

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 10 April 2018
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

All persons present are reminded that the meeting may be recorded and by attending this meeting you are giving your consent to being filmed and your image being used. You are kindly requested to make it known to the Chairman if you intend to film or record this meeting.

The Council is aware that planning applications may be controversial and emotive for those affected by the decisions made by this Committee. However all persons present are reminded that the Council will not tolerate abusive or aggressive behaviour towards staff or other visitors attending this meeting and anyone behaving inappropriately will be required to leave the meeting and the building.

The Monitoring Officer would like to remind members that when they are considering whether the following items are exempt information under the relevant paragraph under part 1 of Schedule 12A of the Local Government Act 1972 they must have regard to the public interest test. This means that members must consider, for each item, whether the public interest in maintaining the exemption from disclosure outweighs the public interest in making the item available to the public.

AGENDA

Item		Pages
1. APOLOGIES FOR ABSENCE		
2. DECLARATION OF INTERESTS		
	Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
3. MINUTES		
	To confirm and sign the minutes of the meeting held on 13 March 2018.	3 - 12
4. PLANNING APPLICATIONS AND OTHER MATTERS		
	Report of the Head of Planning and Infrastructure.	13 – 18
5. TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER ON LAND AT WILLESLEY PARK GOLF CLUB ASHBY DE LA ZOUCH		
	Report of the Planning and Development Team Manager	81 - 84

Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<p>18/00049/FUL: Change of use from a shop (Class A1) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and other external alterations</p> <p>10 Bondgate Castle Donington Derby DE74 2NS</p>	PERMIT	19 - 34
A2	<p>17/01575/OUT: Erection of one detached, self-build dwelling with detached double garage and formation of new access (access and Layout included)</p> <p>Land Off Redburrow Lane Normanton Road Packington Leicestershire</p>	REFUSE	35 - 52
A3	<p>17/01810/FUL: Erection of a detached dwelling with associated parking and landscaping following the demolition of studio/storage building</p> <p>Cherry Orchard 1 Hollow Road Breedon On The Hill Derby DE73 8AU</p>	PERMIT	53 - 62
A4	<p>18/00218/FUL: Change of use to six bedroom, ten person HMO (sui generis) including single storey rear extension</p> <p>17 Derby Road Kegworth Derby Leicestershire DE74 2EN</p>	REFUSE	63 - 70
A5	<p>18/00043/VCU: Erection of four bungalows and associated infrastructure without complying with conditions 2, 4 and 10 of planning permission 16/01224/FUL to remove the side (south western) window to Plot 4 and install a sun pipe to Plot 4's roof, to install solar panels to the roofs of the four bungalows and amend boundary treatments and soft landscaping</p> <p>Site At Staley Avenue Ashby De La Zouch Leicestershire LE65 2PP</p>	PERMIT	71 - 80

MINUTES of a meeting of the PLANNING Committee held in the Council Chamber, Council Offices, Coalville on TUESDAY, 13 March 2018

Present: Councillor D J Stevenson (Chairman)

Councillors R Adams, R Boam, J Bridges, R Canny, J Cotterill, J G Coxon, D Everitt, D Harrison, J Houlton, R Johnson, G Jones, J Legrys, V Richichi, N Smith (Substitute for Councillor P Purver), M Specht and M B Wyatt

In Attendance: Councillors S McKendrick, T J Pendleton, S Sheahan and A V Smith MBE

Officers: Mr C Elston, Mrs H Exley, Mrs C Hammond, Mr J Newton, Miss S Odedra and Ms E Overton

74. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor P Purver.

75. DECLARATION OF INTERESTS

In accordance with the Code of Conduct, Members declared the following interests:

Councillors R Adams and D Everitt declared a non-pecuniary interest in item A2, application number 17/01593/FUL, as Members of Whitwick Parish Council who had considered the application.

Councillors J G Coxon, J Houlton and G Jones declared a non-pecuniary interest in item A1, application number 17/01556/REMM, as Members of Ashby Town Council who had considered the application.

Councillor J Legrys declared a pecuniary interest in item A2, application number 17/01593/FUL, as he was an acquaintance of the applicant.

Members declared that they had been lobbied without influence in respect of various applications below:-

Item A2, application number 17/01593/FUL
Councillors R Johnson and J Legrys.

76. MINUTES

Consideration was given to the minutes of the meeting held on 13 February 2018.

It was moved by Councillor J Legrys, seconded by Councillor R Adams and

RESOLVED THAT:

The minutes of the meeting held on 13 February 2018 be approved and signed by the Chairman as a correct record.

77. PLANNING APPLICATIONS AND OTHER MATTERS

Consideration was given to the report of the Head of Planning and Infrastructure, as amended by the update sheet circulated at the meeting.

- 78. A1**
17/01556/REMM: ERECTION OF 71 DWELLINGS, INTERNAL ACCESS ROADS, LANDSCAPING, OPEN SPACE AND WOODLAND PLANTING (RESERVED MATTERS TO OUTLINE PLANNING PERMISSION REFERENCE APP/G2435/W/15/3137258)
 Land At Butt Lane Blackfordby Derby

Officer's Recommendation: PERMIT

The Planning and Development Team Manager presented the report to Members.

Councillor S McKendrick, ward member, addressed the Committee. She highlighted that outline permission had been granted for development and she was speaking to them to emphasise the importance of having consideration for the views and comments of local residents who had maintained a range of concerns about the development. She stated that the number of affordable housing proposed was disappointingly low and that the additional land required for bungalows should not be an argument to limit the overall number given the percentage of larger properties proposed for the site and the land they too will take up, adding that in a village location there would always be an argument for a commuted sum to go to other 'higher demand' areas'. She expressed that all conditions laid out in the original outline permission for 81 properties should be fully discharged and that the green space and screening between the new development and the existing residents on Fenton Ave was essential for both new and existing residents to enjoy their own space with some privacy. She agreed that re-routing a footpath around the site made sense and would provide a more attractive route for walkers but asked the Committee to remember that those who lived in the village and used the footpath would need to walk much further if the route was not considered carefully.

Councillor S McKendrick highlighted that the access and egress onto Butt Lane and visibility along the boundary of the site needed to take account of visibility for both those on the road and those exiting onto the road from the development, as it was a matter of record that vehicles did speed along Butt Lane, didn't have due regard for road conditions and wouldn't take due care as they approached the entrance of the development. She expressed that the safety of everyone had to be paramount and that the drainage had to be considered at all stages of the development to ensure there was no wider impact than that already occurred to properties, in particular those closest to the development site.

Mr R Nettleton, objector, addressed the Committee. He stated that he could only re-enforce Councillor S McKendrick's comments however he felt that the application may be void as officers had misinterpreted the law on the original application as there was no masterplan to accompany the application. He felt that too many issues had been left to determination by officers rather than public consultation including flooding, overflowing sewers, effects of past mining work and a full investigation of opencast and unrecorded landfill. He stated that eyewitness evidence had been ignored and that other issues included substandard roads, lack of footpaths, traffic speeds and overloading of local services. He highlighted that there had been a disregard for people's property and work had already started on the site despite the conditions, adding that it gave the public little encouragement on the effectiveness of the conditions. He hoped that the Committee would reject the application so that further information could be obtained.

Mr I Pickering, agent, addressed the Committee. He advised that he had lived in the area for much of his life, he knew the site and he would ensure that a high quality scheme was put forward. He stated that in relation to drainage the site would include a attenuation pond that would hold the water as this would deal with flooding concerns, that there would be a good mix of homes within the site and that there was too much land for the number of housing proposed. He informed Committee that public consultation events had been held and that they had met with the Town Council. He highlighted that the site would include

bungalows and the roads had met approval from the Highways Authority. He urged the Committee to permit the application.

The officer's recommendation was moved by Councillor N Smith, seconded by Councillor D Harrison.

Councillor J G Coxon sought advice from officers on whether the application could be deferred to allow answers to be provided to the questions and points raised by the objector.

The Planning and Development Team Manager advised that in terms of issues raised there were detailed conditions on the outline approval that needed to be discharged before work could be started and would still be valid therefore, there was no reason to defer that application.

In response to a further question from Councillor J G Coxon, the Planning and Development Team Manager advised Members that the percentage of affordable housing was detailed in the report and there was a lower number on site and it was due to a need for bungalows, which the Council's Affordable Housing Enabler had no objections to.

In response to questions from Councillor J Bridges, the Planning and Development Team Manager advised Members that:

- In terms of the drainage, there was a condition on the outline permission that required a water drainage scheme to be permitted and that a note could be added that a temporary construction drainage scheme be included.
- In terms of land contamination, there was a very detailed condition on the outline permission which would need to be complied with. The appeal notice stated that an assessment needed to be carried out before works commenced.
- In terms of work already commencing, with the exception of some fencing and netting, it appeared when on the site visit that work had not started.
- In terms of the Masterplan, there was a condition on the outline permission that a comprehensive plan be submitted including indicative details and officers were satisfied that the layout plan submitted covered what was required.

Councillor R Canny stated that she welcomed the landscaping that had been planned to protect merging into Woodville. She noted the concerns over where the section 106 monies would go in relation to education as it was noted previously that the local school was oversubscribed and whether that was still the case and if so, would the money be allocated to the other schools and would transport be provided. She welcomed the play area that would be included.

Councillor R Adams expressed his concerns over the reduced level of affordable housing as the authority now had a credible Local Plan that set out the percentage of housing required on developments and developers were ignoring it, therefore he could not support the application.

Councillor J Legrys stated that he echoed Councillor R Adams comments and that when the application came to Committee, there were concerns over flooding that was evident on the site visit. He felt strongly over issues that could arise over future flooding problems.

Councillor M Specht asked how much 15% for offsite affordable housing would be in money. He stated that he was happy to support the officer's recommendation.

The Chairman advised Councillor M Specht that officers were unable to provide him with the amount at that time, but they would get an answer to him.

Councillor J Legrys requested a recorded vote.

In accordance with the recommendation of the Head of Planning and Infrastructure (Motion)	
A recorded vote having been requested, the voting was as follows:	
Councillor Ron Adams	Against
Councillor Russell Boam	For
Councillor John Bridges	For
Councillor Rachel Canny	Against
Councillor John Cotterill	For
Councillor John Coxon	Against
Councillor David Everitt	Against
Councillor Dan Harrison	For
Councillor Jim Hault	Abstain
Councillor Russell Johnson	Against
Councillor Geraint Jones	For
Councillor John Legrys	Against
Councillor Virge Richichi	For
Councillor Nigel Smith	For
Councillor Michael Specht	For
Councillor David Stevenson	For
Councillor Michael Wyatt	For
Carried	

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Head of Planning and Infrastructure.

- 79. A2**
17/01593/FUL: RESIDENTIAL DEVELOPMENT INCLUDING RETENTION OF EXISTING DWELLING AND ERECTION OF SEVEN NEW DWELLINGS INCLUDING ACCESS AND PARKING ARRANGEMENTS
 81 & 81A North Street Whitwick Coalville Leicestershire LE67 5HB

Officer's Recommendation: PERMIT

Having declared a pecuniary interest in item A2 Councillor J Legrys left the meeting and took no further part in the discussion and voting thereon.

The Senior Planning Officer presented the report to Members.

Ms S Chalmers, objector, addressed the Committee. She advised Members that her role within the surgery was to oversee the running of the clinic and the health and safety of the users. She informed the Committee that the only access to the site was over land owned by the NHS, which was the result of a wayleave agreement granted in 2012, which was for 2 properties only. She added that the plans to shorten the pavement on the designated walk ways into the surgery to create easier turning into the development were unacceptable and dangerous. She highlighted that the number of users to the health centre had continually increased therefore the car park was well used by not just visitors to the centre but also local residents, and the additional dwellings would add to the problem. She also expressed concerns over safety of frail patients who experienced issues getting across the car park, the impact of emergency vehicles getting to the centre and safety during the construction. She asked Members to take into consideration the increased provision of health services in the area due to an increased population which

meant longer opening times and access being required more. She asked that the concerns were taken on board and urged the Committee to refuse the application.

Ms M Ferguson-Jones, objector, addressed the Committee. She advised that she had opposed the development of the land since 2008. She highlighted that the original plan of 5 new dwellings along with the original 2 had been passed but now the developer was trying to increase the number of properties and due to the change of layout her property would have a window overlooking it. She stated that she had taken advice over the issue and that in relation to plots 4, 5, 6 and 7 they would have a case for a right to light. She informed Members that her property was on a lower level and that it would be as though they were being overlooked by a small block of flats. She stated that parking was also a major issue as she lived on a busy road which was used by visitors to the health centre when the car park was full, and as North Street was mainly double yellow lines the owners of the existing cottages would struggle to park. She also expressed her disappointment over the consideration the developer had for existing residents when starting to clear the site at the weekend and the high noise level they had experienced from the machinery and birds chirping as the hedges were cut.

Councillor R Woodward, on behalf of Whitwick Parish Council, addressed the Committee. He stated that the original application should not have been passed and neither should the application before the Committee. He highlighted that the access was through an extremely busy car park that served two surgeries, that the access land was a wayleave not a shared drive and the access to the car park was dangerous as those that could not park on the car park would then park on the road in front of the health centre. He felt that the proposed development was too big for the site as it would need to accommodate parking for up to 14 vehicles. He drew Member's attention to the number of objections that had been received, the levels of the new properties in relation to the existing properties and the safety concerns raised by the health centre and urged the Committee to refuse the application.

Councillor D Everitt moved that the application be refused on the grounds of over intensification of the site. This was seconded by Councillor V Richichi.

Councillor D Everitt felt that the Council would become a laughing stock if it approved the application as the area was one of the busiest areas in Whitwick as parking for the health centre was difficult. He felt that the proposed development was dangerous for the users. He felt that the five dwellings that were already permitted was too many and that the authority needed to do the best it could to preserve the area as it was used by the wider community. He also expressed concerns over the increase in traffic levels on the road. He stated that the Committee should protect the residents.

Councillor R Adams stated that he had visited the surgery in the past and that what the Committee had seen on the site visit was not a true reflection of the usage of the car park, and that most of the time vehicles were parked on along the hedgerow and that trying to get in and out was a safety concern and was dangerous.

Councillor N Smith stated that he had been asked to make the following points on behalf of Councillor T Gillard, who was unable to attend the meeting due to work commitments. Councillor T Gillard felt that the development would cause problems with access and egress of the site, that North Street was incredibly busy and he was concerned that the medical centre had not been included in the consultation.

Councillor D Harrison stated that it was an interesting debate and acknowledged the concerns of the speakers. He felt that the entrance was wide enough and understood that the parking for the development would be within the site and therefore not using the car park of the health centre. He stated that the access issues over the land was not a planning consideration and that the application that had been submitted was legitimate

which he would support. It would be up to the NHS to lodge a legal challenge to the access regarding ownership.

Councillor G Jones felt that an opportunity had been missed as the two additional properties should have been bungalows.

Councillor R Johnson highlighted that had the site been at the edge of a row of cottages it may have been a different story. However, it had been raised that there was no agreement for access and therefore questioned whether the Committee sought to put the health of residents before access as it was a dangerous stretch of road. He stated that he could not support the application as he know from his own surgery that the car park was not big enough. He highlighted that the plan included the road which was not owned by the developer and the access had not been agreed therefore he could not support that application.

Councillor D Stevenson stated that if the access was owned by the NHS, why had they not advised the developer that they would not grant access for any additional dwellings.

Councillor M Specht highlighted the statement that the wayleave was between the NHS and the 2 properties and asked if the Council was aware of that. He understood Members concerns over the traffic but he stated that he would not expect the health centre to restrict patient's use of the car park due to safety concerns. He highlighted that work could be carried out on trees and hedgerows between the end of September to the end of March and that the Planning Committee had to consider planning matters only, and in relation to the application before them there were no grounds for refusal.

In response to a questions from Councillor J Bridges, the Planning and Development Team Manager advised Members that in the original application approved in 2016, the access to the site was the same as now proposed, albeit the internal layout within the site had changed to reflect the additional two dwellings.

Councillor J Bridges stated that there could be grounds for refusal for over intensification of the site, however the NHS had ample opportunity to act on the access issues and he would be supporting the officer's recommendation.

In response to a question from Councillor J Hoult, the Planning and Development Team Manager advised Members that the applicant had served notice of the application on the NHS and therefore followed the correct procedure.

Councillor N Smith stated that he had heard a lot of emotional and emotive arguments but the Committee was not there to consider emotion and that the NHS had had the opportunity to consider the access issues.

Councillor R Adams requested a recorded vote.

The Head of Planning and Infrastructure advised Members that over intensification was an acceptable reason for refusal but not a strong one however highways issues would not be a reason for refusal as LCC highways had no objections to the application.

The mover and seconded agreed that the reason for refusal was over intensification of the site only.

Refusal of the application due to over intensification of the site (Motion)	
A recorded vote having been requested, the voting was as follows:	
Councillor Ron Adams	For
Councillor Russell Boam	Against

Councillor John Bridges	Against
Councillor Rachel Canny	Abstain
Councillor John Cotterill	Against
Councillor John Coxon	For
Councillor David Everitt	For
Councillor Dan Harrison	Against
Councillor Jim Hault	For
Councillor Russell Johnson	For
Councillor Geraint Jones	Against
Councillor Virge Richichi	For
Councillor Nigel Smith	Against
Councillor Michael Specht	Against
Councillor David Stevenson	Against
Councillor Michael Wyatt	Against
Rejected	

The motion was LOST.

The officer's recommendation was moved by Councillor D Harrison and seconded by Councillor J Bridges.

RESOLVED THAT:

The application be permitted in accordance with the recommendations of the Head of Planning and Infrastructure.

Councillor J Legrys returned to the meeting

80. A3
17/01608/FUL: CONVERSION AND EXTENSION OF OUTBUILDING AND GARAGE INTO FIVE RESIDENTIAL UNITS FOR HOLIDAY ACCOMMODATION
 Breedon Hall Main Street Breedon On The Hill Derby DE73 8AN

Officer's Recommendation: PERMIT

The Planning Officer presented the report to Members.

The officer's recommendation was moved by Councillor J Bridges and seconded by Councillor J Legrys.

RESOLVED THAT:

The application be permitted in accordance with the recommendations of the Head of Planning and Infrastructure.

81. A4
17/01580/LBC: CONVERSION AND EXTENSION OF OUTBUILDING AND GARAGE BLOCK INTO FIVE RESIDENTIAL UNITS FOR HOLIDAY ACCOMMODATION
 Breedon Hall Main Street Breedon On The Hill Derby DE73 8AN

Officer's Recommendation: PERMIT

The Planning Officer presented the report to Members.

The officer's recommendation was moved by Councillor J Bridges and seconded by Councillor J Legrys.

RESOLVED THAT:

The application be permitted in accordance with the recommendations of the Head of Planning and Infrastructure.

82.

A5

17/01053/FUL: DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 7 NO. DWELLINGS AND ASSOCIATED INFRASTRUCTURE (SIZES AND DESIGN OF DWELLINGS AMENDED FROM PREVIOUS APPROVAL 15/01005/FUL)

Land At Queens Street Measham Derby

Officer's Recommendation: PERMIT

The Planning and Development Team Manager presented the report to Members.

Ms P Wheatcroft, objector, addressed the Committee. She advised members that when the application had been previously considered the Committee was told that it complied with the 6Cs document, which in her view it did not, and that the title deed document showed that the land was in the ownership of the applicant, which according to her it was not. She reminded Members that she had advised the Committee that she felt that the development was a poor design and that it would not fit within the site, which in her view was correct. She informed the Committee that she had actively tried to engage with the developer to obtain a written undertaking to implement the tree protection plan submitted with the previous application, which had not been included with the application before them and that she had not yet received a response, adding that she felt that the developer had no intention of carrying out the plan. She highlighted that Members were being asked to make a decision on the height of the properties, the site plan showed no levels and had been drawn as though the ground was flat. She stated that if the future residents of plot 2 were to step out of the back of the proposed dwelling there would be a 6-8 foot drop. She stated that the application was passed previously with incorrect information and there was an assumption that it would be passed again, and that just adding conditions would sweep the issues under the carpet. She urged the Members not to progress that application without the tree protection plan and the detailed site plan.

Councillor S Sheahan, neighbouring ward member, addressed the Committee. He advised Members that the development of the site had been to Committee on several occasions. He welcomed the commitment from officers to consult with the neighbours over the boundary treatment, however it did not get away from the fact that the site was being over developed. He felt that officers and the developer should come together to create a high quality design that incorporated Queensway House. He felt that the Committee could not make a decision on the amendment to the height of the dwellings without further information and requested that the application be deferred until more detailed information could be presented.

The officer's recommendation was moved by Councillor J Coxon and seconded by Councillor V Richichi.

Councillor D Harrison stated that he had made many visits to the site and the only change in the application was the height and depth of a few inches. He felt that if the Committee was to defer the application it would be abdicating its duty, that before them was a correct application and that the site was well known and as such the next time he visited the site would be to see a completed development. He added the site was a mess and that it would provide much needed housing in the area.

Councillor R Johnson sought clarification as to whether the 6Cs standard had been complied with in the application.

The Planning and Development Team Manager advised that it did not but that the Highways Authority was satisfied that there was sufficient off street car parking and there was no impact on highway safety.

Councillor J Legrys stated that were a number of issues that had been highlighted but were not the concern of the Committee, however his own concern was that if the application did not meet the 6Cs standard, the road would not be adopted and therefore the authority would not collect the waste bins from the site. He asked how far the residents of the new development would have to take their waste to the nearest highway point for collection.

The Planning and Development Team Manager advised that waste services had confirmed that they would reverse onto the site on the private drive providing that the applicant was willing to enter into an agreement to indemnify the Council against any future maintenance costs.

Councillor J Legrys requested that, should the application be agreed, a note to the applicant was added stating that it was to be made clear to the new residents that they would have to position bins for collection at correct points.

RESOLVED THAT:

The application be permitted in accordance with the recommendations of the Head of Planning and Infrastructure.

Councillor A V Smith entered the meeting at 5.35pm.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.00 pm

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APPENDIX B

**Report of the Head of Planning and Infrastructure
to
Planning Committee**

10 April 2018

PLANNING & DEVELOPMENT REPORT

PLANNING COMMITTEE FRONT SHEET

1. Background Papers

For the purposes of Section 100(d) of the Local Government (Access to information Act) 1985 all consultation replies listed in this report along with the application documents and any accompanying letters or reports submitted by the applicant, constitute Background Papers which are available for inspection, unless such documents contain Exempt Information as defined in the act.

2. Late Information: Updates

Any information relevant to the determination of any application presented for determination in this Report, which is not available at the time of printing, will be reported in summarised form on the 'UPDATE SHEET' which will be distributed at the meeting. Any documents distributed at the meeting will be made available for inspection. Where there are any changes to draft conditions or a s106 TCPA 1990 obligation proposed in the update sheet these will be deemed to be incorporated in the proposed recommendation.

3. Expiry of Representation Periods

In cases where recommendations are headed "Subject to no contrary representations being received by [date]" decision notices will not be issued where representations are received within the specified time period which, in the opinion of the Head of Planning and Infrastructure are material planning considerations and relate to matters not previously raised.

4. Reasons for Grant

Where the Head of Planning and Infrastructure report recommends a grant of planning permission and a resolution to grant permission is made, the summary grounds for approval and summary of policies and proposals in the development plan are approved as set out in the report. Where the Planning Committee are of a different view they may resolve to add or amend the reasons or substitute their own reasons. If such a resolution is made the Chair of the Planning Committee will invite the planning officer and legal advisor to advise on the amended proposals before the a resolution is finalised and voted on. The reasons shall be minuted, and the wording of the reasons, any relevant summary policies and proposals, any amended or additional conditions and/or the wording of such conditions, and the decision notice, is delegated to the Head of Planning and Infrastructure.

5. Granting permission contrary to Officer Recommendation

Where the Head of Planning and Infrastructure report recommends refusal, and the Planning Committee are considering granting planning permission, the summary reasons for granting planning permission, a summary of the relevant policies and proposals, and whether the permission should be subject to conditions and/or an obligation under S106 of the TCPA 1990 must also be determined; Members will consider the recommended reasons for refusal, and then the summary reasons for granting the permission. The Chair will invite a Planning Officer to advise on the reasons and the other matters. An adjournment of the meeting may be necessary for the Planning Officer and legal Advisor to consider the advice required

If The Planning Officer is unable to advise at Members at that meeting, he may recommend the item is deferred until further information or advice is available. This is likely if there are technical objections, e.g. from the Highways Authority, Severn Trent, the Environment Agency, or other Statutory consultees.

If the summary grounds for approval and the relevant policies and proposals are approved by resolution of Planning Committee, the wording of the decision notice, and conditions and the Heads of Terms of any S106 obligation, is delegated to the Head of Planning and Infrastructure.

6 Refusal contrary to officer recommendation

Where members are minded to decide to refuse an application contrary to the recommendation printed in the report, or to include additional reasons for refusal where the recommendation is to refuse, the Chair will invite the Planning Officer to advise on the proposed reasons and the prospects of successfully defending the decision on Appeal, including the possibility of an award of costs. This is in accordance with the Local Planning Code of Conduct. The wording of the reasons or additional reasons for refusal, and the decision notice as the case is delegated to the Head of Planning and Infrastructure.

7 Amendments to Motion

An amendment must be relevant to the motion and may:

1. Leave out words
2. Leave out words and insert or add others
3. Insert or add words

as long as the effect is not to negate the motion

If the amendment/s makes the planning permission incapable of implementation then the effect is to negate the motion.

If the effect of any amendment is not immediately apparent the Chairman will take advice from the Legal Advisor and Head of Planning and Infrastructure/Planning and Development Team Manager present at the meeting. That advice may be sought during the course of the meeting or where the Officers require time to consult, the Chairman may adjourn the meeting for a short period.

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of. The amendment must be put to the vote.

If an amendment is not carried, other amendments to the original motion may be moved.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendment, or if there are none, put it to the vote.

8 Delegation of wording of Conditions

A Draft of the proposed conditions, and the reasons for the conditions, are included in the report. The final wording of the conditions, or any new or amended conditions, is delegated to the Head of Planning and Infrastructure.

9. Decisions on Items of the Head of Planning and Infrastructure

The Chairman will call each item in the report. No vote will be taken at that stage unless a proposition is put to alter or amend the printed recommendation. Where a proposition is put and a vote taken the item will be decided in accordance with that vote. In the case of a tie where no casting vote is exercised the item will be regarded as undetermined.

CONTENTS

Section A – Planning Applications

A1	18/00049/FUL	Change of use from a shop (Class A1) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and other external alterations 10 Bondgate Castle Donington Derby DE74 2NS
A2	17/01575/OUT	Erection of one detached, self-build dwelling with detached double garage and formation of new access (access and layout included) Land Off Redburrow Lane Normanton Road Packington
A3	17/01810/FUL	Erection of a detached dwelling with associated parking and landscaping following the demolition of studio/storage building Cherry Orchard 1 Hollow Road Breedon On The Hill DE73 8AU
A4	18/00218/FUL	Change of use to six bedroom, ten person HMO (sui generis) including single storey rear extension 17 Derby Road Kegworth Derby DE74 2EN
A5	18/00043/VCU	Erection of four bungalows and associated infrastructure without complying with conditions 2, 4 and 10 of planning permission 16/01224/FUL to remove the side (south western) window to Plot 4 and install a sun pipe to Plot 4's roof, to install solar panels to the roofs of the four bungalows and amend boundary treatments and soft landscaping Site At Staley Avenue Ashby De La Zouch Leicestershire LE65 2PP

Section B – Other Matters

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Change of use from a shop (Class A1) to a hot food takeaway (Class A5); installation of extraction/ventilation equipment and other external alterations

Report Item No
A1

10 Bondgate Castle Donington Derby DE74 2NS

Application Reference
18/00049/FUL

Applicant:
N/A

Date Registered:
12 January 2018

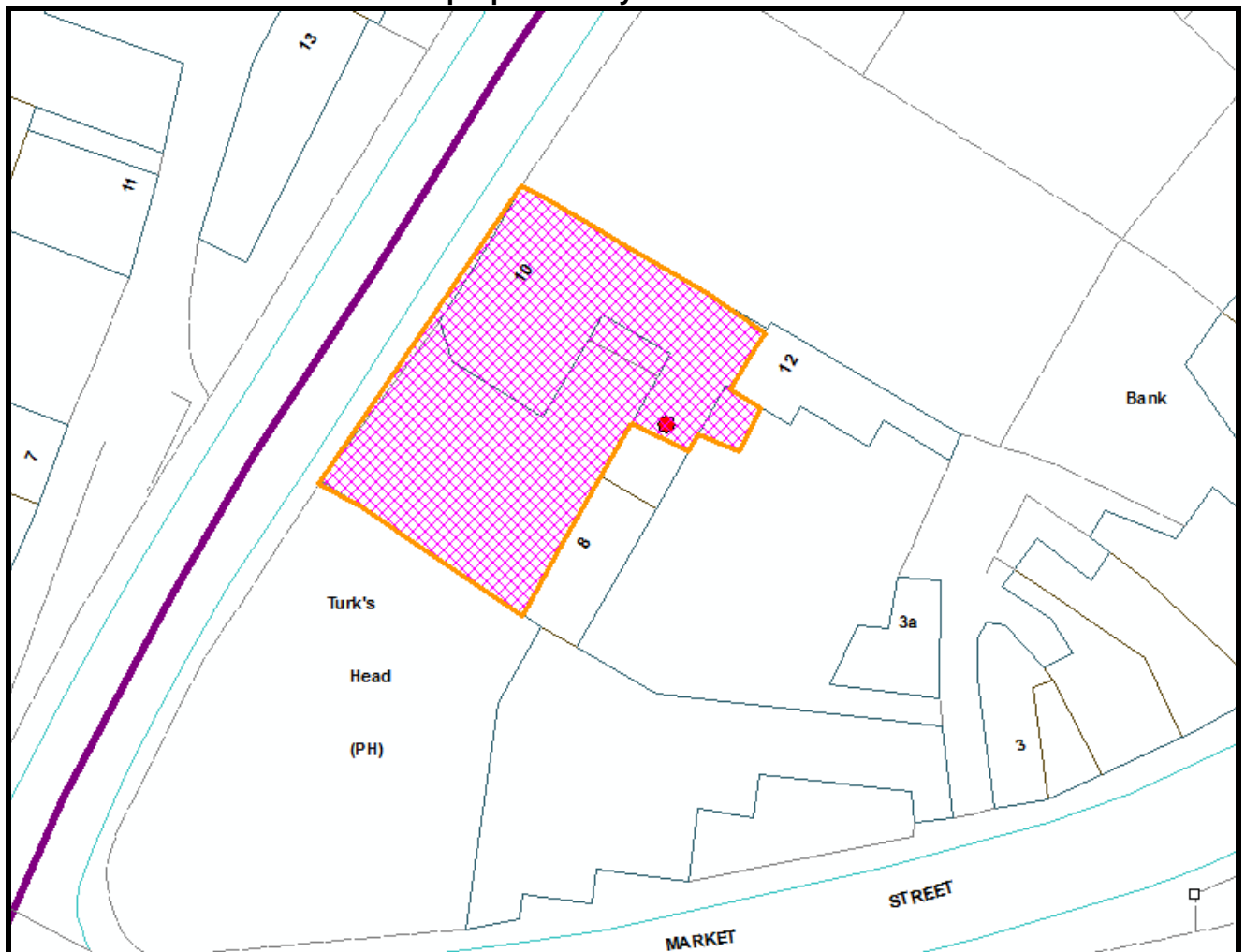
Case Officer:
Eleanor Overton

Consultation Expiry:
21 February 2018

Recommendation:
PERMIT

8 Week Date:
9 March 2018
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

The application is reported to the Planning Committee, as it is an application of significant public interest and raises matters which should be referred to the Planning Committee for consideration.

Proposal

Planning permission is sought for the change of use from a shop to a hot food takeaway (Class A5) along with the installation of extraction/ventilation equipment and associated alterations, at 10 Bondgate Castle Donington.

Consultations

Statutory consultees have raised no objections to the application subject to the imposition of conditions.

Castle Donington Parish Council have objected to the application.

Letters of objection have been received from 73 individuals, a standard letter with 144 signatures has been submitted and 8 letters of support have been received. A letter of clarification has also been submitted by the operator of the 'Go Local' shop.

Planning Policy

The application site is located within the Limits to Development, the Castle Donington Primary Shopping area and the Castle Donington Conservation Area. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The key issues arising from the amended application details are:

- The principle of a takeaway use on the site
- Impact on surrounding residents
- Impact on highway safety/parking
- Impact on heritage assets and the surrounding area

The report looks into the key planning issues in detail, and officers conclude that the details are satisfactory. The detailed scheme meets the requirements of relevant NWLDC policies.

RECOMMENDATION - PERMIT SUBJECT TO CONDITIONS.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the change of use from a shop to a hot food takeaway (Class A5) along with the installation of extraction/ventilation equipment and associated alterations, at 10 Bondgate Castle Donington.

The application site comprises the ground floor of a part single storey and part three storey building on the eastern side of Bondgate in Castle Donington. The premises is currently occupied by 'Go Local', a convenience store (Class A1). The upper floors of the three storey element of the building are flats.

To the south of the building is a communal parking area, providing off road parking for the convenience store and the surrounding residential uses.

The site is situated within the defined Local Centre, the Primary Shopping Area and is within the Castle Donington Conservation Area.

There are a range of uses within the immediate vicinity of the site, including residential, commercial and community uses, as well as restaurants and takeaways.

Internally, the layout of the existing shop would be altered to accommodate the proposed use.

Externally, the application proposes the installation of extraction/ventilation equipment. This would include a duct running from the oven and terminating via a louvred grille at the southern elevation of the building, a cold room compressor situated within the courtyard area of the building and the installation of a fresh air intake duct, which would terminate via a louvred grille at the southern elevation of the building.

Existing windows and doors throughout are to be replaced and the brickwork and render upgraded. A louvred shed at the rear of the property is also to be removed, along with an existing window and door.

The application has been accompanied by a Planning, Heritage, Design and Access Statement, an amended Acoustic report, a land use survey drawing and various product specification documents for the extraction units and compressors.

Throughout the course of the application, owing to concerns raised, amended and additional details have been requested by the case officer. These have been subject to a full re-consultation exercise.

Relevant Planning History:-

18/00156/ADC - Installation of 3 no. externally illuminated fascia signs and 1 no. externally illuminated projecting sign - Pending Consideration.

2. Publicity

3 Neighbours have been notified.
Site Notice displayed 16 January 2018.

3. Summary of Consultations and Representations Received

Castle Donington Parish Council have submitted two letters of objection, one in response to the original scheme and one to the amended scheme. These raise the following concerns:-

- Highway safety concerns in regard to the lack of public parking provision within the vicinity of the site and concerns over the site access;
- Detrimental impacts on health and safety and on the environment;
- Adverse impacts on residential amenity as a result of the proposed extraction units
- Concerns over the already excessive number of takeaways within the village; and
- On the basis that the planning application has been inappropriately advertised.

Leicestershire County Council Highway Authority - No objection and advise to refer to Standing Advice.

NWLDC Environmental Protection no objections but the manufactures guidelines for the ventilation system must be adhered to.

Third Party Representations

Letters of objection have been received from 73 individuals, raising the following concerns:-

Principle

- Contrary to policies HE1, HE2 and CSU2 of the Local Plan
- The existing shop is thriving and is an integral part of the community; loss of community facility or local service should be avoided
- There are already a large number of restaurants and restaurant delivery businesses in the area, and the figures submitted in support of the application in this regard are disputed.
- The application site is not situated within the primary shopping area
- Domino pizza is not in keeping with the NPPF as it would not support sustainable growth in Castle Donington, would not create a competitive economy and would not compete on the economies of scale. The result would be a net loss in revenue and employment.
- There are currently 13 retail outlets that serve food or offer a take away service. This is over 50% of the current retail outlets and the proposal would result in a clustering of takeaways
- Local businesses are supported in preference to larger chains
- The proposal would be in a residential area and not the town centre/high street
- The proposed use would undermine the economic stability of existing business uses within Castle Donington
- The existing shop staff check that its customers are ok and deliver a lifeline to people who don't have anyone else; replacing the local shop would make it more difficult for the aged population to shop
- The existing shop operates the only newspaper delivery service in town.

Appearance and residential amenity

- The proposal would be detrimental to the village and the conservation area, and nearby Listed Buildings
- The proposal will have a detrimental impact on tourism as it will result in the village looking untidy
- The application is contrary to Policy D2 of the Local Plan and in this regard will have a detrimental impact on the residential amenity of surrounding residents by way of overlooking, overshadowing and will be overbearing
- The proposal would result in overdevelopment and overlook nearby residential properties

Highway Considerations

- No customer parking proposed, only space for two delivery bikes, which is inadequate
- The public car parks nearby, these are almost constantly full
- There have been a number of road traffic accidents within a short distance of the application site
- It is highly likely that the mopeds used to deliver the goods will result in further traffic incidents and dangers to pedestrian and road safety.
- The roads in the vicinity of the site are highly congested
- There is no unloading area for the delivery vehicles
- The layout of the road and the increase in large delivery vehicles will result in highway safety concerns
- The layout of parking spaces makes them hard to navigate and renders them unusable
- Where is the bin storage and what about refuse collection/vehicles?
- The use will result in further vehicle accidents at the junction
- The application is not accompanied by a traffic impact assessment
- Increased use of car; customers will not walk to Dominos - it is incorrectly stated within the supporting documents that customers will use public transport to collect their takeaways
- There are double yellow lines on the road to the front of the establishment, which would further restrict parking, however with the lure of the takeaway and the cashpoint, illegal parking would be likely
- Local residents driveways will be blocked by the likely occurrence of congestion and in street parking

Opening Hours/Noise/Disturbance

- The opening hours are not considered suitable; the opening housing will disrupt sleeping patterns of the occupants of nearby residential properties
- None of the existing pubs/food outlets are open until 1am
- Unacceptable impact in terms of noise generation
- Unacceptable levels of air and light pollution
- Noise concerns related to the Class 1 HGV delivery vehicles
- Additional rubbish and waste
- Increase in vermin
- The activities associated with this type of enterprise would increase incidence of social disorder, violence and inappropriate behaviour and create a crime hot spot
- Is there security, CCTV provision?
- Regardless of Noise from the overall operation of the premises has not been accounted for within the noise survey

Other Matters

- Will result in the loss of the ATM machine
- There has been no attempt made to engage with the general public on this application
- There is significant local opposition against this application, which must be a material consideration in this application
- No moral, social, or public policy considerations have been taken into account to consider the health impacts of opening a fast food outlet; one school is within 240 metres
- The development will intensify the problem of childhood obesity
- The proposal would result in job losses elsewhere
- The inclusion of an external franchise would be in direct conflict with the existing business and retail community in the village and this proposal would not be in keeping with the types of business within the village.
- Local businesses illustrate the country's inherent strengths by being moralistic and ethical in their approach to business. They would not hire on things such as zero hour employment policies without background checks.
- Dominos is not in keeping, nor the solution and could tip the community back into a state of decline.
- The proposal would devalue surrounding properties
- There are errors within the supporting statement submitted by the agent which are misleading
- The additional vibrations caused by traffic could result in additional damage to the old properties along the road
- The Baptist Church is no longer a church, but is three dwellings.
- Mortgage companies are very reluctant to lend money on properties close to such uses
- The use of the existing premises has been incorrectly described within the Design and Access Statement as a mobility scooter retail outlet.

A standard letter with 144 signatures has been submitted, objecting on the following grounds:-

- The alterations are entirely unsympathetic to the local conservation area
- Loss of shop and amenity, particularly to the elderly members of the community
- Insufficient parking on the site or close by to support customers or employees
- Existing traffic congestion; traffic hazards will be increased and highway safety jeopardised
- Adverse effect on living conditions from Noise, smell, litter, light pollution, loss of privacy and general disturbance
- The NPPF states that the LPA have a responsibility to promote healthy communities and there are two schools in close proximity to the site
- De-stabilise the local economy, making it unsustainable and result in the loss of jobs;
- Local customers can already get a Dominos delivered from Long Eaton and 42% of the retail business in the village are involved with food retail and a significant number of these provide a take away services

8 letters of support have been received, stating the following:-

- More variety and choice for the village
- Reflects the changing demographic
- Welcome the change to meet the demands of the growing population with recent housing and large companies moving to the area

- Create more jobs; local jobs for local people
- A thriving business in the area, might result in more businesses opening locally
- Positive outcomes for Castle Donington
- The area is no longer a village and more like a mid-sized town and would have a strong customer base
- The proposed area of the village is slightly shabby with a barely used shop, so the takeaway would improve the look of the area
- Dominos no longer deliver from their branch in Long Eaton
- Parking is not an issues as studies show that the vast majority of customers use the delivery service and nearby parking for those who wish to collect their order
- Increase trade during events such as Download
- Some objections are not valid, for example - the compliant regarding HGVs delivering to the location - the location is already a shop and a shop requires deliveries from a HGV.
- The use would not increase the noise from the existing situation - it is located on a main road from the airport and Donington Park as we as transport hubs, commuters, buses that run 24/7 and daily noise from the aircraft and racetrack.

The landlord and proprietor of Go Local has submitted a letter which raises the following issues:-

- Within the letters of objection, many detail included about my business are factually incorrect
- Many people who have written in have rarely or never used my shop
- Dominos is not forcibly taking over the business - any agreement between Go Local and Dominos would be a mutually agreed deal acceptable to both parties and the long term viability of my business does not change should the outcome of the application be negative.

The full contents of all the letters of representation are available for members to inspect on the case file.

4. Relevant Planning Policy

National Planning Policy Framework

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraph 9 and 10 (Achieving sustainable development);
Paragraph 14 (Presumption in favour of sustainable development);
Paragraph 23 (Ensuring the vitality of town centres);
Paragraphs 56, 57, 58, and 64 (Requiring good design);
Paragraph 70 (Promoting healthy communities);
Paragraph 109 (Conserving and enhancing the natural environment);
Paragraphs 131,132,134,137 and 141 (Conserving and enhancing the historic environment).

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised NPPF. In view of the early stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this

time, and greater weight should be attached to the 2012 version. However, there is nothing in the draft NPPF that would materially change the recommendations made on this application.

Adopted North West Leicestershire Local Plan (2017)

The following policies of the adopted Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

S2 - Settlement Hierarchy
D1 - Design of New Development
D2 - Amenity
IF4 - Transport Infrastructure and New Development
IF7 - Parking Provision and New Development
HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment
HE2 - Shopfront Design
Ec8 - Town and Local Centres: Hierarchy and Management of Development
Ec10 - Town and Local Centre: Primary Shopping Areas - Non Shopping Uses
Ec11 - Town and Local Centres: Primary Shopping Areas - Hot Food Takeaway balance

Other Policies/Guidance

National Planning Practice Guidance - March 2014
Castle Donington Conservation Area Appraisal (2001)
6Cs Design Guide (Leicestershire County Council)
Good Design for North West Leicestershire SPD - April 2017
The Planning (Listed Buildings and Conservation Area) Act 1990

5. Assessment

Principle of Development

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance comprises the adopted Local Plan 2017.

This application proposes to change the use of an existing retail unit to a hot food takeaway.

The application site is situated within the defined Local Centre and the Primary Shopping Area. Hot food takeaways are considered acceptable uses in principle in such areas.

Policy Ec10 (1) states that shops will be the predominant ground floor use within these designated areas. The policy continues that development for other main town centre uses within these areas will be acceptable subject to meeting the policies criteria (a - d). Criterion (a) requires alternative uses to make a positive contribution to the diversity of uses on offer; (b) requires that the proposal does not undermine the shopping element within the immediate area of the site, (c) requires that the proposal would not result in a cluster of non- shop uses and (d) requires that the use would not have negative impact on the retail character and vitality and viability of the Primary Shopping Area.

Specifically in relation to the change of use to hot food takeaways, in terms of their in principle acceptability, Policy Ec11 1 (a) requires that clusters of such uses should be avoided.

A considerable volume of objections have been made on the basis that there is an over proliferation of hot food takeaways within the Primary Shopping Area and that this proposal would have further negative impacts in terms of vitality and viability if it were approved.

Objections have also been made on the grounds that the proposal would be in conflict with the relevant policy criteria and specifically that the proposal would result in the loss of the only retail unit within the area.

As part of the appraisal of this application, the Council have undertaken a survey of the Primary Shopping Area, to establish the current mix of uses.

The percentage breakdown of uses within the area are detailed below: -

Use	No. of Uses	Percentage
A1	32	38.1%
A2	6	7.1%
A3	6	7.1%
A 3/5 mix	1	1.2%
A4	2	2.4%
A5	2	2.4%
B1	5	6.0%
C1	1	1.2%
C3	25	29.8%
D1	3	3.6%
D2	1	1.2%

The results of the survey illustrate that retail uses are the predominant ground floor use and this would not alter if this application were approved.

There is an A3 use adjacent to the premises and the first part of Market Street includes one takeaway use, however due to the separation between these units and the presence of alternative uses within the area, the proposal would not result in a cluster of such uses. Furthermore, owing to the range of alternative uses within the vicinity of the site it could not be argued that the proposal would result in an over-concentration of non-shop uses.

The application proposes a use, which is considered to be an acceptable use in principle in Local Centres and Primary Shopping Areas, and therefore is considered to make a positive contribution to the diversity of uses on offer. Furthermore, as the use would operate outside of 'standard' shopping hours, it would have a positive impact on the night time economy and thus would enhance the vitality of the area in this regard. The proposal would result in the loss of a retail unit, but there would be inadequate grounds to resist the proposed change of use on this basis, given that retail use are currently, and would continue to be the main use within the area.

Overall, the use proposed is not considered to have a negative impact on the retail character of the area, would not result in a cluster of takeaway uses, but would enhance the vitality and viability of the Primary Shopping Area. The proposal is therefore in conformity with policies Ec8, Ec10 and Ec11 of the adopted Local Plan and is considered acceptable in principle subject to other material considerations.

Impact on Character and Design and the Historic Environment

Paragraph 131 of the NPPF states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It further indicates (at paragraph 132) that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 133 of the NPPF states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, consent should be refused unless it can be demonstrated that public benefits would outweigh the substantial harm. Similar tests are contained within Policy He1 of the adopted Local Plan whilst Policy D1 of the adopted Local Plan is concerned with design and the impact upon the character of buildings and the wider area.

The proposed development must also be considered against section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

The proposed development must also be considered against section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that special regard shall be had to the desirability of preserving or enhancing the character or appearance of a conservation area.

The site is situated within the Castle Donington Conservation Area and is within close proximity to the Grade II Listed former Baptist Church, on the opposite side of Bondgate.

Policy He1 seeks to ensure that proposals within such areas conserve or enhance the significance of heritage assets and their setting and policy D1 is supportive of development that is well designed.

The proposal would involve some external alterations to the building, including the installation of extraction/ventilation equipment, alterations to the fenestration and entrance and general maintenance and upgrading.

The extraction unit would terminate at the southern elevation of the building, facing the car park. This would be painted to match the existing wall. There is already a ventilation grille on this elevation of the building, which would be removed as part of the proposal and the opening serving this would be infilled and painted.

The compressor would be situated at a low level, in the location of the existing louvred shed. The louvred shed is in a poor state of repair and would be removed, along with an adjacent window and door. Two new replacement doors are proposed, and this elevation would be re-rendered and painted.

The positions and design of the ventilation equipment and compressor have been influenced by their functional requirements. The visual impact of the equipment would be reduced through its colour finish, which will match the existing building and where possible the equipment would be screened by existing features, further reducing their prominence.

Overall, although such equipment would not be in keeping with the characteristics of the Conservation Area, on balance it is considered necessary for the functioning of the use and in this case would not result in harm to the setting of the nearby Heritage Assets or upon the

character of the Conservation Area.

The existing entrance door at the south western corner of the building would be replaced with a single aluminum door and the existing shopfront windows are also to be replaced.

Comments have been received from the Council's Conservation Officer in relation to the design detail of the windows and to address these, notwithstanding the details provided, it is considered necessary to impose a condition requiring specific details of the fenestration and entrance proposed.

As the existing building offers little in the way of architectural or historic interest, and no increase in the areas of glazing have been proposed, subject to the imposition of conditions, the amendments to the shop front and entrance are considered acceptable.

On the basis of the above, and on balance, the design, character and appearance of the proposal is considered acceptable and in this regard there would be no significant impacts on the heritage assets and the development would accord with the principles of Paragraphs 131, 132, 137 and 141 of the National Planning Policy Framework. The proposal would also comply with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and policies D1 (Design of new development) and He1 (Conservation and Enhancement of North West Leicestershire's historic environment) of the adopted Local Plan.

Impact upon Residential Amenity

Concerns have been raised within the letters of representation on grounds that the proposal would result in various unacceptable impacts in terms of residential amenity by way of noise and disturbance, impact on privacy, overshadowing and overbearing impact, light pollution, odour, health and as a result of the impacts associated with increased refuse/litter and vermin.

There are residential uses to each elevation of the application site; there are flats on the upper floors of the attached building and dwellings adjacent to and on the opposite side of Bondgate.

Policy D2 states that development should be designed to reduce its impacts on residential amenity. Criterion (1) requires that development should not have an adverse impact through loss of privacy, overshadowing or be overbearing and criterion (2) states that proposals should not generate a level of activity, noise, vibration, pollution or odour, which cannot be mitigated to an appropriate standard. The policy also requires that lighting schemes be designed to minimize pollution from glare or spillage of light.

Policy Ec11 requires that regard is had to the following factors; criterion (1b) impacts on amenity by way of smells, fumes, noise, traffic or safety issues, criterion (1c) the potential impacts on the health of local residents, where it can be demonstrated that the proposal will raise health issues.

As previously stated, the site is situated with the Local Centre and the Primary Shopping Area. In such areas a degree of noise and disturbance is expected as a direct consequence of the range of uses present. Within the principle section above, it has already been established that hot food takeaway uses are acceptable uses within such areas.

In terms of disturbance, as the opening hours for the proposed use would be longer than the opening hours of the existing shop, the proposal would result in more coming and goings from the premises over a prolonged period of time.

The hours proposed are between 11am and midnight Sunday to Friday and between 11am and 1am on Saturdays. These are the same operating hours as those of the adjacent restaurant and bar (Atithi). As such, it would not be reasonable to impose further restrictions on this use/property.

Subject to a condition restricting the hours of operation to those stated, it is not considered that the proposal would result in a significantly harmful impact in terms of disturbance.

In regards to noise and disturbance, it has been specifically raised within the letters of objection that the means by which the proposed hot food takeaway would deliver its products (mopeds) would result in unacceptable impacts in this regard.

This application is for a generic A5 use and as such, the specifics of any potential operator cannot be taken into account within the determination process; even if such could be considered, it would not be necessary or reasonable to restrict the type of delivery vehicles used in these circumstances.

The site is situated within a Local Centre, where there is a concentration of activity and so disturbance from a range of sources over a prolonged period of the day, against this backdrop it is not considered that the operation of a hot food takeaway would result in any further significant impacts in terms of noise or disturbance.

An acoustic report has been submitted to assess the noise implications of the proposed ventilation and compressor units. This report has been considered by NWLDC Environmental Protection who have raised no objection on the basis that the recommendations within the report are followed. The recommendations will therefore be secured by way of condition. Subject to the imposition of this condition there are considered to be no significant impacts raised in terms of noise.

In terms of odour, the extraction system would be fitted with a carbon filter system in an attempt to ensure that the air which is expelled is as clean as possible. Specific details of the filtration system have been provided with the application (Proforma Annex B).

Within the accompanying information, it has been explained that the proposal would be for a pizza takeaway which would involve heating products in the oven and would not result in frying or deep fat frying.

To ensure that no frying would take place at the premises, the agent has suggested that a condition be imposed to this effect. Therefore, upon the suggestion of the agent, to ensure that there would be no materially harmful impacts in terms of odours, smoke or grease a condition to this effect would be imposed.

Concerns have also been raised on grounds of privacy. As the proposal would not include any new or enlarged windows and as the unit is already host to a public use, the proposed use would not result in any further impacts upon the privacy of surrounding residential properties.

It has also been stated that the proposal would be overbearing and would result in overshadowing. As no significant building works are proposed by this application, it is not considered that the proposal would result in any harmful impacts in this regard.

It has been raised that the proposal would result in light pollution. There is no lighting scheme proposed by the application. The proposed advertisements, which are subject to a further

application are to be illuminated, but this is not a consideration of this application.

Given the extended opening hours, the premises may be lit for a longer period of time than the existing shop, however light omissions from an internal source are not considered to result in materially harmful impacts in terms of residential amenity.

Objections have also been raised on grounds that the proposal would promote unhealthy eating and as a consequence would result in adverse health implications.

As previously mentioned, this application proposes a generic A5 use, as such, the unit could therefore be host to a wide range of occupiers. Notwithstanding this, the planning system is unable to control/restrict customer choice and preference in this regard and as such behaviours of the end user. Furthermore, there is no submitted evidence to demonstrate that the proposal would result adverse health impacts and so these concerns could not result in grounds to object to the scheme.

Concerns have been raised that the proposal would result in increased litter. Criterion (2) of policy Ec11 requires that proposals for hot food takeaways should include the provision of a litterbin. Whilst commercial waste facilities have been illustrated on the plans, a litterbin has not been. There is considered to be adequate space on the site to accommodate such, therefore a condition would be imposed to secure the provision and maintenance of such. The imposition of this condition would ensure such concerns are addressed.

It has also been expressed that use would attract vermin. This is not material planning consideration. Appropriate refuse facilities would be required to serve the premises, but increased levels of vermin would be subject to control by NWLDC Environmental Health.

On balance, although the proposal may result in some additional impacts in terms of residential amenity, given that the site is situated within a Local Centre and a Primary Shopping Area, against this backdrop any impacts over and above those existing are not considered to result in a material level of harm that would warrant refusal of the application on these grounds.

There are no other materially harmful impacts identified in this regard that would result in the scheme being unacceptable on such grounds. Therefore, the proposed development is considered to be in accordance with policies D2 and Ec11 of the adopted Local Plan.

Highway Considerations

The County Highways Authority have issued Standing Advice in relation to the proposal.

Numerous objections have been raised within the letters of objection on highways safety grounds and on the basis of inadequate parking provision.

Two employee parking spaces are proposed within the curtilage of the application site and the site access off Bondgate would remain unchanged.

Although no customer parking provision has been proposed, the site is situated within a Local Centre which is served by a good range public transport and is within close proximity to various public car parks. By virtue of its central location, the site is also within walking distance of the settlement it would serve.

Although it would be inevitable that some customers would collect from the premises, the

duration of visits would be short, which would result in a quick turnover of available public parking.

As no changes are proposed to the access and as the proposal would not result in a material increase in vehicles movements at the site, the proposal is not considered to result in any further harm in terms of highway safety and the proposed parking provision is considered adequate.

Paragraph 32 of the NPPF advises that applications should only be refused on highway grounds where the cumulative impacts are severe. On the basis of the above, it is not considered that the proposal would conflict with the principles of this paragraph or the aims of Policy IF4 or IF7 of the adopted Local Plan.

Other Issues

It has been stated that the proposal will have a detrimental impact on tourism as it will result in the village looking untidy. There is no evidence to support this claim and as such this concern will have no bearing on the decision-making process.

Criticism has been raised on the grounds that the application is not accompanied by a traffic impact assessment. There is no requirement for an application of this scale to be accompanied by such an assessment.

Concern has been raised that the activities associated with this type of enterprise would increase incidence of social disorder, violence and inappropriate behaviour and create a crime hot spot. No evidence has been submitted to substantiate this claim and as such the issues raised will have no bearing on the decision-making process.

A query has been raised over security and CCTV provision. There is no requirement to provide security measure on planning applications and as such the lack of provision will have no bearing on the decision made.

Concerns have been raised that the application has not been correctly publicised. Adequate public consultation has been undertaken on the planning application in accordance with the legislative requirements.

In respect of all other matters reported in the third party representation section above that have not been addressed in the assessment section of this report, these are not considered to be material planning considerations and have no bearing on the decision making process.

Conclusion

The principle of new takeaway uses within the Local Centre and Primary Shopping Area of Castle Donington are acceptable, subject to them being compliant with the relevant policy criteria. In the case of this application, the proposal would not undermine the retail element of the area, would not result in a cluster of takeaway uses and would not therefore adversely impact upon the vitality or viability of the centre. To the contrary, the takeaway use would enhance the nighttime economy and therefore lead to improvements in vitality. The proposal is not considered to have any significant detrimental design, residential amenity or highway related impacts and would preserve the character and appearance of the Conservation Area. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is considered to comply with the relevant policies in the adopted

Local Plan and the advice within the NPPF. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION - PERMIT subject to the following conditions:-

Conditions

1. Time limit
2. Approved plans
3. Details of windows and doors
4. Colour finish of extraction equipment
5. Hours of operation
6. Noise condition - in accordance with the recommendations of the acoustic report
7. No frying of food
8. Provision of a scheme providing a litterbin
9. Parking provision - in accordance with details

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Erection of one detached, self-build dwelling with detached double garage and formation of new access (access and layout included)

Report Item No
A2

Land Off Redburrow Lane Normanton Road Packington Leicestershire

Application Reference
17/01575/OUT

Applicant:
Mr And Mrs Keith Goodwin

Date Registered:
10 October 2017

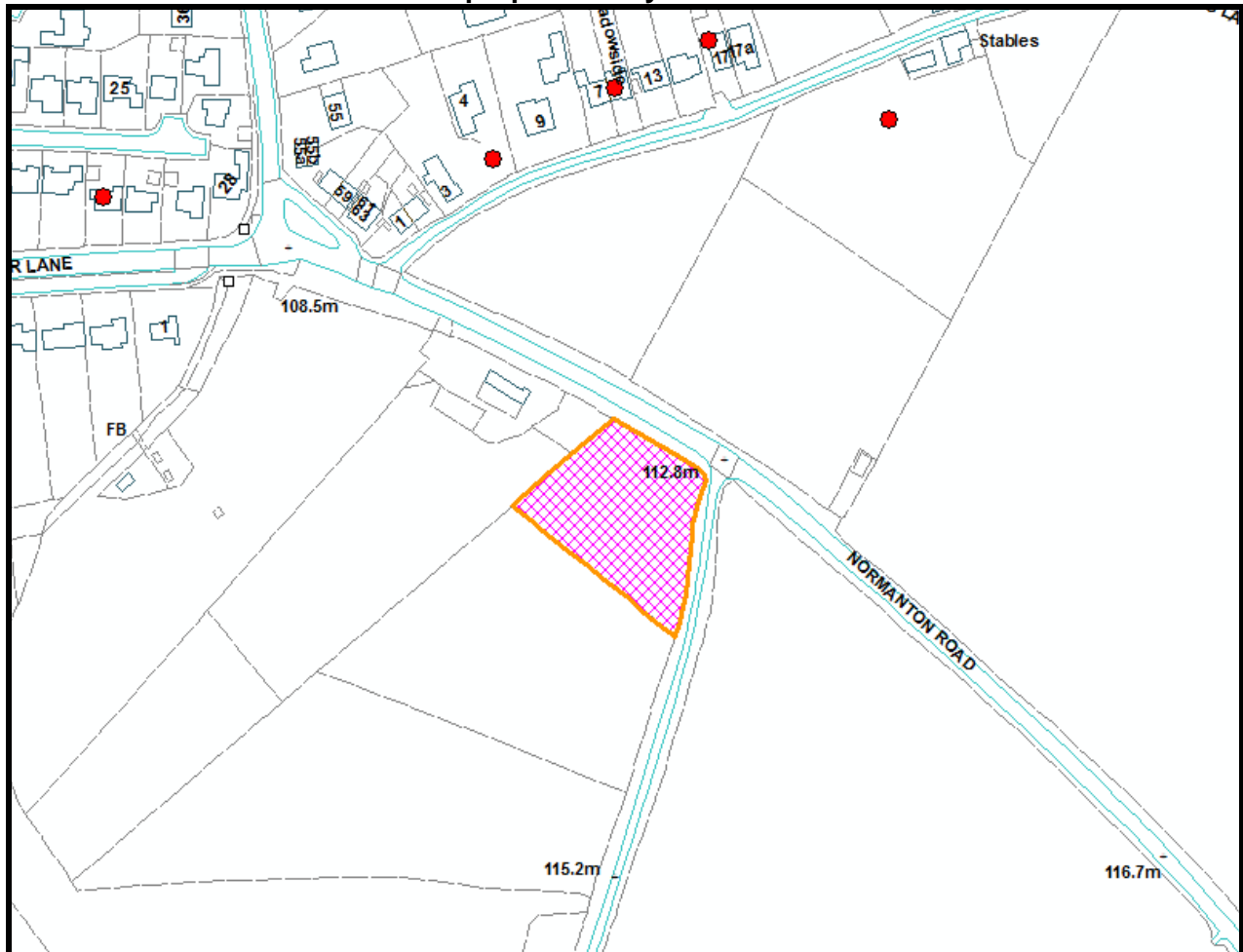
Case Officer:
Jenny Davies

Consultation Expiry:
15 November 2017

Recommendation:
REFUSE

8 Week Date:
5 December 2017
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application is brought before Planning Committee as a previous application for a similar form of development on the site was considered by Planning Committee in March 2017.

Proposal

Outline planning permission (with access and layout included for determination) is sought for the erection of one detached self-build dwelling with detached double garage and formation of new access on land at Redburrow Lane, Packington. The site forms part of a paddock located at the junction of Redburrow Lane and Normanton Road. A new access would be formed onto Redburrow Lane.

Consultations

Members will see from the main report below that one letter of objection and two letters of support have been received.

Packington Parish Council objects to the proposal. There are no objections raised by other statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan (2017). The application has also been assessed against the relevant policies in the NPPF and the adopted Local Plan and other relevant guidance.

Conclusion

The key issues arising from the application details are:

- The principle of the erection of a dwelling on the site
- Impact on the character and visual amenities of the area
- Impact on nearby residents
- Impact on trees and ecology
- Impact on highway safety
- Impact on the River Mease SAC
- The use of a non-mains drainage system

The report looks into the key planning issues in detail. The information submitted by the applicants and their vet setting out the need for a dwelling within sight and sound of the ponies on the site is not, on balance, considered to outweigh the site's location outside the Limits to Development in the adopted Local Plan or the harm to the character and visual amenities of the countryside. The application is not considered to result in significant impacts on the other key planning issues set out above.

RECOMMENDATION - THAT PLANNING PERMISSION BE REFUSED

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Outline planning permission (with access and layout included for determination) is sought for the erection of one detached self-build dwelling with detached double garage and formation of new access on land at Redburrow Lane, Packington. The site is 0.3 hectares in size and forms part of a paddock located at the junction of Redburrow Lane (to the east) and Normanton Road (to the north). The site is adjoined by paddocks (in the applicants' ownership) to the south, open countryside to the north and east and by the Peveril Homes development for 30 dwellings to the west, which is currently under construction.

A planning application for a similar form of development (with the dwelling located on the north eastern corner of the site, a triple garage rather than a double garage and a stable block for use in connection with the existing stud use) (16/16/00888/OUT) was resolved to be refused at Planning Committee in March 2017 on the following grounds, although it was subsequently withdrawn before the decision notice was issued:

"Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development which includes that the planning system needs to perform an environmental role, including protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan and Policy S3 of the submitted North West Leicestershire Local Plan provide a presumption against non-essential residential development outside the Limits to Development. Policy S3 of the submitted Local Plan states that land identified as countryside will be protected for the sake of its intrinsic character and beauty. Policy S2 of the submitted Local Plan advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. The proposal would result in significant harm to the character and rural appearance of the locality and the proposal would appear as an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment and would not therefore constitute sustainable development, contrary to the environmental strand of sustainability enshrined within the NPPF. In addition, the development would be contrary to Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan".

The dwelling would be located close to the western and northern boundaries, with the detached garage to the south of the dwelling, close to the western boundary. A new access from Redburrow Lane would be formed (in the same position as on the previous application), which would necessitate the removal of hedgerow, with a driveway laid through the site to provide parking and turning space and access to the garage. A field access to the adjacent paddock to the south would branch off the main access drive. Scale, appearance and landscaping have been reserved for future determination, although an indicative elevation drawing has been submitted. The precise dimensions of the proposal are available to view on the planning file.

The applicants currently operate a stud farm from the site and adjacent paddocks to the south and north off Normanton Road. Information has been provided to justify the proposed dwelling in relation to the stud use which is considered in detail in the assessment section of the report below. In summary the applicants advise that the dwelling is required for the following reasons:

- that their quiet enjoyment of the stud activities carried out on the site and adjacent fields has been detrimentally affected by the planning decision to allow residential

development for 30 dwellings on the adjoining field, due to noise from construction and noise from use of the dwellings and gardens once they are occupied, causing disturbance to the ponies kept at the site and increased potential for the horses to injure themselves;

- as a result of this noise and disturbance the stud's breeding programme appears to have been affected;
- the boundary hedgerow with the new dwellings, that has been deliberately kept high as a protective screen forming a shelter for ponies, will now be at risk of unauthorised cutting down, thereby exposing the site to greater levels of noise and disturbance
- flytipping of garden rubbish may occur - it is very important to bear in mind that lawn clippings will kill horses and ponies as, unlike cattle and sheep, they are not ruminants with several stomachs that allow for fermentation;
- there is a need for security due to recent break-ins at the site and nearby land, and the likelihood that loose dogs have resulted in death and injuries of livestock on adjacent land (and that foals could be affected by loose dogs);
- the applicants' existing dwelling is too far from the site, so they are unable to have visual contact with the ponies on the site from their existing dwelling (which they advise is approximately 15 minutes walk away) and so are unable to observe or react quickly to potential problems;
- the site and adjacent land form over 50% of the land utilised by the stud business, and works as an entity with the applicants' land and stables on Spring Lane, and that they own no other land to which they could re-locate their breeding and stud work;
- 0.64 hectares (1.6 acres) of the land off Normanton Road/Spring Lane is rented and it would not be good business sense to concentrate the stud on land that the applicants do not control;
- it is not possible to re-locate the horses from the land off Normanton Road/Spring Lane as both parcels of land form an integral part of the operation of the stud, with the site being used for stallions, mares and youngstock as it has been quiet and well away from interference by the public, and the land off Normanton Road/Spring Lane being used for barren mares and youngstock;
- currently 15 ponies at the site rising to 18 when foals are born, requiring a minimum of six hectares (15 acres), which is why the loss of 50% of the applicants' land would have a devastating effect on the stud;
- the nature of the land off Normanton Road/Spring Lane prevents its intensive use all year round and can't be used for foaling because of the danger of foals drowning at birth, as it is heavy clay and under water for much of the winter, whereas the site is a sandy loam and free draining so doesn't become waterlogged;
- there is a functional need for a dwelling on the site to supervise the ponies over a 24 hour period and the dwelling forms an integral part of the applicants' stud business;
- if a dwelling cannot be provided on the site then the stud would cease to operate,

resulting in the loss of two jobs and loss of business for local farmers and businesses.

A letter has been submitted by the vet who provides the majority of veterinary care for their ponies (Jenny Alsop of JLA Veterinary Services Ltd) in support of the application, which advises that it is essential that a permanent dwelling is allowed on the site within sight and sound of the ponies for the following reasons:

- land devoted to the circumstances where ponies are bred needs constant supervision;
- as the site drains well and is much drier than at Spring Lane, the site lends itself more naturally to the natural approach to foaling, where the ponies stay in the field and walk of pain relating to the birthing process;
- mares due to foal need to be observed 24 hours a day, seven days a week, in case of any problems (e.g. more colic issues), young newborn foals need more constant supervision to deal with any rapidly deteriorating conditions, and when stallions are turned out with mares, more injuries can be recorded;
- if problems are detected promptly and dealt with immediately from being on site then results are often more successful when compared to using CCTV;
- recent bad weather has also emphasised the necessity to be present to provide food and water by being on site, and these welfare issues prevent unnecessary suffering.
- decision to build a large residential development adjacent to the site amplifies the need for a dwelling to be on the site within sight and sound;
- the risk of injury to anyone trespassing from the dwellings is more likely with stallions and mares trying to protect their foals from strangers;
- if nearby residents don't know how to deal with mares, foals and young ponies they will start trying to feed them, possibly causing colic, and may try to get into the field and cause untold damage.

Additional information has also been submitted by the applicants as follows:

- the dwelling has been reduced in size and repositioned closer to the adjacent dwelling in response to concerns raised by Members;
- the dwelling would be self-build and the applicants are on the Council's self-build register;
- the dwelling would incorporate sustainable technology, e.g. ground/air source heat pumps, rainwater harvesting and waste water and filtration centre.

The site lies outside the Limits to Development as identified in the adopted North West Leicestershire Local Plan and lies within the catchment area for the River Mease Special Area of Conservation. A tributary to the River Mease lies approximately 124 metres to the west/north west. Packington House, which is a Grade 2 listed building, lies 262 metres to the north east.

2. Publicity

15 Neighbours have been notified.
Site Notice displayed 22 October 2017.
Press Notice published Leicester Mercury 25 October 2017.

3. Summary of Consultations and Representations Received

Statutory Consultees

Packington Parish Council objects to the application on the following grounds:

The proposed dwelling is outside the limits to development as defined in the North West Leicestershire Local Plan.

Leicestershire County Council Ecologist has no objections subject to conditions.

The Lead Local Flood Authority has no comments to make.

NWLDC Environmental Protection team has no environmental observations.

No comments have been received from Severn Trent Water by the date of this report. Any comments received will be reported on the Update Sheet.

Third Party Representations

One letter of representation has been received which objects to the proposal on the following grounds:

- outside Limits to Development and contrary to the development plan;
- contrary to paragraph 55 of the NPPF as no exceptional circumstances associated with the proposal;
- a self-build register indicating a need for self-build plots does not outweigh planning policy;
- adverse impacts on amenity of future residents due to a self-build dwelling being in close proximity to existing dwellings;
- application should be refused as contrary to countryside policy in the Local Plan.

Two letters of representation have been received which support the proposal on the following grounds:

- the stud is a local success story with an enviable world wide reputation, of which the District Council should be proud;
- over the last 20 years there has not been a management problem as the site has been far enough away from likely sources of adverse impacts and has been a safe place for breeding stock without the applicants needing to be within sight and sound;
- this situation has now changed, with the granting of planning permission for the 30 dwellings on the adjacent land rendering the use of the land by ponies unsafe without close supervision and the ability to act quickly;
- the bloodlines of the ponies are rare and valuable and every effort should be made to protect them;
- the applicants have concluded that it is imperative to live more centrally within their land so they can concentrate more fully on the welfare of the ponies;
- the threat to the stud business has been caused by the Council and the power is also with the Council to remedy that threat by approving the application;

- the weight and balance of national and local planning policies favour the application being approved;
- the objection from Peveril Homes indicates why it is important to protect the business;
- impact from fireworks on animals;
- fair to allow completion of this tranche of land for development as it has been excluded in recent months;
- reduced footprint in keeping with planning requirements;
- creates no further hazards to road users.

All responses from statutory consultees and third parties are available for Members to view on the planning file.

4. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraph 10 (Achieving sustainable development)
- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 17 (Core planning principles)
- Paragraphs 18 and 19 (Economic growth)
- Paragraph 28 (Supporting a prosperous rural economy)
- Paragraphs 32 and 35 (Promoting sustainable transport)
- Paragraphs 47, 49, 50 and 55 (Delivering a wide choice of high quality homes)
- Paragraphs 56, 57, 58, 60, 61 and 64 (Requiring good design)
- Paragraph 69 (Promoting healthy communities)
- Paragraphs 96, 99 and 100 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraphs 109, 112, 118, 119 and 123 (Conserving and enhancing the natural environment)
- Paragraphs 129, 131, 132, 133 and 134 (Conserving and enhancing the historic environment)
- Paragraphs 203, 204 and 206 (Planning conditions and obligations)

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised NPPF. In view of the early stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this time, and greater weight should be attached to the 2012 version. However, there is nothing in the draft NPPF that would materially change the recommendation made on this application.

Adopted North West Leicestershire Local Plan (2017):

The North West Leicestershire Local Plan forms the development plan and the following policies of the adopted Local Plan are relevant to this application:

- Policy S1 - Future Housing and Economic Development Needs
- Policy S2 - Settlement Hierarchy
- Policy S3 - Countryside
- Policy D1 - Design of New Development
- Policy D2 - Amenity
- Policy IF1 - Development and Infrastructure
- Policy IF4 - Transport Infrastructure and New Development

Policy IF7 - Parking Provision and New Development
Policy EN1 - Nature Conservation
Policy EN2 - River Mease Special Area of Conservation
Policy EN3 - The National Forest
Policy HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment
Policy CC2 - Water - Flood Risk
Policy CC3 - Water - Sustainable Drainage Systems

Other Guidance

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Self-Build and Custom Housebuilding Act 2015
Housing and Planning Act 2016
National Planning Practice Guidance 2014
The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations')
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)
River Mease Water Quality Management Plan - August 2011
The River Mease Developer Contributions Scheme (DCS)
The Community Infrastructure Levy Regulations 2010
6Cs Design Guide - Leicestershire County Council
Good Design for North West Leicestershire SPD - April 2017

5. Assessment

Principle of the Development

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, comprises the adopted North West Leicestershire Local Plan (2017).

The application site lies outside the defined Limits to Development within the adopted Local Plan, with the proposal not being a form of development permitted in the countryside by Policy S3 of the adopted Local Plan. Policy S2 of the Local Plan also advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. Paragraph 17 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside, but does not specifically preclude development within the countryside.

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Council is able to demonstrate a five year supply of housing (with 20% buffer) against the housing requirement contained in the adopted Local Plan.

Consideration must also be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

In terms of social sustainability Packington provides a range of day to day facilities, e.g. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites, and there is a limited hourly public transport service. These services/facilities are within 800-1000m (preferred maximum walking distance) of the site. Ashby-de-la-Zouch is also located approximately 1.5km from the site, where a wider range of

services can be found. To walk to these facilities from the site would involve a route along Redburrow Lane and Normanton Road, including using the junction of both roads. Neither road has a footway or street lighting along the site boundaries although verges are available along both roads. A footway is required to be provided along part of the frontage to the adjacent Peveril Homes site, although this would not extend to the site boundary. Both roads are subject to a 60mph speed limit adjacent to the site, although the 30mph speed limit on Normanton Road is required to be moved closer to the site under the permission for the adjacent Peveril Homes site. An alternative route to the village is also available via a public footpath (located around 330 metres from the site) running from Redburrow Lane to Heather Lane. Whilst Redburrow Lane is single track it has a relatively low traffic flow and a verge is available. Furthermore, there are several public footpaths leading off the road, and the road is used by cyclists/walkers and horse riders from nearby stables.

As such there are some opportunities to walk to the village from the site along a route which is already in use by pedestrians and other non-car users. Therefore in this case, on balance it is considered that occupiers of the dwelling would not necessarily be dependent on the private car. Taking all of these matters into account it is considered that a reason for refusal on the basis of the site not being socially sustainable in terms of access to services/facilities could not be justified in this case (and the previous application was not refused on this basis).

In terms of environmental sustainability the proposal would result in the loss of agricultural land. Best and Most Versatile (BMV) agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The ALC maps indicate that the site falls within Class 3 but do not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification.

Whilst the NPPF does not suggest that the release of smaller BMV site is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost. Therefore given the relatively limited extent of the potential loss of the site (0.3 hectares), it is considered that this is not sufficient to sustain a reason for refusal in this case.

The dwelling is proposed to be used in connection with an existing horse stud that is operated by the applicants from the site and land between Normanton Road and Spring Lane (to the immediate north of the site). A field located at the junction of Normanton Road with Coleorton Lane to the north of the village is also rented for summer grazing.

The stud use primarily involves the grazing of horses, and therefore is considered to be an agricultural use for which planning permission is not required.

The applicants advise that the site and adjacent paddocks have been used for stud and breeding purposes for nearly 20 years and during that time there has been no significant disturbance to the ponies. However the applicants state that a dwelling is now required on the site for the following reasons:

- their quiet enjoyment of the stud activities carried out on the site and adjacent fields has been detrimentally affected by the planning decision to allow residential development for 30 dwellings on the adjoining field, due to noise from construction and noise from use of the dwellings and gardens once they are occupied, causing disturbance to the ponies kept at the site and increased potential for the horses to injure themselves;
- as a result of this noise and disturbance the stud's breeding programme appears to have

been affected, e.g. mares turned out with the stallion onto the site for the 2017 season are not in foal;

- the boundary hedgerow with the new dwellings, that has been deliberately kept high as a protective screen forming a shelter for ponies, will now be at risk of unauthorised cutting down, thereby exposing the site to greater levels of noise and disturbance
- flytipping of garden rubbish may occur - it is very important to bear in mind that lawn clippings will kill horses and ponies as, unlike cattle and sheep, they are not ruminants with several stomachs that allow for fermentation;
- there is a need for security due to recent break-ins at the site and nearby land, and the likelihood that loose dogs have resulted in death and injuries of livestock on adjacent land (and that foals could be affected by loose dogs);
- the applicants' existing dwelling is too far from the site, so they are unable to have visual contact with the ponies on the site from their existing dwelling (which they advise is approximately 15 minutes walk away) and so are unable to observe or react quickly to potential problems;
- the site and adjacent land form over 50% of the land utilised by the stud business, and works as an entity with the applicants' land and stables on Spring Lane, and that they own no other land to which they could re-locate their breeding and stud work;
- 0.64 hectares (1.6 acres) of the land off Normanton Road/Spring Lane is rented and it would not be good business sense to concentrate the stud on land that the applicants do not control;
- it is not possible to re-locate the horses from the land off Normanton Road/Spring Lane as both parcels of land form an integral part of the operation of the stud, with the site being used for stallions, mares and youngstock as it has been quiet and well away from interference by the public, and the land off Normanton Road/Spring Lane being used for barren mares and youngstock;
- currently 15 ponies at the site rising to 18 when foals are born, requiring a minimum of six hectares (15 acres), which is why the loss of 50% of the applicants' land would have a devastating effect on the stud;
- the nature of the land off Normanton Road/Spring Lane prevents its intensive use all year round and can't be used for foaling because of the danger of foals drowning at birth, as it is heavy clay and under water for much of the winter, whereas the site is a sandy loam and free draining so doesn't become waterlogged.

As such the applicants advise that a dwelling is now required on the site to supervise the ponies over a 24 hour period, the dwelling forms an integral part of the applicants' stud business and there is a functional need for the dwelling on the site.

The applicants also advise that the loss of the fields for stud activities would mean the stud would cease to function, resulting in the loss of two part time jobs, the cessation of purchases of large quantities of fodder from local farmers and other purchases from local businesses and there no longer being a need to employ contractors to carry out work on the site.

The applicants have referred to a dwelling being granted planning permission at Tythe Livery Yard at Boundary, on the basis of a dwelling needing to be within sight and sound of livestock, although a dwelling was already located one field away from this livery. However Tythe Livery Yard is located within the District of South Derbyshire, and furthermore it is a fundamental tenet of the planning system that every planning application is considered on its own merits and other decisions do not set a precedent.

If a dwelling is proposed to support a farm or rural business, whilst PPS7 has been cancelled, its Annex is still considered to provide a reasonable basis for an assessment in respect of the issues to be considered for such new dwellings. As a greater level of information has been submitted as part of the current application in respect of the reasons why a dwelling is required on the site (than was submitted under the previous application), some weight is attached to the dwelling being essential in connection with the existing stud use for the reasons given by the applicant and the supporting letter from the vet setting out why a dwelling is needed within sight and sound of the ponies on the site.

Whilst there is no reference in the adopted Local Plan to self-build dwellings, there is policy support for such dwellings in the NPPF, and also in the Self-Build and Custom Housebuilding Act 2015 and the Housing and Planning Act 2016. There are currently 62 people on the Council's self-build register, including the applicants. One self-build dwelling has been granted in the Packington area since September 2016. Given the above it is recognised that a self-build dwelling would provide social and economic benefits, although given that only one such dwelling is proposed, these benefits would be limited in this case. There would also be economic benefits, including allowing the existing stud business to continue operating, as well as local construction jobs and helping to maintain local services in the area.

It is considered that the proposal would not result in an 'isolated' dwelling, and as set out in more detail below, would not create any unacceptable impacts on the built or historic environment. There would also be limited social benefits and economic benefits. However as the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of adopted Policy S2, and the proposal is not a form of development permitted in the countryside by adopted Policy S3. Furthermore as set out below, significant harm would arise from impact on the rural character and visual amenities of the countryside which would conflict with adopted Policy S3 and the NPPF. The resulting harm would significantly and demonstrably outweigh the social and economic benefits, including the provision of a self-build dwelling, and would not be outweighed by the material consideration of the need for a dwelling on the site in connection with the existing stud use, within sight and sound of the ponies on the site. Therefore it is considered, overall, that the proposal does not constitute sustainable development.

Character and Visual Impact

The site is outside the Limits to Development under the adopted Local Plan. On this basis the proposal would be assessed against the context of Policy S3 of the adopted Local Plan and paragraph 17 of the NPPF which requires the planning system to recognise the intrinsic character and beauty of the countryside.

The previous application for one dwelling on the site (16/00888/OUT) was resolved to be refused at Planning Committee in March 2017 on the grounds stated in the proposals section of this report, although it was subsequently withdrawn before the decision notice was issued.

The area is characterised by open fields with trees and hedgerows forming the boundaries, including the site, although it is acknowledged that residential development is under

construction on the adjacent site to the west. The proposal would result in the loss of greenfield land within the countryside. It is acknowledged that the site is adjoined by the Limits to Development in the adopted Local Plan, which run along the site's western boundary.

However the site is closely associated with the rural landscape to the north, east and south. As a consequence it contributes positively to the undeveloped nature of the area, which would be its defining characteristic, in particular along Redburrow Lane and on the approach to the village along Normanton Road. A mature hedgerow forms the boundary to the site alongside both roads, which provides screening. Whilst the indicative plans show a two storey dwelling it is noted that a single storey dwelling could be proposed at reserved matters. However it is considered that regardless of the scale of the dwelling, some parts would be visible above the boundary hedgerows, and along with the garage would be visible through the hedgerows in the winter months. Currently the site is well screened from Redburrow Lane. However a new access would be formed, and hedgerow removed to provide the access and visibility splays. Whilst it is acknowledged that a new hedgerow could be planted behind the splays, this would take some time to mature, and a view would be provided through the new access of the development on the site. Whilst the dwelling has been repositioned closer to the adjacent new housing, it would be separate from that site, and would extend development into the open countryside. A new dwelling, and its associated infrastructure, such as the garage and extent of hardsurfacing, would result in the urbanisation of the site which would diminish its present character and contribution to the character and visual amenities of the area, and would be an incongruous encroachment into the rural environment.

An application for eight dwellings on land to the immediate north of the site (which is of a similar character to the application site, with hedgerows forming the boundaries and providing a soft edge to adjacent built up development), at the junction of Normanton Road and Spring Lane (15/01051/OUT), was refused in part on the grounds of being outside the Limits to Development and visual impact on the countryside, and was subsequently dismissed on appeal in July 2017 in part on the grounds of harm to the character and appearance of the countryside.

Therefore it is considered that the proposal would result in significant harm to the character and rural appearance of the locality and the proposal would appear as an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment and would be contrary to the environmental strand of sustainability set out within the NPPF. As such the development would be contrary to Paragraph 17 of the NPPF and Policy S3 of the adopted Local Plan.

Siting and Design

The proposal would result in a density of three dwellings per hectare. However the NPPF states that authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate in this location.

There is variety in the scale and design of the dwellings on the adjacent site and in this part of the village and the footprint of the dwelling would give an opportunity to reflect local character and distinctiveness. The site could accommodate all of the necessary requirements (private garden, parking/turning space) without being too cramped or resulting in over-development.

Whilst the orientation of the dwelling and garage appear to face into the site, as details of appearance are not included, the dwelling's and garage's detailed design, including opportunities to provide active elevations facing towards the roads, would be considered at the reserved matters stage. As such it is considered that the proposal would not be significantly contrary to the provisions of Policy D1 of the adopted Local Plan and the Council's Good Design

SPD.

Historic Environment

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess. Reference should also be made to paragraphs 131 and 132 of the NPPF.

Packington House on Spring Lane lies around 262 metres to the north east of the site, which is a Grade 2 listed building. Therefore the impact of the development on the setting of the listed building should be given special regard as required by the 1990 Act. Packington House is a substantial three storey property that is still isolated from the village and largely retains its rural setting. Therefore significant weight is given to preserving the setting of the Grade 2 listed building.

The setting of Packington House is somewhat compromised to the immediate north by the presence of a modern two-storey dwelling but its rural setting survives predominantly to the south and south east, but also to some extent to the west and south west due to the buffer of fields between the listed building and existing development on the edge of the village. There are views towards Packington House from Normanton Road on the approach to the site. However in these views the site would be set apart from Packington House with existing and new development on Spring Lane and on the southern side of Normanton Road forming part of this view, and from within the site vegetation screens views of the listed building. The Conservation Officer raises no objections. Given its distance from Packington House and the intervening screening from vegetation it is considered that the proposal would not adversely impact on the setting of the listed building and therefore complies with the NPPF and Policy HE1 of the adopted Local Plan.

Residential Amenities

The nearest new dwellings on the adjacent Peveril Homes site to the west would be Plots 7 and 8. The dwelling would be at least 12.5 metres from Plot 7, which has no side windows, and its rear garden, and at least 20 metres from Plot 8. The garage would be at least seven metres from Plot 7 and six metres from its garden, and at least 14 metres from Plot 8, with Plot 8's garden being located to the north and west of Plot 8. The hedgerow along the western boundary is understood to be within the applicants' ownership. Any impacts from a garage above single storey could be considered at reserved matters stage as this would be dependent on its detailed design. As such the dwelling and garage are unlikely to adversely impact on the occupiers of Plots 7 and 8 from overlooking, overshadowing or oppressive outlook. Use of the access drive/turning space and construction of the dwelling may result in some noise and disturbance. However it is not unusual for dwellings to be constructed on sites adjacent to existing dwellings, and it would not be reasonable to impose a condition restricting hours of construction given the scale of the proposal. No objections have been raised in respect of this matter by the Council's Environmental Protection team, and in any case the Council has separate powers under the Environmental Protection Act. Given the submitted information regarding the operation of the stud and the distance from Plots 7 and 8, it is considered unlikely that any impacts would be significant from use of the access drive/parking and turning space. As such the proposal would comply with the provisions of Policy D2 of the adopted Local Plan.

Trees and Ecology

There are trees and hedgerows on and near the site and large areas of grassland nearby, all of which are features that could be used by European Protected Species (EPS) or national protected species. Therefore the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions and to the requirements of the Wildlife and Countryside Act 1981 (as amended).

A survey found no evidence of badger setts or of badgers using the site. The majority of trees and hedgerows would be retained and the loss of hedgerow to form the new access would not significantly impact on the hedgerow wildlife corridor as conditions could be imposed requiring new hedgerow planting behind the proposed visibility splays. Whilst some grassland would be lost, there is other similar habitat adjacent to the site. As such it is considered that protected species would not be adversely affected

A survey of the northern and eastern boundary hedgerows found that whilst both hedgerows are species rich, neither can be identified as 'important' under the Hedgerow Regulations. The County Ecologist requests the imposition of planning conditions requiring the hedgerows to be protected during construction and subsequently retained. Whilst the County Ecologist also requests imposition of a condition relating to new hedgerows, given that landscaping matters are reserved for future consideration, such a condition cannot be imposed at this stage. The dwelling would be located at least five metres from the northern boundary which contains several oak trees, and the largest of these trees is located closest to the dwelling's side elevation. On this basis it is considered that trees and protected species would not be adversely affected by the proposal and the proposal complies with the Habitats Regulations 2010 and Policy EN1 of the submitted Local Plan.

Highway Safety

The access would be in the same position as on the previous application, and would exit onto a 60mph zone on Redburrow Lane. The stretch of Normanton Road fronting the site is also within a 60mph zone. In respect of the previous application, concerns were raised regarding the very poor access from Redburrow Lane onto Normanton Road, particularly as slow horse boxes will be entering a narrow highway with a 60mph speed limit. The Highway Authority previously advised that in respect of a proposal of this nature it can only consider the impact of the new access, rather than the additional traffic using this junction. Furthermore the Highway Authority is aware of the stud use of the land and previously recommended a condition preventing the dwelling/stables from being open to the public or being used for any other business/commercial use, including livery stables.

The Highway Authority previously advised that the northern splay would meet the 6Cs Design Guide requirement for splays of 33 metres in areas where speeds are between 21-25mph (as in this case), although the splay to the south falls slightly short (1.92 metres) of this requirement. However the Highway Authority stated that the vehicle speeds are evidenced to be low, and use of the access is expected to be similar to that associated with a single dwelling. As such, and in accordance with the Manual for Streets (MfS) guidance, the Highway Authority advised that it would be reasonable for visibility splays to be measured from a two metre set back behind the highway where it is likely visibility achieved could be in excess of 33 metres. The visibility proposed would not therefore be considered unacceptable by the Highway Authority and not to a level where it would be considered that the residual cumulative impact of development was demonstrably severe in accordance with paragraph 32 of the NPPF. Given the above it is considered that a reason for refusal in respect of severe impact on highway safety and non-compliance with Policies IF4 and IF7 of the adopted Local Plan and paragraph 32 of the NPPF

could not be justified in this case.

River Mease Special Area of Conservation

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC) and a tributary lies approximately 124 metres to the west. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore, an assessment of whether the proposal would have a significant effect on the SAC is required.

The River Mease Developer Contribution Scheme First and Second Development Windows (DCS1 and 2) have been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). Both DCS1 and DCS2 advise that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. Both DCS1 and DCS2 are considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations and paragraph 204 of the NPPF. There is no capacity available under DCS1 and so DCS2 was adopted by the Council on 20 September 2016.

The application proposes a cesspool (sealed tank that does not discharge into the ground and needs to be emptied of waste) with a capacity of 70,000 litres to deal with foul drainage discharge (as per the previous application).

In respect of the previous application Natural England advised that the Council should ensure that there would be no harmful discharges of foul or surface water from the site into the River Mease or its tributaries, and the Environment Agency had no objections and made no comments in respect of impact on the SAC. None of the Severn Trent Water (STW) treatment works in the SAC catchment area accept foul waste from licensed waste collectors, which STW has confirmed, and advises that this arrangement will continue in perpetuity. As the foul waste from the site would not be emptied within the SAC catchment area or discharge into the watercourse, there is not a requirement for a contribution under DCS2. A condition could be imposed requiring discharge of surface water to a sustainable drainage system. Therefore in this case, given the lack of objection from the Environment Agency and Natural England, the distance from the SAC tributary and intervening development, that the cesspool is a sealed tank, that waste would not be disposed of in the SAC catchment and that a condition could be imposed requiring submission of a management/maintenance scheme for the cesspool, it is considered that use of a cesspool, along with surface water discharge from the site, would not adversely impact on the SAC/SSSI.

Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Other Matters

As noted above, the Environment Agency previously had no objections, although it commented that it does not accept the promotion or proliferation of cesspools as a viable long term sewerage option other than in exceptional circumstances. The National Planning Practice Guidance (NPPG) sets out a hierarchy of preferred non-mains drainage solutions; firstly mains sewer, then a package treatment plant and lastly septic tanks, with no reference made to cesspools.

The NPPG also advises that non-mains proposals should clearly set out the responsibility and

means of operation and management of non-mains drainage systems, and the effects on amenity and traffic should be considered, due to the need for sludge to be removed by tankers, matters which also applicable to cesspools. Withdrawn Circular 03/99 also set out guidance for assessments of non-mains drainage proposals, which provides a useful tool.

It is considered that it would be difficult to connect to the mains sewer given the distance away (120 metres). As the tank would be constructed alongside the dwelling it would not result in significant additional construction work. Furthermore journeys made to and from the property by tanker are unlikely to be no more significant in terms of fuel consumption and CO2 emissions than journeys made by refuse collection lorries, in particular in remote locations, and by lorries/tankers providing gas/oil to dwellings in parts of the District which do not have mains gas. Given the distance from Plots 7 and 8 on the adjacent site, and that the Council's Environmental Protection team has not raised any objections, it is considered that the cesspool would not result in significant impact on the amenity of nearby residents. It is also considered that suitable access could be provided to the site for a tanker. It is also considered that use of a cesspool on this site would not set a precedent for non-mains drainage on other sites as all such proposals would be assessed on their own merits.

It is acknowledged that cesspools are generally not considered to be a suitable non-mains drainage alternative. However in this case given the lack of objection from the Environment Agency and the matters set out above it is considered that a reason for refusal in respect of use of a cesspool could not be justified in this case.

Conclusion

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable could not be justified, and the proposal would not result in any unacceptable impacts on the built or historic environment. There would also be limited social and economic benefits. However as the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of adopted Policy S2, and the proposal is not a form of development permitted in the countryside by adopted Policy S3. Furthermore as set out below, significant harm would arise from impact on the rural character and visual amenities of the countryside which would conflict with adopted Policy S3 and the NPPF. The resulting harm from these impacts would significantly and demonstrably outweigh the social and economic benefits, including the provision of a self-build dwelling, and would not be outweighed by the material consideration of the need for a dwelling on the site in connection with the existing stud use, within sight and sound of the ponies on the site. Therefore it is considered, overall, that the proposal does not constitute sustainable development. It is therefore recommended that planning permission be refused.

RECOMMENDATION, REFUSE for the following reason:

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development which includes that the planning system needs to perform an environmental role, including protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S2 of the adopted North West Leicestershire Local Plan advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. Policy S3 of the adopted Local Plan sets out the types of development that will be supported outside the Limits to Development and also requires the appearance and the character of the landscape to be safeguarded and enhanced. As the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of Policy S2 of the adopted Local Plan. The proposal is not a form of development permitted in the countryside under Policy S3 of the adopted Local Plan. The proposal would also result in significant harm to the character and rural appearance of the locality and would appear as an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment, and would be contrary to Paragraphs 7 and 17 of the NPPF and Policy S3 of the adopted Local Plan. The resulting harm from these impacts would significantly and demonstrably outweigh the social and economic benefits, including the provision of a self-build dwelling, and would not be outweighed by the material consideration of the need for a dwelling on the site in connection with the existing stud use, within sight and sound of the ponies on the site. Therefore it is considered, overall, that the proposal does not constitute sustainable development.

Erection of a detached dwelling with associated parking and landscaping following the demolition of studio/storage building

Report Item No
A3

Cherry Orchard 1 Hollow Road Breedon On The Hill Derby
DE73 8AU

Application Reference
17/01810/FUL

Applicant:
Mr & Mrs Burton

Date Registered:
5 December 2017

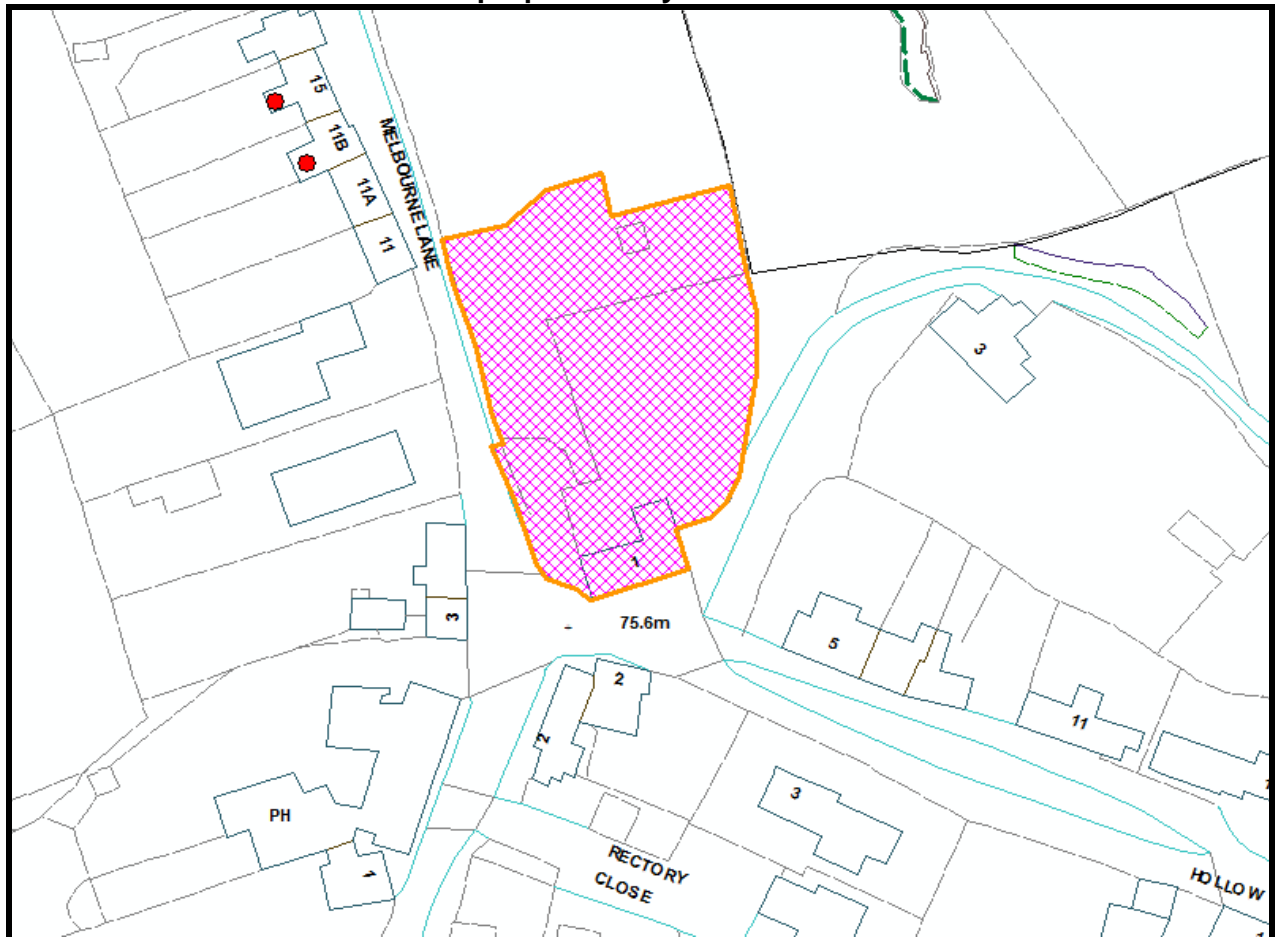
Case Officer:
James Mattley

Consultation Expiry:
7 April 2018

Recommendation:
PERMIT

8 Week Date:
30 January 2018
Extension of Time:
9 March 2018

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Reasons for Approval

Reason for Call In

The application is reported to the Planning Committee, at the request of Councillor Stevenson in order for Members to assess the design and visual impact of the proposal.

Proposal

Full planning permission is sought for the erection of a detached dwelling with associated parking and landscaping following the demolition of studio/storage building at Cherry Orchard, 1 Hollow Road, Breedon on the Hill.

Consultations

Members will see from the main report below that there are objections raised from surrounding neighbours and objections from Breedon Parish Council.

There are no other objections raised from statutory consultees.

Planning Policy

The majority of the application site is located within Limits to Development although a small part of it is located outside Limits to Development as defined by the adopted Local Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

Planning permission was refused for a different scheme on the site at Planning Committee in December 2016. The sole reason for refusal related to the contemporary design of the scheme and the impact that this would have on the surrounding area.

In order to address the previous reason for refusal the applicants have applied for a dwelling with a reduced scale and a more traditional appearance. This is considered to address the previous reason for refusal.

The report looks into the relevant planning issues in detail, and officers conclude that all other details are satisfactory. The detailed scheme meets the requirements of relevant NWLDC policies, including the adopted Good Design for North West Leicestershire SPD.

RECOMMENDATION - PERMIT, SUBJECT TO CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Planning permission is sought for the erection of a detached dwelling with associated parking and landscaping following the demolition of studio/storage building. The application site is to the north-east of no. 1 and currently forms part of the residential garden associated with this property. The site in question is within the defined Limits to Development and is also within the Breedon on the Hill Conservation Area. To the north-east lies the Breedon Hill Site of Special Scientific Interest (SSSI) as well as the Grade I Listed Church of St Mary & St Hardulph.

Planning permission was refused for a different scheme on the site at Planning Committee in December 2016 for the following reason:

The proposed contemporary design of the dwelling would fail to respect or enhance the established character and design of residential development in Breedon On The Hill and has the potential to be a prominent form of development from outside the confines of the application site due to the topography of the land. In the opinion of the Local Planning Authority, the proposed development would appear incongruous within its setting, which is contrary to environmental strand of sustainability as well as Paragraphs 61 and 64 of the NPPF, Policies E4 and H7 of the adopted North West Leicestershire Local Plan and Policy D1 of the submitted North West Leicestershire Local Plan.

The current proposal is for a more traditional property which is smaller in scale. The proposed dwelling would be a 2 bedroom detached dwelling with the first floor accommodation provided within the roof.

Originally a detached garage was proposed as part of the development but this element has now been removed from the proposals as it does not require planning permission.

In terms of vehicular access to the site this would be achieved via widening an existing access off Hollow Road, at the junction with Melbourne Road, with external off-street parking being provided. The proposed access would be shared by the existing and proposed dwelling.

A design and access statement (including planning statement), archaeological assessment, tree survey and protected species survey have been submitted in support of the application.

The relevant planning history of the site is as follows: -

- 89/1523/P - Erection of one dwelling - Refused 4th April 1990.
- 90/0817/P - Erection of one dwelling and car port (resubmission) - Approved 29th August 1990.
- 15/00204/FUL - Construction of a detached two-storey dwelling involving the formation of a new vehicular access off Melbourne Lane - Withdrawn 5th January 2016.
- 16/00980/FUL - Erection of a detached dwelling with associated off-street parking (Revised Scheme) - Refused 07 December 2016.

2. Publicity

11 Neighbours have been notified.

Site Notice displayed 22 December 2017.

Press Notice published Derby Evening Telegraph 20 December 2017.

3. Summary of Consultations and Representations Received

Leicestershire County Council - Ecology has no objections.

NWLDC - Environment Protection has no objections.

Breedon on the Hill Parish Council object to the application on the following summarised grounds: -

- Will be detrimental to surrounding properties;
- Concerns regarding safety of access;
- New dwelling would be highly visible;
- Would cause harm to heritage assets;
- Would not be compliant with Policy E1, E10 and E16 of the Local Plan;

Historic England does not wish to offer any comments but suggests that the views of the Council's conservation officer are taken into account.

No response has been received from the following consultees: County Highway Authority, Severn Trent Water and County Archaeologist.

Third Party Representation

One representation to the application has been received objecting to the proposed development with the comments raised summarised as follows: -

- Site is elevated and unsuitable for development;
- The development is out of character with the conservation area and will harm the setting of the Grade I Listed Church and impact adversely on heritage assets in the village;
- The site extends beyond the limits to development;
- No justification has been provided and the proposal would not be in the public interest;
- Due to topography of the site the dwelling will result in a prominent form of development.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework

The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraph 10 (Achieving sustainable development);
- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Core planning principles);
- Paragraph 28 (Supporting a prosperous rural economy);
- Paragraphs 32, 34 and 39 (Promoting sustainable transport);
- Paragraphs 47, 49, 54 and 55 (Delivering a wide choice of high quality homes);
- Paragraphs 56, 57, 60, 61 and 64 (Requiring good design);
- Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
- Paragraphs 118, 120 and 121 (Conserving and enhancing the natural environment);

Paragraphs 128-129, 131, 132, 134, 137 and 141 (Conserving and enhancing the historic environment) and
Paragraph 203, 204 and 206 (Planning conditions and obligations).

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised NPPF. In view of the early stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this time, and greater weight should be attached to the 2012 version. However, there is nothing in the draft NPPF that would materially change the recommendation made on this application.

Adopted North West Leicestershire Local Plan (2017)

The application site is within the Limits to Development as defined in the adopted Local Plan. The following adopted Local Plan policies are relevant to the application: -

Policy S1 - Future Housing and Economic Development Needs;
Policy S2 - Settlement Hierarchy;
Policy D1 - Design of New Development;
Policy D2 - Amenity;
Policy IF4 - Transport Infrastructure and New Development;
Policy IF7 - Parking Provision and New Development;
Policy En1 - Nature Conservation;
Policy En6 - Land and Air Quality;
Policy Cc2 - Water - Flood Risk;
Policy Cc3 - Water - Sustainable Drainage Systems;
Policy HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment.

Other Policies

National Planning Practice Guidance
6Cs Design Guide (Leicestershire County Council)
Good Design for North West Leicestershire Supplementary Planning Document - April 2017
Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

5. Assessment

Principle of Development and Sustainability

Policy S2 of the adopted Local Plan highlights that Breedon on the Hill is a 'sustainable village' where a limited amount of growth will be permitted within the defined Limits to Development. On the basis of the Proposals Map to the adopted Local Plan the site is mainly within the Limits but part of it would be outside these Limits due to amendments to the boundaries. Within the Limits to Development the principle of residential development is considered acceptable, subject to compliance with other relevant policies of the adopted Local Plans and other material considerations.

The site is partially outside the defined Limits to Development on the basis of the Proposals Map to the adopted Local Plan. As such, an assessment has also been made against any harm to the countryside. Residential dwellings exist to the south and west of the site, along

Melbourne Lane and The Hollow, with a substantial tree screen existing to the north and eastern boundaries which are shared with the Breedon Hill Site of Special Scientific Interest (SSSI). In the context of the site's location it is considered that it would not be significantly detached from the defined Limits and as a consequence the proposal would not impact adversely on the 'openness' of the rural environment given its containment within an enclosed residential garden and paddock. The development would also not result in the provision of an 'isolated' dwelling in the countryside given the relationship with built forms with any views established from the public domain assessing the site in the context of its relationship with neighbouring buildings. Such a limited impact would therefore not result in a significant impact upon the countryside.

The site is currently used as garden land, which is excluded from the definition of previously developed land set out in the NPPF, and therefore effectively constitutes a greenfield site. It is highlighted within the NPPF that decisions should encourage the effective use of land by re-using land that has been previously developed and that Local Planning Authorities should consider the use of policies to resist inappropriate development of residential gardens (Paragraph 53). The adopted Local Plan does not contain a specific policy which restricts development on garden land and in the circumstances that the proposal would not impact adversely on the character and appearance of the wider area and streetscape, as assessed in more detail below, it is considered that there is no conflict with the intentions of Paragraph 53 of the NPPF.

Having regard to all of the above the principle of residential development on the site is considered to be acceptable. It is noted that the principle of a residential property was also found to be acceptable in December 2016 (as the application was refused solely on design/visual grounds and not on its partial location outside the limits to development).

Residential Amenity

The proposed dwelling would be set 26.0 metres from no. 11 Melbourne Lane, being the closest dwelling on this highway to the proposal, and this distance would be considered sufficient in ensuring no adverse overbearing or overshadowing impacts would arise even though the proposed dwelling would be on a higher land level. No. 3 Hollow Road would also not be adversely impacted on by the proposed development given the extent of screening afforded by the planting which exists to the boundary with the SSSI.

In these circumstances the property most immediately affected by the proposed dwelling would be the applicant's own property (no. 1 Hollow Road) which is set 12.5 metres to the south-west of the proposed dwelling. The proposed dwelling would be set at a higher land level than the existing property although this is not unexpected given that land levels rise up towards the north. The dwelling would be set in fairly close proximity to the proposed amenity area belonging to 1 Hollow Road but given that it is sited directly to the north it is not considered to result in significant overbearing or overshadowing issues.

With regards to overlooking impacts, it is considered that views from windows at ground floor level in the proposed property would be restricted due to proposed landscaping and/or boundary treatments. There would be no first floor windows proposed in the southern or western sections of the proposed dwelling that would result in direct overlooking of the proposed garden to No.1 Hollow Road.

Overall the proposed development would accord with Policy D2 of the adopted Local Plan.

Impact on the Character and Appearance of the Area, Streetscape and Historic Environment

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 of the adopted Local Plan, but also Paragraphs 57, 60 and 61 of the NPPF.

The land adjacent to the western boundary of the site is 1.02 metres higher than that of Melbourne Lane with the land increasing by 4.26 metres from west to east and by 1.50 metres south to north. It is proposed that the dwelling would be closely associated with no. 1 and would not be readily visible from outside the site given the presence of no. 1 to the south, dense vegetation to the eastern boundary and the topography of the adjoining paddock land and presence of mature hedgerow limiting views from the north.

A previous planning application was refused at Planning Committee as it was considered that the proposed contemporary design of the dwelling would fail to respect or enhance the established character and design of residential development in Breedon On The Hill and would have the potential to be a prominent form of development from outside the confines of the application site due to the topography of the land

In response to those concerns the applicant's agents have revised the scheme to address the previous reasons for refusal. It is now proposed to erect a more traditional property which is smaller in terms of its footprint and height in comparison to the previous scheme. As a result of this the proposed dwelling would not be overly prominent from the surrounding area.

With regards to the Conservation Area, which includes an area identified as open space in the Breedon on the Hill Conservation Area Appraisal, as well as the setting of the Grade I Listed Building and Scheduled Monument, the Church of St Mary and St Hardulph, the Council's Conservation Officer previously considered that the proposal would not encroach upon the view established from the village towards these heritage assets. Historic England did not object to the previous application on the site particularly as it was contained within the existing garden to no. 1 and would occupy an area where existing outbuildings are positioned. Given that the proposed dwelling would now be smaller in terms of both its footprint and height there is no planning reason for those previous conclusions to alter and it is noted that no objections have been received from Historic England or the Council's Conservation Officer.

Plain roof tiles, red brickwork, timber doors and windows and terracotta chimney pots are all proposed which would provide a more traditional appearance than the previous contemporary approach previously put forward on the site. However, it is considered reasonable to impose a condition on any permission granted for specific samples of the proposed materials to be agreed.

Overall the layout, design and scale of the dwelling is considered to be appropriate and would ensure that the development accords with Paragraphs 57, 60, 61, 131, 132 and 137 of the NPPF, Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policies D1 and He1 of the adopted Local Plan.

Highway Safety

The County Highways Authority have not responded to the current application but previous raised no objections to the proposal subject to their standing advice being considered. The previous application on the site was not refused on highway safety grounds.

It is proposed that an existing vehicular access into the site at the junction of Melbourne Lane and Hollow Road would be utilised to access the existing and proposed dwelling. The shared

access would have an acceptable width and any vehicle exiting the site could also see clearly down the access drive to the highway to ascertain if a vehicle was entering the site before they progressed. Within the site a sufficient sized area would be provided to enable vehicles to manoeuvre so that they can exit in a forward direction. In the circumstances that the movement of vehicles into and out of the site would not 'severely' impact on pedestrian or highway safety it is considered that the proposal would accord with Paragraph 32 of the NPPF, and Policy IF4 of the adopted Local Plan.

As a two bedroom dwelling a minimum of two off-street parking spaces would be required and it is considered that sufficient space would exist on the site for this level of off-street parking to be provided to serve the new dwelling. Two car parking spaces would also be provided to No.1 Hollow Road as part of the proposal for a dwelling that currently does not benefit from off-street parking. Therefore, the provision of any form of parking would represent a highway gain. Overall the development would accord with Paragraph 39 of the NPPF and Policy IF7 of the submitted Local Plan.

Ecology

The County Council Ecologist and Natural England have previously raised no objections to applications on the site and subject to appropriate planning conditions it is considered that ecological species would not be duly impacted on. Therefore the scheme is compliant with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the adopted Local Plan.

Landscaping

The Council's Tree Officer has previously undertaken a site visit and considers that the only tree of merit within the garden of the application site is an Ash tree. As submitted the layout plan shows that the dwelling is positioned outside the root protection area (RPA) of this tree and could accommodate any spread of its crown, as a consequence of this it would not be duly impacted on by the development. Trees to the eastern boundary of the site, shared with the Breedon Hill SSSI, would also not be impacted on by virtue of the position of the dwelling.

It is also considered that the trees on the eastern boundary of the site would not be subjected to unnecessary pressure for removal given that they would be afforded protection due to the site being within the conservation area.

Given this conclusion it is considered that an approval of the development would not result in significant impact upon trees.

Archaeology

The County Council Archaeologist has previously indicated that an appraisal of the Leicestershire and Rutland Historic Environment Record (HER) notes that the site is located within the historic settlement core of medieval and post-medieval Breedon and is to the base of Breedon Hill which is a site of considerable archaeological complexity and significance, incorporating the scheduled site of an Iron Age hillfort, Saxon minister and associated Augustinian Priory of which the only surviving structure is the Grade I church of St Mary and St Hardulph. Fieldworking and excavations in the vicinity of Breedon Hill have identified evidence from the Mesolithic and Neolithic periods as well as heavy activity during the Iron Age. Given the topography of the land, and associated groundworks to facilitate the development, there is a possibility that any remains present will be damaged.

Given the opportunities which exist for archaeological remains to be present on the site, the County Council Archaeologist considers it necessary for conditions to be imposed on any consent for a programme of archaeological investigation to be undertaken (including intrusive

and non-intrusive investigations and recordings) in advance of the development commencing in order to record and progress the understanding of the significance of any heritage assets. Such conditions are considered reasonable given the high possibility of archaeological remains being present on the site and their inclusion therefore ensures the development complies with Paragraph 141 of the NPPF as well as Policy He1 of the adopted Local Plan.

Other Matters

East Midlands Airport Safeguarding have previously raised no safeguarding objections to the development and as such it would be considered compliant with Policy Ec5 of the adopted Local Plan.

Summary Reasons for Granting Planning Permission

The application site is largely located within the Limits to Development where the principle of the form of development would be acceptable with Breedon on the Hill being considered a sustainable settlement. It is also considered that the site could be developed in a manner which would not appear out of keeping with the character and appearance of the surrounding locality, and which would not adversely impact on the amenities of neighbouring residents, highway safety, heritage assets, ecology, landscaping, archaeology or airport safeguarding. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions, is considered acceptable for the purposes of the above mentioned policies.

RECOMMENDATION - PERMIT, subject to the following conditions;

1. Time limit
2. Approved plans
3. External materials
4. PD removal
5. Soft and hard landscaping
6. Replacement trees
7. Tree and hedge protection
8. Boundary treatments
9. Highway safety
10. Levels
11. Archaeology

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Change of use to six bedroom, ten person HMO (sui generis)
including single storey rear extension

Report Item No
A4

17 Derby Road Kegworth Derby Leicestershire DE74 2EN

Application Reference
18/00218/FUL

Applicant:
Miss Trisha Pegg

Date Registered:
6 February 2018

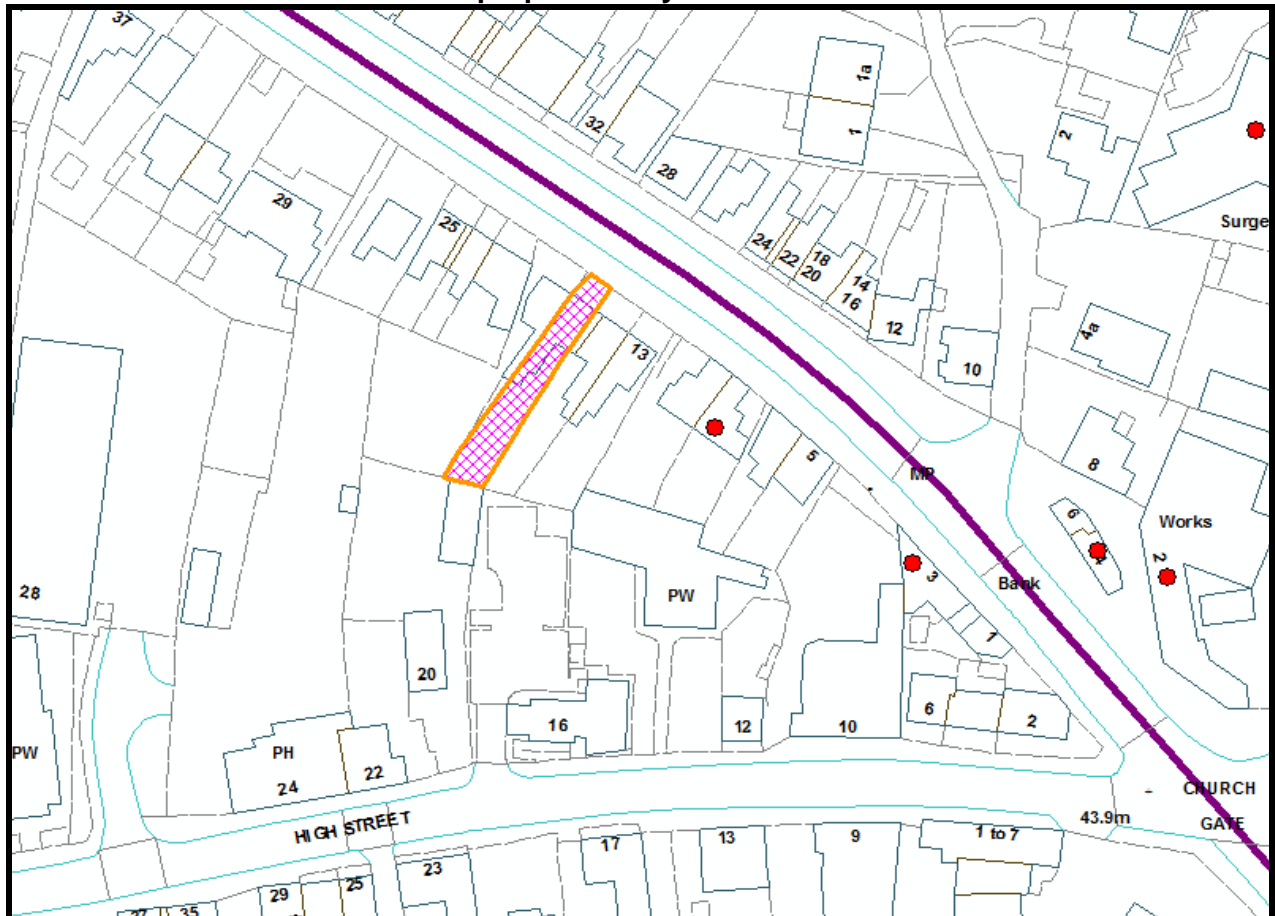
Case Officer:
Hannah Exley

Consultation Expiry:
16 March 2018

Recommendation:
REFUSE

8 Week Date:
3 April 2018
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee as the Ward Member (Councillor Pendleton) has requested it to be considered by Planning Committee with the reasons stated as increased parking and vehicular movement in a village that is congested by commuters, over-intensive development of the site and bin storage.

Proposal

The application is to change the use of a four bedroom mid-terraced dwelling into a house in multiple occupation (sui generis) housing up to ten people. The proposal also includes a single storey rear extension.

Consultations

One representation has been received raising objection to the development. Kegworth Parish Council has also objected to the development. There are no objections from other statutory consultees.

Planning Policy

The site lies within the Limits to Development as identified in the adopted North West Leicestershire Local Plan. The application has been assessed against the relevant policies in the NPPF and the adopted Local Plan and other relevant guidance.

Conclusion

The site lies within Limits to Development within Kegworth where the proposed use is considered to be acceptable in principle.

The key issues arising from the application details are:

- Impact on the character and visual amenities of the area
- Impact on nearby residents
- Impact on highway safety

The scheme does not give rise to any significant impacts regarding design or highway safety and would maintain the character and appearance of the Kegworth Conservation Area.

However, it is considered that the general noise and disturbance and comings and goings associated with the likely increase in residential activity at the site that would arise as a result of the proposal, would be detrimental to the amenities of the occupiers of the adjacent properties. It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

The subject property is one of a row of four terraced properties on the southern side of Derby Road. As with the adjoining properties within the terraced row, the application property has a small front garden and a reasonably size garden to the rear which is elevated due to rising land levels. There is currently no space within the plot for off-street parking.

The application is to change the use of and extend the existing four bedroom dwelling to create a house in multiple occupation (sui generis) housing up to ten people. The extension required as part of the proposal is a modest single storey rear extension.

During the course of the application, the applicant's agent has advised that it is the applicant's intention that the property will be rented to an airline company for training accommodation due to the proximity to the airport, and as such it is unlikely that there will be any cars associated with the tenants of this HMO. Whilst these may be the applicant's intentions, Members should be aware that they are granting permission for the use and the future occupiers of the premises could not be controlled by any permission granted.

The site is located in a residential area and within Limits to Development as identified in the adopted Local Plan.

Planning History:

No planning history found for the site.

2. Publicity

3 neighbours notified.

Site Notice displayed 23 February 2018.

3. Summary of Consultations and Representations Received

Kegworth Parish Council 'raises strong objections to this proposal as an over-intensive use of the site, with a total lack of car parking provision and inadequate arrangements for waste storage. The proposal would result in a loss of residential amenity and an unacceptable impact on the occupiers of neighbouring properties.'

The Council would also raise wider concerns about the levels of HMO's causing a deterioration in community cohesion, with widespread concern about the total numbers of HMO's now in the village and their effect on parking, the visible impact of 'to let signage' at some times of the year and local services during periods of low occupancy.'

NWLDC Environmental Protection advise that a separate licence will be required from Environmental Protection.

NWLDC Street Management provides guidance for the developer to ensure that adequate provision is made for bin provision for the development. It is specified that the residents will be required to present their refuse and recycling receptacles adjacent to the highway as per the current arrangements for neighbouring properties on Derby Road.

Leicestershire County Council - Highways raise no objections.

Severn Trent Water - no response received.

Third Party Representations

One letter of neighbour representation has been received, raising objection on the following grounds:

- lack of parking;
- the property is one of a block of seven houses of which five are student lets, which already generates a need for 25 cars in this area;
- parking in the village is already well over capacity and most of Derby Road is subject to yellow lines on both sides, which results in illegal parking which is not enforced.

The full contents of this letter is available for Members to view on the case file.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2012)

The following sections of the National Planning Policy Framework (NPPF) are considered relevant to the determination of this application:

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 32 (Promoting sustainable transport)

Paragraphs 131-134 (Conserving and enhancing the historic environment)

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised NPPF. In view of the early stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this time, and greater weight should be attached to the 2012 version.

Adopted North West Leicestershire Local Plan (2017)

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S2 - Settlement Hierarchy

Policy D1 - Design of new development

Policy D2 - Amenity

Policy EC5 - East Midlands Airport: Safeguarding

Policy IF7 - Parking Provision and New Development

Policy He1 - Conservation and enhancement of North West Leicestershire's historic environment

Other Policies/Guidance

National Planning Practice Guidance - March 2014.

6Cs Design Guide (Leicestershire County Council)

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new development.

Kegworth Conservation Area Appraisal (adopted February 2018).

5. Assessment

Principle and Sustainability

The site is located within the Limits to Development as defined on the Proposals Map to the adopted Local Plan within the sustainable settlement of Kegworth, where the principle of this type of residential development. Therefore the principle issues for consideration are the impacts of the proposed extension and change of use on the amenities of any neighbouring properties, highway safety, airport safeguarding, design and heritage assets.

Design and Impact on Heritage Assets

The need for good design in new development is outlined in adopted Local Plan Policy D1, Paragraphs 57, 60 and 61 of the NPPF.

The proposed development must be considered against section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that when considering a planning application for development that "special regard shall be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area", respectively.

Paragraph 131 of the NPPF states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It further indicates (at paragraph 132) that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It is a statutory requirement that any new development should at least preserve the character of the Conservation Area.

The site lies to the north, south and west of the newly designated Kegworth Conservation Area, with the rear boundary of the site adjoining the designation. With the exception of the single storey rear extension, there would be no other changes to the external appearance of the existing building. The extension proposed would appear subservient to and in keeping with the scale and character of the existing building. The extension is located to the rear of the existing two-storey dwelling and due to rising land levels to the rear would not be visible from outside the site.

Overall, it is considered that the proposals would maintain the character and appearance of the Kegworth Conservation Area. Taking the above into account, it considered that the scheme is appropriate and would comply with the NPPF and Policies D1 and He1 of the adopted Local Plan.

Impact on Highway Safety

Concern has been raised by Kegworth Parish Council and a local resident about the lack of parking associated with the proposal and the contribution the proposal will have to existing on-street and illegal parking problems within the settlement.

There is currently no vehicular access or car parking available for the existing four bedroom dwelling and the applicant has confirmed that there would be no designated off-street parking available for use by the occupiers of the proposed HMO. The plans submitted, show that secure cycle parking would be provided to the rear of the premises which would be accessible through a covered passageway.

The County Highways Authority has been consulted on the application and advises that the

existing four-bedroom property requires three car parking spaces to accord with the 6C's Design Guide. This is the maximum number of spaces allocated in the design guidance for a single property. Whilst there is an increase in the number of occupants as part of this planning application, the premise would remain as a single property and as such the County Highway Authority would not seek additional car parking to a single property, in accordance with the design guide.

The County Highways Authority go on to note that the property is within walking distance to a bus service and with regard to overspill parking on the A6, the entire relevant section of the A6 is bound by double-yellow lines, restricting parking at all times. In light of this existing Order restricting parking, the County Highways Authority is satisfied that any potential car parking generated by the development will not adversely impact the A6.

In response to continued concerns about off-street parking within Kegworth, officers have sought further clarification on where residents might park and have been advised that this would be a private matter for future residents to consider. The County Highways Authority is content that with the restrictions in place (i.e. double yellow lines) any parking would not unduly affect the safe and efficient operation of the highway, which is the primary concern for the County Highways Authority.

To help explain how parking has been considered for the proposal, the County Highways Authority has advised that the normal standard applied is that a dwelling with four bedrooms or more would require three car parking spaces and the County Highways Authority treats HMOs as a 'normal dwelling' within the current guidance. However, there is an existing use on the site, for which regard must be had. The existing use is a four bedroomed dwelling which requires three car parking spaces. As there is no change in the car parking requirement between the existing and proposed use, and no other changes are proposed, the County Highways Authority considers that there can be no reason for refusal. This is because the proposed use would not result in any more onerous requirements compared to the existing use, and therefore, the impact of the development would not be severe.

Having regard to the detailed responses of the County Highways, it is considered that the proposal would comply with Policy IF7 of the adopted Local Plan and the residual cumulative impacts of development are not considered severe in accordance with Paragraph 32 of the NPPF.

Airport Safeguarding

The site is within the safeguarded area of East Midlands Airport. The proposal is for a change of use and the extension proposed would not exceed the height of the existing building on the site and therefore, would raise no safeguarding issues and would be compliant with Policy Ec5 of the adopted Local Plan.

Impact on Residential Amenities

Kegworth Parish Council has raised concerns about the proposed over-intensive use of the site and inadequate arrangements for waste storage, which the Parish considers will result in a loss of residential amenity and an unacceptable impact on the occupiers of neighbouring properties.

With regard to bin storage, amended plans have been provided, showing a dedicated bin storage area to the rear of the premises. Whilst the area provided is not compliant with the area required for bin storage, there is sufficient space to the rear of the property for adequate provision to be provided and therefore, this matter could be dealt with by condition.

The subject property is located within a mixed use area but the properties immediately surrounding the site are in residential use. It is these properties that would be most immediately affected by the proposed HMO. Whilst some properties in this road may be occupied as HMO's, these may not have required planning permission and as such would be less intensive than the proposed use.

The application proposal includes a single storey rear extension, which would represent the widening of an existing development to align with the width of the adjoining two-storey extension. The widening element would be situated within the centre of the site and would not give rise to any significant overbearing or overshadowing impacts. Given the single storey nature of the extension and the presence of 1.8m high fencing along the opposite boundary, it is not considered that any overlooking would arise as a result of this element of the proposal. The uses of the upper floor rooms would be occupied by bedrooms and a bathroom as per the existing situation and therefore, there would be no additional overlooking of neighbouring properties from the occupation of those parts of the building.

In terms of comings and goings, the existing dwelling is a four bedroom dwelling, and operates as a single dwellinghouse. The proposed change of use to a house in multiple occupation with six bedrooms would result in up to ten residents occupying the building at any time. This would represent an intensification of the existing use and which would significantly increase the residential activity associated with the planning unit. It is considered that the general noise and disturbance and comings and goings associated with the likely increase in residential activity at the site that would arise as a result of the proposal, would be detrimental to the amenities of the occupiers of surrounding properties. It is also noted that there is a concentration of HMO's in this area and, cummulative with the existing HMO's, the proposal would be likely to result in high levels of residential activity in this locality. Approval of the proposal would, therefore, be contrary to the provisions of Policy D2 of the adopted Local Plan.

Conclusion

In conclusion, the site lies within Limits to Development within Kegworth where the proposed use is considered to be acceptable in principle. The scheme does not give rise to any significant impacts regarding design or highway safety and would maintain the character and appearance of the Kegworth Conservation Area. However, it is considered that the general noise and disturbance and comings and goings associated with the likely increase in residential activity at the site that would arise as a result of the proposal, would be detrimental to the amenities of the occupiers of the adjacent properties. Accordingly, it is recommended that the application is refused.

RECOMMENDATION - REFUSE, for the following reasons:

- 1 Policy D2 of the adopted North West Leicestershire Local Plan seek to protect the amenities of the occupiers of residential properties from the adverse impacts of development. In the opinion of the Local Planning Authority, the proposed change of use and extension of the property to create a six bedroom house in multiple occupation would lead to an over intensified residential use of a single planning unit and a significant increase in residential activity which would result in a detrimental impact on the amenity of surrounding residents through additional coming and goings to the site and noise and general disturbance. The proposal is therefore contrary to Policy D2 of the adopted Local Plan.

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Erection of four bungalows and associated infrastructure without complying with conditions 2, 4 and 10 of planning permission 16/01224/FUL to remove the side (south western) window to Plot 4 and install a sun pipe to Plot 4's roof, to install solar panels to the roofs of the four bungalows and amend boundary treatments and soft landscaping

Report Item No
A5

Site At Staley Avenue Ashby De La Zouch Leicestershire LE65
2PP

Application Reference
18/00043/VCU

Applicant:
Sarah Robinson

Date Registered:
16 January 2018

Case Officer:
Jenny Davies

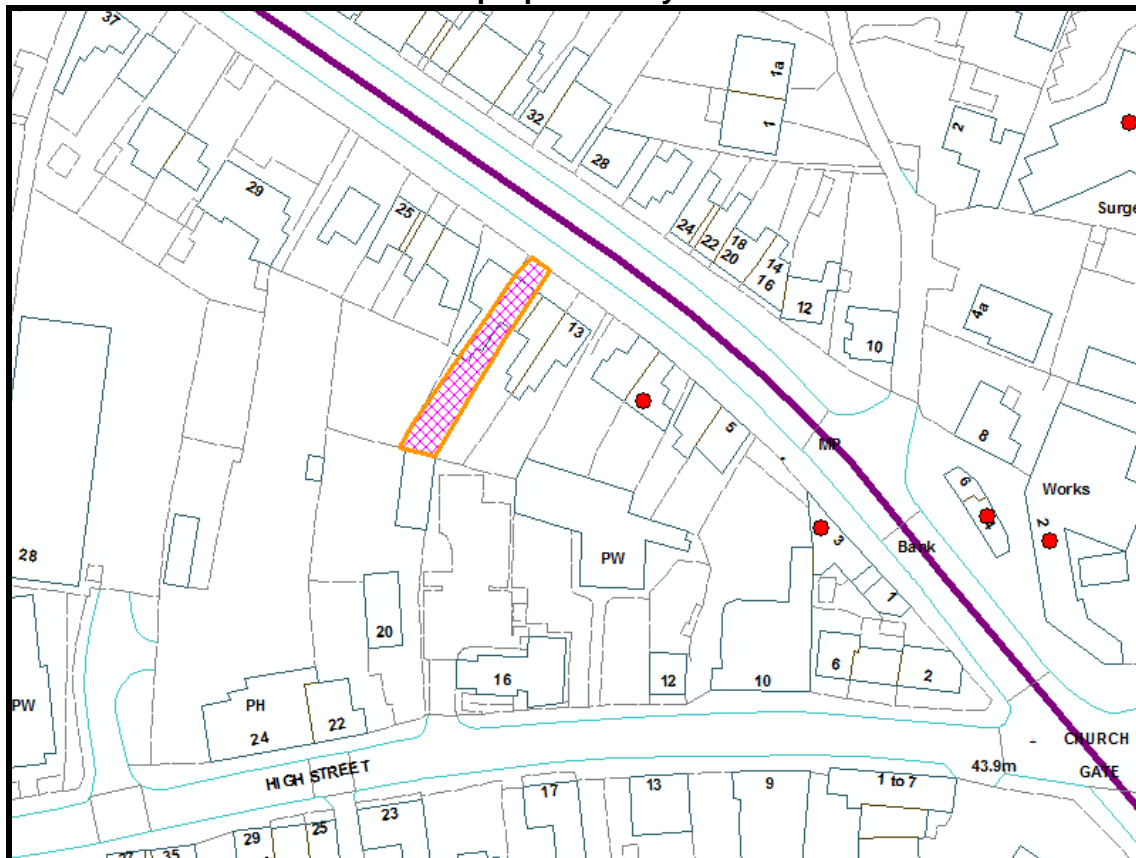
Consultation Expiry:
11 April 2018

8 Week Date:
13 March 2018

Recommendation:
PERMIT

Extension of Time:
11 April 2018

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Reason for Call In

The application is reported to the Planning Committee as the application has been submitted by the Council for its own development and objections have been received.

Proposal

Permission is sought for the erection of four bungalows and associated infrastructure without complying with conditions 2, 4 and 10 of planning permission 16/01224/FUL to remove the side (south western) window to Plot 4 and install a sun pipe to Plot 4's roof, install solar panels to the roofs of the four bungalows and amend boundary treatments, on land at Staley Avenue, Ashby de la Zouch.

Consultations

Members will see from the main report below that there are objections raised from surrounding neighbours.

There are no objections raised from statutory consultees.

Planning Policy

The application site is located within Limits to Development as defined by the adopted Local Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The principle of residential development is already established and cannot be reconsidered by the application. The key issues arising from the amended application details are:

- Design and impact on the character and visual amenities of the area
- Impact on surrounding residents
- Impact on ecology

The site boundary and layout is identical to that which has already been approved. The dwellings would have the same design as approved save for the removal of a side window to Plot 4 and installation of a sun pipe to Plot 4 and solar panels to all four dwellings. Details of boundary treatments are also provided. Matters relating to hedgehogs are currently under consideration and will be reported on the Update Sheet. Maintenance of fences and trees are not material planning considerations.

The report looks into the key planning issues in detail, and officers conclude that the details are satisfactory. The detailed scheme meets the requirements of relevant NWLDC policies, including the adopted Good Design for North West Leicestershire SPD.

RECOMMENDATION - PERMIT, SUBJECT TO CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Permission is sought for the erection of four bungalows and associated infrastructure without complying with conditions 2, 4 and 10 of planning permission 16/01224/FUL to to remove the side (south western) window to Plot 4 and install a sun pipe to Plot 4's roof, install solar panels to the roofs of the four bungalows and amend boundary treatments, on land at Staley Avenue, Ashby de la Zouch.

Condition 2 relates to the approved plans, condition 4 to boundary treatments and condition 10 to removal of permitted development rights. The original proposal for the site (16/01224/FUL) received a resolution to permit at Planning Committee on 10 January 2017 and the decision notice was issued on 31 January 2017.

The side kitchen window to No. 4 would no longer form part of the dwelling's design, and a sun pipe to serve the kitchen would be installed in No. 4's side roofslope. Solar panels (measuring 1.5 metres by 2.4 metres) are proposed to one roofslope on each of the four dwellings.

The boundary treatment with No. 14 Willesley Gardens has been removed to facilitate construction of Plot 4, and a 2.1 metre high close boarded high fence will be erected in its place. New 2.1 metre high close boarded fences (1.8 metres high with 300mm of trellis on top) are proposed to the boundaries with No. 16 Willesley Gardens and Nos. 12, 13, 14 and 15 Wells Road, and part of the boundary with No. 1 Baker Avenue. The existing fencing along these boundaries would remain in place, with the new fences being erected alongside the existing fencing. The treatments to the remainder of the boundary with No. 1 Baker Avenue, and the boundary with No. 39 Staley Avenue, will remain as existing.

The site lies within the catchment area of the River Mease Special Area of Conservation and is within the Limits to Development as set out in the adopted North West Leicestershire Local Plan (2017).

2. Publicity

11 Neighbours have been notified.
Site Notice displayed 25 January 2018.

3. Summary of Consultations and Representations Received

Statutory Consultees

Ashby de la Zouch Town Council supports the application.

The County Ecologist (Leicestershire County Council) has no objections or comments.

The Council's Environmental Protection team has no environmental observations.

The Lead Local Flood Authority (Leicestershire County Council) has no comments.

Third Party Representations

Five letters of representation have been received which object on the following grounds:

Boundary Treatments

- not clear whether all existing boundary fencing would be replaced;
- existing boundary fence to No. 13 Wells Road should remain in place;
- if existing boundary fencing would be replaced, then concerns about new fencing being less strong and less secure, responsibilities for maintenance, replacement of damaged panels, access to the site for maintenance, damage to garden and provision of holes in the fence for access for hedgehogs;
- if existing fencing is to be retained, then concerns about impact of changes in land levels on the site, obstruction of existing hedgehog holes and access for maintenance;
- is it expected that existing fence would be dismantled if new fencing erected, and would permission be given for dismantling of existing fence;
- 1.5 metre high fencing with trellis on top would result in overlooking of gardens, and new fencing should therefore be 1.8 metres high;
- ecological assessor recognised use of site and adjacent garden by hedgehogs (which are an endangered species) and recommended steps to safeguard hedgehogs during construction and maintenance of hedgehog holes in fencing;

Solar Panels

- impact on visual amenities;
- impact on outlook from existing dwelling;
- solar panel to Plot 4 should be repositioned so isn't affected by shading from existing trees;
- bungalows should have similar roof materials to existing dwellings, as solar panels were not installed to existing dwellings when their roof tiles were replaced;

Other Matters

- overlooking from side and rear window to Plot 4 looking into adjacent garden and bedroom;
- side window not required and could be replaced with a rooflight;
- use of standard street lighting would be intolerable;
- development has made it difficult to prune an existing tree.

All responses received from statutory consultees and third parties are available for Members to view on the planning file.

4. Relevant Planning Policy

National Planning Policy Framework

The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraph 10 (Achieving sustainable development)
- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 17 (Core planning principles)
- Paragraphs 57, 58, 60, 61 and 64 (Requiring good design)
- Paragraph 69 (Promoting healthy communities)
- Paragraphs 96 and 98 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraphs 109, 118 and 119 (Conserving and enhancing the natural environment)
- Paragraph 203, 204 and 206 (Planning conditions and obligations)

Draft National Planning Policy Framework (2018)

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised NPPF. In view of the early stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this time, and greater weight should be attached to the 2012 version. However, there is nothing in the draft NPPF that would materially change the recommendation made on this application.

Adopted North West Leicestershire Local Plan (2017):

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are relevant to the determination of the application:

- D1 - Design of New Development
- D2 - Amenity
- En1 - Nature Conservation
- En2 - River Mease Special Area of Conservation
- En3 - The National Forest
- Cc1 - Renewable Energy

Submission Draft Ashby Neighbourhood Local Plan

The Submission Draft of the Ashby Neighbourhood Local Plan was submitted to the Council on 1 August 2017. The Council undertook a six week consultation on the Draft Neighbourhood Plan which ended on 11 October 2017. An Examiner has been appointed and the plan is now at Examination. The weight to be attached by the decision maker to this submitted version should be in accordance with the approach set out in Paragraph 216 of the NPPF, having regard to the stage now reached towards adoption, the extent to which there are unresolved objections to the policies relevant to the determination of this application, and the degree to which the emerging policies are consistent with the NPPF.

- Policy S4: Design
- Policy NE4: Nature Conservation
- Policy NE5: Trees and Hedgerows

Other Guidance

- The Community Infrastructure Levy Regulations 2010
- The Conservation of Habitats and Species Regulations 2010
- Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)
- National Planning Practice Guidance - March 2014
- River Mease Water Quality Management Plan - August 2011
- The River Mease Developer Contributions Scheme (DCS) - September 2016
- 6Cs Design Guide (Leicestershire County Council)
- Good Design for North West Leicestershire SPD - April 2017

5. Assessment

The principle of this development has already been established under the extant planning permission (16/01224/FUL). The sole issue in determination of this application is whether the removal of the window and installation of the sun pipe and solar panels and the proposed changes to the boundary treatments would be acceptable. The main issues to consider relate to design and visual impact and impact on residential amenities and ecology.

It is however acknowledged that the solar panels could be installed without planning permission as a form of permitted development, under Part 14, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), once the properties are completed and occupied. However the solar panels are included in the application as the dwellings are not complete and occupied. Furthermore fencing up to two metres in height above ground level could be erected on the site boundaries as permitted development under Class A, Part 2 of the GPDO.

Design and Visual Impact

The changes to the side elevation and roofslope to Plot 4 would be not be visible within the streetscene or locality. The solar panels would be confined to the side roof slopes of the dwellings and would each cover an area of 3.6 square metres. Given their location it is considered that the panels would not impact significantly on the character of the dwellings or the character and visual amenities of the streetscene.

The proposed boundary fencing is typically found on the boundaries between dwellings in residential areas and would not be overly prominent within the streetscene. As such it is considered that the proposal would comply with the provisions of adopted Policies D1 and EN3.

Residential Amenities

The side window to Plot 4 serving its kitchen, which will face towards No. 14 Willesley Gardens, is proposed to be removed to address concerns relating to overlooking of No. 14 and its garden. A sun pipe to No. 4's roofslope is proposed to provide some light to the kitchen. The sun pipe would be small in scale and given its location above the loft space would not result in significant levels of direct overlooking of No. 14 and its garden. A blank elevation would therefore face towards No. 14. The kitchen is also part of an open plan room with the dining room/living room, which is served by Plot 4's rear window which faces south east, as well as an external side door.

The solar panel on Plot 2 would be eight metres from the front windows to Plots 3 and 4, and the solar panel to Plot 3 would face towards an elevation with no windows and a side door to Plot 4. The solar panel to Plot 1 would face directly towards the rear garden to No. 1 Baker Avenue and would be 7.5 metres from No. 1's rear windows. The solar panel to Plot 4 has been repositioned so it faces towards Plot 3, and would be seven metres from Plot 3's side window. Given these circumstances, and that solar panels are generally designed to absorb light and to reduce the amount of reflected light, thereby minimising the potential for glint and glare, it is considered that the solar panels are unlikely to adversely impact on the residential amenities of the occupiers of nearby dwellings.

Given their size and that they would be seen against the backdrop of the roofs to the new dwellings, it is considered that the solar panels would not result in an oppressive outlook or overshadowing to adjacent dwellings.

The replacement fencing to the boundary with No. 14 Willesley Gardens, and the new fencing to other parts of the boundaries, would all be 2.1 metres high above the ground level on which they are sited, which is above the maximum height of two metres allowed in such locations under permitted development rights. However the fencing element would be 1.8 metres high, with 300mm of trellis on top. It is not unusual to find similar forms of fencing forming the boundaries to gardens and dwellings.

As such it is considered that the proposal would not adversely affect the amenities of occupiers of nearby existing dwellings and future occupiers of the proposed dwellings and as such would

comply with the provisions of Policy D2 of the adopted Local Plan.

Ecology

The County Ecologist has not raised any objections to the proposal. A request has been made for the new fencing to the boundary with No. 16 Willesley Gardens to contain holes to allow access for hedgehogs, as per the existing fencing. Therefore the County Ecologist has been consulted in respect of this matter, and their comments will be reported on the Update Sheet.

Other Matters

The position of the rear window to Plot 4 is not being changed under this application and so consideration of the potential for overlooking from this window cannot now be taken into account. However it is noted that Plot 4 is single storey, and that its rear window would be 27 metres from the main rear elevation of No. 15 Wells Road and 23 metres from No. 14 Wells Road.

The applicant has confirmed that whilst land levels are changing across the site to provide level access to the new dwellings, in particular Plot 1, the land levels at the site boundaries would not be changed, and the gardens would be sloped down to meet the previous ground level at the boundaries.

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

A contribution under DCS2 was secured under the original permission and this contribution has been paid. The proposed changes would not increase the occupation of the dwellings nor increase the level of roofs or hardsurfacing across the site. Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations, the NPPF and Policies EN1 and EN2 of the submitted Local Plan.

The solar panel to Plot 4 has been repositioned to its north eastern roofslope, and so shading from trees is less likely to affect its efficiency. The efficiency of the solar panels is also considered to be an operational matter and not a material planning consideration.

The applicant has advised that no new street lighting is proposed within the development. The site is surrounded by existing residential properties with existing lighting, therefore any new lighting resulting from the development is not considered to give rise to an unacceptable adverse impact in this residential setting.

Matters relating to the maintenance of the existing fencing and trees are not planning matters and are a private matter, and therefore cannot be given any weight in the determination of this application.

Conclusion

The proposed changes would be acceptable in terms of design and impacts on character and visual amenities, and would not adversely impact on residential amenities and the River Mease SAC/SSSI. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT subject to the following condition(s):

1. Approved plans
2. Materials
3. Boundary treatments
4. Planting
5. Levels
6. Obscure glass
7. Recycling
8. Removal of permitted development rights
9. Removal of permitted development rights - dormer windows
10. Gradient
11. Construction traffic/site traffic management plan
12. Parking

(subject to no contrary observations by 11 April 2018)

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – TUESDAY, 10 APRIL 2018

Title of report	TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER ON LAND AT WILLESLEY PARK GOLF CLUB ASHBY DE LA ZOUC
Contacts	<p>Cllr Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Planning and Development Team Manager 01530 454668 chris.elston@nwleicestershire.gov.uk</p> <p>Tree Officer 01530 454683 julian.simpson@nwleicestershire.gov.uk</p>
Purpose of report	To consider the objection lodged by David Moreland, Director of Willesley Park Golf Club
Reason for Decision	A provisional TPO was made on 11 th October 2017. The TPO needs to be confirmed within six months. Trees will lose their protection if the TPO is not confirmed before 11 th April 2018.
Council Priorities	Homes and Communities Green Footprints
Implications:	
Financial/Staff	None
Link to relevant CAT	None
Risk Management	None
Equalities Impact Screening	Equality Impact Screening already undertaken, issues identified actioned.
Human Rights	Under the Human Rights Act, Article 8, there is a right to respect for private and family life, the home and correspondence. The making of a Tree Preservation Order potentially impacts on that right. However, in this case it is considered that the making of the Order is justified in the public interest.
Transformational Government	None

Comments of Head of Paid Service	Report is satisfactory
Comments of Section 151 Officer	Report is satisfactory
Comments of Monitoring Officer	Report is satisfactory
Consultees	People with a legal interest in the land affected by the Order have been consulted and members of the public were consulted by the placing of site notices.
Background papers	None
Recommendations	THAT THE TPO BE CONFIRMED.

1.0 INTRODUCTION AND BACKGROUND

- 1.1 Following a request made by residents at Willesley Close, a TPO assessment of trees on and near the 18th fairway was carried out in September 2017.
- 1.2 Trees on the 1st to 17th fairways are already protected by TPO T91 (1984) and TPO T154 (1989).
- 1.3 Residents were concerned about a club member consultation which indicated proposed construction of new dwellings on the 18th fairway which could result in the loss of mature specimen trees and a group of younger trees valuable for screening.
- 1.4 T1 is a large, aged Beech tree of considerable girth and age. T2–T4 are a mature Lime and two Sycamores which have been pollarded before which adds to their character, interest and value. All four trees contribute to the character and history of the immediate location and have a good life expectancy of between 20 and 100 years.
- 1.5 G1 is a group of young broadleaf and conifer trees near 22 Willesley Close which provide a valuable buffer between residential property and the golf course. The trees may need to be thinned out in future but the TPO does not prevent such appropriate management.
- 1.6 Whilst the trees have limited public visibility, all trees in the new TPO are as important as trees already protected. If the site was developed, the trees would have greater importance.

2.0 OBJECTIONS AND OFFICER COMMENTS

2.1 Summary of Representations Received

The Golf Club object to the TPO but have helpfully outlined their concerns.

The Club feels that:

The trees need to be managed for the safety of employees, members and neighbours which sometimes means immediate action to remove risks.

The club need to prune trees for safe visibility for players and to allow use of grass cutting equipment.

Flexibility is required to adjust the outline of the course and change the alignment of individual holes.

2.2 Officer comments

The objections do not justify trees not being protected by TPO because:

Works carried out to abate an imminent danger are exempt from the need for formal TPO application and therefore can be dealt with quickly by the club.

Works for visibility can be programmed and included within operations for the whole golf course as part of a management plan. The existing TPO's have not prevented works needed for visibility or maintenance and the new TPO would be no different.

No specific problems have been outlined with the play of the 18th hole and previous pruning operations which have allowed for tree retention could be continued.

The objection makes no reference to any proposed construction but confirms that the club consider the trees to be an important part of the course.

Following the objection received a site meeting has been arranged for the 6th April to help further discuss and advise upon works across the course.

2.3 Planning file

Members will note that full copies of correspondence received are available on the planning file.

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