

Objection to Planning Application 16/00615/OUT
Residential Development, Field 4564, Burrough Road, Somerby, Leics.

1.0 Objection on the grounds of:

1.1 Substantial harm to the built and historic landscape heritage of the Grove conservation area from the development which results in:

- complete loss of its north setting, and the positive contributions this setting makes to the Significance of the heritage assets, including designated and non designated built and landscape assets related by historic value.
- harm to the conservation area and Grade II building from the southern setting and the positive contributions this setting makes to the Significance of the heritage assets.

1.2 Less than substantial harm but significant harm to the extensive Somerby conservation area by the loss of historic context and character at the setting of its entrance.

1.3 Substantial harm to the Grove Grade II Vinery and Plant House (List Entry Number 1436571) including the loss of its setting at the north and south.

1.4 Fault of the application to describe the Significance of heritage assets (HA's) and provide evidence they are either protected or enhanced by the development. This includes failure to identify a listed building, archaeology, built features of HA's affected by the development, designed plantings of veteran trees, and to provide accurate evidence for fundamental views where the development affects Significance and accurate evidence on access to the site.

2.0 Significance of the conservation area of the Grove, and Grade II listed Vinery and Plant House:

2.1 Of the three historic Somerby estates, the Grove survives with its character and appearance comparatively complete, including the dwelling, service buildings, park land, gardens, stables, estate cottages (on Somerby High Street) and functional and designed landscapes, including extensive plantings of trees, now many of which are veteran trees.

The buildings and landscapes of the Grove are visually prominent at the north entrance of the extensive Somerby village conservation area, where they form a comparatively rare example of an unchanged Close and its surrounding historic buildings and landscapes.

The Grove buildings and landscapes are also prominent at the south west of Somerby village, and the landscapes are prominent in the much wider rural landscape.

Historic OS and estate maps show the Grove's buildings and landscapes mostly unchanged with strong, defining land marks such as designed tree plantings, walling, water tower and the historic Close (Field 4564), which have largely maintained historic integrity.

Grove house, in the conservation area but unlisted, is dated to the late C18-early C19, but

likely incorporates fabric of a C17 or earlier dwelling evidenced by remains of a mullion and transom window in its cellars. It has been remodelled, but still conforms to an 1846 description as a 'neat mansion with attractive gardens' and the building is considered locally important.

The Grade II Vinery and Plant House is recognized by the HE designation entry as a rare survival of a building of its type, with an exceptional state of preservation particularly the heating and watering systems which are located in part in basement rooms.

The Grove represents a well preserved example of a C18 to early C20 medium-scale end of village domestic and working estate whose economy centred on equestrianism, an economy which played a defining role in Melton Borough historically.

2.2 The Grove is judged to have both local and national heritage value by the Leicestershire HER, Historic England and the Gardens Trust. Many features of the Grove contribute to its Significance and are documented as having evidential, artistic, architectural, communal and historic value. Some elements of the Grove estate are now in different ownership.

2.3 The features which contribute to the Significance of the Grove are described more fully in an updated Conservation Area appraisal and in a Historic Landscape Characterisation submitted to the Local Authority Emerging Options consultation on site suitability (SHLAA), in August 2015 and again in April 2016. HE encourages conservation area appraisals to be updated when development is being considered which may affect them. The fully illustrated documents are included in the appendix and should be considered as evidence, together with this objection. The documents were not made publicly accessible until recently. They are also lodged with Leicestershire HER, the Gardens Trust, and Historic England.

The following examines features of the setting of the Grove which contribute to the Significance of its HA's and which are affected by the proposed development in Field 4564. Guidance is taken, where relevant, from Historic England: *The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning: 3*. and the steps in the chapter 'A Staged Approach to Proportionate Decision-Taking'.

3.0 The positive contribution made by the north setting (Field 4564/development site) to the Significance of the conservation area and heritage assets at the Grove:

3.1 Field 4564 is a rectangular shaped and open field of rich grassland at the north west entrance of Somerby village. It is the last enclosed field of the settlement area at the north, bounded at the south by the estate wall of the Grove, at the west by mature trees contiguous with trees in the Grove park land, and at the north by hedgerow. The east boundary has recently been planted with hedgerow but was previously fenced but open with views into the adjoining conservation area. It is a green space which is important to the established character of the conservation area with a documented history of use and importance to the community. It has been protected heretofore from development as it is outside the village

envelope.

3.2 Field 4564 is the established north setting of the Grove demonstrated by past ownership, historic title deeds, C19-early C20 estate maps, historic building and landscape patterns and continuity of usage. Historic title deeds identify Field 4564 as either Grove Close or Townend Close.

Functional features remain, such as access and openings for the service buildings of the Grove into Field 4564; and photographic evidence also shows the Close to be part of the working area of the Grove associated with the early activities of the Grove Stud, which was a nationally renowned supplier of quality riding horses. Philanthropic use as village allotments at the north end is also evidenced on estate maps.

3.3 At the southern end of Field 4564 an ironstone wall crosses the full width and whose fabric forms the north elevations of the Grove service buildings and dairy, the Grade II Vinery, and service buildings at the west originally used as potting sheds for the gardens. The wall is a visible and intact interface between the domestic and economic spaces of the Grove, where open views are available from the setting (Field 4564) and the Burrough Road, to the dwelling, Vinery and services, and into the gardens, orchards, and tree plantings behind.

3.4 A relict and narrow track adjacent to the estate wall in Field 4564 (labelled latterly as a right of way) is shown on estate maps and described in title deeds as providing connectivity from the domestic spaces of the Grove through the Close into the spaces of the Grove Stud, now across the Burrough Road.

Note: The Site Plan incorrectly identifies the track in Field 4564 as an 'existing farm entrance' and shows its position and direction of travel incorrectly, which can be seen accurately on the estate maps. There is no farm entrance as stated on the Site Plan and in fact there is no farm at all to use the access.

The landscaping drawn on the Site Plan obscures the site of the original track, inaccurately represents the length of the last building, the position of the gate and property boundaries at the west. The original track at this position is overgrown, the gate closed off with wire and hedgerows from entry into Field 4564. It is not, nor never has been used for access from the agricultural fields at the west into Field 4564.

3.5 The features of the north setting of the Grove have evidential and historic value to the Significance of the conservation area and Grade II Vinery. They reveal past human activity at the Grove, its domestic and economic aspects, and the connectivity of the domestic spaces with the Close and stables. The intentional arrangement of the early C20 water tower, the stable entrance and the Vinery reveal how the Grove, now separated by the tarmacked Burrough Road, was historically one unified place, with the Close (Field 4564) as its setting at the north as the park land and gardens is its setting at the south.

3.6 At the south of Field 4564 archaeological remains are still visible due to the long term non-invasive use of the field and which have not been reported by the application, which states the Field 4564 'lacks a feature of note'. The Site Plan indicates the setting of the archaeology is lost and the archaeology itself appears to either be built over or beneath the

water of the sustainable urban drainage system.

4.0 The positive contribution made by historic landscape features of the north setting (Field 4564) to the Significance of the conservation area and heritage assets at in the Grove:

4.1 A Historic Landscape Characterisation adds weight to the importance of the north setting to the Significance of the Grove and conservation area.

4.2 The Fringe Sensitivity Study was commissioned by MBC in 2015 to inform the new LP. The development and the conservation area are located in LCZ1 which is described as open in character and extremely susceptible to changes in skyline, but overall 'of low susceptibility to change due to the relative absence of distinctive landscape features'. This conclusion is incorrect.

4.3 A representation made to the Local Authority on 4 April, 2016 requested the Study be amended with regard to NPPF Section 11, Conserving and Enhancing the Natural Environment, para 170, Proportionate Evidence Base:

'Where appropriate landscape character assessment should also be prepared and integrated with assessments of historic landscape character, and where there are major expansion options assessments of landscape sensitivity.'

The historic landscape features at the entrance to Somerby and those in the adjoining conservation area were not included or assessed in the characterisation of LCZ1 which is described as an area with a 'relative absence of distinctive landscape features', which is inaccurate. This has resulted in disproportionate weight being given to the intensively farmed agricultural land adjoining in rating the suitability of LCZ1 for development.

Note: The Fringe Sensitivity Study described and rated park land features of the now demolished Somerby Hall in LCZ2 as inappropriate for development in its surroundings.

Using the Study's own criteria, features observed in LCZ1 which contribute positively to the established historic landscape character and the setting at the entrance of the conservation area of Somerby village, and which are regarded by the criteria of the Study to be highly susceptible to change include:

*a key/positive approach and gateway, similar to a village green or historic Close (Field 4564)

* an extensive intact settlement and landscape character interface.

* intact cultural and historic patterns (represented by the Grove buildings and spaces).

* intervisibility amongst heritage assets, in this case, the archaeology in Field 4564, Somerby Grade I church (from the Field 4564 and the footpath), and intentional intervisibility with the Grove HA's, including the dwelling, water tower and stables.

4.4. Paragraph 118 of the NPPF states 'planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of the development in that location clearly outweigh the loss'.

No Tree Survey was provided in the application.

4.5 Field 4564 is adjacent to designed plantings of many aged and veteran trees in the Grove, which are protected. The root systems of large and veteran trees are likely to extend deeply into the development site. There is a high risk that deterioration of veteran trees will occur over time and their survival threatened as a result of root system damage during construction of a development, major changes to the pattern of field hydrology as a result of SuDS, oil pollutants from the roadways, (NPPF para 120) and future adverse effects of the tree root systems on the structures of new buildings which will result in the trees being removed.

4.6 The size, scale and density of the development, internal roadways and extensive above ground SuDS, will result in the loss of the historic and cultural patterns of the Close and its surrounding HA's, and alter the established character of the Close to the degree it would be unrecognisable as a key setting of the Grove conservation area, the Grade II Vinery and the related Grove water tower and stables. This is judged to be Substantial Harm to the understanding and appreciation of the Significance of heritage assets located there.

The development will also produce a significant level of change to the historic appearance, inter visibility of assets and the established character at the north entrance to the extensive Somerby village conservation area. The collection of buildings and landscapes currently preserves the historic character of the entrance and contributes a high degree a local distinctiveness which will be lost. This is judged to be less than Substantial, but Significant Harm to the Somerby Conservation Area as a whole.

The full and illustrated historic landscape characterisation is included in the appendix as evidence.

5.0 Cumulative Change (HE: Good Practice Advice, 3, page 4)

5.1 Cumulative change has occurred along the east side of Burrough Road with ribbon development of 12 houses. The application refers to 'discordant elements' surrounding the site but does not specify what they are.

5.2 Where there has been cumulative change, the NPPF states that consideration still must be given whether additional change will further detract from, or can enhance, the Significance of HA's. The development of 35 houses will be a detraction of a greater order of magnitude than the existing 12 houses, of which only 2 face onto the north setting of the conservation area, with the majority of the houses facing onto the agricultural fields on the west side of the Burrough Road and where a curve in the Burrough Road separates the view of the conservation area from of the major extent of the ribbon development.

5.3 The urban and suburban features of the development are out of character with the the historic surroundings. They include: a dense build of 35 houses, contemporary design, atypical street-scapes, parking lots, above ground drainage infrastructure, increased public lighting, contemporary landscaping, pedestrian crossings and traffic movement of 62 cars.

5.4 The cumulative affect of these features of the development will result in the complete physical loss of the setting from the north to south, and will inevitably dominate the HA's and historic landscapes which remain in the conservation area, such as the Grade II

Vinery, the ironstone wall, the dwelling, and tree plantings and open park land to the south.

6.0 Views and settings (HE advice para 5-8, page 3)

6.1 Point 37 in the application states the development has no material visibility when entering Somerby from the north west or at the south west. The photographic evidence submitted has been taken from positions at a distance from Field 4564 and therefore does not provide evidence that the Significance of HA's is not harmed.

6.2 The designated HA's in their setting are visible and experienced in key views at the south west Newbold Lane, from the Burrough Road, both going north and south, within the conservation area itself and also intervisible with Somerby Grade I church from the footpath off the Burrough Road. The Grove water tower is especially prominent on the Burrough Road, a land mark at the entrance of the conservation area of the village. There is material visibility at all these positions.

6.3 The application considers views primarily as visual impressions. It does not follow HE advice and include photographic evidence from fundamental views where the undeveloped setting currently contributes to the appearance, established character and Significance of the conservation area, listed building, related HA's and natural features of parkland and gardens (HE, *Settings*, para 9, page 4). The photographs therefore should not be accepted as proof that there are no adverse impacts on the setting of the conservation area and Grade II Vinery which harm their historic context and the understanding of Significance.

6.4 The application presents photographic evidence and conclusions which disregard HE advice on Zones of Theoretical Visibility. Therefore foliage screening of seasonal and impermanent trees and hedgerows are incorrectly stated to mitigate adverse impact on the setting and its contribution to Significance. (HE, *Settings*, box, page 7.) The photograph of the setting on page 12 of the application shows a large shrub in the setting which is no longer there, but demonstrates how such elements in the open topography of Field 4564 can have a high degree of affect on views of the HA's.

6.5 The appendix contains photographic evidence which demonstrates the development has adverse impact on all settings and views which make fundamental positive contributions to the appearance, understanding and appreciation of the Significance of the HA's.

7.0 Statement by the application that the development makes positive contributions which enhance the Significance of the HA's and local distinctiveness

7.1 NPPF para 17 states that 'Proposals that preserve the elements of the setting that make a positive contribution to or better *reveal* the Significance of an asset should be treated favourably.' HE, *Settings*, in para 26, Assessment Step 4 (page 12), sets out six changes to a setting which are considered to enhance the Significance of an asset:

- removing or remodelling an intrusive building or feature
- replacement of a feature by a new and more harmonious one
- restoring or revealing a lost historic view
- introducing an entirely new feature that adds to the the public appreciation of the asset
- introducing new views
- improving public access to, or interpretation of the asset including its setting

None of these conditions are met by the development application.

7.2 The application contains no assessment of the elements of the setting (Field 4564) which contribute to or better reveal the Significance of HA's as stated in points 2.0 - 6.0 of this objection. It proposes a green strip and a pond at the south of the field which it states makes a positive contribution to the conservation area and the local distinctiveness of the area.

The application confuses curtilage with setting and undervalues the local distinctiveness and established village character produced by the preservation of the historic village Close round which a number of grouped and related heritage assets at the entrance of Somerby, can be viewed with permeability at present.

7.3 An example of how development has enhanced the Somerby conservation area is the Grove Stud, where a ruinous building, proposed for demolition, was remodelled to housing in the 1990's with its Significance and historic context as the stable to the Grove estate well preserved in the design, layout and materials used.

7.4 There is precedence to refuse development in Field 4564. MBC Planning Application 77/0581/6, October 1977, refused a proposal for a development on Field 4564, stating together with concerns about drainage and traffic safety 'Part of the application site would form intrusion into open countryside and its development for residential purposes would have an adverse effect on the appearance of this attractive village.' The application has not considered this refusal or presented evidence that the proposed outline development should be judged differently than the 1977 refusal.

8.0 Substantial harm to the Grade II listed Vinery and Plant House and other un-designated HA's of the conservation area:

8.1 The Vinery and Plant House at the Grove was listed Grade II on 30 August 2016 (HE Entry number 1436571). The designation was based on evidence of its architectural interest and rarity, with less than 5% of such building types surviving. HE states the degree of survival is considered exceptional, especially its heating and watering systems, which in part are located in the below ground room and spaces of the building.

8.2 The HE listing process notification was published 24 May 2016, and the award of listing on 30 August 2016, but the application of 5 September 2016 is silent on the presence of the

listed building. It is also silent about the extensive C17/18 cellars of the Grove house, a redundant well at the north elevation of the house and that these features are at a lower ground level than Field 4564.

8.3 The north elevation of the Vinery, as well as the north elevations of other service buildings in the Grove range are constructed from the ironstone estate wall at the south of Field 4564. The east elevation of the Vinery is formed from the wall of the attached dairy building, which protrudes six feet into Field 4564 close to the balancing pond on the Site Plan. The foundations of the estate wall, the Vinery and outbuildings are adjacent to the balancing pond and at the lowest level of Field 4564. The grounds and gardens of the conservation area of the Grove, which are referred to in the HE Grade II designation as a feature, also slope downward again from the level of Field 4564.

8.4 The application doesn't identify the Grove water tower adjacent to and at a lower ground level to the development site, which also contains a basement well located in the foundations of its tower, now filled with porous building rubble.

8.5 Flood Risk in Field 4564 is categorized by the drainage report as Zone 1. NPPF Technical Guidance to Flood Risk Management, Zone 1, states that development is appropriate in Zone 1, but Table 2, Flood Risk Vulnerability Characterisation, lists structures with basements as 'highly vulnerable' in Zone 1. While this may refer to new development, the guidance reasonably extends to existing buildings with underground rooms or basements in the catchment area, especially when special regard is given to HA's.

8.6 Contrary to the Site Plan label, the text of the application recommends that infiltration drainage systems should be the primary means of draining the site.

8.7 Judgements on the risk of Substantial Harm to the fabric of the Grade II Vinery, and the other sub-surface built features of the HA's, and the down-slope landscapes within the conservation area must be made on the following criteria:

- 1) evidence of the effectiveness of infiltration systems (or balancing ponds) to provide sustainable drainage for the site, particularly with regard to ground water flooding.
- 2) adequacy of tests conducted and whether the tests have considered the affects on HA's.
- 3) robustness of infiltration basins with regard to in-perpetuity protection for listed HA's.
- 4) long-term legal/financial responsibilities for maintenance of the systems and the liability for damage, and the costs of repair to the fabric of listed HA's required to meet HE standards.

8.7.1 The application's Flood Risk Assessment and Drainage Strategy states in Point 3.2.1.2 that the site 'is thought not to be of risk of flooding'. The Technical Guidance to the National Planning Policy Framework, states in paragraph 5, Table 1: Flood Zones, in the section 'Flood risk assessment requirements':

'For development proposals on sites comprising one hectare or above the vulnerability to flooding from other sources as well as from river and sea flooding, and the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of new development on surface water run-off, should be incorporated in a flood risk assessment. This need only be brief *unless the factors above or other local considerations require particular attention.*'

8.7.1.1 The application Drainage Strategy states in Point 3.7: Off Site Impacts:

'The proposed development surface water discharge will not impact on the surroundings as it mimics the greenfield infiltration regime. Therefore the proposed development will not cause any increase in fluvial risks adjacent to or downstream of the site for the proposed lifetime of the development.'

8.7.1.2 The infiltration strategy does not mimic the greenfield regime. While rain water may be the same in volume, it is currently distributed and absorbed across the whole field, and not concentrated into smaller areas between houses and roads. It should be noted the current greenfield regime creates a heavy surface water run-off and flow down the Burrough Road, collecting at the entrance to the Newbold Lane and overflowing the sewer there during periods of heavy or prolonged rain. (Photographs in appendix: Surface Water Run-Off)

8.7.1.3 The infiltration basin will concentrate the volume of surface water run off into the lowest area of the field where the foundations of the ironstone wall, outbuildings and where the below ground watering and heating systems of the Grade II Vinery are located. Also, the cellar of Grove house is located directly south and down stream of the infiltration basin. Local considerations have been given no 'particular attention' by the application.

8.7.1.4 Both the UK Groundwater Forum (International Association of Hydro geologists) and, in a number of articles, the British Geological Survey have provided data on the suitability of infiltration systems with regard to site conditions, design and maintenance.

Examples of the adverse impacts of infiltration basins from inappropriate sites, particularly concerning for structures with basements include: ground water flooding, localized ground compression and subsidence, ground instability or collapse, water logging, bank instability, and water and pollutant leaching.

The UK Groundwater Forum also states ' A long term effect of this [infiltration systems] may be a rise in groundwater levels over the catchment scale. While this provides benefits for river base flow, it may have consequences for subsurface assets such as basements and utilities, and in more serious cases, for areas susceptible for ground water flooding.'

8.7.1.5 A Report to determine the affects on the Grade II Vinery, adjoining structures and land near the proposed infiltration basin has been prepared, including an opinion on the sustainability of soak-aways and porous pavements. Based on the proposed surface water drainage systems and the geology of the site, the Report concludes that groundwater flood damage is a danger to the Vinery and other structures, and pollutant leaching is a danger to water quality. The report is in the appendix.

8.7.1.6 The affect of soak-aways and surface water run off from housing and the roadway identified as 'existing farm access', situated at the west corner of the site, upon the closely adjacent foundations of the estate walls and buildings located there and incorrectly represented as to their size on the Site Plan, has not been considered by the application. The

extreme closeness of the proposed new road to the outbuilding will have an adverse affect on the structure from surface water run-off, pollutants and traffic vibration.

8.8. The geological assessment and tests conducted for the drainage report are insufficient in general, and in particular, for infiltration systems located adjacent to HA's in the conservation area and beyond.

8.8.1 The geological composition of the site has not been described accurately or affects on rise in ground water levels of pollution examined..

8.8.2 The water table level has not been considered or measured together with the porosity measurements, or has the water table level beneath the devices been measured. The volume capacity of the device is unclear.

8.8.3 There has been no assessment of geological hazards, such as subsidence or ground collapse, associated with infiltration systems, with particular attention to the basin next to the Vinery and estate wall.

8.8.4 No location is identified for the three test pits, nor the timing of the tests, and therefore the results of the tests cannot be accepted with any confidence as a measure of the sustainability of the proposed drainage system or lack of off-site impacts, in particular for the adjacent HA's.

8.8.5 The variability of one pit suggests spatially variable permeability across the whole site which is not considered or measured, and where existing, will increase harm to the HA's adjacent to Field 4564.

8.8.6 The tests were conducted over a very short period in the summer. They should have been conducted for a longer period during the time of the highest water table to accurately assess the short and long term sustainability of the proposed system.

8.9. Infiltration systems are considered to have a high rate of failure due to poor design, construction, site location and importantly, sediment clogging. Maintenance needs are higher than for other systems and require quarterly inspection and sediment removal and pre-treatment systems for pollutants, particularly given the aquifer associated with this site.

8.9.1 The drainage strategy proposes no maintenance programme, particularly following the sale of properties and with consideration for the 'in-perpetuity' protection of the listed building, or conditions for long term legal/financial responsibility for maintenance regimes to prevent damage, or repair damage to HE standards for listed buildings.

It is realistic risk to assume that maintenance regimes will erode over the life of the development, infiltration systems will fail, and damage to the listed building and other HA's will occur.

8.9.2 The infiltration system will likely be contaminated by pollutants from road surface run-off which will pass to the aquifer which could be considered an offence under Section 85 of the Water Resources Act 1991, or the Environmental Act 1995. The British Geological Survey: The Geology of the Leicester District: Ground Water Systems and Water Quality

Programme (IR/04/085) reports a particularly large Spring issuing at grid reference SK 7776 0996 in Somerby, very likely from ground water downstream of the proposed site, and which is used by stock.

9.0 In summary it is concluded that Substantial Harm to the Grade II Vinery and other HA's will be an outcome of the development due to:

- * the presence of sub-surface rooms in the Vinery which make a major contribution to its Significance.
- * the presence of a basement in Grove house and and sub-surface well in water tower foundations.
- * NPPF Technical Advice which considers sub-surface structures, including basements as highly vulnerable to flooding in Flood Zone 1.
- * the use of an infiltration basin and other infiltration systems given the vulnerability of the location to ground water flooding from its geology.
- * the probability of damage by flooding and other water damage in the catchment area of the the Vinery and other HA's from long the term rise in ground water levels.
- * the probability of damage from subsidence, ground compression, ground collapse and water logging given the close location of the Vinery and infiltration basin.
- * leaching of pollutants in ground water
- * the high failure rate of infiltration systems and the probability the system will deteriorate due to poor design, location and maintenance over the life of the development with substantial adverse effects on the fabric of the Grade II Vinery.

