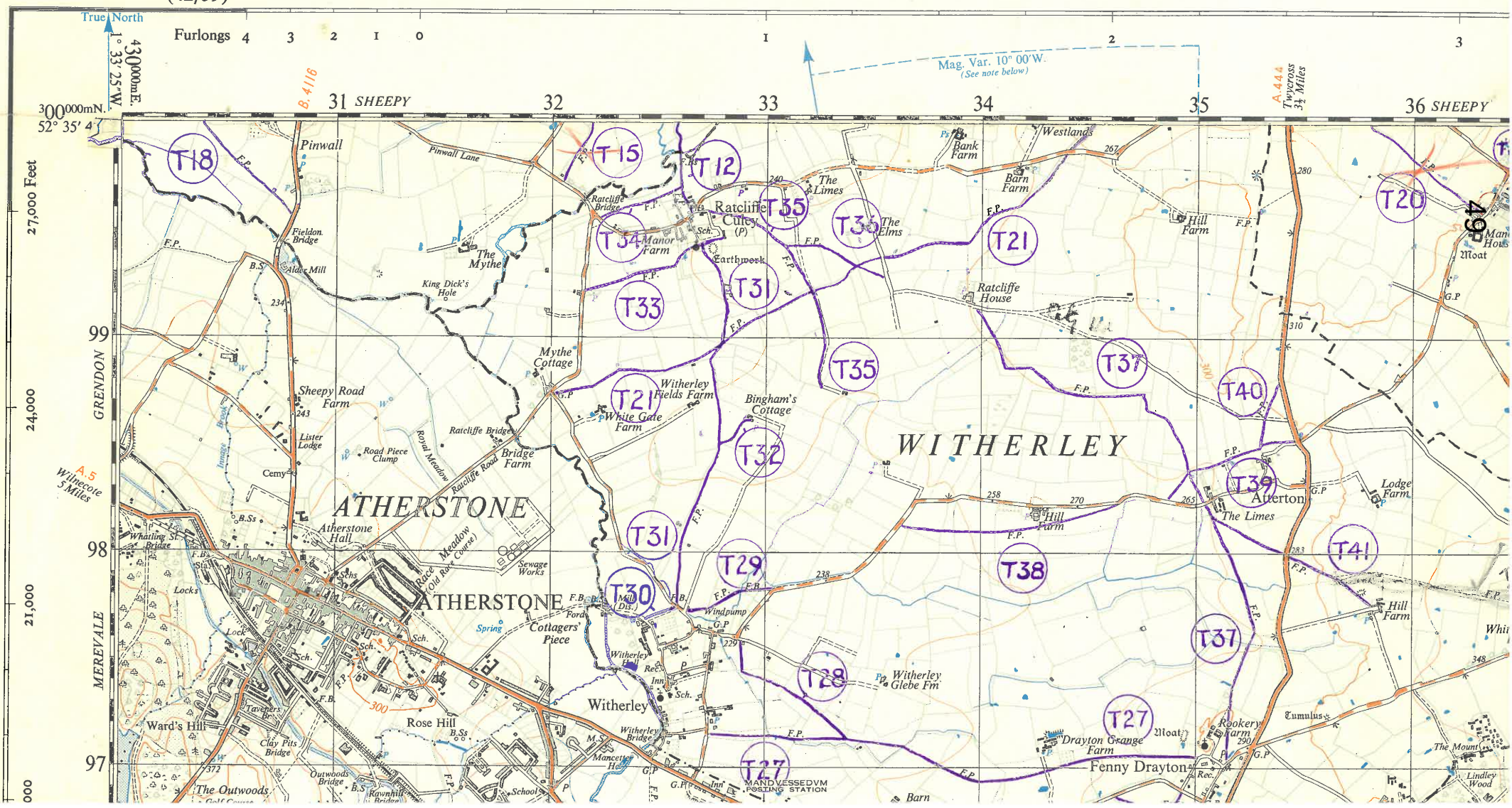
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ORDNANCE SURVEY

Scale 1:25,000 or about 2½ Inches to 1 Mile

Provisional Edition

SHEET SP39
(42/39)



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First Definitive Statement: 1st December 1952

National Parks and Access to the Countryside Act, 1949.

Part IV. Section 27.

STATEMENT of Public Rights of Way.

RELEVANT DATE... Dec. 1st 1952.....

Ref.No. on Map.	TYPE OF RIGHT OF WAY	POSITION OF RIGHT OF WAY	WIDTH	LIMITAT APPEC
T. 25	Footpath	From Shenton Lane corner towards Sibson.	Not Defined.	
T. 26	Footpath	From the Upton Lane south of Sibson to Sibson	ditto	
T. 27	Footpath	From Kennel Lane, Witherley to Penny Drayton.	ditto	
T. 28	Footpath	From the Parish Room, Witherley to T. 27	ditto	
T. 29	Footpath	From Witherley to the Attention Lane.	ditto	
T. 30	Footpath	From Mythe Lane to Mill Lane, Witherley.	ditto	
T. 31	Footpath	From Mythe Lane, Witherley to Ratcliffe Culey Church	ditto	
T. 32	Footpath	From T. 31 to Bingham's Cottage, Witherley	ditto	
T. 33	Footpath	From the Atherstone Road, Ratcliffe Culey to Vine Cottage, Ratcliffe Culey.	ditto	
T. 34	Footpath	From the Atherstone-Sheepy Magna Road at Ratcliffe Bridge to T. 12 at Ratcliffe Culey.	ditto	
T. 35	Footpath	From Ormes Lane to Mills Barn, Ratcliffe Culey.	ditto	
T. 36	Footpath	From T. 35 east of Ratcliffe Culey towards Ratcliffe House.	ditto	
T. 37	Footpath	From Ratcliffe House, Ratcliffe Culey to Attention and Penny Drayton.	ditto	
T. 38	Footpath	From the Attention-Witherley Road west of Attention south of Hill Farm to rejoin Witherley Road.	ditto	

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Environment and
Transport

Scale 1:500



1969 Aerial Photo

Sketchley Lane

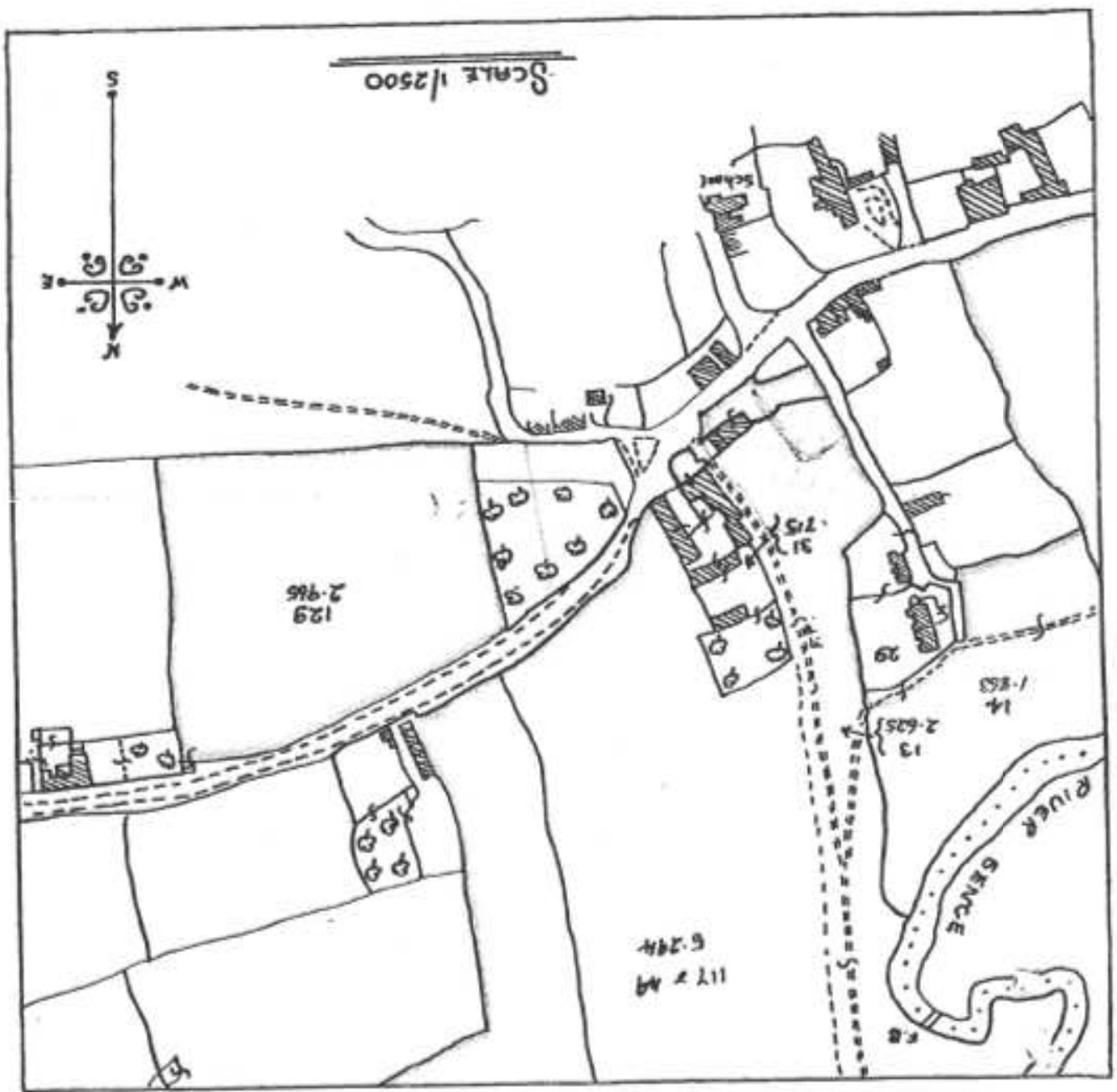


Leicestershire
County Council

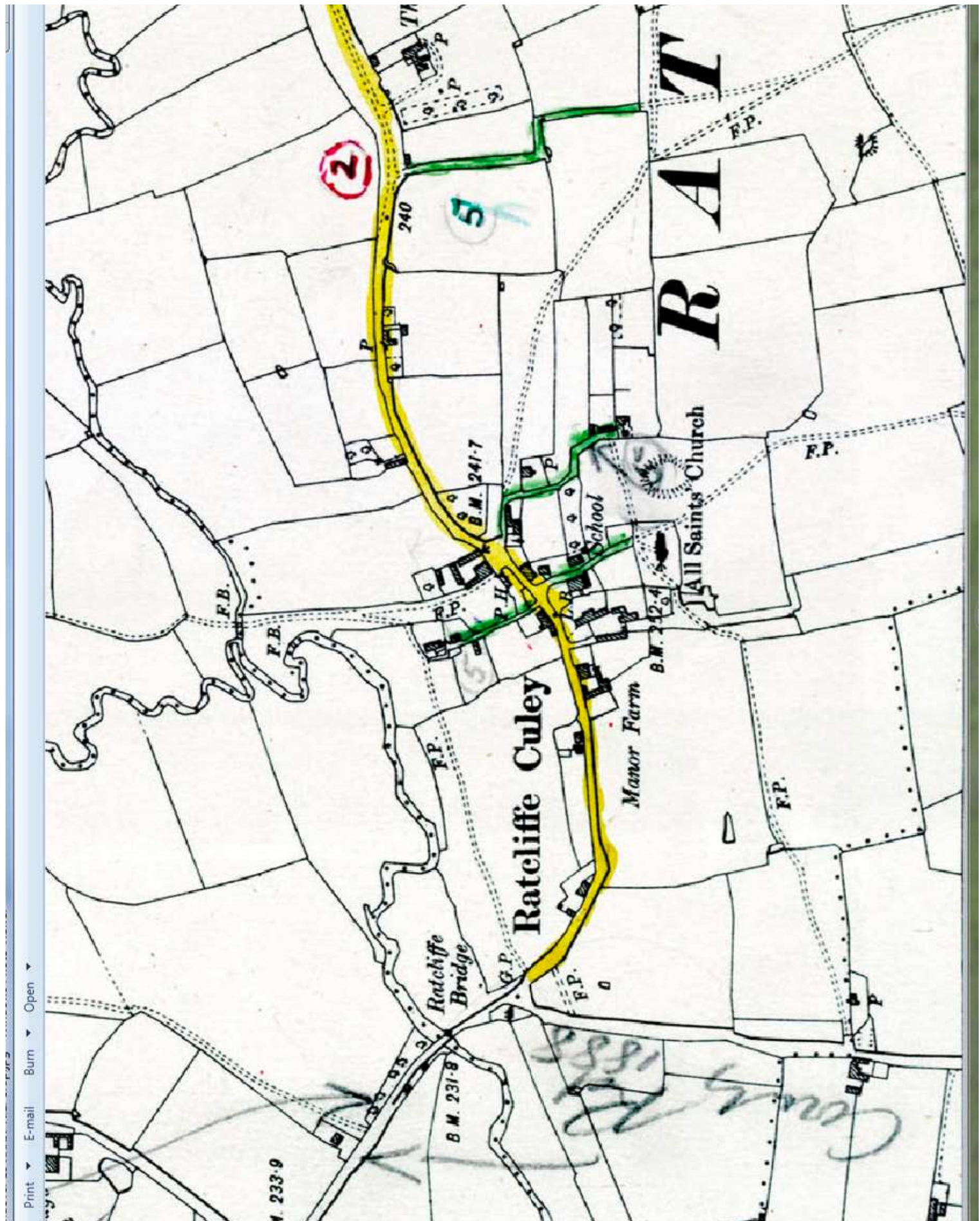
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28/9/1912

From Abstract of Title of Messrs R. A. Avoit Ltd

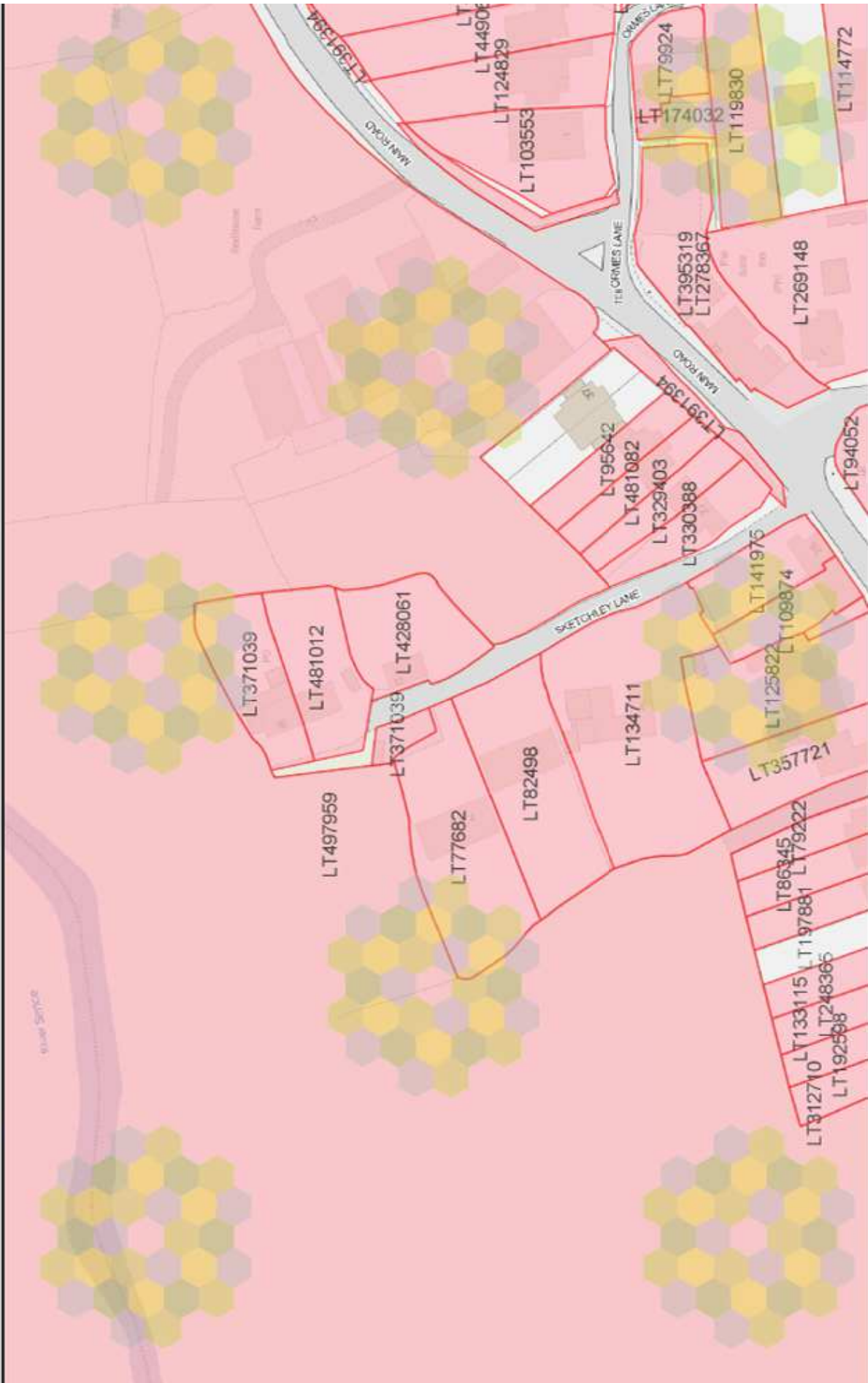


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MapSearch Snapshot

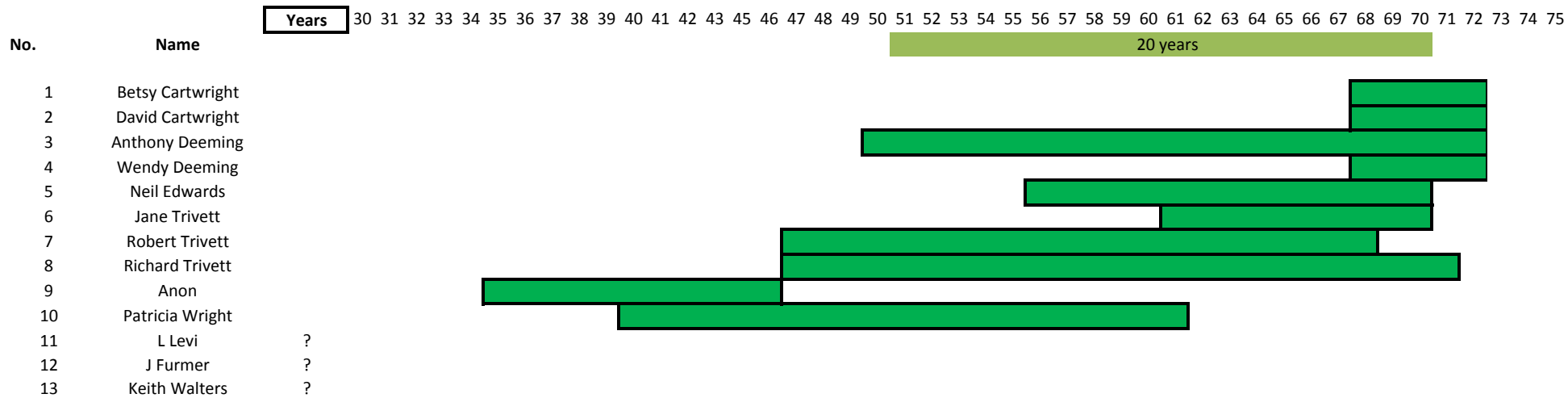


Map scale

15 20 25 30 35 40 50m

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 Last updated 10:00pm 18 JUNE, 2018

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Stephen Tipping

From: Karen Horton
Sent: 03 March 2019 15:39
To: Stephen Tipping
Subject: Section 53 - WILDLIFE AND COUNTRYSIDE ACT 1981 - Addition of a Public Footpath at Sketchley Lane, Ratcliffe Culey in the Parish of Witherley and the Borough of Hinckley and Bosworth

Your Ref: IV/LQ/ST M1109

Dear Mr. Tipping,

Thank you for your letter dated 14 February 2019 concerning the above.

I have now had a chance to study the documents which you arranged to be sent to me, following my request. I would make the following observations:

My family have lived in the area since the 1760s and in Ratcliffe Culey for over 100 years. Before my parents were married in 1952 my Father lived at 12 Sketchley Lane with his parents, brother and grandfather. This property is still owned and occupied by my Aunt. I believe this property is registered at the Land Registry under Title Number LT428061. Under this title the owners of this property had the right to use the water pump which was situated in the front garden of 14 Sketchley Lane until the 1970s. I believe the pathway in question was used for access, during earlier times, to the water pump before mains water was available.

Looking through the other documentation relating to this alleged footpath there does not appear to be any evidence to suggest there was ever a public footpath in existence, other than the fact that several people used the path without permission previously, if the Public Rights of Way evidence forms are to be believed.

In recent years if anyone has tried to use the path either Miss Boyt or myself have been out and told them it was not a public right of way.

As mentioned to you previously I do not see the need for this footpath to be created as there is already access to the footpath T34 via Main Road (opposite the Gate Inn and adjacent to Mr. Hunt's farm). This is currently already well used by villagers and others.

In addition grass snakes have occupied the area in question in the last few years.

I look forward to hearing from you.

Kind Regards,

Karen Horton (Miss)k

Sent from my iPad

Photo Q1



Photo Q2



Photo Q3



Photo Q4



DEVELOPMENT CONTROL AND REGULATORY BOARD**THURSDAY, 12 SEPTEMBER 2019**
REPORT OF THE CHIEF EXECUTIVE**COUNTY MATTER****CADEBY QUARRY 2019/0601/04****PART A – SUMMARY REPORT**

APP.NO. & DATE:	2019/0601/04 (2019/VOCM/0107/LCC) – 22th May 2019
PROPOSAL:	Variation of Condition 2 of planning permission 2018/1136/04 to enable an extension to the deadline for restoration of Areas 'I' and 'H' until 31st December 2019. Variation of Condition 37 of planning permission 2018/1136/04 to amend approved details at Cadeby Quarry (Restoration Plan).
LOCATION:	Cadeby Quarry, Brascote Lane, Cadeby
APPLICANT:	Tarmac trading Ltd.
MAIN ISSUES:	Restoration, historic landscape character and visual impact
RECOMMENDATION:	PERMIT subject to conditions as set out in the Appendix

Circulation Under Local Issues Alert Procedure

Mr B. Crooks CC

Officer to Contact

David Wallis (Tel. 0116 305 3835).
Email: planningcontrol@leics.gov.uk

PART B – MAIN REPORT

Description of Site

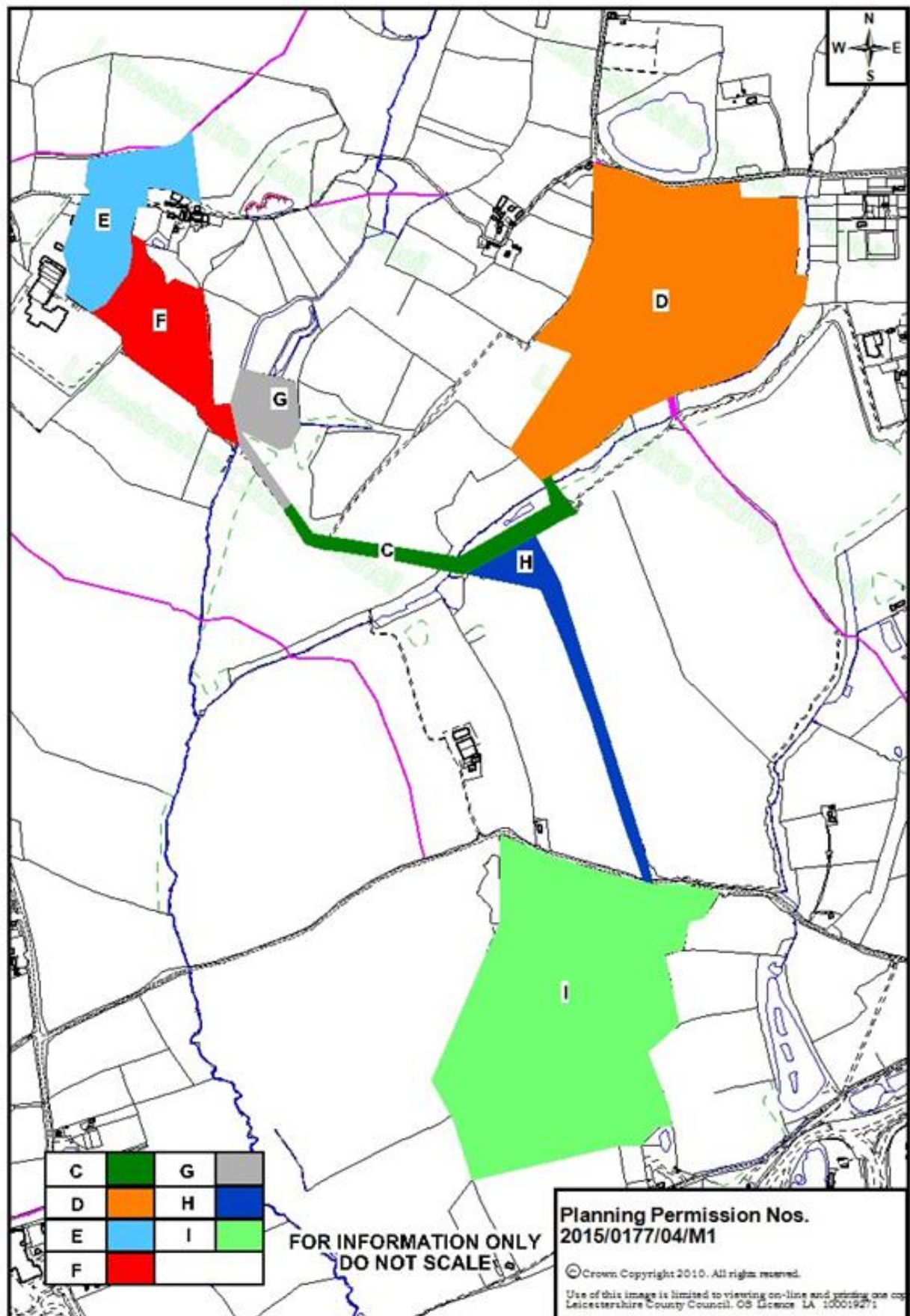
1. Cadeby Quarry is an established sand and gravel quarry located approximately 6km north of Hinckley, 9km south of Ibstock and 2.5km south east of Market Bosworth. The quarrying operations are bounded by the villages of Cadeby, Kirkby Mallory and Newbold Verdon. The former working to be restored (area 'I', see Plan 1 below) is immediately south of Bosworth Road, 1km east of the A447 and 1km west of Kirkby Mallory. The area that accommodated the associated conveyor (area 'H') extends 800m north north-west of the Bosworth Road.
2. The nearest residential properties to the restoration area are on Stapleton Lane, approximately 300m south of area 'I' and in Kirkby Mallory approximately 670m to the east of area 'I'.

Background

3. Sand and gravel extraction has been ongoing at the site since 1964 under a number of planning permissions. A 'Southern Extension' south of Bosworth Road (area 'I') was approved in 2010 under planning permission 2010/0554/04.
4. In July 2015 planning permission was granted to extend mineral working in the extraction area south of Bosworth Road (planning permission 2015/0688/04). This permission also covers other areas which were previously worked, ensuring the aftercare of these areas, as well as limiting the life of the processing plant, associated machinery, buildings and conveyors until the 31st December 2021. This permission also set the deadline for the restoration of areas 'H' and 'I' as 4th May 2018.
5. In May 2018 Tarmac sought an extension to the restoration deadline by varying Condition 2 of permission 2015/0688/04 as infilling works associated with the conveyor tunnel under Bosworth Road had yet to be approved and undertaken. The applicant anticipated the restoration works could be completed in six months. This application was approved in July 2018 (planning permission 2018/0461/04) granting extension to the restoration deadline for areas 'H' and 'I' until 4th November 2018.
6. In October 2018 Tarmac sought an extension to the 4th November 2018 deadline for the same reasons as the previous application. In January 2019 this application was granted (planning permission reference 2018/1136/04) to extend the deadline for the restoration of areas 'H' and 'I' to 4th May 2019.

Description of Proposal

7. The applicant wishes to vary Condition 2 of planning permission 2018/1136/04 to extend the restoration deadline of areas 'H' and 'I' until 31st December 2019. The applicant states that the restoration works required in areas 'H' and 'I' cannot be completed until works associated with the conveyor tunnel have been approved under Section 278 of the Highways Act 1980 (as amended) and undertaken.
8. Pursuant to a Section 278 agreement, Technical Approval of proposed infilling of the conveyor tunnel was issued by the Highway Authority on 26th June 2019. In addition to a Section 278 agreement a Section 50 licence is required to install a drainage pipe within the infilled conveyor tunnel which has yet to be agreed and issued.



Plan 1. Areas covered by planning permission 2015/0688/04 (Cadeby Quarry).

9. After discussions between Tarmac and the landowner a variation of Condition 37 is also sought. It is proposed to amend the approved restoration scheme (drawing C180/PL15/M04) by replacing an approved, but yet to be planted hedgerow crossing area 'I' east to west. The same length of hedgerow would be planted along the northern boundary of the Southern Extension, immediately south of Bosworth Road. Retrospective permission is also sought for minor changes to the location of an approved pond in area 'I'.

Planning Policy

Development Plan

9. Leicestershire Minerals Development Framework Core Strategy and Development Control Policies Document

Core Strategy Policies

- MCS11: Strategy for environmental protection
- MCS17: Strategy for reclamation and future use of mineral sites

Development Control Policies

- MDC1: Sustainable Mineral Development
- MDC20: Reclamation and Aftercare
- MDC21: After-use

10. The Emerging Development Plan

The emerging Leicestershire Minerals & Waste Local Plan is currently awaiting adoption, and carries significant weight.

Development Management

- DM1: Sustainable Development
- DM12: Restoration, Aftercare and After-use

National

National Planning Policy Framework

11. The *National Planning Policy Framework* (NPPF) provides the government's policies for the delivery of sustainable development through the planning system. It advocates a presumption in favour of sustainable development.
12. The NPPF recognises the essential role that minerals play in supporting sustainable economic growth and quality of life. Paragraph 205 outlines the factors local planning authorities should take into consideration when determining mineral planning applications, especially restoration and aftercare at the earliest opportunity.

Consultations

Cadeby Parish Council

13. No comment received.

Hinckley and Bosworth Borough Council - Planning

14. No objection.

Hinckley and Bosworth Borough Council - Environmental Health

15. No objection.

Leicestershire County Council - Ecology

16. No objection.

Leicestershire County Council - Landscape

17. The approved hedgerow location shown on C180 PL15/MOA best represents the preceding historic field pattern. However, the proposed relocation for a replacement hedgerow to the roadside location shown on drawing number C180-00132 would ensure that there is no net loss of hedgerow. No objection to the proposals.
18. No objection to the extension of the restoration deadline.

Mallory Electoral Division Member – Councillor Bill Crooks

19. No comment received.

Peckleton Parish Council

20. No comment received.

Publicity and Representations

21. The planning application has been publicised by a site notice and neighbour notification letters posted on 29th May and a press notice displayed in the Hinckley Times from 5th June.
22. One representation was received from a local resident, critical of Tarmac for not restoring area 'I' nor reinstating the hedge across it. The representation did not formally object to the proposal.

Assessment of Proposal

23. This proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, it is appropriate to also consider the following key matters: national policy background; the nature and need for the development; environmental, landscape and other effects; and economic and other benefits.

Condition 2 Restoration Deadline

24. Policies DM12 and MCS17 suggest planning permission should be granted for temporary minerals development where satisfactory provision has been made to ensure high quality, progressive restoration of the site. Policy MCS17 further requires that minerals sites are restored in a manner that enhances and complements the natural and historic environment and, in line with NPPF paragraph 205, at the earliest possible opportunity. Given the previous extensions to this restoration deadline due to legal and highways issues, it has not been possible to meet the restoration requirements. The necessary agreements between the Tarmac and Local Highway Authority to infill this conveyor tunnel have yet to be finalised, leading to the current proposal. It is reasonably anticipated that the restoration works to areas 'H' and 'I' would be completed in line with the proposed deadline of 31st December 2019, subject to the necessary highways agreements. It should however be noted that if granted this would be the third extension to the restoration deadline

Condition 37 Approved Restoration Scheme

25. Policy DM12 requires that where restoration is to an agricultural use, the final landscape and field pattern shall reflect the historic landscape character of the site and its surroundings. The County Council's Landscape Architect raised the fact that the approved scheme reflects the original field pattern and landscape (dating to at least 1885), while the proposed amendment seeks to alter that. Some weight should be given to this concern as the Leicestershire Leicester and Rutland Historic Landscape Characterisation Project (LLR HLC) highlighted that historic field patterns have witnessed more comprehensive change and proportionately higher levels of boundary loss over the 20th Century due to modern farming techniques. The project does however note that rationalisation of field enclosures has been occurring since the mid-18th Century and the rate of loss of field enclosures may well have declined since the introduction of the Environmental Stewardship Scheme in 2005.
26. Policy MDC20 requires satisfactory provision is made for the long-term management of previously worked minerals sites, with MDC21 requiring that land to be restored for agricultural uses is retained as a long-term agricultural resource. The ability for agricultural land to be economically viable is critical; the proposed relocation of the hedgerow would facilitate more efficient farming techniques. The landowner has identified that the approved line of the hedgerow is no longer desirable and as such could potentially lead to the overall loss of the hedgerow resource in the future. The current planning permission for the site would have no ability to prevent the future loss of the approved hedgerow. Therefore, the field pattern associated with this proposal would be better suited to the requirements of MDC20 and MDC21 and secure a new hedgerow along the site boundary.
27. Policy MCS11 contains the strategy for environmental protection of development, i.e. requiring development to protect and enhance the natural environment. The relevant points of this policy to this application are that there are no unacceptable adverse impacts on biodiversity, the character and quality of the landscape, historic and cultural features of acknowledged importance and residential amenity. Ecological advice suggests that the approved hedgerow would offer no ecological benefit as the area would likely become a sterile arable landscape. Any loss of overall hedgerow length would be ecologically unacceptable. Weight should therefore be given to the fact that the proposal would not result in a net loss of hedgerow. Further weight should be given to the fact that a hedgerow adjacent to a road in the locality of the application site is commonplace and part of the character of the area. The effect of the proposed hedgerow replacement would not negatively impact residential amenity as a hedgerow in the proposed location would screen Bosworth Road from residential properties to the south of area 'I' better than a hedgerow at the approved

location. This is due to the restored ground level adjacent Bosworth Road being approximately 3 metres higher than the ground level across the middle of area 'I'. For these reasons the proposed relocation is considered acceptable under policy MCS11.

28. Policies MDC1 and DM1 align with the NPPF in requiring proposals to contribute to the three dimensions of sustainable development. The economic impact of the proposed hedgerow relocation lies with the landowner/farmer in the future use of area 'I' as agricultural land. As stated in this applications Supporting Statement, the landowner is in favour of the proposal, and would be solely affected by any economic impact, either positive or negative. The environmental and social impacts are not deemed unacceptable under MCS11. The proposed hedgerow relocation is therefore deemed sustainable.
29. Policy MCS17 requires that high-quality restoration and aftercare are achieved. Whilst the nature of the restoration would change, the proposed restoration scheme would not significantly alter the quality of the restoration scheme as executed.
30. The representation from the member of the public is critical of Tarmac in their lack of restoration of area 'I' to date, referencing a planning permission superseded by applications to vary conditions. It should be noted that the proposal would amend the approved restoration scheme in an acceptable manner.
31. The difference between the approved pond location and its actual location as developed is very minor and raises no material planning issues.

Conclusions

32. The proposal to extend the restoration deadline would allow time for Tarmac to complete necessary agreements with the Local Highway Authority.
33. While proposed loss of the previously approved hedgerow does not strictly accord with DM12, the proposal would provide sufficient length of replacement hedgerow. This proposed replacement hedgerow would be in keeping with roadside hedges in the surrounding area and meets the requirements of MDC1, MDC20, MDC21, MCS11, MCS17 and DM1. Therefore, the proposal is deemed acceptable.

Recommendation

1. PERMIT subject to the conditions set out in the Appendix.
2. To endorse, as required by The Town and Country Planning (Development Management Procedure) Order 2010 (as amended), a summary of:
 - a. How Leicestershire County Council worked with the applicant in a positive and proactive manner:
 - b. In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework.

Conditions

Defining the Development

1. This permission shall be limited to 31st December 2021, by which time all plant, machinery, buildings and conveyors shall have been removed, and the land restored to a condition suitable for an after-use in accordance with a scheme of reclamation and aftercare, as required by conditions 37-39 below.
2. Notwithstanding condition no. 1 above, for the areas labelled H (dark blue) and I (light green) on Plan 2015/0177/04/M1 attached to and forming part of these conditions, by 31st December 2019 mineral extraction operations shall have ceased, all plant, machinery, buildings and conveyors shall have been removed, and site restored to a condition suitable for an after-use in accordance with the scheme of reclamation and aftercare approved by condition 37.

Adherence to Approved Details

3. Unless otherwise required by conditions attached to this planning permission, the development shall be carried out in accordance with the following details:
 - The drawing numbered 'C180/PL15/M01a', dated 06/15 and titled 'Location Plan';
 - The drawing numbered 'C180/PL15/M03', dated 06/15 and titled 'Proposals Plan';
 - The drawing numbered 'C180-00132', dated 22/05/2019 and titled 'Cadeby South proposed amended restoration scheme';
 - The drawing titled 'Sketch Plan of revised Bund along Bosworth Road', Cadeby Quarry;
 - The document titled 'LAFARGE TARMAC LIMITED CADEBY QUARRY FIVE YEAR RECLAMATION AND AFTERCARE SCHEME (Condition 59 Permission Ref 2010/0554/04)';
 - The drawing numbered '12942-02', Rev. H, and titled 'General Arrangement, Precast Concrete Underpass' and dated May 2010;
 - The drawing numbered '12942-05', Rev. F, and titled 'General Arrangement Road Reinstatement Plan' and dated May 2010.
4. A copy of the permission, plans and documents referred to in condition 3 above, including any other plans and documents subsequently approved in accordance with any condition of this permission, shall be kept available on site for the duration of the development.
5. With the exception of the blue line shown on Drawing no. C180/PL15/M03, there shall be no extraction of sand and gravel from land outside the line edged pink on Drawing no. C180/34b.

Working and Phasing Details

6. The phasing of progressive restoration on the land south of Bosworth Road, Kirkby Mallory shall be carried out progressively in accordance with the details shown on Drawing no. C180-00132.

Restriction of Permitted Development Rights

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or as amended):
 - a) no fixed plant or machinery, buildings, structures and erections shall be erected, extended, installed or replaced at the site without the prior approval in writing of the Mineral Planning Authority; and
 - b) no lighting shall be installed or erected at the site unless details of the location, height, design, hours of operation and luminance have been agreed in writing by the Mineral Planning Authority.

Hours of Operation

8. Except in emergencies to maintain safe working conditions (which shall be notified to the Mineral Planning Authority as soon as practicable):
 - a) No operations shall be carried out on the site except between the following times:

0700 to 1800 hours Monday to Friday
0700 to 1400 hours on Saturdays.
 - b) No operations in connection with removal of soil bunds; removal of site accesses and temporary loading area; decommissioning of conveyor tunnel under Bosworth Road; relocation or dismantling of field conveyors; deliveries or collection of plant or machinery to and from the site; and soil replacement operations in connection with the reclamation of any part of the site shall take place outside the following hours:

0730 to 1800 hours Monday to Friday
0800 to 1400 hours Saturdays.
 - c) No operations shall be carried out at any time on Sundays, Bank Holidays and Public Holidays.

Access and Highways

9. The existing site access on Brascote Lane (Cadeby) shall be the only access point to and from the public highway. No vehicles accessing or leaving the site shall do so by any other access other than the existing access onto Brascote Lane (Cadeby).
10. Any vehicles exiting the site shall have their wheels cleaned as may be necessary so that no mud and other debris is deposited on the public highway.
11. The surfacing of the site access shall be maintained in a good state of repair and kept clean and free of mud and other debris at all times and until such time as it is no longer required for these operations.

12. The temporary loading area on the south side of Bosworth Road, Kirkby Mallory shall not be used other than in connection with the delivery and collection of plant and machinery and for day-to-day access by quarry personnel as may be necessary.
13. Any vehicular access gates, barriers, bollards, chains or other such obstructions to be erected shall be set back a minimum distance of 15 metres behind the Highway boundary and shall be hung so as to open inwards only.
14. The access drive to the temporary loading area on the south side of Bosworth Road, Kirkby Mallory shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 15 metres behind the highway boundary. The access drive and turning space shall be so maintained at all times for the duration of the development.
15. Any top soils and subsoils stripped in connection with the construction of the temporary loading area on the south side of Bosworth Road shall be retained on site and shall be used in the restoration of the area.
16. Visibility splays of 2.4 metres by 90 metres shall be maintained at the junction of the access to the temporary loading area and Bosworth Road, Kirkby Mallory. These shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained for the duration of the development. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.
17. The gradient of the access to the temporary loading area on the south side of Bosworth Road, Kirkby Mallory shall not exceed 1:12 for the first 15 metres behind the highway boundary.
18. All vehicles entering the temporary loading area on the south side of Bosworth Road, Kirkby Mallory shall do so by turning right from Bosworth Road. Any vehicles exiting the temporary loading area shall do so by turning left onto Bosworth Road.

Transportation of Mineral

19. Sand and gravel extracted from any part of the site shall only be transported from the extraction area to the processing plant by means of an overland conveyor.

Soil Stripping, Handling and Storage

20. All topsoil and subsoil shall be permanently retained on site and stored in mounds and used in the restoration of the site. All soil mounds shall be maintained in a weed-free condition.
21. All reasonable precautions shall be taken to avoid the mixing of topsoil, subsoil and overburden and no topsoil, subsoil or other soil-making material or overburden shall be removed from the site.

22. No movement of topsoil shall take place except when the full depth of topsoil to be stripped or otherwise transported is in a suitably dry soil moisture condition, i.e. the soil is in a non-plastic state such that damage to its structure shall be avoided. Conditions shall be sufficiently dry for the topsoil to be separated from the subsoil without difficulty.
23. No topsoil, subsoil or overburden shall be transferred from the Extraction Area to other parts of the site.

Protection of Vegetation

24. All trees, shrubs and hedges planted or retained within or along the boundary of the site shall be protected and maintained throughout the duration of the mineral working and restoration operations hereby permitted. Such maintenance shall include the replacement of any plant that may die or be seriously damaged or become seriously diseased, to the satisfaction of the Mineral Planning Authority.

Amenity Protection

25. The development shall be carried out in such a manner as to ensure that dewatering operations on the site do not give rise to drawdown effects in surface water bodies surrounding the site or cause interruptions to the drinking water supplies of any properties in the vicinity.
26. The development shall be carried out in such a manner as to ensure that operations do not give rise to environmental disturbance by reason of noise, dust, illumination, vibration or any other cause, all to the satisfaction of the Mineral Planning Authority.

Surface Water Drainage

27. The development shall be carried out in accordance with the approved Surface Water Drainage Scheme Version 2.0, dated May 2011 and prepared by BCL Consultant Hydrogeologists Ltd.
28. The development shall be carried out in accordance with the approved Scheme for Treatment of Suspended Soils in Surface Water Runoff, Version 2.0, dated May 2011 and prepared by BCL Consultant Hydrogeologists Ltd., as amended by the letter dated 9th September 2011 from BCL Consultant Hydrogeologists Ltd.

Groundwater Protection

29. The development shall be carried out in accordance with the approved Hydrometric Monitoring Scheme Version 2.0, dated May 2011 and prepared by BCL Consultant Hydrogeologists Ltd.

Dust

30. All operations shall be carried out in a manner which minimises the emission of dust from the site. All haul roads and vehicle movement areas shall be compacted. All haul roads, vehicle movement areas and dry exposed material shall be watered as necessary in dry and windy conditions to prevent dust becoming airborne.

31. At such times as operations on site give rise, in the opinion of the Mineral Planning Authority, to unacceptable levels of dust leaving the site, such as during adverse conditions due to strong winds combined with dry weather, such operations shall be temporarily suspended until such time as the operations can be resumed without causing such nuisance, either by a change in working, weather conditions or by taking other additional measures.

Noise

32. Measures shall be taken to ensure that the operations carried out on the site do not give rise to noise nuisance/disturbance in the locality. Such measures shall include:
- a) the effective silencing and maintenance of all engines, exhausts, machinery, plant and equipment, whether fixed or mobile;
 - b) the location and organisation of on-site operations so as to minimise any noise impact on nearby properties;
 - c) the minimisation, so far as is practicably and legally possible, of the level and penetration of noise emissions from reversing warnings fitted to vehicles; and
 - d) no use of pure tone audible reversing beepers.
33. Except for operations defined in condition 34 below, noise levels from operations within the site and the associated field conveyors shall not exceed the following levels, when measured freefield at the most exposed façade, at the properties listed below:
- a) Kirkby Lodge, Bosworth Road, Kirkby Mallory: 42 dB LAeq (1 hour)
 - b) Mallory House, Bosworth Road, Kirkby Mallory: 50 dB LAeq (1 hour)
 - c) The Oaks, Stapleton Lane, Kirkby Mallory: 43 dB LAeq (1 hour)
 - d) The Cottage, Stapleton Lane, Kirkby Mallory: 43 dB LAeq (1 hour).
34. Noise levels arising from removal of soil mounds and site restoration activities shall be; minimised as far as is reasonably practicable; limited to a maximum of 44 days in any 12 month period and in any case shall not exceed the following levels, when measured freefield at the most exposed façade, at the properties listed below:
- a) Kirkby Lodge, Bosworth Road, Kirkby Mallory: 63 dB LAeq (1 hour)
 - b) Mallory House, Bosworth Road, Kirkby Mallory: 70 dB LAeq (1 hour)
 - c) The Oaks, Stapleton Lane, Kirkby Mallory: 59 dB LAeq (1 hour)
 - d) The Cottage, Stapleton Lane, Kirkby Mallory: 59 dB LAeq (1 hour).

35. Noise monitoring shall be carried out in accordance with the approved Noise Monitoring Scheme (Report no. R11.6809/1/AG dated 31st March 2011 and prepared by Vibrock Limited) for the duration of the development.

Archaeological Reporting and Recording

36. The development shall be carried out in accordance with the approved Written Scheme of Investigation for Archaeological Work (reference no. 11/622) and prepared by University of Leicester Archaeological Services.

Site Restoration, Planting and Aftercare

37. The area labelled light green (I) on Plan 2015/0177/04/M1 attached to and forming part of this permission shall be restored in accordance with Drawing no. C180-00132 and the area labelled dark blue (H) shall be restored to agriculture. Restored areas shall be treated and managed over a period of five years in accordance with the approved Five Year Reclamation and Aftercare Scheme, as amended by the Discharge of Condition Letter dated 2nd April 2015.
38. The area labelled dark green (C) on Plan 2015/0177/04/M1 attached to and forming part of this permission shall be restored in accordance with the details shown on drawing no. 2312/S73/2 dated Aug 2014.
39. Notwithstanding the details shown on Drawing no. 2303/ES/8 dated Nov 2014, by 21st November 2015, the areas labelled D (orange), E (blue), F (red) and G (grey) on Plan 2015/0177/04/M1 attached to and forming part of this permission shall be restored in accordance with the following details;
- Drawing no. 2275/AC/1A dated 18/11/2015 – Restoration and Aftercare Cadeby West;
 - Drawing no. 2275/AC/2A dated 18/11/2015 – Restoration and Aftercare Cadeby East;
 - Five Year Reclamation and Aftercare Scheme dated 18/04/16;
 - Extended Phase 1 Habitat Survey, Protected Species Survey and Delivery of Biodiversity Action Plan Benefits dated July 2015;
 - Table 1: Programme of Restoration;
 - Email from David Jarvis Associates dated 18/04/16;

as approved under Conditions 3 and 4 of planning permission 2015/0496/04 by the letter dated 29th July 2016.

Following completion of restoration, these parts of the site shall be maintained in accordance with the above approved aftercare programme for a period of five years.

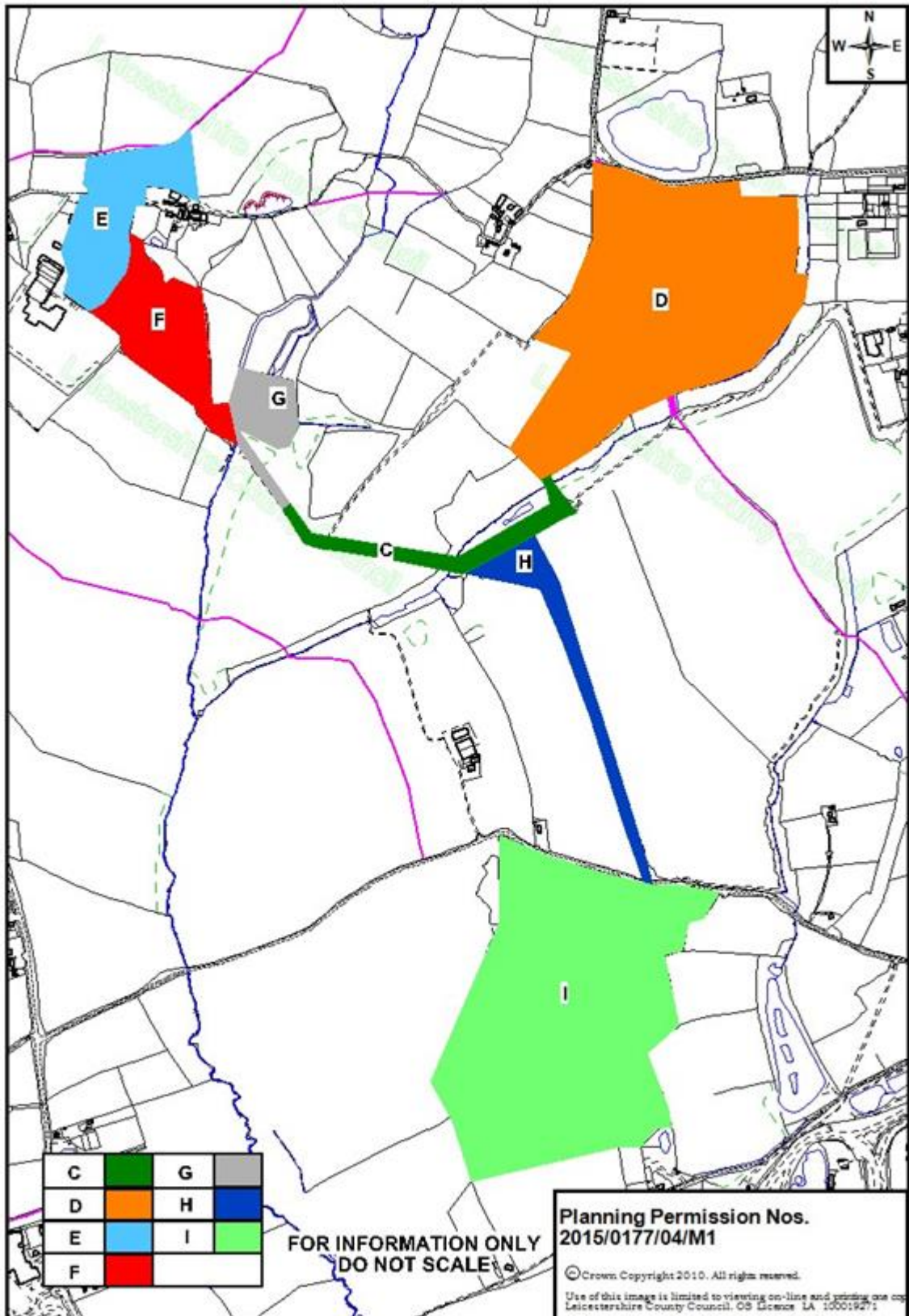
Topsoil Replacement

40. All available topsoil shall be re-spread evenly. The topsoil shall be ripped and cultivated and stones greater than 100mm in any dimension shall be removed from site or buried on site not less than 2 metres below final surface contours. Compaction in areas underlying topsoil storage areas shall be similarly ameliorated.

Premature Cessation

41. In the event of a cessation of winning and working of minerals prior to the

achievement of the completion of the approved scheme as defined in this permission, and which in the opinion of the Mineral Planning Authority constitutes a permanent cessation within the terms of paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990, a revised scheme, to include details of reclamation and aftercare, shall be submitted in writing to the Mineral Planning Authority for its approval, within 3 months of the cessation of winning and working. Following its approval in writing by the Mineral Planning Authority, the revised scheme shall be fully implemented within 1 year of the written approval.



Reasons

1. To provide for the restoration of the site within an agreed timescale in the interests of the amenities of the area.
2. To provide for the restoration of the site within an agreed timescale in the interests of the amenities of the area.
3. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner.
4. To ensure that the site operator is fully aware of the conditions and the approved details.
5. For the avoidance of doubt.
6. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner.
7. There is an exceptional need here to secure control over additional plant, machinery and lighting, in the interests of the amenity of the area and bearing in mind the degree of discretion otherwise allowed by the GPDO.
8. To protect the amenities of local residents.
- 9, 10, 11, 12, 13, 14, 15, 16, 17 & 18. In the interests of highway safety.
19. In the interests of highway safety and the amenity of the area.
20. To monitor soil resources and to aid the final restoration of the site.
21. To ensure that any damage to soil resources is minimised and to ensure the site is reclaimed to a condition capable of beneficial after-use.
22. To avoid damage to the soils caused by their movement when wet.
23. To monitor soil resources and to aid the final restoration of the site.
24. In the interests of the visual amenity of the area.
25. To maintain water levels in such water bodies and to safeguard the drinking water supply of such properties which are not connected to a mains water supply.
26. In the interests of local amenity.
27. To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of these.
28. To protect the quality of the water environment.

- 29. To protect water quality and other groundwater uses within the area.
- 30 & 31. To protect the amenities of the locality from the effects of dust arising from the development.
- 32, 33, 34 & 35. To minimise the adverse impact of noise generated by the operations on the local community and environment.
- 36. In the interests of the archaeology of the site.
- 37, 38 & 39. To ensure satisfactory restoration of the site and in the interests of habitat creation and diversity and to ensure aftercare
- 40. To ensure that any damage to soil resources is minimised and to ensure the site is reclaimed to a condition capable of beneficial after-use.
- 41. To enable the Mineral Planning Authority to control the development and to ensure that the land is restored to a condition capable of beneficial after-use.

DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all the preceding applications.

EQUALITY AND HUMAN RIGHTS IMPLICATIONS

Unless otherwise stated in the report there are no discernible equality and human rights implications.

IMPLICATIONS FOR DISABLED PERSONS

On all educational proposals the Director of Children and Family Services and the Director of Corporate Resources will be informed as follows:

Note to Applicant Department

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970 and the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Equality Act 2010. You are advised to contact the Equalities function of the County Council's Policy and Partnerships Team if you require further advice on this aspect of the proposal.

COMMUNITY SAFETY IMPLICATIONS

Section 17 of the Crime and Disorder Act 1998 places a very broad duty on all local authorities 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all reasonably can to prevent, crime and disorder in its area'. Unless otherwise stated in the report, there are no discernible implications for crime reduction or community safety.

BACKGROUND PAPERS

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

SECTION 38(6) OF PLANNING AND COMPULSORY PURCHASE ACT 2004

Members are reminded that Section 38(6) of the 2004 Act requires that:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are given in the Town and Country Planning Act 1990:

Section 70(2)	:	determination of applications;
Section 77(4)	:	called-in applications (applying s. 70);
Section 79(4)	:	planning appeals (applying s. 70);
Section 81(3)	:	provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
Section 91(2)	:	power to vary period in statutory condition requiring development to be begun;
Section 92(6)	:	power to vary applicable period for outline planning permission;
Section 97(2)	:	revocation or modification of planning permission;
Section 102(1)	:	discontinuance orders;
Section 172(1)	:	enforcement notices;
Section 177(2)	:	Secretary of State's power to grant planning permission on enforcement appeal;
Section 226(2)	:	compulsory acquisition of land for planning purposes;
Section 294(3)	:	special enforcement notices in relation to Crown land;
Sched. 9 para (1)	:	minerals discontinuance orders.

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**Leicestershire
County Council**

DEVELOPMENT CONTROL AND REGULATORY BOARD

12th SEPTEMBER 2019

REPORT OF THE CHIEF EXECUTIVE

COUNTY MATTER

PART A – SUMMARY REPORT

APP.NO. & DATE:	2018/1457/03 (2018/CM/0147/LCC) – 20 th August 2018
PROPOSAL:	Extension of sand and gravel working with restoration to agriculture.
LOCATION:	Shawell Quarry, Gibbet Lane, Shawell, Leicestershire, LE17 6AB (Harborough District).
APPLICANT:	Tarmac Trading Ltd.
MAIN ISSUES:	Impact of the proposal upon archaeology, dust, ecology, landscape, noise, water, restoration of the site and the need for mineral.
RECOMMENDATION:	PERMIT subject to the conditions as set out in the appendix and the provision of a legal agreement covering the protection of the bore hole used by the adjacent tile works.

Circulation Under the Local Issues Alert Procedure

Mr B. L. Pain, CC.

Officer to Contact

Mr. P. Larter (Tel. 0116 305 7292)
Email: planningcontrol@leics.gov.uk

2018/1457/03 – continued

PART B – MAIN REPORT

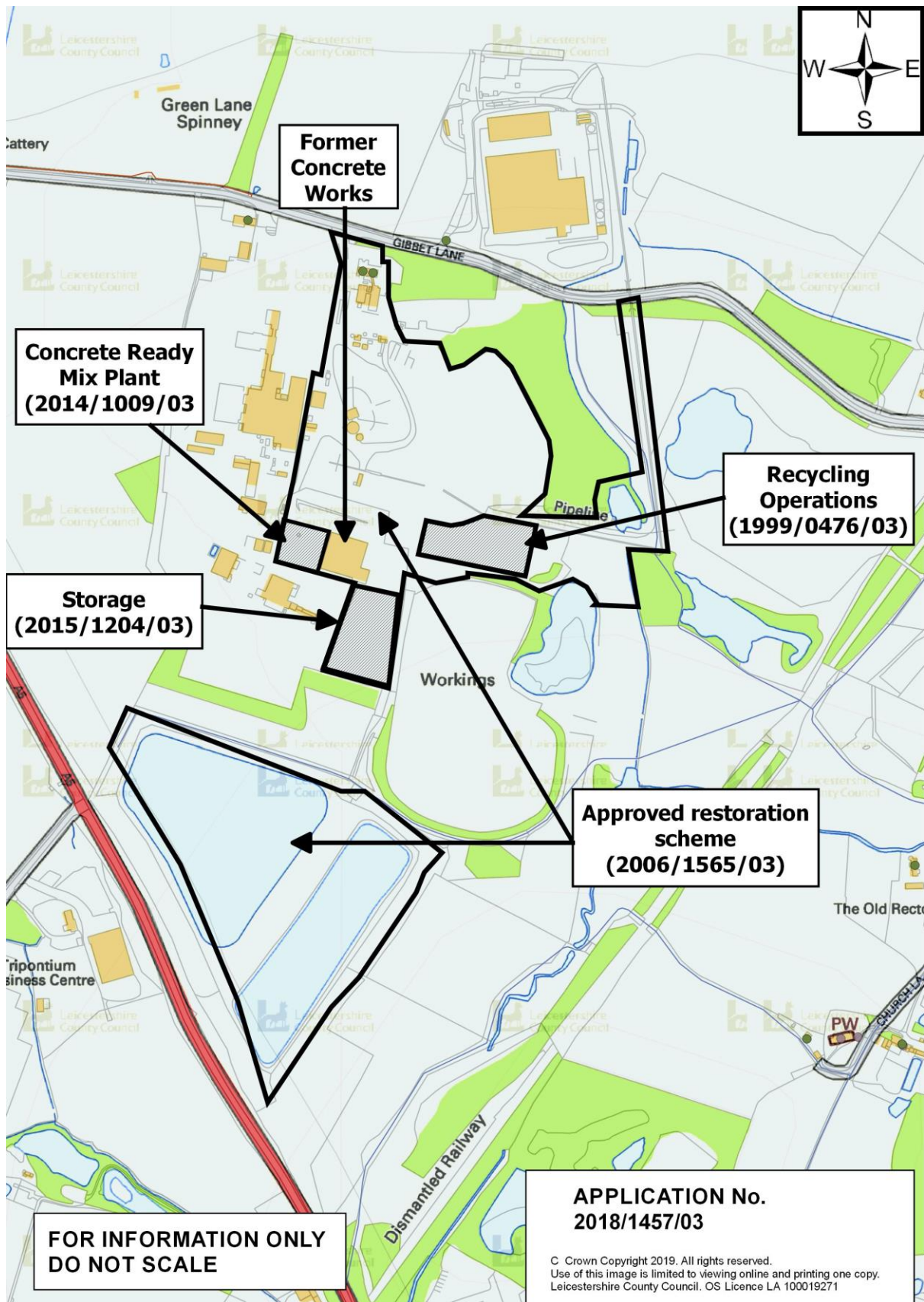
Site Location and Planning History

1. The Shawell/Cotesbach quarry and landfill site is located north west of the village of Shawell and south of the village of Cotesbach, near Lutterworth. The mineral extraction and landfill area is located north of Gibbet Lane, a road which links Shawell with the A5/A426 junction to the west of the site. The associated minerals processing plant, several silt settlement lagoons, a roof tile works, and the site of a disused concrete block works are located to the south of Gibbet Lane. Mineral is transported from the current extraction area to the processing plant by means of a conveyor which crosses under Gibbet Lane. An inert waste recovery and recycling facility is also situated south of Gibbet Lane. The nearest designated ecological site at a national level to the site is the Cave's Inn Pits SSSI (Site of Special Scientific Interest) approximately 700 metres south east of this proposal. The Scheduled Monument of Tripontium lies 500 metres south east of the proposal.
2. Shawell Quarry has been in operation since the 1960s. In 2004, the quarry and associated operations was the subject of a periodic review of planning conditions under the Environment Act 1995 (reference 2004/1605/03). An updated schedule of planning conditions for Shawell Quarry was approved by the Development Control and Regulatory Board in April 2005.
3. Planning permission was granted in September 2007 (reference 2006/1565/03) for the extraction of sand and gravel from an area to the west of the previously permitted quarry/landfill. It also included an extension of the landfill operation into the western extension. This permission governs the operation of the processing plant. In 2015 planning permission (reference 2015/0295/03) was granted for a northerly extension to the sand and gravel workings into an area known as Fields Farm.
4. A further application for the extraction of sand and gravel over 52 hectares (ha) of land to the west of the existing site was submitted to Leicestershire and Warwickshire County Councils in January 2017 which included the land subject to this application and an additional 33 hectares to the west of the A5 (reference 2017/0117/03). This application remains undetermined pending further assessment work relating to land within Warwickshire. The applicant has submitted this application seeking to secure earlier access to the resource on land to the east of the A5.

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Description of proposal

5. Planning permission is sought to extend the mineral extraction area of Shawell Quarry to land to the west of the roof tileworks and south of Gibbet Lane. The proposed development would provide for the extraction of approximately 850,000 tonnes of sand and gravel over an 18-month period.
6. The planning application is accompanied by an Environmental Statement (ES) which provides detailed assessments of: ecology; hydrogeology and hydrology; landscape and visual impact; noise; air quality; archaeology; and soils and agricultural land classification. The main issues from these assessments are the effects of the proposal on the nearest residential properties and on archaeology.
7. Works would progress from south to north through the proposed site with soil bunds created on the southern, western, and northern boundaries of the extraction area. Extracted sand and gravel would be transferred by dump truck through land in the control of Tarmac to the existing processing plant such that no unprocessed sand and gravel would be transported on the highway. A new temporary stone haul road of some 8-9 metres would be constructed to the south of the tile works to allow for these movements. No changes to the current levels of traffic from Shawell Quarry are therefore anticipated.
8. Restoration of the site would take one year and would see the land being restored to a low-level restoration to agriculture using overburden from the extension site, that is, with no imported material. The proposed hours of working are 0700-1900 hours Monday to Friday and 0700-1400 hours Saturday. There would be no working on Sunday or Public/Bank Holidays.

Additional Information

9. As a result of consultation on the original planning application additional information was supplied addressing the matters of archaeology, dust, ground stability, hydrology, a revised restoration plan, and the basis of a draft agreement between the applicant and the roof tile works to protect the tile works bore hole.

Planning Policy

Local Policies

10. The development plan's relevant local planning policies are contained within the Leicestershire Minerals Development Framework: Core Strategy and Development Control Policies document adopted October 2009, and the Harborough Local Plan 2011-2031 adopted April 2019. The relevant policies and proposals are set out below.

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Minerals Development Framework: Core Strategy and Development Control Policies

- *Policy MCS1: Supply of minerals.*
- *Policy MCS2: Aggregate minerals.*
- *Policy MCS11: Environmental Protection.*
- *Policy MCS16: Transportation of minerals.*
- *Policy MCS17: Reclamation and future use of mineral sites.*
- *Policy MDC3: Sites of National Historic Importance.*
- *Policy MDC4: Sites of Regional and Local Importance.*
- *Policy MDC5: Countryside.*
- *Policy MDC6: Landscaping and Woodland.*
- *Policy MDC7: Archaeology.*
- *Policy MDC10: Agricultural Land.*
- *Policy MDC11: The Water Environment.*
- *Policy MDC12: Health and Amenity.*
- *Policy MDC13: Cumulative Impact.*
- *Policy MDC14: Transportation of Minerals.*
- *Policy MDC14: Transportation of Minerals.*
- *Policy MDC15: Public Rights of Way.*
- *Policy MDC21: After-use.*
- *Policy MDC23: Associated Industrial Development.*

Harborough Local Plan 2011-2031

- *Policy GD3: Development in the Countryside.*
- *Policy GD5: Landscape and townscape character.*

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- *Policy G15: Biodiversity and geodiversity.*
 - *Policy CC3: Managing flood risk.*
 - *Policy CC4: Sustainable drainage*
11. Leicestershire County Council is in the later stages of reviewing its Minerals Development Framework and has produced its submission version of the replacement Minerals and Waste Local Plan. Main and minor modifications have been consulted on following the hearing and the Inspectors' Report finding the plan sound was received on 21 May 2019. Therefore, the content of these modifications along with the submission version of the Local Plan should be given considerable weight.
 12. Policy M1 of the new Local Plan seeks to make provision for some 19 million tonnes of sand and gravel up to 2031. Policy M2 sets out the mineral sites and the land that will be allocated to help meet this shortfall. The land to which this proposal relates is identified as land to be allocated for sand and gravel extraction and Box SA4 alongside Inset Map SA4 (which shows the land allocated at Shawell Quarry, part of which relates to this proposal) sets out the matters any such application should address. Policy DM12 sets out the terms for restoration, aftercare and after-use of minerals and waste sites referring to local biodiversity action plan targets and a need for a net gain to biodiversity.

National

13. The revised NPPF (National Planning Policy Framework) was published 19 February 2019 and sets out the purpose of planning as helping to achieve sustainable development and to seek jointly and simultaneously economic, social and environmental gains. The NPPF states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, providing net gains in biodiversity. Paragraph 205 of the NPPF sets out that when determining planning applications great weight should be given to the benefits of mineral extraction.

Consultations

Environment Agency

14. Licensed abstraction, 18/54/10/0174, is a protected right under the Water Resources Act 1991. It is recommended that the applicant enters in to a derogation agreement with the licence holder prior to the commencement of operations and derive a trigger level (based around a minimum groundwater level (Hands off Level (HoL))) that will protect the operational abstraction rate. If this HoL is breached this will result in appropriate action e.g. implementation of mitigation, cessation of dewatering and/or implementation of the derogation agreement.

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15. The impact assessment submitted in support of this planning application provides confidence that it will be possible to suitably manage the risks posed to groundwater and surface water levels and flows, and groundwater and surface water quality by this development. Further detailed information will however be required before any development is undertaken and as such the Environment Agency advises a condition is attached to any planning permission.

Harborough District Council – Environmental Health

16. The permission should be conditioned to require a dust management plan to be in place and be reviewed on a regular (3-5 yearly) basis. It is recommended that further monitoring of background dust levels is undertaken. A dust management plan should contain procedures for further dust identification and categorisation where complaints are received and trigger criteria for further automatic dust monitoring using equipment approved by DEFRA for PM₁₀ and PM_{2.5} where ongoing complaints are received, and the dust is shown to be sourced from the quarry.

Harborough District Council - Planning

17. No comments to make.

Highway Authority

18. No objection. The application would appear not to have any material impact on the external highway network.

Highways England

19. Having reviewed the information in support of this application, there is insufficient information provided for Highways England to review the proposed quarrying operations in detail. To allow Highways England to review the proposals in detail, additional information is required from the applicant.

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Historic England

20. The proposed extension of sand and gravel working is within the wider landscape setting of several designated heritage assets. These include the scheduled monuments of Tripontium Roman Station (National Heritage List for England UID 1005759) and Motte castle and associated earthwork SSW of All Saints Church (NHLE 1017549), listed buildings including the Grade II* Coton House and Church of All Saints at Shawell, and Shawell conservation area. Quarrying and subsequent restoration works have the potential to impact upon the contribution to significance made by the setting of the scheduled monument and on non-designated heritage assets that can include archaeological evidence related to, or contemporaneous with, the scheduled monuments. Further information is required prior to determination to inform a full understanding of significance, the impact of the proposal and any amendment to avoid or minimise harm.

Lead Local Flood Authority

21. The application is acceptable subject to three conditions relating to surface water management.

Natural England

22. No objection.

Warwickshire County Council

23. No response received.

Archaeological Advice

24. No response received.

Ecological Advice

25. No objection. Advice has been provided on protected species, biodiversity enhancement and the site's restoration

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Landscape Advice

26. An inspection of the site confirmed that the LVIA undertaken by the applicant was found to be an accurate representation of both the site and the landscape setting. The retention of existing agricultural hedgerows and hedgerow trees restrict views from the public highway and footpaths in to the site. During quarrying operations the top soil and overburden mounds will restrict views in to the quarry. The assessment of the impact of the development proposal on both the site and the surrounding landscape takes in to consideration the restricted views in to the site and the relatively small scale of the quarrying operations. The proposed phased restoration of the site to agricultural use at a lower level with a balancing pond would appear to have no detrimental impact on the landscape character of the area.

Public Rights of Way Advice

27. No objection to the application as it should not affect the public's use and enjoyment of the Right of Way.

Leicestershire Footpaths Association

28. No response received.

Leicestershire Wildlife Trust

29. No response received.

Ramblers Association

30. No response received.

Rugby Borough Council – Environmental Health

31. No objection.

Rugby Borough Council – Planning

32. No objection.

Shawell Parish Meeting

33. On any approval would wish to see conditions setting out no increased volume of traffic on Gibbet Lane and the applicant addresses longstanding concerns of mud on Gibbet Lane, noise and light pollution.

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Cotesbach Parish Council

34. The Parish Council raises queries/comments on points relating to footpaths, water levels, archaeology, landfilling and traffic.

Churchover Parish Council

35. No response received.

Consultation Responses on Additional Information

Environment Agency

36. The EA has reviewed the terms of the agreement between the Tarmac and BMI group (Monier Redland Ltd) in the event of any derogation. The details of the agreement between the parties are acceptable to the Environment Agency.

Archaeological Advice

37. No objection. The investigation demonstrated two areas of archaeological interest, both of which warrant further archaeological mitigation by prior excavation and recording, but do not constitute an obstacle to development or require amendment to the scheme to manage their significance. It is therefore recommended that the applicant is required to undertake a programme of final mitigation, to further target and investigate those identified remains, with these works secured by condition on any planning approval.

Historic England

38. Historic England has no objection to the application on heritage grounds. The proposals would impact upon the setting of the Tripointium scheduled monument resulting in some harm to its significance. In determining this application the Council should be satisfied that the applicant has provided the justification for this low level of harm, and ensure it is weighed against the public benefits of the scheme, in line with NPPF 194 and 196.

Highways England

39. No objection.

Lead Local Flood Authority

40. The application is acceptable subject to two conditions relating to surface water management.

Natural England

41. No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites including the Cave's Inn Pits SSSI and has no objection.

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Ecological Advice

42. The revised restoration plan is acceptable, showing an additional c 1.5ha of grassland and c. 0.75 ha of woodland. It is recommended that a condition requiring provision of species-rich grassland and/or species-rich wetland of local BAP quality (i.e. designed to meet Local Wildlife Site criteria) is attached to any planning permission.

Public Rights of Way

43. No objection to the application as it should not affect the public's use and enjoyment of the Right of Way.

Rugby Borough Council

44. There should be a limited adverse impact upon sensitive and residential receptors. On the basis that the mitigation and monitoring measures are implemented as specified no objections to this application.

Warwickshire County Council

45. The application site traverses the county boundary of Warwickshire and Leicestershire. The vast majority of the application site is within Leicestershire, but a strip of approximately 2.6ha immediately East of the A5 falls under the jurisdiction of Warwickshire. As such an application for planning permission relating to this land has been submitted to WCC under reference number: RBC/18CM021 and is currently awaiting determination. The parcel of land within Warwickshire to the East of the A5 is included in Warwickshire's Emerging Minerals Plan as site allocation no. 32, and as such broadly receives policy support. Site 32 forms part of a wider allocation combined with site no. 3 which includes land to the West of the A5. This area is subject to a planning application under reference number RBC/17CM002 which is currently being held in abeyance awaiting additional information from the applicant. Application reference: RBC/18CM021 is scheduled to be determined at the County Council's Regulatory Committee on the 8th of October 2019.

Publicity

46. The proposal has been advertised by neighbour letters dated 31st August 2018 and 18th April 2019, site notices posted on 23rd August 2018 and 16th April

2019, and notices in local newspapers published on 30th August 2018 and 18th April 2019.

Representations

47. One representation has been received from a local resident raising queries/clarification about the operation and restoration of the proposal.

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Assessment of Proposal

48. The application should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the main issues for consideration relate to the impact of the proposal upon archaeology, dust, ecology, landscape, noise, water, restoration of the site and the need for the mineral. Other matters such as economic factors and public rights of way are also addressed. The environmental statement, including the additional information, covers all the main issues of the proposal to a level sufficient to enable a decision to be made on the proposal.

Need for the Development

49. Estimated permitted reserves of sand and gravel in Leicestershire as at the end of 2017 were around 2.67 million tonnes. There was only enough permitted material to last about 2.3 years from the end of 2017, based on the average rate of production over the last 10 years. Calculations published in the emerging Minerals and Waste Local Plan indicate that there would be a shortfall of approximately 9.53 million tonnes of sand and gravel over the period up to 2031 (the difference between the predicted levels of sand and gravel needed and permitted reserves).
50. The proposed development would release approximately 850,000 tonnes of additional reserve and ensure a continuity of supply of construction materials from the site for a further 1.5-year period. And, thus this would assist in reducing the predicted shortfall up to 2031. Therefore, it is considered that the proposal meets the requirements of policies MCS1 and MCS2 and is acceptable.

Archaeology and Heritage Assets

51. Geophysical survey of the development site identified four areas of settlements dating from the late Iron and/or Roman age, and 75 trial trenches were dug in the areas of anomalies found by the survey. The trenching indicates Roman occupation in the southern part of the site, although with no direct link to Tripointium and Iron Age activity in the north. No additional archaeological investigation is offered but archaeological observation and recording should take place as the development progresses and, therefore, with this the development is considered to be in accordance with policies MDC3 and MDC7.

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52. The starting point for the assessment of this proposal is the statutory duty under Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of listed buildings and to preserving or enhancing the character of conservation areas, respectively, and this is given considerable importance and weight. Shawell Conservation Area is over 1 kilometre to the north east of this proposal. The nearest listed buildings are the Grade II* Coton House and Grade II* Church of All Saints, also over 1 kilometre from the proposal. It is considered that the distance between these statutorily listed heritage assets and the intervening topography and landscape means that this proposal would not affect the setting of the listed buildings or the Shawell Conservation Area.

53. The Tripontium Roman Station and the Motte castle and associated earthwork SSW of All Saints Church Scheduled Monuments (SM) are of national significance and thus, their preservation is given great weight. This proposal does not directly affect either of the SMs but, through proximity, could affect their setting. It is considered that this proposal would impact upon the setting of the Tripontium Roman Station resulting in some harm to its significance, but this harm is low level and thus less than substantial.

54. Paragraph 196 of the National Planning Policy Framework sets out that *‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.’* The harm of this proposal has been assessed as less than substantial and the public benefits of the proposal are the continued supply of sand and gravel for use in construction and maintenance projects (and by the neighbouring tile works factory) and the continued employment that this brings both directly and indirectly. It is considered that these public benefits outweigh the potential harm that may arise to the setting of the Scheduled Monument near the proposal. It must also be considered that the harm is temporary (two and a half years) and following successful restoration the harm will cease. Therefore, the proposal’s effect on heritage assets is acceptable and meets the terms of policies MDC3 and MDC4.

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Dust

55. Dust could be generated by these proposed operations through the movement of vehicles and material during mineral extraction and restoration. To minimise the impact of dust the application proposes a number of mitigation measures. The EHO at Harborough District Council advises that “The permission should be conditioned to require a dust management plan to be in place and be reviewed on a regular (3-5 yearly)”. However, it is considered that firstly the mitigation measures already set out would obviate the need for such a plan and secondly, the development from start to finish is only 2.5 years. Thus, subject to the dust mitigation measures being secured by condition it is considered that the proposal is acceptable and meets the terms of policies MCS11 and MDC12.

Ecology

56. There are no designated species or areas present within the site and the land is of minimal wildlife value. The proposed development would result in the loss of 311 metres of species-poor hedgerow and four mature trees that have a low potential to provide bat roosts. To compensate for this loss the restoration scheme proposes 617 metres of new hedgerow, 0.6 hectares of deciduous woodland, 1.6 hectares of lowland meadow and the installation of five bat boxes in land at Shawell Quarry.
57. The Cave’s Inn Pits SSSI is located approximately 700 metres to the south-east of the application area and the submitted information sets out that this proposal would not have an additional impact on the SSSI; Natural England concur that this proposal would not affect the SSSI. The absence of protected species on the site and its short duration result in it not being necessary to require additional surveys for protected species through condition. The revised restoration scheme includes more diverse habitats than currently present in the agricultural field and it is considered that this would allow for a net gain to biodiversity. Therefore, the proposal’s effect on ecology is acceptable and accords with policies MCS11, MDC4, and G15.

Economic Factors

58. The current permitted reserves at Shawell Quarry will last 1-2 years at current output rates. The quarry currently employs seven people directly and 40 people indirectly. The main direct effects of the proposed development will be the protection of these existing jobs for another 2.5 years. Additionally, the

release of 850,000 tonnes of sand and gravel will ensure continuity of supply of construction into the local market place.

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59. The economic benefits should be given weight in the determination of the application, in accordance with the NPPF which seeks to ensure that the planning system supports economic growth.

Landscape and Visual Impact

60. The Landscape and Visual Impact Assessment (LVIA) concludes that the proposed development will have a limited and short-term adverse effect upon the local landscape and visual resources. The development is an acceptable form of development in the countryside. The greatest visual impact will be on the Green Acres property to the immediate north west of the site. Work will take place up to the property boundary whilst a screen bund is erected. In the long term the site will revert to the baseline with the benefit of additional hedgerows, woodland and grassland habitats. The Council's landscape officer agrees with the conclusions of the LVIA. However, the assessment is based on the existing boundary vegetation being retained and the site being restored to the habitats set out on the restoration concept. Therefore, these matters should be subject to control by planning condition(s). On the basis of this it is considered that the issues relating to landscape and visual amenity are capable of being satisfactorily resolved and accord with policies MCS11, MDC5, MDC6, MDC12, GD3, and GD5.

Noise

61. Existing noise levels have been measured at four noise sensitive locations of which the most important are those three to the north west of the site at the nearest residential properties. The predicted noise levels show that normal operations can take place without breaching the 55 dB (A) $L_{Aeq, 1h}$ level set in the Planning Practice Guidance (PPG) at these residential properties. However, during temporary operations, namely soil stripping and bund construction/removal the predictions show that the 70 dB (A) $L_{Aeq, 1h}$ set in the PPG would be exceeded at Green Acres whilst forming and removing the screen mound in proximity to the property. To mitigate this the applicant proposes either a temporary acoustic fence between the property and the screen bund or a buffer zone of 40 metres between the property and the screen bund. Either of these solutions should then allow the development to take place within the noise levels set by the PPG. If an acoustic fence is chosen by the applicant, then the details of this need to be agreed in advance of its installation.

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62. The application also contains other mitigation measures that would assist in reducing noise levels from the development. Furthermore, this is all set within the proposed hours of operation of 0700-1900 hours Monday to Friday and 0700-1400 hours Saturday which by themselves would reduce the noise impacts of the development on residential properties. However, notwithstanding this, once in phase 19 of the proposal the soil stripping and bund construction/removal should be limited to 0900-1700 hours Monday to Friday to further protect amenity. Subject to conditions ensuring all these matters are controlled the effects of the development on noise are acceptable and meet the terms of policies MCS11 and MDC12.

Soils and Agricultural Land

63. A soil and agricultural land classification survey has been carried out concluding that the land is sub-grade 3b, agricultural use limited by soil wetness. All soils would be retained within the site and used in the restoration of the land. Subject to the control of soil handling activities by planning condition, it is considered that the issues relating to soils and agricultural land are capable of being satisfactorily resolved in accordance with the provisions of policy MDC10.

Traffic, Transportation and Access

64. The mineral from the proposed extension area will be transported upon a new purpose-built haul road to the south of the tile works in to the existing plant site. The applicant states that there will be no changes to the site's output as a result of this application and, therefore, HGV movements should remain similar to those currently prevailing. HGV movements relating to sand and gravel extraction and waste disposal operations are limited by condition 19 of planning permission 2006/1565/03 to 2,244 trips in any week. A similar condition restricting HGV movements should be attached to this proposal in addition to a condition ensuring HGVs do not enter the Highway from the application area.
65. A ground stability risk assessment has been provided with the application showing that subject to the mineral extraction taking place as presented within the assessment there should be no effect on the A5. However, the assessment does recommend that on the northern boundary the extent of extraction is moved five metres further away from the boundary. Restricting the northern extent of mineral extraction and ensuring slopes are created as shown should be controlled by condition. Subject to these conditions the effects of the development on the Highway are acceptable and accord with policies MCS16 and MDC14.

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Rights of Way

66. There are no public rights of way within the proposed development site but public footpath X23 runs adjacent to the southern boundary of the site. It is not considered that the proposed development should significantly affect the use and enjoyment of the footpath. Box SA4 of the emerging Minerals and Waste Local Plan seeks restoration to “include provision of improved public access, particularly between Gibbet Lane and the A5”. The proposal does not address this and the applicant has not agreed to provide any rights of way enhancement but it is considered that this should be provided and, thus, the applicant should be required to provide this as part of the restoration details. Subject to this enhancement the proposal is considered to be in accordance with policy MDC15.

Water Environment

67. An assessment of the potential impacts of the proposal on hydrogeology, hydrology, and flooding has been undertaken. The assessment concludes that the development can operate and be restored without adverse effects on the water environment. However, there is a possibility that there could be an effect on the ability of the adjoining tile works to continue to abstract water. Measures to address this have been agreed between the tile works and the applicant and the Environment Agency consider these acceptable. This should form the basis of a legal agreement. The Environment Agency has advised that a scheme for the de-watering of the site is required and the Lead Local Flood Authority has advised that a water management scheme during construction and a maintenance scheme for the drainage system are required. This advice is considered germane and the schemes necessary to make the development acceptable. It is considered that the water environment as well as all the other matters can be satisfactorily controlled and there is no concern that this proposal will result in unacceptable cumulative impacts on the local community. Therefore, subject to these conditions and the legal agreement as set out above being completed the effect of the proposal on the water environment would be acceptable and accord with the provisions of policies MCS11, MDC11, MDC12, MDC13, MDC23, CC3 and CC4.

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Restoration & Aftercare

68. The proposed development of the land would lead to the loss of 311 metres of species poor hedgerow and four trees. It is proposed that upon the completion of restoration of the site there would be 617 metres of new hedgerow, 0.6 hectares of deciduous woodland, and 1.6 hectares of lowland meadow. Emerging policy DM12 elevates the importance of achieving net gains to biodiversity on restored sites beyond that in the extant Minerals Core Strategy. The new policy sets out that sites of over 10 hectares should provide for a mosaic of priority habitats – broadleaved woodland, hedgerows and neutral grassland are such habitats and are provided for in the restoration plan. Therefore, notwithstanding the ecological advice received it is considered the restoration scheme is acceptable in principle although the specifics on the restoration remain to be provided and should be required by condition. Box SA4 of the emerging Minerals and Waste Local Plan seeks restoration to “incorporate an element of traditional hedgerow management for retained hedgerows, and the restoration to include woodland to link the existing woodland areas between Gibbet Lane and the A5.” The proposal does not address this but it is considered that this should be provided and, thus, the applicant should be required to provide this as part of the restoration details.
69. Currently, all of the elements controlled and operated by the applicant south of Gibbet Lane have temporary planning permission with a requirement for this land to be restored. The presence of the processing plant (including an inert recycling operation) and silt lagoons area is controlled by planning permission 2006/1565/03, the permission that granted the large extension to the sand and gravel and landfill operations north of Gibbet Lane. A scheme for the clearance of the processing plant site and silt lagoons and their subsequent restoration was approved 30 August 2018. At present, this site clearance and restoration should begin October 2019. The other elements south of Gibbet Lane, namely the ready mixed concrete plant (reference 2014/1009/03), the storage area (reference 2015/1204/03) and the former concrete works (reference 86/0140/3), are all required to cease their operations within one year of the cessation of mineral extraction (which could be as early as the end of 2019), and the land subsequently restored. Therefore, all of Tarmac’s land south of Gibbet Lane, without any further mineral extraction permission, is due to cease operations within the next 18 months or so.
70. The mineral from this proposal would be transported to and processed at the existing plant site (to the east of the proposal). Of course, to process the mineral from this proposal the plant will need to be retained and thus, this planning permission should ensure that this is the case (alongside the silt lagoons) and then post mineral extraction require the land to be restored as per the approved scheme.

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71. Notwithstanding the requirement to retain the plant (and the silt lagoons), within the plant site there is a former concrete works and associated hardstanding (permitted under reference 86/0140/3 on 20th May 1986). This ceased to function as a concrete works some years prior to 2013 but since 30th April 2013 had been cleared of all its associated plant. A planning application was made in 2013 to change the use of the works to a materials recovery and solid recovered fuel production facility with associated storage yard (reference 2013/1509/03). A further planning application was made in 2018 to change the use of the works to provide for the importation, storage and distribution of construction materials (reference 2018/0495/03). Both planning applications were refused on the basis that they were not the correct forms of development for this area and that they would delay the restoration of this site. Given that no lawful use can be found for the former concrete works it is considered that it should not be retained in its redundant form along with the plant (and as set out above it is already due to be removed in the near future). Therefore, it is proposed that a condition is attached to any planning permission requiring firstly, the demolition of the former concrete works building and secondly, its restoration (the timescales of which should replicate that on the former concrete products storage area to the south), i.e. by 31st December 2022. Without such a condition on this planning permission the condition requiring restoration on the extant planning permission (reference 86/0140/3) will keep 'rolling forward' with every new mineral extraction permission.
72. Similarly, other operations take place within the plant area, planning permission was granted in 2000 for an inert recycling operation (reference 99/0476/03). This is located within the processing plant area and it is understood that the use of this area will be superseded by this permission for the stockpiling of extracted mineral and thus the recycling operation would become redundant; restoration of the land can be undertaken alongside the wider plant area. Subject to the control of the matters outlined above by planning conditions, it is considered that the issues relating to restoration, aftercare and after-use are capable of being satisfactorily resolved in accordance with the provisions of policies MCS11, MCS17, MDC20 and MDC21.

Conclusions

73. It is considered that the proposal is in general accordance with the development plan. In particular, strategy policies MCS2, MCS11 and MCS17 which cover the supply of aggregates, environmental protection and site reclamation. Together with the relevant development control policies of the Minerals Core Strategy, these provide the basis for the assessment of the proposal. The proposal has also been assessed against national planning policies and guidance contained in NPPF and PPG and relevant statutory requirements and is considered to reflect the principles of sustainable mineral development.

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74. It is considered that with the imposition of appropriate planning conditions and the unilateral agreement that the proposed development would be acceptable. There have been no objections from statutory consultees.
75. Once fully operational the proposed development would facilitate the release of additional sand and gravel reserves to assist in meeting the shortfall requirements, securing local employment and serving local development needs. In the longer term (the proposal would extend the overall timescales of permitted site operations by 2.5 years) the restored site would continue to provide usable agricultural land, with enhanced bio-diversity and public access features.

Recommendation

- A. PERMIT subject to the conditions as set out in the Appendix, and unilateral agreement for the monitoring of a borehole level including appropriate trigger levels for the maintenance of a supply of water to the adjacent tile works.
- B. To endorse, as required by The Town and Country Planning (Development Management Procedure) Order 2015 (as amended), a summary of

How Leicestershire County Council has worked with the applicant in a positive and proactive manner:

In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework, which advises that planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, by seeking to approve applications for sustainable development where possible.

2018/1457/03 – continued

APPENDIX

Conditions

Commencement

1. The development hereby permitted shall be commenced within three years from the date of this permission.

Notification of Commencement

2. Written notification of the commencement of:
 - a) soil stripping from within the extension area;
 - b) mineral extraction from within the extension area;

shall be provided to the Mineral Planning Authority within seven days from the date of such commencement.

Duration

3. This permission shall be limited to a period of two and a half years from the commencement of the development, by which time the mineral working operations hereby permitted shall have ceased, all plant and machinery removed and the land reinstated in accordance with the reclamation details approved under condition number 33.

Adherence to Approved Details

4. Unless otherwise required by the conditions attached to this permission the development shall be carried out in accordance with the following details:
 - a) planning application reference 2018/1457/03 (2018/CM/0147/LCC) and accompanying environmental statement; and
 - b) the Regulation 25 Further Information submission.

Working and Phasing Details

5. The development hereby permitted shall be carried out in accordance with drawing numbers 2366/ES/2 revision D dated MAY 2018, 2366/ES/3 revision D dated MAY 2018, 2366/ES/4 revision D dated MAY 2018, and 2366/ES/5 revision F dated JULY 2018.
6. Notwithstanding the proposed limits of mineral extraction shown on drawing number 2366/ES/2 revision D dated MAY 2018 no mineral extraction shall take place within five metres south of the northern limit of mineral extraction adjacent to Gibbet Lane.

2018/1457/03 – continued

7. No infilling or waste recycling operations shall take place within the site as defined by solid red and blue lines south of Gibbet Lane on drawing number 2366/ES/2 revision D dated MAY 2018.

Hours of Operation

8. No operations (other than water pumping) shall be carried out at the site except between the following times: 0700 to 1900 hours Monday to Friday; and 0700 to 1400 hours Saturday. There shall be no operations (other than water pumping) on Sundays, Bank Holidays and Public Holidays.

Access

9. There shall be no vehicular access to or from the site as defined by a solid red line on drawing number 2366/ES/2 revision D dated MAY 2018 from Gibbet Lane for any purpose in connection with the development hereby permitted.

Archaeology

10. No stripping of soils within the site as defined by a solid red line but outside of the solid blue line on drawing number 2366/ES/2 revision D dated MAY 2018 shall take place unless and until a written scheme of investigation for archaeological observation and recording has been submitted to and agreed in writing with the Mineral Planning Authority. Once approved works shall take place in accordance with the approved scheme.

Dust

11. No operations shall take place in Phase 18 as shown on drawing number 2366/ES/2 revision D dated MAY 2018 unless and until a dust management scheme has been submitted to and approved by the Mineral Planning Authority. The scheme should include a programme for monitoring the dust emissions from the site and set a limit for those dust emissions. Once approved works shall take place in accordance with the approved scheme.
12. The Dust Control Measures set out in Appendix 3 of Appendix 6 dated 12 July 2018 (reference R18.9090/4/DW) of the Environmental Statement dated July 2018 shall be undertaken at all times. Internal roads and dry exposed material shall be watered as necessary in dry and windy conditions to prevent dust becoming airborne.

2018/1457/03 – continued

Ecology

13. Within twelve months from the commencement of the development hereby permitted five Schwegler 1FF bat boxes shall be provided within the site as defined by solid red and blue lines on drawing number 2366/ES/1 revision C dated MAY 2018.

Highways

14. The number of HGV movements generated by sand and gravel extraction and waste disposal operations shall not exceed 2244 in any week. The operator shall keep a record of all heavy goods vehicles accessing and leaving the site. Back records shall be kept for a minimum of 12 months and access to these records shall be afforded to the Mineral Planning Authority on request.

Lights

15. No fixed lights shall be used or installed within the site as defined by a solid red line on drawing number 2366/ES/2 revision D dated MAY 2018

Noise

Monitoring Scheme

16. No operations shall take place in Phase 18 as shown on drawing number 2366/ES/2 revision D dated MAY 2018 unless and until a scheme of noise monitoring has been agreed in writing with the Mineral Planning Authority. The scheme shall include details of:
 - a) Noise monitoring at agreed locations to assess whether the limits specified in condition numbers 17 and 18 are being complied with;
 - b) Frequency and duration of monitoring;
 - c) Monitoring equipment to be used;
 - d) Presentation of monitoring results, including details of dates, times, prevailing weather conditions and comments on significant noise sources and details of any ambient noise sources passed out of the measurements;
 - e) Provision of monitoring results to the Mineral Planning Authority; and
 - f) Procedures to be implemented if noise emissions exceed approved levels.

Noise monitoring shall only be undertaken in full accordance with the approved details.

2018/1457/03 – continued

Limits

17. Except for temporary operations defined in condition number 18 noise levels arising from the site as defined by a solid red line on drawing number 2366/ES/2 revision D dated MAY 2018 when measured at any noise sensitive property shall not exceed 55dB(A) $L_{Aeq, 1h}$ (free field).

Temporary Operations

18. Noise levels arising from temporary operations, which for the purpose of this condition are site preparation, overburden removal, soil stripping and replacement, the construction and removal of soil and overburden mounds, from the site as defined by a solid red line on drawing number 2366/ES/2 revision D dated MAY 2018 shall not exceed 70dB(A) $L_{Aeq, 1h}$ (free-field) at any noise sensitive property. Such activities should not affect any noise sensitive property for more than 8 weeks in any year. Temporary operations which exceed the normal day to day criterion set out in condition number 17 shall only be carried out in phase 18 as shown on drawing number 2366/ES/2 revision D dated MAY 2018 between the hours of 0800 and 1800 Monday to Friday and the hours of 0800 to 1200 on Saturdays and in phase 19 between the hours of 0900 to 1700 hours Monday to Friday.

Mitigation of Operations

19. During operations involving the formation and removal of screening mounds within Phase 19 of the development as shown on drawing number 2366/ES/2 revision D dated MAY 2018, either temporary acoustic screening or a buffer zone of 40 metres shall be provided between the proposed screening mounds shown on the drawing and the private external amenity space of the residential dwelling identified as Green Acres on the same drawing. Details of the temporary acoustic fence shall be submitted to and approved by the Mineral Planning Authority in advance of its installation.
20. The Noise Mitigation Measures set out in paragraph 6.4.1 of the Noise Assessment dated 11 July 2018 (reference R18.9089/5/AP) shall be undertaken at all times.

2018/1457/03 – continued

Removal and Protection of Trees, Shrubs and Hedgerows

21. Other than Hedgerow 2 and the 11 metres of Hedgerow 4 to facilitate the construction of a haul road (hedgerows shown on Page 22, Appendix A of the Ecological Impact Assessment dated 6 June 2018) and trees T1, T2, T3 and T4 shown on Page 25, Appendix C of the Ecological Impact Assessment dated 6 June 2018 no trees or hedgerows within the site as defined by a solid red line on drawing number 2366/ES/2 revision D dated MAY 2018 shall be removed.
22. Retained hedgerows shall be managed in accordance with paragraph 6.13 of the Landscape and Visual Impact Assessment dated May 2018.

Soil Handling & Ground Preparation Works

23. All soil handling operations (including soil stripping, storage and replacement) shall be undertaken in accordance with paragraphs 4.5, 4.6 and 4.7 of the Soils and Agricultural Use & Quality report dated 23rd April 2018 (reference 463/4).
24. The Mineral Planning Authority shall be notified in writing at least 5 days before each of the following stages:
 - i. before each phase of soil stripping is due to commence;
 - ii. when overburden has been prepared ready for soil replacement to allow inspection of the area before further restoration is carried out; and
 - iii. completion of topsoil replacement to allow an opportunity to inspect the completed works and assess its suitability for entry into aftercare before the commencement of any cultivation and seeding operations.
25. Overburden shall be replaced and levelled so that:
 - a. after replacement of topsoil and subsoil the contours conform with the 'PROPOSED CONTOURS' shown on drawing number 2366/ES/6 revision F dated JUNE 2018; and
 - b. there is satisfactory site and surface drainage, so that the land is free from ponding and capable of receiving an effective under-drainage system.
26. No soils shall be respread until the upper layers of the prepared surface have been ripped and stones, materials and objects which exceed 200 millimetres in any dimension and occur on the surface of the ripped and loosened ground have been removed from the site or buried at a depth of not less than two metres below the final contours.

2018/1457/03 – continued

27. The respread topsoil shall be loose tipped to enable a single pass at a tine spacing of 500 millimetres maximum to full depth of the topsoil plus 100 millimetres. Any stones, materials and objects which exceed 100 millimetres in any dimension and occur on the surface of the ripped and loosened soils shall be removed from the site or buried at a depth of not less than two metres below the final contours.
28. All undisturbed areas of the site and all topsoil, subsoil and overburden mounds shall be kept free from agricultural weeds such as thistle, dock and ragwort. Cutting, grazing or spraying shall be undertaken, as appropriate, to control plant growth and prevent the production of seed and the subsequent spread of weeds onto adjoining agricultural land.

Water Environment

29. Prior to the commencement of mineral extraction within the site as defined by a solid red line on drawing number 2366/ES/2 revision D dated MAY 2018 a scheme to secure the safe de-watering of the site shall be submitted to and approved by the Mineral Planning Authority. Once approved works shall take place in accordance with the approved scheme.
30. Prior to the commencement of mineral extraction within the site as defined by a solid red line on drawing number 2366/ES/2 revision D dated MAY 2018 a surface water drainage scheme shall be submitted to and approved by the Mineral Planning Authority. The scheme should include the utilisation of holding sustainable drainage (SuDS) techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features. Full details for the drainage proposal should be supplied, including but not limited to, headwall details, pipe protection details (e.g. trash screens), long sections and full model scenarios for the 1 in 1, 1 in 30 and 1 in 100 year plus climate change return period. Once approved works shall take place in accordance with the approved scheme.
31. Prior to the commencement of mineral extraction within the site as defined by a solid red line on drawing number 2366/ES/2 revision D dated MAY 2018 details of the long-term maintenance of the sustainable surface water drainage system shall be submitted to and approved by the Mineral Planning Authority. Once approved works shall take place in accordance with the approved scheme.

2018/1457/03 – continued

Restoration in the event of early cessation of working

32. In the event of a cessation of winning and working of minerals prior to the achievement of the completion of the approved working scheme as defined in this permission, and which in the opinion of the Mineral Planning Authority constitutes a permanent cessation within the terms of paragraph 3 of Schedule 9 to the Town and Country Planning Act 1990, a revised scheme to include details of reclamation and aftercare shall be submitted to the Mineral Planning Authority for approval within six months of the cessation of winning and working. The approved scheme shall be fully implemented within 12 months of approval.

Reclamation

33. Within six months of commencement of development, a detailed scheme of final landscaping and restoration of the site shall be submitted to the Mineral Planning Authority for approval. The submitted scheme shall be based on a phased approach and the restoration concept shown on drawing number S348-00062A dated 08/02/2019. The scheme shall include details of the following:
- a) plant species, sizes, quantities and locations, of all new tree, shrub and hedgerow planting, grass seed mixes;
 - b) enhancement to the rights of way network linking Gibbet Lane to footpath X23;
 - c) new woodland planting along the eastern side of the site from Gibbet Lane through to Phase 17A as shown on drawing 2366/ES/2 revision D dated MAY 2018; and
 - d) hedge laying of the retained part of hedgerow 4 as shown on Page 22 of Appendix A of the Ecological Impact Assessment dated 6 June 2018 located within Phases 17A and 17B as shown on drawing number 2366/ES/2 revision D dated MAY 2018.

Planting and seeding in accordance with the approved scheme shall be carried out, as far as is reasonably practicable, within the first available planting season following the restoration of any substantial part of the site, in accordance with working and phasing details required by condition number 5. All trees, shrubs and hedgerows planted in accordance with the approved scheme shall be maintained for a period of five years following planting and such maintenance shall include the replacement of any plants that may die or be seriously damaged or become seriously diseased.

34. Within 12 months of the commencement of the development the concrete works building within the solid blue line on Plan M1 attached to and forming part of this planning permission shall be removed from the site as defined by a solid blue line on drawing number 2366/ES/1 revision C dated MAY 2018.

2018/1457/03 – continued

35. By 30th June 2021 a scheme of final landscaping, restoration and aftercare for the static ready-mix concrete plant and the open storage area for plant and equipment as defined by solid red lines on Plan M1 attached to and forming part of this planning permission shall be submitted to the Mineral Planning Authority for approval. The submitted scheme shall take in to account and complement the restoration details and timescales set out in condition number 36 below.
36. By 31st December 2022 the concrete works site as defined by a solid blue line on Plan M1 attached to and forming part of this planning permission shall be restored in accordance with the details approved under condition 70 of planning permission 2006/1565/03, namely drawing numbers S348-00047a, S348-00048b, S348-00049b, and S348-00050a all dated 25/06/2018.
37. Within two years of the cessation of the processing of sand and gravel extracted from the permission area as defined by a solid red line on drawing number 2366/ES/2 revision D dated MAY 2018 the quarry processing plant area and silt lagoons shall be reclaimed in accordance with the details approved under condition 70 of planning permission 2006/1565/03, namely drawing numbers S348-00047a, S348-00048b, S348-00049b, and S348-00050a all dated 25/06/2018.

Aftercare

38. Within six months of commencement of development, a detailed aftercare scheme shall be submitted to the Mineral Planning Authority for approval. The submitted scheme shall be in accordance with the reclamation details required by condition number 33, and shall provide an outline strategy for the 5 year aftercare period specifying the steps that are to be taken, and the period during which they are to be taken, in order to bring the newly restored land to the required standard for use as agriculture and nature conservation, including the subsequent management of the restored land and vegetation. The steps shall include planting, cultivating, fertilising, watering, draining, and otherwise treating and managing the land. The land shall be treated and managed over a period of 5 years in accordance with the approved scheme, commencing on the date that restoration is completed to the satisfaction of the Minerals Planning Authority.

2018/1457/03 – continued

Reasons

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To enable the development to be monitored to ensure compliance with this permission.
3. To provide for the restoration of the site within an agreed timescale in the interests of the amenities of the area.
4. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner.
5. For the avoidance of doubt.
6. In the interests of the highway and highway safety.
7. For the avoidance of doubt.
8. To protect the amenities of local residents.
9. In the interests of the highway and highway safety.
10. To satisfactorily record any archaeological interest found.
11. To protect the amenities of the locality from the effects of dust arising from the development.
12. To protect the amenities of the locality from the effects of dust arising from the development.
13. To minimise the adverse impact of the operations on ecological interests.
14. In the interests of the highway and highway safety.
15. To ensure that lights from the site do not become a source of nuisance to local residents.
16. To provide for a monitoring regime that ensures noise levels are within acceptable levels to protect the amenity of local residents.
17. To ensure that noise arising from the site does not become a source of nuisance to local residents.
18. To ensure that noise arising from the site does not become a source of nuisance to local residents.

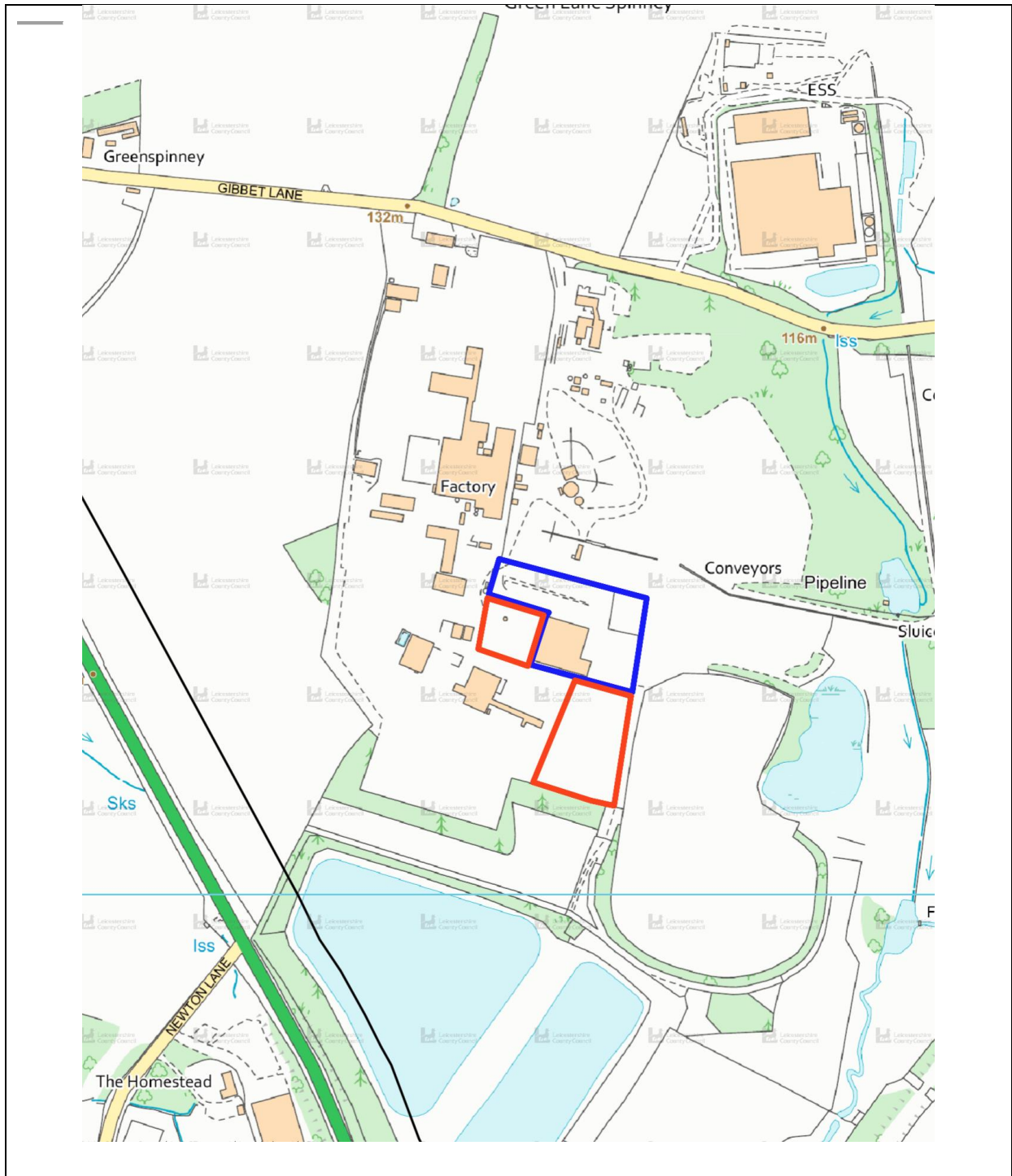
2018/1457/03 – continued

19. To ensure that noise arising from the site does not become a source of nuisance to local residents.
20. To ensure that noise arising from the site does not become a source of nuisance to local residents.
21. To ensure that only the identified vegetation is lost as a result of this development and to safeguard the existing vegetation during the course of the development.
22. To limit the visual impact of the development.
23. To minimise structural damage and compaction of the soil and to aid the final restoration of the site.
24. To allow the Mineral Planning Authority sufficient time to inspect the soil handling and restoration works.
25. To ensure adequate surface drainage, to enable an effective under drainage scheme to be installed, to reduce the risk of soil erosion and to allow the use of agricultural machinery following restoration.
26. To ensure the reclaimed land is in an acceptable condition for agricultural after-use, and potential obstacles are removed prior to the replacement of soils.
27. To ensure the reclaimed land is in an acceptable condition for agricultural after-use, and potential obstacles are removed prior to the replacement of soils.
28. To prevent a build-up of harmful weed seeds in soils that are being, or will be used, for agriculture.
29. To ensure that the proposed development and associated dewatering does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site.
30. To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.
31. To establish a suitable maintenance regime, that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the sustainable drainage system within the proposed development.
32. To ensure reclamation of the site in the event of cessation of mineral working.

2018/1457/03 – continued

33. To ensure satisfactory restoration of the site.
34. To ensure progressive restoration of the wider Shawell Quarry site and to remove redundant elements.
35. To ensure progressive restoration and aftercare of the wider Shawell Quarry site and to co-ordinate restoration with that approved on adjoining land.
36. To ensure satisfactory restoration of the site.
37. To ensure satisfactory restoration of the processing plant site and silt lagoons.
38. To ensure that a suitable regime of husbandry is pursued to bring the land to the required standard for the approved afteruse.

Plan M1



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**Leicestershire
County Council**

DEVELOPMENT CONTROL AND REGULATORY BOARD

23rd MAY 2019

REPORT OF THE CHIEF EXECUTIVE

COUNTY MATTER

PART A – SUMMARY REPORT

APP.NO. & DATE: 2018/2083/03 (2018/REG2Mi/0236/LCC) – 11.02.2018.

PROPOSAL: A new 2-storey classroom block, providing 6 classrooms, male and female WCs to each floor, disabled/staff WC, hygiene room and plant room on the ground floor and a small group room, stair and lift access to the first floor. Minor internal alterations in the existing school will take place to re-organise the staff and entrance areas and restore a production kitchen facility. The car park and the hard play area will be extended.

LOCATION: Fernvale Primary School, Somerby Road, Thurnby.
(Harborough District Council)

APPLICANT: Willmott Dixon Construction on behalf of Leicestershire County Council.

MAIN ISSUES: Parking, Traffic, Amenity

RECOMMENDATION: PERMIT subject to conditions as detailed in the appendix to the main report.

Circulation the Under Local Issues Alert Procedure

Mr. S. J. Galton CC

Officer to Contact

Katie Ferguson (Tel. No. 0116 305 7325)

Email: planningcontrol@leics.gov.uk

PART B – MAIN REPORT**Background**

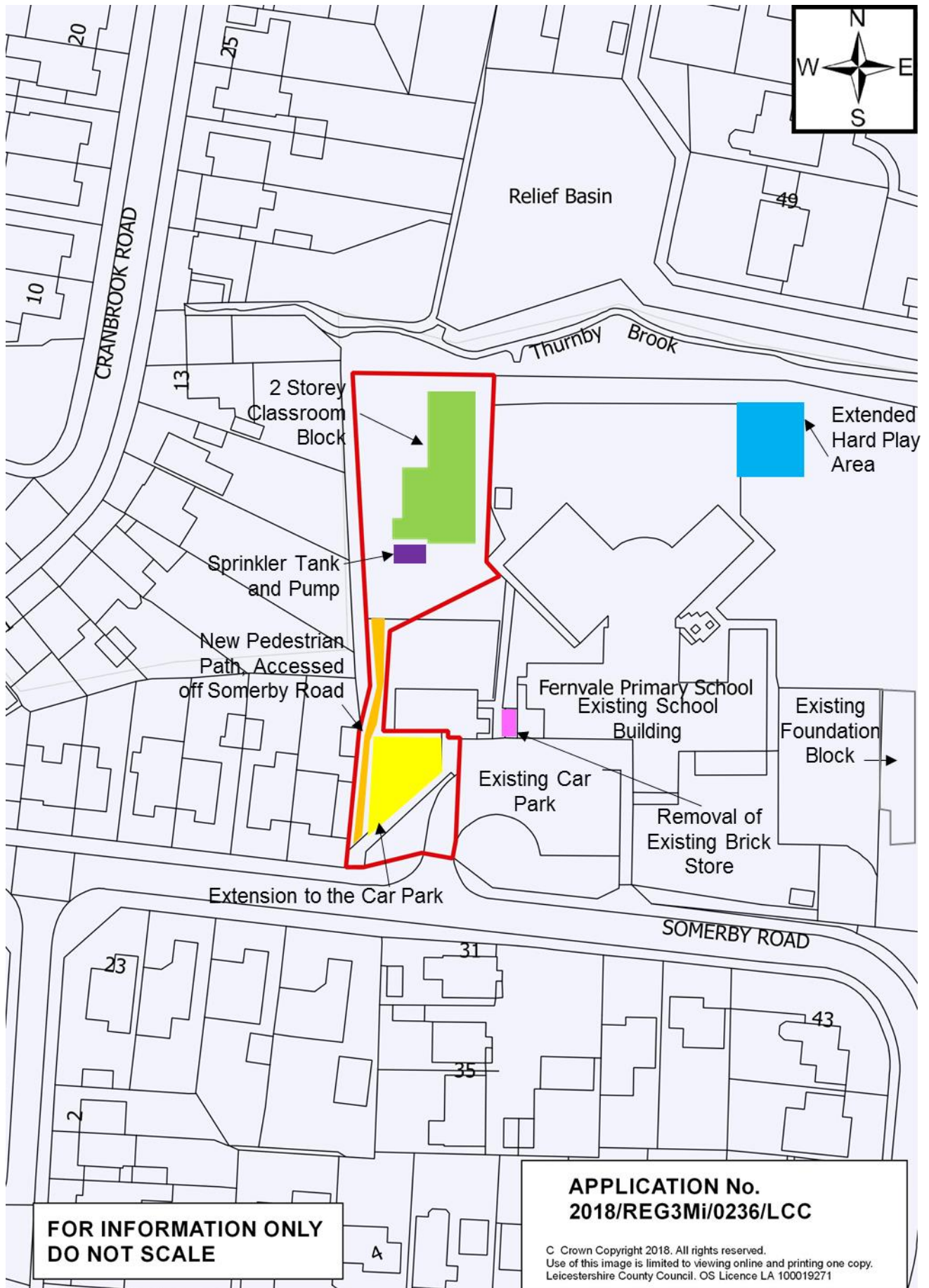
1. Planning permission was granted by Leicestershire County Council in May 2011 (reference 2011/0493/03) for a proposed two classroom extension building and associated external works. In July 2017 permission was granted by Harborough District Council for the erection of a permanent modular pre-school building and associated works. In January 2018 Harborough District Council granted permission to change the use of the caretaker bungalow from residential to school use.
2. Fernvale Primary School currently has 270 pupils. As part of the Local Authority's long-term strategy the pupil numbers would be increased to accommodate 420 pupils.

Location and Description of Site

3. Fernvale Primary School is located north of Somerby Road, Thurnby in a predominantly residential area. The school site is bound to the north by established trees and Thurnby Brook, to the east by Pulford Drive, to the South by Somerby Road from where vehicular and pedestrian access to the site is obtained and to the west by residential dwellings off Cranbrook Road.
4. The school site consists of the original single storey school building located slightly westward of a central position within the wider school site, the caretaker's bungalow to the west of the original building and the modular pre-school building to the east of the main school building, on the south west corner of the playing field. There is a hard-playing field to the north of the existing school buildings and a large playing field to the east. There is a car park to the south of the school building at the front of the site. There are a number of trees of varying ages on the school site located both around the site boundary and close to the existing school buildings.

Description of Proposal

5. The proposed development is for a 2-storey classroom block consisting of the following elements: six classrooms, male and female WCs, disabled/staff WCs, hygiene room, stair and lift access to floor one and a plant room. The proposed classroom block would have a ramped entrance, covered with a canopy, which is accessed from the existing playground. The proposed 2 storey building would be accessed by a new pedestrian path which connects with the existing pedestrian access off Somerby Road. In addition, there will be some re-organisation of the existing school building including: a new studio space formed from an existing classroom, an enlarged staff room, a new reception area, a refurbishment of the existing kitchen to re-instate a production kitchen and a small flue required to the



roof above for mechanical air extraction. Part of the proposal also includes the removal of the existing brick store building located between the bungalow and existing school.

6. A sprinkler tank and pump are also part of the proposed development. It is proposed that the sprinkler tank and pump will be located to the south of the proposed six classroom block and is located within a timber enclosure, measuring approximately 8.5m x 5.4m
7. As part of the proposed development the hard play area would be extended by approximately 134m² to the east of the existing basketball court.
8. The proposed six-classroom block would be located in the north west corner of the school site which is currently overgrown and used as the school garden. The polytunnel and planters associated with the garden will be relocated. The proposal does not encroach on the playground or the school playing field.
9. The overall shape of the six-classroom block is a backwards L. The main part of the proposed development is rectangular in shape, with the width equating to 9.6m and the length 15.3m. The additional area has maximum measurements of approximately 7.7m width by 13.8m in length. The maximum height of the six-classroom block is 7m. All classrooms within the proposed development face into the school site and the minimal window areas facing the boundary will have obscure glazing.
10. The proposed development includes the implementation of two new fences. A new 1.9m close boarded timber or metal security fence will run along the boundary with existing houses on Cranbrook Road. In addition, a new 0.9m timber picket fence is proposed to follow the pathway.
11. The materials of the proposed development would consist of:
 - Walls - buff brick ground floor, white render to upper storey with areas of cedar cladding.
 - Canopy - dark grey powder coated aluminium.
 - Roof - flat roof with singly ply membrane covering.
 - Windows - grey aluminium.
 - Doors - grey aluminium/glazing.
 - Boundary treatments - close boarded timber.
12. The existing car park would be altered to create 13 additional spaces to cater for the new teaching staff, in accordance with the County Council's design guide. It is proposed that the car park would be extended to the west, by creating an additional hard standing area of 568m², the hard standing proposed would be a new porous hard surface, constructed of porous asphalt. Further parking spaces are proposed to be available by creating new porous

2018/2083/03 (2018/REG2Mi/0236/LCC) – continued

asphalt in the south-east of the existing car park. In addition, four of the 13 new parking spaces would be provided by doubling up, (where additional spaces are created by blocking other parking spaces); these spaces would be managed by the school.

13. The proposal would result in an increase of nine full time staff members, six full time teachers and three full time teaching assistants.
14. To facilitate the development, it would be necessary to undertake the removal of five trees: one Purple Leaf Plum and one Red Oak, both of high quality and both located on the northern boundary of the school site; one Dogwood of moderate quality, located at the pedestrian entrance; one Oak of high quality and one Apple of moderate quality, both located to the west of the existing school building.
15. A Transport Statement has been submitted with the application, it concluded that the existing sustainable travel facilities in close proximity to the Fernvale Primary School site are considered to be suitable, facilitating access to the site from the surrounding residential areas and providing pupils, parents/carers and staff options to make journeys on foot, by bike or by public transport. Fernvale Primary School also has a travel plan in place.
16. An Ecological Report has been submitted with the application, which concluded that there are no endangered species within the development site.

Planning PolicyDevelopment Plan

17. The Harborough Local Plan (adopted April 2019) – Policy GD8 Good design in development, developments will be permitted where it achieves a high standard of design. Policy IN2: Providing Sustainable Transport, seeks to maximise the use and efficiency of existing transport facilities and where necessary provide mitigating measures to deal with the impacts of development on the transport network.

National Policy

18. The National Planning Policy Framework (NPPF) provides the government's policies for the delivery of sustainable development through the planning system. In paragraph 11 it advocates a presumption in favour of sustainable development, and for decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless 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 any adverse impacts of doing so would significantly

and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

19. Paragraph 94 of the NPPF states that it is important that a sufficient choice of school places are available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

Consultations

20. **Harborough – Planning:** It appears that the building is sited far enough away from the neighbouring properties on Cranbrook Road to not have an overbearing impact. However, the main school building is single storey as are the nearest properties on Somerby Road. The impact of this proposed two storey building on the character and appearance of the street scene should be considered.
21. **Leicestershire County Council – Landscape:** The proposals will be fairly well screened from adjacent properties and will not have a major adverse visual impact on the surrounding landscape. The existing mature trees and hedgerow vegetation on the site and particularly along the western boundary of the school, provide a valuable screen, have amenity value, provide valuable wildlife habitat and should be retained wherever possible, and protected throughout the construction works. Any trees lost as a result of the proposed development should be replaced with appropriate species of suitable size and in agreed locations. A detailed landscape scheme showing a specification for replacement tree planting covering earthworks, size, species, including protection and aftercare is expected. The revised plans submitted by the applicant received the following comments - The revised car park layout proposed along the southern boundary of the school will encroach further into the Root Protection Area (RPA) certain trees. Therefore any works required, including excavation within the RPA and within the tree canopy, shall be kept to a minimum and carried out by hand to minimise damage to the tree's vital root system and to avoid compaction of the soil. Furthermore, any tree roots encountered with a diameter of 5 centimetres or more shall be left un-severed.
22. **Leicestershire County Council - Highway Authority:** The residual cumulative impacts of development can be mitigated and are not considered severe, subject to conditions relating to a construction traffic management plan, the implementation of parking and turning facilities; and an updated School Travel Plan.
23. **Leicestershire County Council – Ecology:** The survey submitted as part of the application indicates that no protected species are likely to be impacted by the development and we would therefore recommend that the applicant's attention is

drawn to the recommendations on the site. Therefore, no objections to the application.

24. Thurnby and Bushby Parish Council: Supports the proposal.

Publicity

25. The application was publicised by neighbour notification letters dated 6th December 2018 and site notices dated 7th December 2018.

Representations Received

26. Seven representations have been received objecting to the proposal, on the following grounds:

- The increase of traffic and congestion;
- Inadequate road infrastructure;
- Parking – relating more specifically to individual concerns:
 - Teacher parking;
 - Pick up and drop off;
 - After school / out of school activities;
 - Construction parking;
- Location of the six-classroom block;
- Wildlife / ecology concerns;
- Visual amenity;
- Character of the new development in relation to the existing school building;
- Construction impact – drainage, pollution and flooding into Thurnby Brook;
- Noise and disruption;
- Soil spilling and subsidence impact on neighbouring properties;
- Lack of playground facilities for increased pupils, resulting in more noise if playtime is staggered and not meeting the needs of the pupils.

Assessment of Proposal

Principle and Location of Development

27. The proposed development at Fernvale Primary School is required to meet the Local Authority's long-term strategy to enlarge the school to accommodate 420 pupils. This is proposed to be achieved by re-organising the existing school and constructing a new standalone 2-storey building, providing six classrooms and ancillary spaces.

28. The proposed development would be located in the north west corner of the school site which is currently overgrown and used as the school garden. The proposed 2 storey building would be accessed by a new pedestrian path which

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connects with the existing pedestrian access off Somerby Road. The proposal is fairly well screened to the north and west by hedgerows and mature trees from adjacent properties, although there are some gaps in the treeline along the north-western boundary. The positioning of the proposed classroom block has been chosen to provide effective links with the existing school building so it can be directly accessed from the playground. A concern was raised from a representation about the location of the proposed six-classroom block.

29. The location chosen for the proposed classroom block does not conflict with the existing school playing field and is easily accessible from the existing school building, and therefore is considered acceptable.

Landscaping

30. As part of the development, five trees will be removed, two located on the northern boundary of the school site, one located at the pedestrian entrance, and two located to the west of the existing school building. While the loss of trees is regrettable, it is possible to mitigate against the loss by requiring replacement tree planting and additional landscaping, secured by planning condition. This would also improve the amenity and biodiversity of the school site. The landscaping scheme would need to address gaps in the treeline along the north-western school boundary which would help further screen the proposed development from nearby properties. A representation raised a concern about the visual impact. A proposed landscaping scheme could help improve the visual amenity of the school and provide a valuable screen for the development.
31. The proposed development would be in close proximity to existing trees which are to be retained. It is considered that a condition should be imposed requiring the root protection areas of all trees in close proximity of the works (as identified in the tree survey) in accordance with BS 5837: 2010 'Trees in Relation to Design, Demolition and Construction Recommendations'. Any works to the trees should also be controlled by condition. Subject to the control of the above vegetation protection matters and a landscaping scheme, it is considered that the development would be considered acceptable.

Highways and Parking

32. The existing traffic and parking issues at Fernvale Primary School are the main concern for local residents living nearby; including the reported discourteous behaviour by parents, teacher parking and the potential for the proposed development to add to the busy periods at the start and end of the school day, and for after of school activities. A concern was also raised about an inadequate road infrastructure. The development is likely to result in an increase in the number of parents dropping off children outside the school which could potentially cause congestion and disturbance for local residents. This has to be balanced against the benefits of providing additional education facilities which would be of benefit to the wider community. In order to reduce the impact on

residents, it is recommended that the school be required to update its travel plan to alleviate parking problems surrounding the school by seeking to encourage more sustainable modes of transport and reducing reliance on car use.

33. The Highway Authority considers that the residual cumulative impacts of the proposed development can be mitigated and are not considered significant subject to conditions relating to a construction traffic management plan, parking and turning facilities and an updated travel survey. An updated travel plan would encourage travel by sustainable modes to and from the primary school site. Therefore, the proposal would be acceptable in accordance with Policy IN2, Providing Sustainable Transport of the Harborough Local Plan.
34. The proposal includes the expansion of the car parking facilities, providing for an additional 13 spaces to cater for the projected increase in teaching staff. The existing car park would be extended at the western end to accommodate these spaces and would result in the loss of one tree as detailed above. The level of parking proposed satisfies the requirements of the County Council's design guide and is therefore, considered to be satisfactory. Subject to the control of the above parking provision it is considered that the development would be in accordance with the school parking requirements included in the County Council's design guide.
35. Representations raised concerns over construction parking and impact. In order to limit the construction impacts conditions are recommended that will limit the times of construction works, deliveries and movement of materials and machinery and that any vehicles associated with the construction shall be parked within the school site. These conditions would help mitigate the impacts of the construction traffic by reducing the potential conflicts of movements at peak times when pupils are arriving at, or departing from, the school premises. Subject to conditions controlling construction work times, deliveries, movement of materials and machinery and parking, the development is considered acceptable.

Materials and Design

36. The existing main school building consists of a buff brick single storey steel frame flat roof structure built in the late 1960s and has white aluminium windows and door frames. The foundation block (added in 2017) has areas of Western red cedar vertical cladding and white steel cladding panels with dark grey powder coated aluminium window and door frames. The proposed classroom complements the existing school buildings with matching buff brick as the main facing material on the ground floor of the classroom block. The upper storey of the extension is to have a contemporary appearance that will match the new foundation block, with a white facing material with areas of western red cedar cladding. The external doors and frames, window frames and entrance canopy will have a dark grey powder coated aluminium finish to match the new

foundation block. The materials for the proposed classroom block will complement the existing school buildings and therefore is considered acceptable

37. To reduce the impact on neighbouring properties that back onto the western boundary of the school site and the established street scene and character of the neighbouring residential areas, the classroom block is compact with a flat roof to keep the overall height to a minimum. In addition, the classrooms within the building are located on the eastern side of the building, furthest away from the residential properties. To protect residential amenity and privacy it is recommended that a condition is imposed for the windows on the western side of the proposed development to be obscured glass. In addition, the existing screening and additional planting would also reduce the impact on neighbouring properties and the established street scene.
38. The building has been designed to complement the existing school buildings, and subject to the windows on the western side of the proposed development being obscured, it is considered that the development is in accordance with Policy GD8 of the Harborough Local Plan.

Ecology

39. An ecological appraisal has been carried out as part of the application, which identified that there are no protected species located within the application site. The majority of buildings on site were assessed as having negligible potential for supporting roosting bats, with one building assessed as having moderate bat roost potential. None of the trees within the site are considered to support bat roosts. The scattered trees, hedgerow and ornamental planting may provide nesting and foraging opportunities for birds, with woodpigeon, magpie and great spotted woodpecker present during the survey. There was no evidence of badgers within the site. The report makes a number of recommendations to minimise the impact of the development and these will be brought to the applicant's attention.

Conclusion

40. It is considered that the proposed development is satisfactory and that the requirements of the development plan mentioned above have been met. The proposed classroom block is well located in relation to the main school building. Subject to conditions, the proposed development and associated works would not have a significant impact on the local environment or amenity of the area and no protected species would be affected.

Recommendation

1. PERMIT subject to the conditions, as set out in the appendix.

2. To endorse as required by the Town and Country Planning (Development Management Procedure) Order 2015 (as amended) a summary of how Leicestershire County Council worked with the applicant in a positive and proactive manner:

In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework.

Appendix**Conditions****Commencement**

1. The development hereby permitted shall commence within three years of the date of this permission.
2. The development shall be carried out in accordance with the following plans and documents; unless otherwise specified by other conditions attached to this permission.
 - Application form dated 11.01.2019
 - Site location plan, drawing number 100, revision A, dated 13.02.19;
 - Proposed site plan, drawing number 101, revision C, dated 06.02.19;
 - Proposed 6 classroom block plans, drawing number 110, revision A, dated 30.01.19;
 - Proposed classroom block elevations, drawing number 150, revision A, dated 30.01.19
 - Planning, Design & Access Statement, dated 'Revised 11.02.19', project no. L1838;
 - Transport Statement, Project 18-0600, dated 19.10.18;
 - Fire Tender Access Plan, drawing number 102, scale 1:200;
 - Fernvale Primary School Ecology Report, dated August 2018;
 - Fernvale Primary School Tree Survey UPRN 508, dated October 2018,
 - Topographic Survey, drawing number 8512Ferndale, dated 20th August 2018.

Construction Works

3. All site preparation and construction works, deliveries of and movement of materials and machinery, in connection with the approved development, shall only take place between 0730-1800 hours Monday to Friday and 0730-1300 hours on Saturdays. No such activities shall take place at any other time on Saturday or Sundays or Statutory Public or Bank Holidays. There shall not be any work carried out under floodlights on the construction site.
4. Notwithstanding the provisions of condition number 3 above, deliveries of materials or plant/machinery to and from the site shall not take place between 0800-0930 hours or 1400-1600 hours on any school day.

2018/2083/03 (2018/REG2Mi/0236/LCC) – continued

5. No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the County Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

Car Parking Facilities

6. The development hereby permitted shall not be used until the parking and turning facilities have been implemented in accordance with the details shown on the Proposed site plan, drawing number 101, revision C, dated 06.02.19. Thereafter the onsite parking provision shall be so maintained and kept available for use.

Materials and Finishes

7. All windows on the western side of the development shall be obscured privacy glass.
8. The development hereby permitted shall be constructed in accordance with the schedule of materials as set out below:
 - Walls - Buff brick ground floor, White render to upper storey with area of cedar cladding;
 - Roof - Flat roof with singly ply membrane covering;
 - Windows and Doors - Grey aluminium
 - Canopy - dark grey powder coated aluminium;
 - Boundary Treatments - Close boarded timber.

Landscaping

9. Prior to the completion of the construction works, a landscaping scheme (showing a specification for replacement tree planting covering earthworks, size, species, protection and aftercare) shall be submitted to and agreed in writing with the County Planning Authority. The scheme shall include details of new tree planting on the site to replace those lost as a result of the development plus additional planting to fill gaps in the planting along the western boundary of the school site

Tree Protection

10. Prior to construction works, any trees to be retained within the extent of works, should be adequately protected with adequate temporary fencing in accordance with the provisions of BS 5837, 2012: 'Trees in Relation to Design, Demolition and Construction - Recommendations', and with reference to the root protection areas shown on the submitted tree survey.

Travel Plan

11. No part of the development hereby permitted shall be first occupied until an updated School Travel Plan which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the County Planning Authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.

Reasons

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, and to enable the County Planning Authority to review the position at the end of this period.
2. To ensure a satisfactory form of development.
3. To minimise the impact of the construction works on the surrounding area, and to minimise the impact on the amenities of nearby residents.
4. In the interests of highway safety and to avoid conflicts of movements at times when pupils are arriving at, or departing from, the school premises.
5. To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area.
6. To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety.
7. To protect the privacy of local residents.
8. To ensure a satisfactory external appearance.
9. To ensure that the landscaping scheme is implemented as soon as possible and that the planting becomes established.
10. To ensure that important trees on the site are protected during the construction of the development.
11. To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework (2019).

Note to the ApplicantEcology

1. The Applicant's attention is drawn to the recommendations contained in section 4 of the Fernvale Primary School Ecology Report, dated August 2018.

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**Leicestershire
County Council**

DEVELOPMENT CONTROL AND REGULATORY BOARD

12TH SEPTEMBER 2019

REPORT OF THE CHIEF EXECUTIVE

REGULATION 3

PART A – SUMMARY REPORT

APP.NO. & DATE:	2019/0533/04 (2019/REG3Mi/0110/LCC) – 07.05.2019
PROPOSAL:	Construction of an 80 place ASD / Communication and Interaction School together with external works.
LOCATION:	Former Newlands Primary School, Moore Road, Barwell, Leicestershire, LE9 8AG. (Hinckley and Bosworth Borough Council)
APPLICANT:	Leicestershire County Council.
MAIN ISSUES:	Parking, Highways, Amenity, Flooding.
RECOMMENDATION:	PERMIT subject to conditions as detailed in the appendix to the main report.

Circulation the Under Local Issues Alert Procedure

Mrs. J. Richards CC

Officer to Contact

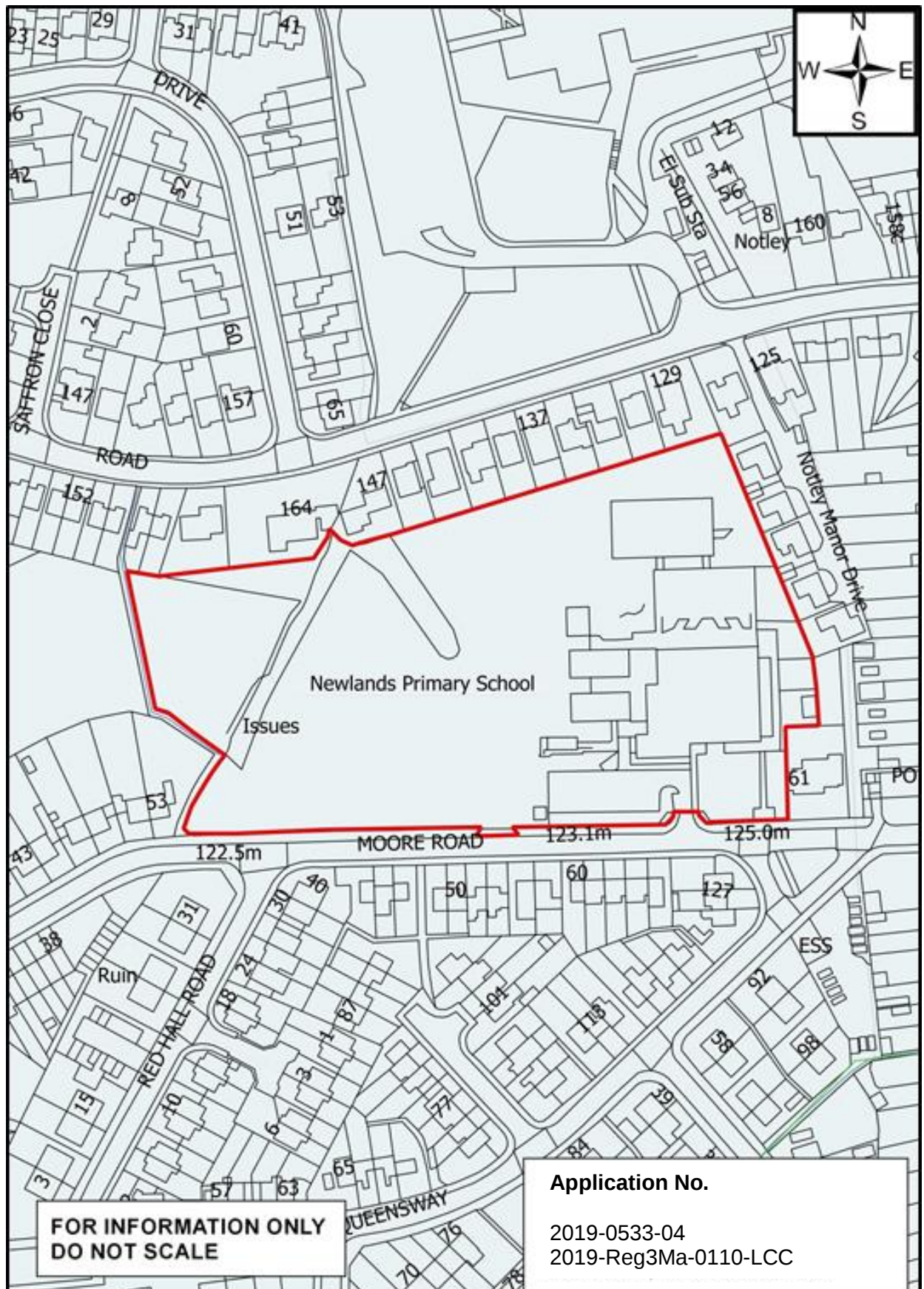
Katie Ferguson (Tel. No. 0116 305 7325)
Email: planningcontrol@leics.gov.uk

PART B – MAIN REPORT**Background**

1. Since its construction in the 1970's the County Council has granted a range of planning permissions at Newlands Primary School, relating to the retention of mobile classrooms, the erection of a canopies, replacement fencing, extensions to the building and new modular buildings. The most recent planning permissions granted were in 2017 for the retention of a single mobile classroom (Block D) and two double mobile classroom blocks, (H & J), references 2017/0461/04 & 2017/0474/04 respectively.
2. The former Newlands Primary School currently occupies the site and when open, accommodated 280 pupils. The school building is now closed, and the building is vacant as the primary school was relocated in 2018 to the former Heathfield Academy site, creating Newlands Community Primary School.
3. The former Newlands Primary School building was subject to a prior notification of demolition application (reference 2019/PN/0111/LCC) which was granted by Leicestershire County Council in June 2018, with demolition of the building expected to be completed in September 2019.

Location and Description of Site

4. The former Newlands Primary School lies to the north of Moore Road, on the eastern side of Barwell, in a predominantly residential area. Vehicular and pedestrian access to the site is obtained from Moore Road, via separate entrances.
5. The main school building is precast concrete and is located in the south east of the campus, with the three-mobile classroom blocks adjacent on its western side. The main school building is connected to the two-double classroom blocks via an existing canopy. North of the main school building are two marked out hard surfaced play areas. To the west of the hard surface is a jungle gym and play equipment. The school car park is located to the south of the existing main school building and currently accommodates 17 spaces. The pedestrian access, cycle storage and a grassed area with multiple trees is located in the south east. To the west of the school buildings is a large playing field, with a wooded area on the western boundary that was previously used by the pupils of the primary school for curricular activities. The school boundary consists of 1.8m high close board wooden fencing and mature trees and shrubs. Overall, the wider school site totals approximately 1.9 hectares.



6. Residential properties are located along Heath Lane to the north, Moore road to the south and Notley Manor Drive to the north east, which are the nearest, approximately 50m away.
7. A Public Right of Way Footpath (U31) runs to the western side of the site, connecting Moore Road with Heath Lane (where it becomes Charnwood Road), via a small park (Radford Park).
8. The topography of the site falls from the south west corner down to the North West. The total fall is just below 6m.
9. There is an existing water course onsite, which is fenced off, with trees and vegetation projecting into the playing field area. Existing storm water drains from the school and the surrounding area discharge into the existing water course.

Description of Proposal

10. The proposed development is for the establishment of an 80 place Autistic Spectrum Disorder (ASD) Communication and Interaction School. For the purpose of this report, the proposed school will be referred to as Newlands ASD School. The school would cater for 80 pupils with communication and interaction needs, particularly ASD aged from 7-19. The former Newlands Primary School catered for 280 pupils, aged 4-11.
11. The proposed school building would be single storey, with all the external doors having level access. The location of the proposed building would be sited on the same footprint as the existing school building, however, the proposed new school building would project further into the playing field area.
12. The internal school layout would include 10 classrooms with adjacent store and withdrawal rooms, sensory and calming rooms, medical/therapy rooms, pupil and staff WCs, changing facilities, a hygiene room, administration offices, a parents room, a learning resource centre, a kitchen, a hall, gym, common room, cleaners facilities, a plant room, store rooms and the main circulation of the building would be via two main wide corridors. On the eastern part of the building a courtyard is proposed. There are two entrances to the proposed school building, the main lobby and a Key Stage 5 (Post 16) entrance.
13. The overall shape of the school building is generally rectangular, and measures approximately 76m by 37m, with a maximum height of 7m. For comparison, the former Newlands Primary School building measured approximately 1152.70m².
14. The external materials of the proposed school building would consist of:
 - walls - blue engineering brick up to damp proof course level and render above. The external walls to the withdrawal rooms and the front of the administration area is full height engineering brickwork;

- roof – single ply membrane. The parapets have a powder coated aluminium capping, the colour has not been decided;
 - windows and doors - powder coated aluminium framed with toughed glass safety glazing;
 - rainwater down pipes - powder coated steel, the colour has not been decided;
 - security fences and vehicle access points - black powder coated weld mesh fencing on metal posts.
15. The development would result in 22 full-time equivalent employees. This figure is based on a current staffing assessment. At the former Newlands Primary School there were 32 employees.
 16. The existing car park (17 spaces) would be re-configured to create seven additional spaces to cater for the new teaching staff, giving a total of 24 car parking spaces. In addition, the proposal includes a further six spaces to be used as a drop off and pick up area.
 17. As part of the proposed car park improvements a second entrance would be created west of the existing access point on Moore Road. The new access into the car park would form the entrance and the existing access would be the exit – creating one-way traffic through the car park. The existing car park entrance (which would become the exit) is to be widened, and to facilitate this the existing gas meter housing is to be relocated. A pedestrian gate is also proposed adjacent to the vehicular accesses.
 18. Newlands ASD Primary School would be attended by pupils from a wider catchment compared to the former primary school, which would primarily have served the local community.
 19. As part of the proposal a sprinkler protection system is to be provided, and a sprinkler tank would be located adjacent to the extended car park area and south west of the proposed school building. It would measure approximately 9m by 5m and 3m high at its highest elevation.
 20. All of the existing boundaries are to be retained, with the exception of where the existing and proposed vehicular access points are located.
 21. A bin store area is proposed on the southern boundary of the proposed school building, the screen to the bin store area is 1.9 metres high fencing, with concrete posts stained dark grey.
 22. To facilitate the development, it would be necessary to undertake the removal of six trees: one Silver Birch and one Sycamore located north of the school buildings both of low quality; two Ornamental Cherry and one Whitebeam located centrally within the proposed footprint of the new building all of low quality; one Whitebeam located on the southern boundary of the car park near the existing

access which is classified in the unsuitable category. A section of Hawthorn hedgerow would also be removed on the southern boundary to allow for the proposed new access point to be created, the hedgerow is categorised as low quality.

23. An ecological report has been submitted with the application, which concluded that there are no protected species within the site and no statutory designated sites present within 1km of the site.
24. A Flood Risk Assessment has been submitted with the application, it concluded that the proposed development site currently lies within Flood Zone 1 and is classified as more vulnerable. It states that the disposal of surface water by infiltration to the ground is considered possible owing to the underlying ground conditions. The proposed surface water proposals for the development would reduce peak flows from the site to the existing watercourses and sewers and the risk of flooding is considered to be low.
25. The storm water on the existing site is currently discharged into the water course that projects into the site. As part of the proposed development it is proposed that a sustainable drainage system comprising an infiltration basin is constructed to the north of the school to allow storm water to infiltrate into the ground. The proposed development would substantially reduce the amount of storm water that is discharged into the watercourse.
26. The proposed school building would be larger than existing school and would have building mounted lights associated with external doors. No additional lighting/flood lighting of the external play areas is proposed.
27. The refurbishment of the existing school was considered, although this was not deemed to be a viable option as it was too costly to enhance the existing building to meet current standard and purposes of the ASD school; in addition, the layout of the existing building was unsuitable.
28. At the time of submission of the planning application, no operator had been appointed to run the school. The school design has been developed based on current best practice in the sector of ASD educational buildings, combined with site visits to, and discussions with the head teachers of existing ASD schools in the locality.
29. There has been a marked increase in demand for Specialist Educational placements for pupils with Communication and Interaction needs, particularly ASD, in recent years. The proposed development, Newlands ASD School would help achieve the vision for SEND (Special Educational Needs and Disability) in Leicestershire for all pupils to achieve well in their education.

Planning PolicyDevelopment Plan

30. The Development Plan for the application site includes the Hinckley & Bosworth Core Strategy 2006-2026 (December 2009), the Site Allocations & Development Management Policies DPD (adopted 2016) and the Earl Shilton and Barwell Area Action Plan (adopted 2014). The principal policy considerations relevant to the current application are set out below.

Hinckley & Bosworth Core Strategy 2006-2026 (December 2009)

31. Policy 2 - Development in Earl Shilton
32. Policy 24 - Sustainable Design and Technology

Site Allocations & Development Management Policies DPD (adopted 2016)

33. Policy DM 1 - Presumption in Favour of Sustainable Development;
34. Policy DM 2 - Delivering Renewable Energy and Low Carbon Development;
35. Policy DM 10 - Development and Design;
36. Policy DM 17 - Highways and Transportation;
37. Policy DM 18 - Vehicle Parking Standards;
38. Policy DM 25 - Community Facilities.

Earl Shilton and Barwell Area Action Plan (adopted 2014)

39. The application area is identified in the Earl Shilton and Barwell Area Action Plan as a community facility and therefore the following policies apply;
40. Policy 2 - Provision of Community Facilities;
41. Policy 3 - Primary, Secondary and Upper Education;
42. Policy 24 - Safeguarding Community Facilities.

National Policy

43. The National Planning Policy Framework (NPPF) (2019) provides the government's policies for the delivery of sustainable development through the planning system. The following policies apply:
44. Paragraph 11 advocates a presumption in favour of sustainable development, and for decision-taking this means approving development proposals that accord with an up-to-date development plan.

45. Paragraph 94 - of the NPPF states that it is important that a sufficient choice of school places are available to meet the needs of existing and new communities. Great weight should be given to the need to create, expand or alter schools.
46. Paragraph 175 - promotes the inclusion of ecological enhancements.

Consultations

47. The application had two consultation periods; the original consultation period and the re-consultation period as amendments were made to the original application which altered the car parking spaces and employee numbers. The consultee responses below combine both consultation periods.
48. **Hinckley and Bosworth – Planning:** No objection. The proposal would provide a replacement community facility on an allocated site, would retain the play and open space facilities within the allocated site and would not result in the loss of significant trees.
49. **Hinkley and Bosworth – Environmental Health:** No objection, it is not believed that the lighting would have a significant impact on neighbouring residential premises.
50. **Leicestershire County Council – Landscape:** No objection, comments made relating to tree replacement, tree protection and the submission of a landscaping scheme.
51. **Leicestershire County Council - Highway Authority:** No objection, subject to conditions relating to access arrangements, visibility splays, parking and turning facilities, signage, a travel plan and a construction traffic management plan. The Local Highways Authority considers that amendments to the existing advisory keep clear markings outside the school would be required due to the additional site/pedestrian access. It is considered that the keep clear markings should be made mandatory.
52. **Leicestershire County Council – Lead Local Flood Authority:** No objections, but advise conditions relating to the management of surface water and a surface water drainage scheme.
53. **Leicestershire County Council – Ecology:** No comments but recommended that sections 4.10 (badgers) and 4.18 (nesting birds) of the Ecological Appraisal are followed. Additionally, recommendations R2 and R3 of the Bat Survey should be followed.
54. **Leicestershire County Council – Public Rights of Way:** No objection, subject to conditions relating to boundary treatment, planting, public safety.

2019/0533/04 (2019/REG3Mi/0110/LCC) – continued

55. **Barwell Parish Council:** No objection. Commented on a condition that the car park is used for drop-off, to stop road parking.
56. **Sport England:** No objection.

Publicity

57. The original application was publicised by neighbour notification letters dated 13th May 2019, site notices dated 15th May 2019 and a press notice dated 15th May 2019. The revisions to the application were publicised by neighbour notification letters and site notices dated 19th June 2019, and a press notice dated 26th June 2019.

Representations Received

58. Three representations have been received raising concerns to the proposal, on the following grounds:
- traffic along Belle Vue Road;
 - build-up of stationary vehicles at peak time along Moore Road and Belle Vue Road;
 - risk of flooding;
 - surface water issues;
 - smell of the proposed swale;
 - inaccuracy of the flood report submitted – not including flooding at Heath Lane that occurs from the field and ditch.

Assessment of Proposal

The Development Plan

59. This proposal, like any other application, must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the following are the key issues for consideration.

Principle and Location of Development

60. The proposed development at the former Newlands Primary School, is required to provide a need for specialist educational placements for pupils with communication and interaction needs, particularly ASD. The proposal would provide an 80 Place ASD/communication and interaction needs school in the Hinckley area of the county. The school would cater for 80 pupils aged from 7-19. This is proposed to be achieved by re-developing the school site.
61. The proposed new school building would be sited in the same position as the existing one, with the proposal retaining the existing playing field to the west of the buildings and play areas to the north. The proposed new school building is

single storey, with all the doors having level access allowing easier access for wheelchair users and semi ambulant people. The school site would be accessed by a pedestrian entrance off Moore Road, in the south-eastern corner of the school site. Vehicle access to the site would also be from Moore Road, and the proposal includes alterations to the existing car park with a second car park entrance being formed to the west of the current car park entrance, allowing for one-way traffic through the car park. The existing car park entrance (which would become the exit) is proposed to be widened to allow easier vehicle manoeuvring. The proposal is fairly well screened to the south and west by hedgerow and woodland planting, there is little screening along the northern and western boundaries of the school site. The proposed development is a re-development of a former primary school site. The proposed works do not conflict with the existing school playing field, or significantly affect the amenity of the surrounding residential properties, and the access arrangements would be improved. The principle and locational factors of the development are therefore considered acceptable having regard to the development plan.

62. The proposed development would provide places for pupils with communication and interaction needs, particularly ASD and therefore make provision for a new community facility which is acceptable in accordance with Policy 24 of the Earl Shilton and Barwell Area Action Plan and paragraph 94 of the NPPF, which highlights the importance of ensuring that a sufficient choice of school places are available to meet the needs of existing and new communities.

Landscaping

63. As part of the development, six trees would be removed, one located on the southern boundary of the school site, three within the footprint of the new school site and two to the north of the school building and the west of the hard-playing surface. Five of the six the trees for removal are categorised as low quality, with the other tree classed as unsuitable for retention as it is in poor health. In addition, a hawthorn hedgerow along the southern boundary, along Moore Road, categorised as low quality would also be removed as part of the proposals to allow for a new site access.
64. An outline landscaping strategy is proposed which includes the following:
- hedgerow extension to the east of the existing entrance;
 - a small planting and growing zone on the southern side of the school building;
 - additional shrub planting in the south east corner of the school site;
 - sustainable urban drainage approach through a smaller basins and a swale feature along the northern boundary of the school site;
 - wildflower and grassland areas along the northern boundary of the school site;
 - tree planting in the central part of the site, to the north of the proposed school building.

65. More details of the landscaping, such as size, species, layout of planting including protection and aftercare, treatment of surfaces, fencing requirements can be required by condition to ensure that the landscaping scheme enhances the appearance of the school site in line with the proposed outline scheme. The removal of six trees and the hedgerow would not be significant and the overall impact is considered to be low as the trees to be removed relate to a small proportion of trees within the site. The tree loss can be addressed by requiring replacement tree planting of appropriate species and of suitable size to ensure that the development achieves a high standard of landscaping in accordance with Policy 10 of the Hinckley and Bosworth Local Plan.
66. The arboricultural report and impact assessment submitted with the application makes recommendations for tree protection and mitigation planting, this can be conditioned requiring appropriate protection measures to be undertaken to the relevant British Standards, including fencing for the trees to be retained which are in close proximity to the proposed works.
67. Subject to the control of conditions relating to a landscaping scheme and vegetation protection, it is considered that the development is acceptable in accordance with policy DM 10 of the Hinckley and Bosworth Local Plan.

Highways and Parking

Highways Access

68. The primary school which previously occupied the site served the local community in which the pupils generally would have had only a short distance to travel to school. For the proposed development, as an ASD school, pupils would be attending from further afield, travelling to and from school via car, taxis and potentially mini buses. The current car parking arrangements at the school would be improved by the creation of a second car park entrance, created west of the existing access point on Moore Road. The new access into the car park would form the entrance and the existing access would be the exit – creating one-way traffic through the car park, with off-highway drop-off/pick-up area. The Local Highway Authority has advised that amendments to the existing advisory keep clear markings outside the school would be required due to the additional site and pedestrian access to reduce the risk of conflict at the main access
69. Subject to conditions relating to: a construction traffic management plan, access arrangements, parking, road markings, turning and cycle parking facilities and a one-way signage scheme, the highway safety and access implications of the proposed development is considered acceptable in accordance with Policy DM 25 of the Hinckley and Bosworth Local Plan.

Trip Generation and Transport Sustainability

70. The previous school had approximately 280 pupils whereas the proposed development is for 80 students. A trip generation analysis calculates that there would be a reduction of some 52-76 two-way trips compared to the previous use. Therefore, the development is likely to result in a significant reduction in the number of individual vehicles dropping off children outside the school compared to the former primary school. Traffic and parking have been raised as a concern, and the proposed development has the potential to add to the busy periods at the start and end of the school day, and for after of school activities. To help alleviate any parking congestion, it is recommended that the new school be required to produce a new travel plan in a phased manner as the school opens. In addition, the proposed development includes the provision of cycle stands which will accommodate up to 10 cycles, as some pupils may choose to cycle to school. The school site is also well connected to the public transport network. It is considered that the development accords with Policy DM 25 of the Hinckley and Bosworth Local Plan which supports the formation of new community facilities across the borough and the reduction in reliance on the private car. Subject to controls relating to a travel plan plus cycle facilities, the trip generation and sustainable transport implications of the development are acceptable.

Parking Provision

71. The proposal includes the expansion of the car parking facilities. The existing car park accommodates 17 car parking spaces and the proposed development would create an additional seven spaces, totalling 24. The proposed development includes the provision for 21 full-time equivalent employees, therefore, the level of parking proposed, satisfies the requirements of the County Council's design guide and is therefore, considered to be satisfactory. In addition to the car parking spaces, a pick up/ drop off area has also been provided within the site to accommodate taxis, minibuses and cars to drop off/ pick up pupils.
72. Subject to the control of the above parking provision matters it is considered that the development would be in accordance with the school parking requirements included in the County Council's design guide and meet Policies DM17, DM 18 and DM 25 of the Development Plan subject to the imposition of advised conditions.
73. Overall, subject to conditions relating to signage, a construction traffic management plan and access arrangements. The Local Highways Authority views that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be significant. Therefore, it is considered that the proposed parking and travel arrangements are appropriate to accommodate the proposed development and meet Policies DM17, DM 18 and DM 25 of the Development Plan.

Materials and Design*Materials*

74. The proposed school building has been designed to be robust. The walls are proposed to be blue engineering brick up to damp proof course level and render above, with the external walls to the Withdrawal Rooms and the front of the administration area in full height engineering brickwork. The roof is proposed to be single ply membrane, with the parapets having a powder coated aluminium capping. Windows and doors are proposed to be powder coated aluminium framed with toughened glass safety glazing. Rainwater pipes are proposed to be powder coated steel, and anti-climb. The security fencing around the school is proposed to be black powder coated weld mesh fencing on metal posts. The screen to the proposed bin store area is 1899mm high hit and miss fencing on concrete posts stained dark grey.
75. The colours of the external materials have not been specified and therefore a condition is recommended to require precise details of the external materials and finishes to be submitted for approval by the County Planning Authority. It is considered that this condition would ensure that these additional features would preserve visual amenity.
76. Subject to the above condition the materials and design are considered acceptable in accordance with policy DM 10 of the Hinckley and Bosworth Local Plan.

Ecology

77. An ecological report has been submitted as part of the application, which concluded that there are no protected species located within the application site. A bat survey was also undertaken as part of the application which concluded that no bats emerged from any of the survey's buildings and only a small amount of bat activity was recorded on site during the surveys, it is concluded that there are no bat roosts present in the buildings on site. Therefore, the proposed works are not expected to impact roosting bats. The report makes several recommendations, particularly for badgers, nesting birds and bats, to minimise the impact of the development and these will be brought to the applicant's attention.
78. The proposed development involves vegetation clearance, and this would need to be undertaken outside the bird nesting season (the bird nesting season is typically between March-August). If this is not possible then it will be necessary to undertake further checks for nesting birds. A condition can be imposed to control the timing of these works and any mitigation measures required.
79. The proposed development provides opportunities for ecological enhancements through the inclusion of bat and bird boxes which is stated in paragraph 4.24 of

the Ecological Appraisal submitted with the application. A condition is recommended to secure bat and bird boxes.

80. Subject to the above conditions, the proposal is acceptable in accordance with paragraph 175 of the NPPF.

Flood Risk and Drainage

81. Currently the storm water associated with the site is discharged into the watercourse that projects into the site. The proposal incorporates the construction of an infiltration basin to the north of the proposed school building to allow storm water to infiltrate into the ground. It is proposed that this would reduce the amount of storm water that is discharged into the watercourse. The LLFA has considered the proposals and has no objections, subject to conditions relating to surface water drainage scheme and the management of surface water.
82. Two representations raised concerns about the risk of flooding, drainage issues on Heath Lane and the smell of the proposed swale. One of the representations highlighted that the flooding is an ongoing issue and previous plans were made for maintaining the ditch, but this had not been completed.
83. The agent highlighted that the cause of the flooding was the lack of maintenance of the watercourse, with debris building up. This contributed to a reduction in the water flow and resulted in overflowing of the culvert. The debris from the culvert has since been cleared and it is running freely again. The proposed development includes the inclusion of access gates to be formed in the railings around the top of the culvert so that maintenance workers will be able to get to the bottom and clear it out on a more regular basis. With regards to the representation relating to the and the smell of the proposed swale, it is unlikely that the swale system will emit foul odours. For the proposed development, the foul drainage and stormwater systems are separate. The only water going into the swales and basin will be from roofs and hard/soft surfaces. The foul water taken from the proposed school via underground pipes and into an existing sewer, not above ground via the swale.
84. The LLFA has no objections to the proposals, and subject to a condition including the maintenance of the water courses on a bi-annual basis as part of the surface water drainage scheme and a condition relating to the management of surface water on site during construction, the development is acceptable in accordance with Policy DM 10 of the Hinckley and Bosworth Local Plan.

Sustainability

85. The re-use of the existing school grounds and the utilisation, where possible, of the arisings from the demolition of the existing school is in accordance Policy 24 of the Core Strategy and Policy DM 2 of the of the Hinckley and Bosworth Local Plan.

Lighting

86. A lighting assessment has been submitted as part of the application, and whilst the proposed school building is larger than the previous primary school building it

only incorporates wall mounted lights associated with external doors, no additional lighting is proposed within the external play areas. The Environmental Health Officer at Hinckley and Bosworth Borough Council advises that there would not be a significant impact from the lighting on neighbouring residential properties, and therefore the lighting of the proposed building is considered acceptable in accordance with policy DM 10 of the Hinckley and Bosworth Local Plan.

Conclusion

87. The scale, design and location of the proposed development would not result in significant adverse impacts upon the amenity of residents. The proposed development would provide the community and wider population with a purpose-built school for pupils with communication and interaction needs and would help achieve the vision for SEND in Leicestershire for all pupils to achieve well in their education. The provision of a landscaping scheme which enhances the existing landscaping onsite would compensate for the proposed loss of trees and would provide appropriate soft landscaping around the development as well as an improved environment for learning. The proposed parking and access arrangements for the school are satisfactory to meet expected demands at the site. The provision of a site-specific travel plan and its continual monitoring should help address any parking and traffic issues. The provision of a more sustainable surface water drainage scheme, which includes the maintenance of the onsite watercourses, would help alleviate the concerns raised about flooding. Therefore, subject to conditions, it is considered that the proposed development is satisfactory and that the requirements of the development plan mentioned above have been met and is therefore considered acceptable.

Recommendation

1. PERMIT subject to the conditions as set out in the Appendix.
2. To endorse as required by the Town and Country Planning (Development Management Procedure) Order 2015 (as amended) a summary of how Leicestershire County Council worked with the applicant in a positive and proactive manner:

In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework.

Appendix**Conditions****Commencement**

1. The development hereby permitted shall commence within three years of the date of this permission.
2. The development shall be carried out in accordance with the following plans and documents; unless otherwise specified by other conditions attached to this permission:
 - Application Form dated 07.05.2019;
 - Planning Design and Access Statement – Rev A, dated 04.05.2019, project no L1901, project title: Newlands ASD School, Moore Road, Barwell;
 - Site Location Plan, drawing no: 01, revision A, dated 27.03.2019;
 - Proposed Ground Floor Plan, drawing no: 10, revision J, dated 06.05.2019;
 - Elevations, drawing no: 11, revision B, dated 08.05.19
 - Visualisations, drawing no: 12, revision B, dated 08.03.19;
 - Sections, drawing no: 14, dated 06.05.19
 - Proposed Site Plan, drawing no: 15, dated 12.06.2019;
 - Roof Plan, drawing no: 17, dated 06.05.19;
 - Topographical Survey, drawing no: 32923_T, dated Feb 2019;
 - Sprinkler Tank and Elevations, drawing no: 19, dated 06.05.19;
 - Ecological Appraisal, Newlands Primary School Barwell, dated 02.04.2019;
 - Outline Drainage Strategy, drawing no: DS-001, revision C, dated 15.04.0219;
 - Flood Risk Assessment, reference C3012 – Newlands SEN Project, Revision B, date 2019;
 - Nocturnal Emergence Bat Survey, report number: RT-MME-130881, dated May 2019;
 - Arboricultural Report, Proposed Rebuilding of Newlands Primary School, dated April 2019;
 - Landscape Strategy, reference 1019 002, dated 7th May 2019;
 - Tree Retention and Removals, reference 1019 001, dated 7th May 2019;
 - Transport Statement, reference C3012 – Transport Statement, dated 14th June 2019.

Construction Works

3. All site preparation and construction works, deliveries of and movement of materials and machinery, in connection with the approved development, shall only take place between 0730-1800 hours Monday to Friday and 0730-1300 hours on Saturdays. No such activities shall take place at any other time on Saturday or Sundays or Statutory Public or Bank Holidays. There shall not be any work carried out under floodlights on the construction site.
4. No development shall commence on the site until such time as a construction traffic management plan, including: details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their

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provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

Highways

5. No part of the development hereby permitted shall be used until such time as the access arrangements shown on HSP drawing number TSK001 have been implemented in full. Once provided, the visibility splays shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway.
6. No part of the development hereby permitted shall be used until such time as details of a one-way signing scheme including at the ingress and egress to the site has been submitted to and agreed in writing by the County Planning Authority. Thereafter, the submitted scheme shall be implemented prior to first occupation of the site.
7. The development hereby permitted shall not be occupied until a scheme to provide advisory 'School Keep Clear' markings in the vicinity of the site accesses has been agreed in writing with the County Planning Authority. Thereafter the markings shall be implemented and maintained in accordance with the approved details.

Car Parking Facilities

8. No part of the development hereby permitted shall be used until such time as the parking, turning and cycle parking facilities have been implemented in accordance with HSP drawing number TSK001. Thereafter the onsite parking provision shall be so maintained in accordance with the approved details.

Building Materials and Finishes

9. Notwithstanding any indicators given on the submitted plans and specifications, prior to the construction of any proposed buildings as part of the development, a written schedule of materials and colours to be used externally in the construction of the development shall be submitted to the County Planning Authority for its agreement in writing. The development shall be carried out in accordance with the approved schedule of materials and colours.

Lighting

10. Any lighting associated with the development shall be carried out in accordance with drawing titled 'Horizontal Illuminance Levels', design reference LS 24976/1, dated 04.07.2019.

Landscaping

11. Prior to the building coming into use a detailed landscaping scheme in line with the approved outline scheme shown on, Landscape Strategy, reference 1019 002, dated 7th May 2019, shall be submitted to and approved in writing by the County Planning Authority. The scheme shall include details of:

- a) The species mix for new planting/seeding;
- b) Ground preparation and earthworks;
- c) Planting specification;
- d) Maintenance/protection and management measures;
- e) Phasing and timing;
- f) Trees/other vegetation to be removed;
- g) Trees/ other vegetation to be retained;
- h) Root protection areas;
- i) Layout of planting (including protection and aftercare);
- j) Treatment of surfaces;
- k) Fencing requirements.

The approved landscaping scheme shall be implemented in the first available planting season. All planted material shall be suitably maintained and replaced as necessary for a period of not less than 5 years from the date of planting.

Tree Protection

12. Prior to construction works, any trees to be retained within the extent of works, should be adequately protected with adequate temporary fencing in accordance with the provisions of BS 5837, 2012: 'Trees in Relation to Design, Demolition and Construction - Recommendations', and with reference to the root protection areas shown on the submitted tree survey, title Newlands Primary School, Tree Constraints Plan, drawing reference CD/1910468/TCP/01, dated 1st April 2019.

Surface Water

13. Prior to the commencement of construction works for the new building a surface water drainage scheme, including the maintenance of onsite watercourses, shall be submitted to and approved in writing by the County Planning Authority.
14. Prior to the commencement of construction works for the new building details in relation to the management of surface water on site during construction of the development has been submitted to and approved in writing by the County Planning Authority.

Ecology

15. The development hereby permitted shall not be occupied until a minimum of three bat boxes and a minimum of three bird boxes are erected within the woodland in accordance with paragraph 4.24 of the Ecological Appraisal, dated April 2019, submitted as part of the development.
16. Site clearance operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to August inclusive unless the area has first been checked by a qualified ecologist and an action plan agreed in writing with the County Planning Authority.

Travel Plan

17. a) Prior to the first use of the development, the Framework Travel Plan, titled 'Newlands ASD School' and dated June 2019 shall be implemented.

b) Within the first 12 months of first use of the development the Framework Travel Plan, titled 'Newlands ASD School' and dated June 2019 shall be reviewed and include actions and measures with quantifiable outputs and outcome targets, including the use of the drop-off area for parking outside of pick up and drop off hours. The reviewed School Travel Plan shall be submitted to and agreed in writing by the County Planning Authority and thereafter implemented in accordance with the approved details.

Limitations on Use

18. The development hereby permitted shall only be occupied by the school in association with and ancillary to the Leicestershire Education Authority's educational activities on the site and for no other purpose within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or any other Order revoking or re-enacting that order).

19. The development hereby permitted shall only be occupied or in use between the hours of 06:00 and 18:00 between the days of Monday to Friday. There shall be no use on Saturdays or Sundays.

Reasons

- 1 To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, and to enable the County Planning Authority to review the position at the end of this period.
- 2 To ensure a satisfactory form of development.
- 3 To minimise the impact of the construction works on the surrounding area, and to minimise the impact on the amenities of nearby residents.
- 4 To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area.
- 5 To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety
- 6 To ensure a safe and suitable operation of the site access, in the interests of general highway safety.
- 7 To mitigate the impact of the development, in the general interests of

highway safety

- 8 To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction), to promote travel by sustainable modes and in the interests of highway safety.
- 9 To ensure a satisfactory appearance and grouping of materials, in the interests of visual amenity.
- 10 To minimise the adverse impact of light generated by the operations on the local community and environment.
- 11 To ensure that the landscaping scheme is implemented as soon as possible and that the planting becomes established.
- 12 To ensure that important trees on the site are protected during the construction of the development.
- 13 To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.
- 14 To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase.
- 15 In the interests of biodiversity.
- 16 For the protection of wildlife.
- 17 To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport.
- 18 & 19. To ensure the proposed use remains compatible with the surrounding locality and does not give rise to loss of amenity for occupants of nearby dwellings.