

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 9 May 2017
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 4 April 2017	3 - 8
4.	PLANNING APPLICATIONS AND OTHER MATTERS	
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A2	17/00312/FUL: Raising of roof height to create a second floor (Revised Scheme) Elm Cottage 28 Hill Street Donisthorpe Swadlincote Derby DE12 7PL	REFUSE	23 - 30
5.	PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT MEASHAM ROAD, APPLEBY MAGNA Report of Head of Planning and Regeneration		31 - 36

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 4 APRIL 2017

Present: Councillor D J Stevenson (Chairman)

Councillors R Adams, R Canny, J Cotterill, J G Coxon, D Everitt, D Harrison, J Hoult, R Johnson, G Jones, J Legrys, V Richichi, N Smith, M Specht and M B Wyatt

In Attendance: Councillor T J Pendleton

Officers: Mr C Elston, Mr A Mellor, Mrs M Meredith, Mr J Newton and Miss S Odedra

114. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Boam and J Bridges.

115. DECLARATION OF INTERESTS

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

Councillors J G Coxon, J Hoult and G Jones declared a non pecuniary interest in item A1, application number 16/00216/FULM as members of Ashby Town Council.

Councillors M Specht and D J Stevenson declared that they had been lobbied without influence in respect of item A2, application number 16/01430/FUL.

Councillor D J Stevenson declared that he had been lobbied without influence in respect of item A3, application number 17/00092/OUT.

116. MINUTES

Consideration was given to the minutes of the meeting held on 7 March 2017.

Councillor M Specht advised that he had declared a non pecuniary interest in item A7 as Chairman of Coleorton Parish Council and that Councillor J Cotterill had declared the same as Deputy Chairman.

It was moved by Councillor G Jones, seconded by Councillor J G Coxon and

RESOLVED THAT:

Subject to the above amendment, the minutes of the meeting held on 7 March 2017 be approved and signed by the Chairman as a correct record.

117. PLANNING APPLICATIONS AND OTHER MATTERS

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

**118. A1
16/00216/FULM: ERECTION OF ROAD RELATED FACILITIES - INCLUDING PETROL FILLING, SERVICE STATION, RESTAURANT, CAFE AND FORMATION OF PETROL FORECOURTS, APRONS AND PARKING AREAS**

Land Off Flagstaff Island Lountside Ashby De La Zouch Leicestershire LE65 1JP

Officer's Recommendation: PERMIT Subject to Section 106 legal agreement

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

Mr D Brown, applicant's agent, addressed the meeting. He highlighted that the principle of development for roadside services had been established on the site and emphasised the Council's longstanding policy objective in respect of the site, and the presumption that the permission would be renewed if it lapsed. He acknowledged that despite the previous planning permissions a scheme had not come forward to date on the site however, he assured members that the applicant intended to start work as soon as possible as funding was in place, with a view to completing the scheme by October 2017. He stated that the development would provide 80 new full and part time jobs as well as temporary construction jobs. He highlighted that there were no objections to the scheme from the Highways Authority subject to the Section 106 contributions. Full regard had been given to the £7 million improvement scheme taking place at Flagstaff Island and it had been confirmed that there was ample capacity to support the scheme. He felt that the cumulative impact policy in the town centre did not apply in view of the site allocation for roadside services and there was no potential for an adverse impact upon the surrounding centres.

In response to a question from Councillor J Hoult, the Planning and Development Team Manager advised that the design of the second building was very similar to that shown in the presentation, in order to achieve uniformity of design across the site.

Councillor J Hoult expressed concerns regarding an oversaturation of petrol filling stations at Flagstaff Island.

The Head of Planning and Regeneration clarified the position in respect of the Highways Authority and advised that the scheme for improvements to Junction 13 of the A42 had taken account of known planned developments at the time, and this scheme was a planned development. As such, the Highways Authority were content that there was sufficient capacity to accommodate this development. He also confirmed that whilst the funding of the Flagstaff Island improvements was not a material consideration in respect of this application, it had come from various sources including the LLEP and Section 106 contributions.

Councillor G Jones expressed disappointment that no Section 106 contributions had been set aside for Ashby town centre, even though the development was unlikely to have a significant impact upon trade in Ashby High Street. It was clarified that none had been requested.

Councillor J Legrys sought clarification on the cost of the works at Flagstaff Island. He felt aggrieved that funding was being put aside for transport by other developers in the area which led to a lack of affordable housing. He asked if the developer would have been required to make contributions in respect of transport if this had been requested.

The Head of Planning and Regeneration clarified that the cost of the works at Flagstaff Island was in the order of approximately £2.4 million, and the total across the two schemes in conjunction with the works at Junction 22 of the M1 was approximately £5

million. He explained that the funding was from a number of different sources including Section 106 monies. He added that Leicestershire County Council as the Highways Authority determined how this money was spent. He advised that if the developer had been requested to make contributions in respect of highways, they would have been required to do so in order to make the development sustainable.

It was moved by Councillor M Specht, seconded by Councillor J Legrys and

RESOLVED THAT:

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

**119. A2
16/01430/FUL: ERECTION OF THREE RETIREMENT DWELLINGS WITH
ASSOCIATED GARAGES**

Land Adjacent To Highwinds Lower Moor Road Coleorton Coalville Leicestershire LE67 8FN

Officer's Recommendation: REFUSE

The Senior Planning Officer presented the report to members. He highlighted that following the publication of the update sheet, further representations had been received from Worthington Parish Council setting out their objections to the application. These being that the site was outside the limits to development, breaches the Local Plan and national planning policy documents and highways concerns relating to the entrance and exit to the site being on to a busy road. An additional third party representation had also been received objecting to the application which sought to refute points made in the design and access statement.

Mrs A Stafford, objector, addressed the meeting. She stated that the site was outside the limits to development and there was no longer any reason to develop greenfield land. She added that there was no proof of any need for retirement homes in the area, services were not within the required distance and there would be a detrimental impact upon the amenity of residents. She stated that contacts from outside the community had been encouraged to write in support of the application. She felt that this needed to be investigated as it distorted the views of local resident and it could not be ethical to call upon a group of people to support an application who had no interest in it. She felt that the applicant was hoping to set a precedent and commented that the submitted Local Plan empowered the Planning Committee to reject such spurious applications. She urged members to refuse the application in accordance with the recommendation.

Mr A Large, applicant's agent, addressed the meeting. He stated that he had been approached numerous times over the last six months by people looking for retirement homes in Coleorton. He added that the applicants had local connections and did not wish to move away from the village, and he believed this was why there was a petition in support of the proposals. He acknowledged that there were objections to the scheme and a fear of a precedent being set in terms of further speculative developments, however he emphasised that each application had to be assessed on its own merits. He stated that there was existing development on three sides of the site, which was within easy walking distance from services in the village. He believed there was a strong argument for the need for retirement homes in Coleorton. He felt that whether the application was assessed under the current or submitted Local Plan, there was a presumption in favour of sustainable development.

Councillor G Jones expressed support for the scheme and felt there was a need for retirement homes in the village.

In response to questions from Councillor M Specht, the Senior Planning Officer clarified that the original application was for dormer bungalows.

Councillor M Specht commented that there would be no need for people to walk to the school from retirement dwellings. He expressed concerns in respect of the suggestions that elderly people could not walk down the hill to the post office and back. He also felt it was difficult to understand what constituted a retirement dwelling. He added that restricting bungalows to 2 bedrooms was not acceptable, as elderly people may need separate bedrooms, or have children and grandchildren to stay.

Councillor J Legrys said he was aggrieved that the application had been altered and that it was not right that members of the Planning Committee and the objectors found out about the amendments on the update sheet now. He commented that ribbon development had always been prevalent in Coleorton but it had to stop here. He added that the council could now demonstrate a five year housing land supply.

Councillor D Everitt expressed concerns that the attractiveness of the village of Coleorton was being diminished and he expressed disappointment that this application had been brought before the Planning Committee. He also expressed concerns in respect of a group of people submitting a view on an application which they had no interest in. He supported the officer's recommendation.

Councillor R Adams stated that he would not be supporting the proposals as the site was outside the limits to development.

Councillor M B Wyatt commented that members had not had sight of the petition and did not know who had signed it. As such he felt that this should not be taken into account.

The Head of Planning and Regeneration explained that the signatories of the petition had given no address and the petition did not provide any planning reasons to support the application, and as such there was nothing to give regard to. He confirmed that the site was outside the limits to development, was contrary to policies in the development plan and was therefore harmful by definition. He added that there was no empirical evidence to support the need for any kind of retirement housing in the village, and the dwellings may or may not have such restrictions imposed upon them.

Following a question from Councillor D J Stevenson, the Head of Planning and Regeneration confirmed the position in respect of the submitted Local Plan. He advised that the submitted Local Plan was now at an advanced stage and officers were currently in the process of agreeing a schedule of modifications with the inspector. It was intended that, with a fair wind, the Council would be asked to adopt the Local Plan in September if the hoped for report from the Inspector were to be received in June. He clarified that at present, the submitted Local Plan carried considerable weight, but not full weight.

Councillor D J Stevenson felt that the proposals were for 3 houses in the middle of nowhere, and did not offer any planning gain.

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

RESOLVED THAT:

The application be refused in accordance with the recommendation of the Head of Planning and Regeneration.

120. A3
17/00092/OUT: ERECTION OF DETACHED DWELLING WITH ASSOCIATED GARAGE
ALONG WITH ALTERATIONS TO THE VEHICULAR ACCESS (OUTLINE - MEANS
ACCESS, SCALE AND LAYOUT FOR APPROVAL) (RESUBMISSION)
 11 Rempstone Road Belton Loughborough Leicestershire LE12 9XA

Officer's Recommendation: REFUSE

The Senior Planning Officer presented the report to members.

Mr P Crichton, applicant, addressed the meeting. He highlighted that there was no negative feedback and no objections from the parish council, local residents or the Highways Authority and all village services were within the prescribed distance. He made reference to the improvement agreed with the Highways Authority to modify visibility at the bend in the road and widen the footpath to a safer distance, which would be a significant benefit for many people who lived on Rempstone Road. He added that the road was busy and walking along the footpath at the bend could be quite intimidating and dangerous. He felt that the site was not isolated and the proposals were effectively infill development between mature homes which would follow the existing building line and remain consistent with the street scape.

Councillor D J Stevenson reminded the committee that this application had been refused under delegated powers late last year, and that he had invited the applicant to put it back in. He had then asked for the application to be called to committee. He commented that there was a big difference between a dwelling in an open field and one in someone's yard. He felt that there was a large planning gain and that there were no objections to the proposals. He moved that the application be permitted on the grounds that the proposals would provide a planning gain by reducing the bend in the road and widening the footpath.

The motion was seconded by Councillor J Hoult.

Councillor D Everitt questioned whether the planning gain had been created by the situation with the hedge extending considerably over the wall. He suggested that the visibility could have been improved with hedge trimmers, without the need for this application.

Councillor J Legrys felt that the situation could easily be resolved by way of an enforcement notice to have the hedge clipped back. He added that the site was outside the limits to development. He observed that the speed limit of the road was 40 mph, but said that actual traffic speeds were higher.

Councillor M Specht agreed with the comments made in respect of the hedge being cut back and emphasised the need to protect sustainability as enshrined in the NPPF. He stated that he would be supporting the officer's recommendation.

Councillor G Jones said that he felt the planning gain mentioned outweighed any other negative impact of the proposals.

Councillor D Harrison commented that widening the footpath by 2.5 feet was more than could be achieved by trimming a hedge and he could see the gain from the proposals. He added that he would sooner vote for safety than for policy and would support the proposals.

Councillor J Hoult supported the comments that had been made by Councillor D Harrison.

Further to a question from Councillor R Johnson, it was clarified that the highways improvement referred to in the report was the widening of the footway.

The motion to permit the application was then put to the vote and declared CARRIED. It was therefore

RESOLVED THAT:

- a) The application be permitted on the grounds that the proposals would provide a planning gain by reducing the bend in the road and widening the footpath.
- b) The imposition of conditions be delegated to the Head of Planning and Regeneration.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 5.30 pm

APPENDIX B

**Report of the Head of Planning and Regeneration
To
Planning Committee**

9 May 2017

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 Regeneration are material planning considerations and relate to matters not previously raised.

4. Reasons for Grant

Where the Head of Planning and Regeneration 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 Regeneration.

5. Granting permission contrary to Officer Recommendation

Where the Head of Planning and Regeneration 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, eg. 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 Regeneration.

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 Regeneration.

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 Regeneration/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 Regeneration.

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

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.

Erection of one self build dwelling (reserved matters to
Outline Planning Permission 16/00612/OUT)

Report Item No
A1

Land At Babelake Street Packington Ashby De La Zouch
Leicestershire LE65 1WD

Application Reference
17/00174/REM

Applicant:
Mr & Mrs J Mattley

Date Registered:
15 February 2017

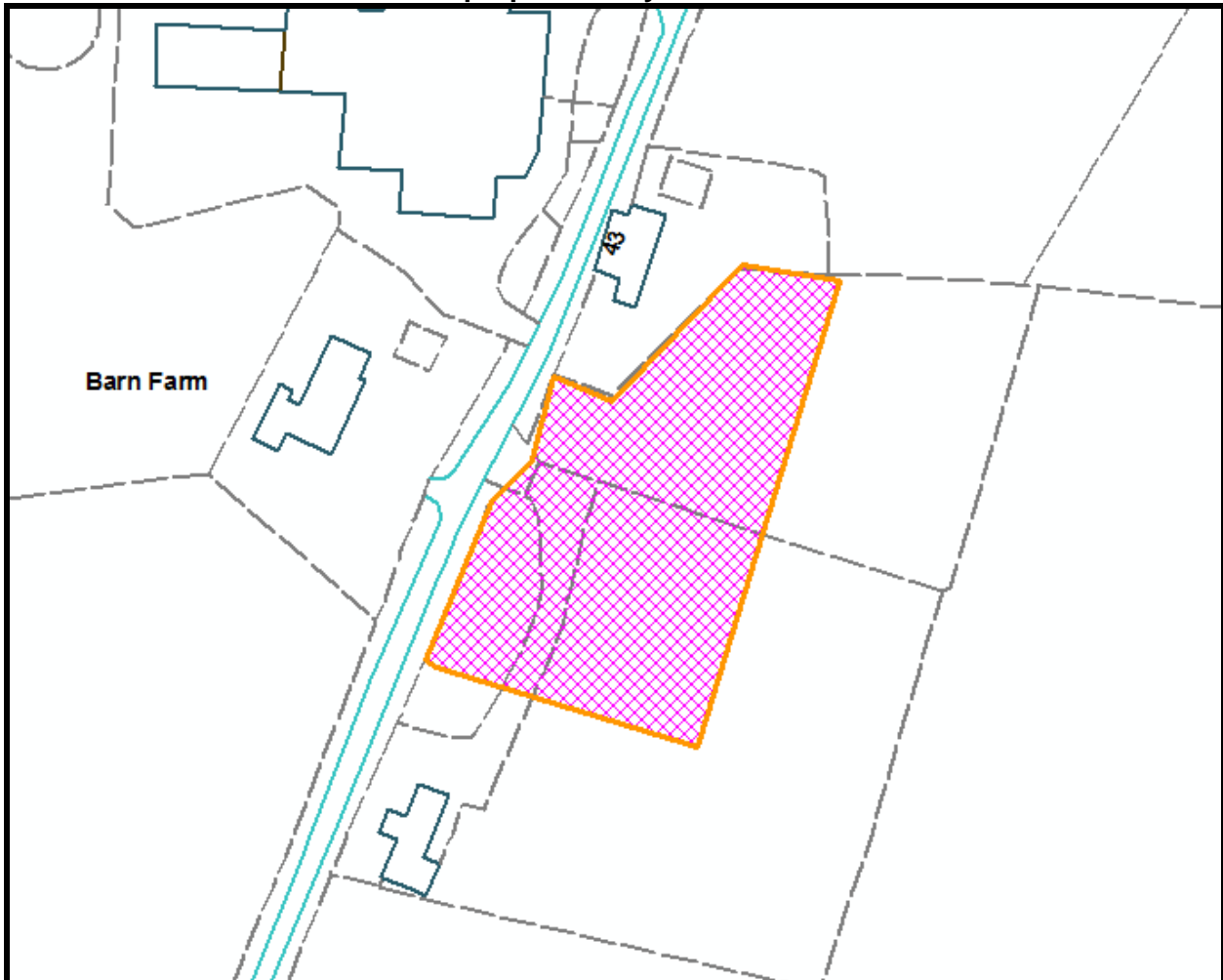
Case Officer:
Christopher Elston

Consultation Expiry:
15 May 2017
8 Week Date:
12 April 2017

Recommendation:
PERMIT

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 before Planning Committee as two of the applicant's children are employed as Planning Officers within the Development Management team at the Council.

Proposal

Reserved matters approval is sought for the erection of a self-build dwelling at land at Babelake Street, Packington. Outline permission was granted under application reference 16/00612/OUT for the principle of the development and this application seeks to approve the details of access, appearance, scale, layout and landscaping are now submitted for approval. The application site is set on the south-eastern side of Babelake Street to the immediate south of no. 43 Babelake Street.

Consultations

Three individual representations have been received which object to the development proposals. Packington Parish Council also object to the application. All other statutory consultees, with the exception of Severn Trent Water whose comments are awaited, have raised no objections subject to the imposition of conditions on any consent granted.

Planning Policy

The application site is outside the Limits to Development as defined in the adopted and submitted North West Leicestershire Local Plans. The application has also been assessed against the relevant policies in the NPPF, the adopted and submitted Local Plans and other relevant guidance.

Conclusion

The principle of the development has been accepted by virtue of the approval of the outline planning permission for one dwelling. It is considered that, following amendments, the proposed development could be carried out in a manner which would ensure that it would not impact adversely on the amenities of existing or future amenities, the character and appearance of the area or streetscape as well as highway safety and which could ensure the retention of existing vegetation. There are no other material planning considerations that indicate reserved matters approval 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 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

This is a reserved matters application relating to the development of the site for the provision of one self-build dwelling on land at Babelake Street, Packington. An application for outline planning permission with all matters reserved was approved on the 5th October 2016, subject to a Section 106 agreement to limit the initial occupancy of the dwelling to the applicant and to ensure the dwelling was not severed from the use of the wider site for the keeping of horses. As a result matters of access, appearance, landscaping, layout and scale are now submitted for consideration. The 0.19 hectare application site is located on the south-eastern side of Babelake Street and is situated outside the defined Limits to Development.

The proposed dwelling would be a two-storey, with residential accommodation in the roof space, detached dwelling with three bedrooms which would be positioned centrally within the plot.

Vehicular access into the site would be via the existing gated access off Babelake Street, used in connection with the existing stables, with relevant turning and manoeuvring areas being provided to the frontage of the dwelling. External off-street parking spaces would also be accommodated within the site.

Hard landscaping is likely to be provided to the areas where vehicles would park/manoeuvre and access the site, as well as to pathways and patios around the dwelling, with soft landscaping being present within the private garden areas, to the frontage of the site and to its boundaries.

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

- 02/01462/FUL - Change of use of fields to paddock and the erection of stables - Approved December 2002.
- 13/00670/FUL - Erection of one single storage building for purposes ancillary to equestrian use - Approved October 2013.

2. Publicity

2 Neighbours have been notified (date of last notification 24.04.2017).

Site Notice displayed 6 March 2017.

Press Notice published Leicester Mercury 8 March 2017. Press Notice published Leicester Mercury 8 March 2017.

3. Summary of Consultations and Representations Received

The following summary of representations is provided. Members may inspect full copies of correspondence received on the planning file.

Environment Agency has no comment to make on the application.

Leicestershire County Council - Ecology has no objections subject to conditions.

Leicestershire County Council - Highways Authority has no objections subject to their standing advice being considered.

Natural England has no objections.

NWLDC - Conservation Officer has no objections.

NWLDC - Environmental Protection has no objections.

Packington Parish Council object to the application on the following grounds: -

- Over intensive development of the site.
- The design is out of proportion with neighbouring dwellings.

Any revised comments following the re-consultation process will be reported to Members on the update sheet.

Severn Trent Water no representation received at the time of this report. Any comments will be reported to Members on the update sheet.

Third Party Representations

Three letters of representation have been received which object to the application with the comments raised summarised as follows: -

- The proposal would result in adverse impacts to the amenities of neighbouring properties.
- The proposal external materials should be consistent with those used in the immediate area.
- Construction traffic utilising Babelake Street has previously impacted on the structural integrity of the The Ginnel, Babelake Street and therefore there should be a pre and post structural assessment of the impacts on The Ginnel should the development proceed.
- The proposed dwelling is not consistent with the intended design approach considered at the outline stage.
- The size and positioning of the dwelling will have a significantly adverse impact on the character and appearance of the wider area with it being out of proportion with existing properties.
- The development is situated outside the defined Limits to Development.
- The proposal would have implications to ecological species.
- There is an increased risk in terms of highway safety due to addition vehicular movements.

Any revised comments following the re-consultation process will be reported to Members on the update sheet.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the

determination of this application.

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 and 35 (Promoting sustainable transport);
Paragraphs 47, 49 and 55 (Delivering a wide choice of high quality homes);
Paragraphs 57, 58, 60, 61 and 64 (Requiring good design);
Paragraphs 69 and 70 (Promoting healthy communities);
Paragraphs 99 and 100 (Meeting the challenge of climate change, flooding and coastal change);
Paragraphs 109, 111, 112, 113, 118, 119 and 123 (Conserving and enhancing the natural environment);
Paragraphs 129, 131, 132, 133 and 134 (Conserving and enhancing the historic environment);
and
Paragraphs 203 and 206 (Planning conditions and obligations).

Adopted North West Leicestershire Local Plan (2002)

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

Policy S1 - Overall Strategy;
Policy S3 - Countryside;
Policy E2 - Landscaped Amenity Open Space;
Policy E3 - Residential Amenities;
Policy E4 - Design;
Policy E7 - Landscaping;
Policy F1 - National Forest - General Policy;
Policy F2 - Tree Planting;
Policy F3 - Landscaping & Planting;
Policy T3 - Highway Standards;
Policy T8 - Parking;
Policy H4/1 - Housing Land Release;
Policy H6 - Housing Density; and
Policy H7 - Housing Design.

Submitted North West Leicestershire Local Plan

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. The weight to be attached by the decision maker to this submitted version should be commensurate to the stage reached towards adoption: -

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 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 En6 - Land and Air Quality;
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;
Policy Cc2 - Water - Flood Risk; and
Policy Cc3 - Water - Sustainable Drainage Systems.

Other Policies

National Planning Practice Guidance

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The NPPG does not change national policy but offers practical guidance as to how such policy is to be applied.

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.

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)

Circular 06/2005 sets out that local planning authorities should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system.

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) requires that special regard shall be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

River Mease Water Quality Management Plan - August 2011.

The River Mease Developer Contributions Scheme (DCS).

The Community Infrastructure Levy Regulations.

5. Assessment

Principle of Development

The principle of development on the site for residential purposes was established by the grant of the outline planning permission (ref: 16/00612/OUT). Under the outline planning permission all matters were reserved and as such the present application seeks to provide a greater level of detail in relation to the access, appearance, landscaping, layout and scale within the site. Assessment of this application should therefore relate to whether those matters reserved for subsequent approval accord with the relevant policies of the adopted Local Plan, submitted

Local Plan and NPPF. Therefore issues relating to the principle of the development and Impact on the River Mease SAC are not of relevance in the assessment of this application.

Neighbours and Future Occupants Amenities

It is considered that the properties most immediately affected by the proposed development would be Barn Farm, set to the west, and no. 43 Babelake Street, set to the north.

A distance in excess of 45 metres would be provided between the north-western (front) elevation of the proposed dwelling and south-eastern (front) elevation of Barn Farm and such a distance would ensure no significantly adverse overbearing, overshadowing or overlooking impacts would arise.

In terms of the impacts to no. 43 Babelake Street the scheme has been amended from that originally submitted so as to remove a two-storey front projection from the proposed dwelling which had the potential to result in the creation of an oppressive environment to the amenities of no. 43 due to its height, proximity and orientation to the shared boundary and residential garden. As a result of the changes the proposed dwelling would now be set 16.4 metres from the closest part of the elevation and 9.2 metres from the shared boundary with no. 43 and consequently would not have a significantly adverse impact on the occupant's amenities in respect of overbearing or overshadowing impacts. In terms of overlooking implications the window in the north-western (front) elevation closest to the boundary with no. 43 would serve a bathroom which would be obscure glazed and as a consequence would not result in a significantly adverse overlooking impact.

In respect of the future amenities of any occupant of the proposed dwelling it is considered that given the relationship with neighbouring properties no adverse impacts would arise with any occupant being aware of the relationships prior to their purchase.

Overall the proposed development would accord with Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.

Appearance, Layout, Scale and Impact on Heritage Assets

The need for good design in new residential development is outlined not only in adopted Local Plan Policies E4 and H7, as well as Policy D1 of the submitted Local Plan, but also Paragraphs 57, 60 and 61 of the NPPF.

Land levels slope downwards from west to east and from north to south with mature planting defining the majority of the boundaries with the exception of that with no. 43 Babelake Street which is a close boarded fence with trellis top to a height of 1.8 metres. The submitted layout plan highlights the finished floor level of the dwelling and this would be 1.55 metres higher than no. 43 and 2.45 metres higher than Barn Farm. There is a difference in heights between Barn Farm and no. 43 of 0.90 metres (Barn Farm being single storey) and on this basis there is no consistent ridge height to adhere to with the difference in the ridge heights between the existing dwellings and proposed dwelling not being of such significance that the proposed dwelling would be unduly prominent when viewed within the immediate area. The presence of mature vegetation to the boundaries of the site would also assist in screening the dwelling and consequently its ridge height would not be significantly adverse to the visual amenities of the streetscape or wider environment.

The layout of the proposal is to have the dwelling orientated to address Babelake Street and be

set away from the highway. Both Barn Farm and no. 43 Babelake Street are orientated to address the highway but are set at differing distances to the carriageway (no. 43 abuts it and Barn Farm is detached from it), on this basis the proposed layout would be consistent with the character of this part of the Babelake Street streetscape and would not result in harm to the appearance of the wider area. A condition could also be imposed to limit the curtilage associated with the dwelling so as to ensure that it projects no further into the rural environment than that associated with no. 43 and this would protect the undeveloped nature of the wider rural landscape.

Changes have been made to the design of the property and it is considered that its appearance would be consistent with that of a traditional style 'cottage' property, which would be anticipated in a rural location, and would include certain design features consistent with no. 43 Babelake Street including the use of 'gablets'. The inclusion of a brick plinth, exposed timber rafters, brick cills/lintels and timber lintels would also be design features which the Local Authority deem desirable and would further enhance the aesthetics of the scheme. Overall the appearance of the dwelling would allow it to integrate into the environment in which it is set.

Strong concerns were raised by Officers over the scale and footprint of the proposed dwelling given that its size was significantly greater than those which it would be associated with which resulted in harm to the rural character of the area. As a result of these concerns amended plans have been received to revise the proposal which have resulted in the removal of a two-storey front projection thereby reducing the overall footprint by around 20 - 25% and visual scale of the dwelling. Whilst the footprint and scale would still lead to the dwelling being larger than those it would be associated with, the reductions made ensure that the difference would not be as significant and as such the proposal would no longer have a significantly adverse impact on the rural character of the area as to warrant a refusal of the application. It is, however, considered that the scale and footprint is at the limit which would be acceptable on the site and as such a condition would be imposed to remove permitted development rights for further extensions, as well as any incidental outbuildings, structures and enclosures, so that planning permission would be required for such proposals. Although any subsequent planning application would have to be assessed on its own merits it is considered that the fact that planning permission would be required would give the District Council an opportunity to resist such applications if necessary in the interests of visual and rural amenity. A note to the applicant would also be included on any decision notice to advise that subsequent applications for works are unlikely to be viewed favourably by officers.

In respect of the materials of construction it is proposed that red brick would be utilised for the plinth and painted render to the walls along with plain clay roof tiles. Both Barn Farm and no. 43 utilise differing materials and as such the selected materials would be considered appropriate, however in the absence of the precise materials being specified it is reasonable for a condition to be imposed on any permission granted for these to be agreed.

Blake Farmhouse (no. 33), Babelake Street is a Grade II Listed Building and is the closest heritage asset to the application site. No. 33 dates from the 18th century and part of its significance comes from its traditional design and prominence within the street scene (due to its scale and design). Its significance is also due to the farm forming the historic edge to the settlement with the countryside beyond.

The application site lies 110 metres from no. 33 and the Council's Conservation Officer has raised no objections to the application given that the aforementioned distance and intervening screening from the presence of the outbuildings at no. 33 and mature vegetation would lead to there being no harm to the significance of the setting of this heritage asset. In the circumstances

that no harm would arise to the significance of a heritage asset an assessment against Paragraph 134 of the NPPF is not required.

Overall the appearance, layout and scale of the dwellings would be acceptable and would ensure compliance with Paragraphs 57, 60, 61, 131, 132 and 134 of the NPPF, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies E4, F1 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

Accessibility

The County Highways Authority have raised no objections subject to their standing advice being considered.

Whilst the means of access was not approved at the outline stage it was identified that the existing access into the site off Babelake Street, used in connection with the existing stables, would likely be the access point and this has been confirmed to be the case on the basis of the layout plan as submitted. In considering the outline application the County Highways Authority advised that due to the site's existing use as a pony paddock the proposed dwelling would not result in a significant increase in trips and an argument could be made that there would be reduction in movements on a daily basis. On the basis of these conclusions a condition was imposed on the outline permission (no. 4) to limit the occupancy of the dwelling to the owners/users of the adjacent land and stables so as to ensure there would not be a substantial increase in vehicles using the access. It would be a requirement that the reserved matters application adhered to the conditions of the outline permission and as such it can be concluded that the use of the existing access off Babelake Street in connection with the dwelling would not result in a severe impact on pedestrian or highway safety. On this basis the development is compliant with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan.

A total of three bedrooms would be provided within the dwelling which would lead to a requirement for a minimum of two off-street parking spaces on the basis of the 6Cs Design Guide. The revised plans outline that three off-street parking spaces would be provided to the frontage of the dwelling and these parking spaces would have sufficient dimensions to ensure that they would be usable. On this basis the proposal would accord with Paragraph 39 of the NPPF, Policy T8 of the adopted Local Plan and Policy IF7 of the submitted Local Plan.

Landscaping and Ecology

It was identified during the consideration of the outline application that the hedgerow which forms the site's front boundary is a Local Wildlife Site and that there was no intention to remove this hedgerow given that the existing access would be utilised.

The submitted layout sets the dwelling away from the hedgerow as well as a tree within this hedgerow which is considered to contribute to the visual amenity of the streetscape. In the circumstances that the tree and hedge would not be impacted on as a result of the development the County Council Ecologist has no objections subject to any new planting on the site being of a native species. Whilst the plans identify that a new hedgerow would be planted the precise planting mix is not specified and it would be encouraged that additional tree planting is undertaken due to the setting of the site within the National Forest.

In the absence of a precise soft landscaping scheme it is considered reasonable that a planning condition is imposed for such a scheme to be agreed with the planting requirements of the

County Council Ecologist also being specified to the applicant. Overall ecology and the presence of mature landscaping on the site would not act as a constraint on the development and therefore it accords with Paragraph 118 of the NPPF, Circular 06/05, Policies E2, E7, F1, F2 and F3 of the adopted Local Plan and Policies En1 and En3 of the submitted Local Plan.

Other Matters

In terms of the matters raised which have not been considered above it is considered that no evidence has been provided to demonstrate that the construction traffic associated with the development, which is likely to be minimal given the scale of the proposal, would have implications to the structural integrity of The Ginnel with it being noted that there are no restrictions on Babelake Street which could control the level of vehicular activity which can occur or the type of vehicles which utilise the highway. In these circumstances the imposition of a condition associated with this permission to provide a pre-construction and post-construction structural appraisal of The Ginnel would be unreasonable, unenforceable and not directly relevant to the merits of the application thereby failing the tests for conditions outlined in Paragraph 206 of the NPPF.

Summary Reasons for Granting Reserved Matters Permission

The principle of the development has been accepted by virtue of the approval of the outline planning permission for one dwelling. It is considered that, following amendments, the proposed development could be carried out in a manner which would ensure that it would not impact adversely on the amenities of existing or future amenities, the character and appearance of the area or streetscape as well as highway safety and which could ensure the retention of existing vegetation. There are no other material planning considerations that indicate reserved matters approval 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. Compliance with Conditions of Outline;**
- 2. Approved Plans;**
- 3. External Materials;**
- 4. Hard and Soft Landscaping;**
- 5. Replacement Trees;**
- 6. Off-Street Parking;**
- 7. Restriction of Residential Garden;**
- 8. Removal of Permitted Development Rights;**
- 9. Obscure Glass and Restricted Opening to Bathroom Window.**

(subject to no contrary observations by 15 May 2017)

Raising of roof height to create a second floor (Revised Scheme)

Report Item No
A2

Elm Cottage 28 Hill Street Donisthorpe Swadlincote Derby
DE12 7PL

Application Reference
17/00312/FUL

Applicant:
Mr R Sutherland

Date Registered:
21 March 2017

Case Officer:
Sarah Booth

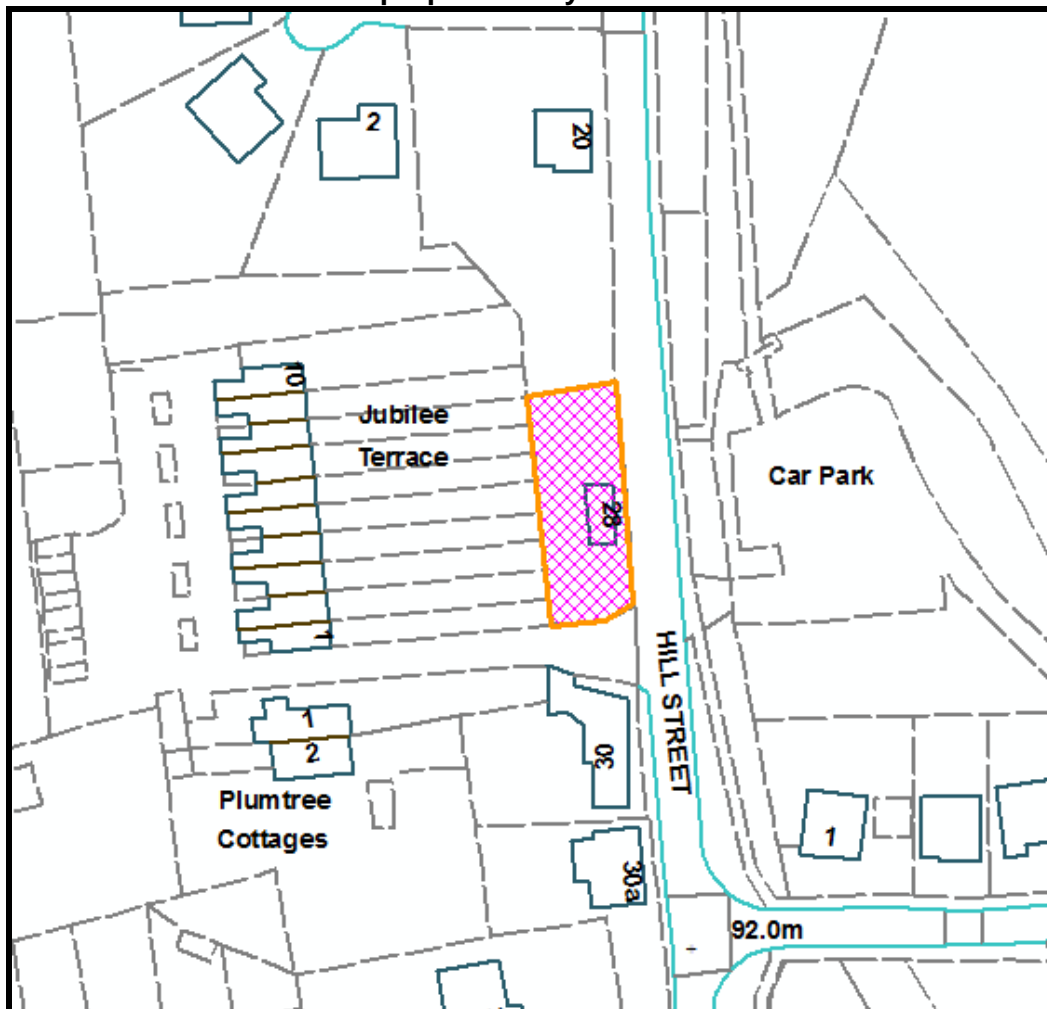
Consultation Expiry:
25 April 2017

Recommendation:
REFUSE

8 Week Date:
16 May 2017

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 before Planning Committee at the request of Councillor Ashman in support of the design of the application.

Proposal

This householder application seeks permission for the raising of the roof and eaves height by 1.3 metres of 28 Hill Street, Donisthorpe to create a second floor. This is a resubmission of a previously refused application 17/00039/FUL with the only amendment being an increase in size to the front dormer windows.

Consultations

No neighbour representations have been received during the course of the application. No representation has been received from Oakthorpe and Donisthorpe Parish Council.

Planning Policy

The application site is within the Limits to Development as defined in the adopted and submitted North West Leicestershire Local Plans. The application has also been assessed against the relevant policies in the National Planning Policy Framework ("NPPF"), the adopted and submitted Local Plans and other relevant guidance.

Conclusion

The principle of development is considered to be acceptable in accordance with S2 of the adopted Local Plan and S2 of the submitted Local Plan. It is considered that the proposal would also accord with saved Policies E3, T8 and T3 of the adopted Local Plan in relation to residential amenity and highway impacts. The integrity of the River Mease (SAC) would be preserved. The proposal would also comply with Policies S2, D2, IF4, IF7, En2 and Cc3 of the submitted Local Plan. However, it is considered that the overall appearance and design of the proposed roof extension would be significantly detrimental to the appearance and character of the existing property and the street scene. This development would result in the formation of an incongruous addition to the application property. This proposal would therefore constitute an inappropriate form of development contrary to the aims and objectives of paragraphs 61 and 64 of the NPPF and saved policy E4 of the adopted Local Plan and Policy D1 of the submitted Local Plan. On this basis the application should 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

Planning permission is sought for the raising of the roof and eaves height of 28 Hill Street, Donisthorpe by 1.3 metres. The property is a two storey detached dwelling located on the western side of Hill Street. The site is also within Limits to Development as defined on the Proposals Map to the adopted and submitted Local Plan.

This application is a resubmission of a previous application 17/00039/FUL which was refused earlier this year due to its design. The only change in the current application is the size and design of the proposed dormer windows.

Discussions have taken place with the applicant to raise concerns with the design of the proposal and alternative options have been recommended such as side or rear extensions, however the applicant has chosen not to amend the application.

The applicant has advised that they require this development, in this particular form, for the needs of a dependent relative. Members are advised that this is not a material planning consideration.

Recent Planning History

17/00039/FUL - Raising of roof height to create a second floor - Refused 02.03.2017

2. Publicity

16 Neighbours have been notified (date of last notification 31.03.2017).
Site Notice displayed 4 April 2017.

3. Summary of Consultations and Representations Received

No letters of representation from neighbours have been received.

No representations from Oakthorpe and Donisthorpe Parish Council have been received. Any comments received will be reported on the Update Sheet.

4. Relevant Planning Policy

National Planning Policy Framework

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

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

Paragraph 14 - Presumption in favour of sustainable development;

Paragraph 17 - Core planning principles;

Section 4 - Promoting sustainable transport;

Section 7 - Requiring Good Design;

Section 10 - Meeting the Challenge of Climate Change, Flooding and Coastal Change;

Section 11 - Conserving and enhancing the natural environment.

Adopted North West Leicestershire Local Plan (2002)

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

Policy S2 (Limits to Development)
Policy E3 (Residential Amenities)
Policy E4 (Design)
Policy T3 (Highway Standards)
Policy T8 (Parking)

Submitted North West Leicestershire Local Plan

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. The weight to be attached by the decision maker to this submitted version should be commensurate to the stage reached towards adoption.

S2 - Settlement Hierarchy
D1 - Design of new development
D2 - Amenity
IF4 - Transport Infrastructure and new development
IF7 - Parking provision and new development
En2 -River Mease Special Area of Conservation
Cc3 - Water - Sustainable Drainage Systems

Other Guidance

The Conservation of Habitats and Species 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.
Leicestershire County Highways 6cs Design Guidance; and
National Planning Practice Guidance 2014.

5. Assessment

Principle

This application site falls within the defined Limits to Development (saved Policy S2 of the adopted Local Plan) wherein this type of extension would be considered acceptable in principle subject to all other matters being addressed. This would therefore also accord with Policy S2 of the submitted Local Plan.

Design

Saved Policy E4 of the adopted Local Plan stipulates that in the determination of planning applications regard will be had to the wider setting of new development, which should respect the character of its surroundings in terms of scale, design, density, height, massing, materials of construction, and the street scene generally. Policy D1 of the submitted Local Plan also states that the Local Planning Authority will support developments that are well designed and as a minimum offer, a good standard of design.

Paragraph 61 of the NPPF states that planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Paragraph 64 goes on to say that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

The development would involve raising both the eaves height and the ridge height of the whole roof and would include three wall dormers on the front elevation. The proposed roof extension would be constructed in matching reclaimed brickwork and the applicant has advised that the existing roof tiles would be reused.

The size and design of the front dormer windows have been altered from the previously refused application (17/00039/FUL). These windows are larger in size than the previous application and the design is more in keeping with the proportions and appearance of the existing front windows. However, it is considered that the proposed roof alteration is still proportionally out of character with the existing design of the property and this would be highly visible from the street scene. The development would also result in unnatural voids between the first and second floor on the side and rear elevations.

The street scene is characterised by mainly two storey dwellings, with some single storey properties, which vary in character and design. However, there are no properties in the immediate vicinity of the site with eaves levels situated above first floor level. It is considered that the design of the extension would not integrate successfully with the character and style of the existing property.

It is considered that the proposed alterations to the roof and raising of the ridge height would have a seriously poor visual relationship with the existing dwelling as a result of the proportions and design of the scheme. This would result in a development form which would be incongruous and discordant to the character and appearance of the dwelling and the surrounding street scene.

In view of the above, it is deemed that the proposal would be harmful to the character and appearance of the existing dwelling and the surrounding street scene and would therefore be contrary to saved Policy E4 of the adopted Local Plan, Policy D1 of the submitted Local Plan and Paragraphs 61 and 64 of the NPPF which seeks good design.

Residential Amenity

The most immediately affected dwellings would be the adjacent dwellings; No.20 Hill Street, 40 metres to the north of the application site, No.30 Hill Street to the south and properties to the rear (west) at Jubilee Terrace (specifically No's 5, 4 and 3).

The extensions to the roof to facilitate a second storey will increase the overall height from 7 metres to 8.3 metres and would include the addition of three dormer windows to the eastern (front) roof slope and rooflights to all other elevations. The front dormer windows would look towards a car park and would therefore not lead to overlooking in an eastern direction. Additionally, in this instance there are already windows at first floor on all elevations. Given the distances between the adjacent properties it is not considered that the proposed second floor windows would provide new or adverse opportunities for overlooking impacts beyond what is already on site. As such it is not considered that the rooflights would need to be obscurely glazed.

The proposal would not breach the 45 degree code of practice from the nearest habitable room windows of the neighbours. It is therefore not considered that this proposal would significantly adversely affect the neighbours' access to daylight.

In terms of an overbearing impact, whilst the overall height would increase this would be reasonable in size in the context of the existing property, and would not impact on neighbour amenity.

In view of the above, the proposed development would not have any adverse impacts upon neighbouring residential amenities and is considered to be acceptable in relation to saved Policy E3 of the adopted Local Plan. The application would also comply with Policy D2 (Amenity) of the submitted Local Plan.

Highway Safety

The development would result in an increase from 3 bedrooms to 5. The County Councils 6C's Design Guidance states that three spaces should be provided for a five bedroom dwelling. It was noted on site that the application property is capable of providing at least 3 off street spaces and as such it is deemed that an acceptable level of parking would remain. In order to ensure that the parking spaces are provided prior to first use of the development it would be recommended that a condition be imposed to this effect to avoid off street parking problems. Subject to such a condition the application would not have any detrimental impact on highway safety. The application would therefore accord with the 6C's Design Guidance and Policy T3 (Highways) and T8 (Parking) of the Local Plan. The proposal would also comply with Policies IF4 and IF7 of the submitted Local Plan.

Impact on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to paragraph 118 of the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river was in an unfavourable condition due to the high level of phosphates within it. Discharge from the sewerage 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 will have a significant effect on the SAC is required.

The development would not lead to the overall occupancy levels of the dwelling significantly increasing and it is considered that the provision of more modern water-efficient facilities in the new development would likely lead to an overall decrease in foul drainage discharge from the site. As no additional hard standing would be added, the surface water run-off would be no worse than the existing development. As such a soak-away condition is not recommended in this case. It is therefore considered that the integrity of the River Mease SAC would be preserved.

Therefore it can be concluded that the proposal will not, either alone or in combination with other plans or projects, have a significant adverse 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.

Conclusion

The principle of development is considered to be acceptable in accordance with S2 of the adopted Local Plan and S2 of the submitted Local Plan. It is considered that the proposal would also accord with saved Policies E3, T8 and T3 of the adopted Local Plan in relation to residential amenity and highway impacts. The integrity of the River Mease (SAC) would be preserved. The proposal would also comply with Policies S2, D2, IF4, IF7, En2 and Cc3 of the submitted Local Plan. However, it is considered that the overall appearance and design of the proposed roof extension would be significantly detrimental to the appearance and character of the existing property and the street scene. This development would result in the formation of an

incongruous addition to the application property. This proposal would therefore constitute an inappropriate form of development contrary to the aims and objectives of paragraphs 61 and 64 of the NPPF and saved policy E4 of the adopted Local Plan and Policy D1 of the submitted Local Plan. On this basis the application should be refused.

RECOMMENDATION - REFUSE, for the following reasons;

- 1 Saved Policy E4 of the Local Plan states that new development should respect the character of its surroundings, in terms of scale, design, density, height, massing and materials of construction. Policy D1 of the submitted Local Plan states that the Local Planning Authority will support developments that are well designed and as a minimum offer, a good standard of design. The proposed roof extension, by reason of its form, proportions and design, would result in an incongruous development that would fail to respect the appearance of the existing property and would compromise the visual integrity of the street scene. It is deemed that the proposal would be significantly harmful to the character and appearance of the existing dwelling and the area. This would therefore be contrary to Policy E4 of the adopted North West Leicestershire Local Plan, Policy D1 of the submitted Local Plan and paragraphs 61 and 64 of the NPPF which seek good design.

Notes to applicant

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Local Planning Authority acted pro-actively through engagement with the applicant during the application process. This positive advice has however not been followed and therefore the Council remains of the view that the proposal is unacceptable. The applicant was invited to withdraw the application to seek pre-application advice prior to any re-submission however no instructions to withdraw the application have been received. The requirements of the National Planning Policy Framework (paragraphs 186 and 187) have therefore been met in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – 9 MAY 2017

<p>Title of report</p>	<p>PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT MEASHAM ROAD, APPLEBY MAGNA</p>
<p>Contacts</p>	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Head of Planning and Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk</p> <p>Senior Planning Officer 01530 454656 jenny.davies@nwleicestershire.gov.uk</p>
<p>Purpose of report</p>	<p>To consider a request from the developer of the above site to amend its affordable housing obligations</p>
<p>Council Priorities</p>	<p>Homes and Communities</p>
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>As set out in the report below</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p>
<p>Comments of Head of Paid Service</p>	<p>Report is satisfactory.</p>
<p>Comments of Deputy Section 151 Officer</p>	<p>Report is satisfactory.</p>

Comments of Monitoring Officer	Report is satisfactory.
Consultees	Appleby Magna Parish Council North West Leicestershire District Council Appleby Magna Ward Member North West Leicestershire District Council Strategic Housing Team
Background papers	Application documents in respect of planning application refs. 13/00797/FULM and 15/00778/VCIM
Recommendations	TO AGREE TO THE SUBSTITUTION OF THE EXISTING AFFORDABLE HOUSING OBLIGATIONS BY THE PROVISION OF 7 UNITS IN ACCORDANCE WITH THE HOUSE TYPE AND TENURE MIX AS SET OUT IN THIS REPORT

1.0 INTRODUCTION AND BACKGROUND

- 1.1 On 8 April 2014, the District Council's Planning Committee resolved to grant planning permission subject to Section 106 obligations (the S106 Agreement") for residential development of 39 dwellings and associated works on a site at Measham Road, Appleby Magna (planning permission ref. 13/00797/FULM).
- 1.2 The Section 106 Agreement was completed on 29 September 2014, and the planning permission subsequently issued on 13 November 2014. A subsequent permission for an amended scheme relating to an amended layout and amended house types was granted on 3 February 2016 (ref. 15/00778/VCIM), and was the subject of a supplemental agreement under Section 106 of the Town and County Planning Act 1990 ("the Supplemental Agreement")
- 1.3 The Section 106 Agreement as varied by the Supplemental Agreement includes obligations in respect of, amongst others, affordable housing. The affordable housing obligations are as follows:
- Twelve of the proposed dwellings (i.e. 33%) to be provided as affordable housing units, comprising eight affordable rented dwellings and four intermediate dwellings;
 - Transfer of 50% of the affordable housing units to a registered provider prior to occupation of 50% of the open market dwellings, with the remaining affordable housing units being transferred before occupation of 80% of the open market dwellings.
- The house types forming the affordable housing contribution comprise 4 no. 1 bed units, 3 no. 2 bed units and 5 no. 3 bed units.
- 1.4 The developer has now approached the Local Planning Authority with a view to further amending the affordable housing provision on the site, and has undertaken a viability appraisal in order to demonstrate the need to enter into alternative obligations. The developer has also submitted background information setting out the reasons for

amending the affordable housing. The Local Planning Authority commissioned the District Valuer to assess the developer's calculations on its behalf.

1.5 The residential development is currently under construction.

2.0 PROPOSED AMENDED AFFORDABLE HOUSING OBLIGATIONS

2.1 The developer is of the view that, given anticipated rising costs and receipts, the provision of the on-site affordable housing provision set out under Section 1.3 above will not be viable having regard to the offer received from the only interested registered provider; no other registered providers chose to bid. This single offer has been substantially reduced by the imposition of the 1% rent decrease and the fact that the registered provider's programme being virtually full resulting in them having limited financial capacity to take on further affordable housing. The developer has advised that this reduced offer would not cover build costs.

2.2 Initially the developer requested that the affordable housing provision be amended so that all twelve affordable dwellings would be provided as shared ownership dwellings, using HEYLO Housing Ltd. Following discussions with the District Council's Strategic Housing Team and Development Management team, the affordable housing provision is proposed to be amended to seven affordable rented dwellings. Two offers have been received from registered providers for these seven dwellings.

2.3 Given the wording of the Section 106 Agreement as amended, the number, type and tenure of affordable dwellings can be changed if agreed in writing with the Local Planning Authority by way of a deed of variation being entered into by all parties to the Section 106 Agreement as amended.

3.0 CONSULTATION

3.1 Following consultation on the original proposed amendment, Appleby Magna Parish Council had no comments to make. The Parish Council has been consulted on the further proposed amendments, and any comments will be reported on the Update Sheet.

3.2 The District Council's Strategic Housing Team raised concerns regarding the original proposed amendments, and supports the further proposed amendments, for the reasons set out in Section 5.0 below.

4.0 RELEVANT PLANNING POLICY

4.1 National Policies

National Planning Policy Framework (NPPF)
Planning Practice Guidance

4.2 Adopted North West Leicestershire Local Plan

Policy H8 of the adopted North West Leicestershire Local Plan provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

4.3 **Submitted North West Leicestershire Local Plan**

Policy H4 of the submitted North West Leicestershire Local Plan provides that a minimum affordable housing contribution of 30% should be provided on developments of eleven or more dwellings or 1000 square metres gross floorspace in the smaller settlements such as Appleby Magna, and that the Council's preference is for on-site provision.

4.4 **Other Local Policies**

North West Leicestershire District Council Affordable Housing Supplementary Planning Document – January 2011

5.0 **ASSESSMENT**

5.1 **Introduction**

5.1.1 Having regard to the requirements of the NPPF and the Community Infrastructure Levy Regulations 2010, the view is taken that the current obligations are appropriate, and meet the legislative and policy tests. However, in view of the request to amend the terms of the existing Section 106 Agreement as amended, it is considered appropriate to assess:

- (i) Whether the current affordable housing requirements are unduly onerous when having regard to the viability / deliverability of the scheme, or are otherwise unachievable;
- (ii) If so, whether the alternative affordable housing obligations proposed by the developer are appropriate to the level of development viability (i.e. they are the maximum achievable whilst ensuring the development remains viable); and
- (iii) Whether the alternative proposals under (ii) above are appropriate in terms of helping to meet the affordable housing needs of the area.

5.1.2 The developer's rationale for seeking the proposed changes is as set out under Section 2.1 above.

5.2 **Deliverability of Existing Affordable Housing Obligations**

5.2.1 Having reviewed the developer's viability assessment on behalf of the District Council, the District Valuer concluded that, financially, the existing obligation to deliver the policy compliant affordable housing would not be viable, as the developer profit would be approximately 8% (compared with 15%-20% which is considered a reasonable profit level).

5.2.2 This also needs to be considered in the context of the ability of the developer to comply with the existing affordable housing obligations having regard to other factors. The District Council's Strategic Housing Team advises that the developer had indicated, to the Strategic Housing Team, its willingness to provide the originally agreed affordable dwellings and approached nine registered providers to gauge interest with a view to entering into a contract to secure delivery. From these, one offer was received, which was subsequently substantially reduced. The only offer was, the Strategic Housing Team advises, significantly below the figure factored in for these properties.

5.2.3 The proposed change to the affordable housing contribution has been considered by the Strategic Housing Team which advises that it has been in regular contact with the developer in order to find ways to secure the delivery of affordable homes on this

development. The Strategic Housing Team confirms that the changes sought are in reaction to changing economic conditions affecting the activity of registered providers and their ability to offer on Section 106 negotiated developments. It notes that older sites where the affordable mix was negotiated prior to 2015 are particularly vulnerable as developer expectations were higher, having been based on a stronger registered provider bidding platform. The Strategic Housing Team also confirms that the applicant's assertion that registered provider offer levels are lower, with fewer registered providers being in a position to offer, is correct (as set out under Section 2.1 above).

- 5.2.4 On this basis, therefore, it is accepted that, in practice, the developer is unable to deliver the on-site affordable housing in accordance with its existing obligations.

5.3 Appropriateness of Proposed Alternative Affordable Housing Obligations

- 5.3.1 The cascade mechanism in the Section 106 Agreement sets out that if no registered provider takes delivery of some or all of the affordable units, the affordable units can be provided as discounted open market housing (at 60% of open market value), then further cascading to a commuted sum.

- 5.3.2 In respect of the original amendment to provide all twelve dwellings as shared ownership properties, using HEYLO Housing Ltd, the developer advised that shared ownership properties have a lower minimum required household income compared to discounted open market dwellings required under the cascade, therefore providing a wider pool of potential purchasers.

- 5.3.3 The Strategic Housing Team raised concerns regarding the loss of the affordable rented units, in particular, as the two most recent Strategic Housing Market Assessments (SHMA) have indicated that the District Council's affordable housing priority should be the provision of rented housing. The Strategic Housing Team also had concerns in respect of using HEYLO Housing Ltd to provide shared ownership properties, in particular whether HEYLO Housing Ltd offered the same options to purchasers as traditional registered provider led schemes, whether the properties were restricted to eligible households as per the Section 106 Agreement as amended and whether any profits received from shared ownership units would be reinvested in other affordable housing in the local or wider area.

- 5.3.4 Following discussions with the District Council's Strategic Housing Team, the developer has approached two Registered providers that had previously shown an interest in the site in respect of providing a reduced number of affordable units on the site, with all units being affordable rented, to meet the district's greatest identified need for affordable housing (for rented accommodation), as outlined above at Section 5.3.3 above. An offer on this basis was received from both registered providers to provide seven affordable rented units and one registered provider has been selected. This is a reduction of one affordable rented unit compared to the current Section 106 Agreement requirement, with no intermediate affordable housing being provided.

- 5.3.5 It is noted that whilst the number of affordable units would be reduced, the Strategic Housing Team advises that the provision of all units as affordable rented would meet the district's greatest identified need for affordable housing. Furthermore a range of affordable housing would still be available within the village, due to the types and tenures of affordable housing provided on other new housing developments, along with commuted sums also to be paid. The Strategic Housing Team advises that whilst its preferred

position would be to secure the policy compliant on-site provision, it nevertheless accepts the reasons why this level of provision could not be achieved. In addition, the revised number of affordable units to be provided reflects the number of affordable units the District Valuer advises would be viable.

- 5.3.6 With no guarantee that the limitations on registered provider capacity will improve in the foreseeable future, and with the introduction of Starter Homes as an affordable tenure, the Strategic Housing Team considers that the proposed changes present the best opportunity to secure affordable housing (as well as maintaining market homes delivery) on this development.
- 5.3.7 Having regard to the advice of the Strategic Housing Team, it is considered that on balance the reduction in the number of affordable dwellings on the site, all of which would be affordable rented properties, is acceptable for the reasons outlined above. As such, it is recommended that the proposed amended affordable housing provision be accepted.