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Meeting	PLANNING COMMITTEE
Time/Day/Date	6.00 pm on Wednesday, 16 August 2023
Location	Forest Room, Stenson House, London Road, Coalville, LE67 3FN
Officer to contact	Democratic Services (01530 454529)

	AGENDA	
Item		Pages
1.	APOLOGIES FOR ABSENCE	
2.	DECLARATION OF INTERESTS	
	Under the Code of Conduct members are reminded that in declaring interests you should make clear the nature of that interest and whether it is a disclosable pecuniary interest, registerable interest or other interest.	
3.	MINUTES	
	To confirm and sign the minutes of the meeting held on 20 July 2023	3 - 8
4.	PLANNING APPLICATIONS AND OTHER MATTERS	
	Report of the Head of Planning and Infrastructure.	9 - 12

Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	23/00012/REMM: Erection of 80 dwellings including temporary construction access, parking, pedestrian links and open space to parcel E (reserved matters of access, appearance, landscaping, layout and scale to outline planning permission ref. 13/00956/OUTM) Land adjacent to Grange Road, Hugglescote, Coalville, Leicestershire	Permit subject to conditions	13 - 34
A2	22/00427/VCU: Variation of conditions 2 and 11 and removal of condition 12 of planning permission 20/01887/FUL to allow amendments to the approved drawings and revised bird nesting provision within the development 6 West End, Long Whatton, Loughborough, Leicestershire, LE12 5DW	Permit subject to conditions	35 - 56
A3	22/01177/FUL: Change of use of garden land (class C3) to beer garden (sui generis) and associated works (including new fencing and seating) Railway Tavern, 5 Tamworth Road, Ashby de la Zouch, Leicestershire, LE65 2PW	Permit subject to conditions	57 - 74

MINUTES of a meeting of the PLANNING Committee held in the Forest Room, Stenson House, London Road, Coalville, LE67 3FN on THURSDAY, 20 July 2023

Present: Councillor R Boam (Chair)

Councillors D Bigby, R Blunt (Substitute for Councillor R L Morris), M Burke, R Canny, D Cooper (Substitute for Councillor J Legrys), D Everitt, J Geary (Substitute for Councillor D Bigby), P Moulton, C A Sewell, J G Simmons and N Smith

Officers: Mr C Elston, Mrs H Exley, Mr D Jones, Mr S James, Mr A Mellor, Mrs R Wallace and Ms D Wood

9. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors J Legrys and R Morris.

10. DECLARATION OF INTERESTS

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

Councillor D Bigby declared a registerable interest in item A1 – Application number 22/01552/FULM as he was speaking on the application as Ward Member. He also declared a registerable interest in item A2 – Application number 22/01811/FULM as he was speaking on the application as the adjoining Ward Member

During the consideration of this application, Councillor J Geary would join the committee as a substitute for Councillor D Bigby.

Councillor D Bigby declared a registerable interest in item A1 – Application number 22/01552/FULM as he was speaking on the application as Ward Member and therefore would not take part in any of the deliberation of voting. During the consideration of this application, Councillor J Geary would join the committee as a substitute for Councillor D Bigby.

Councillor P Moulton declared a registerable interest in item A3 – Application number 22/01366/OUT as a member of Whitwick Parish Council.

Members declared that they had been lobbied without influence in respect of the following applications but had come to the meeting with an open mind.

Item A1 – application number 22/01552/FULM: Councillors R Boam, R Canny and J Simmons.

Item A2 – application number 22/01811/FULM: Councillors R Boam, R Canny, C Sewell and J Simmons.

11. MINUTES

Consideration was given to the minutes of the meeting held on 6 June 2023.

It was moved by Councillor J Simmons seconded by Councillor P Moulton and

RESOLVED THAT:

The minutes of the meeting held on 6 June 2023 be approved and signed by the Chairman as a correct record.

12. 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.

13. 22/01552/FULM: ERECTION OF 17 TOWNHOUSES WITH ASSOCIATED CAR PARKING ACCESS, LANDSCAPING AND CAR PARK TO HOTEL AND ASSOCIATED AMENDMENTS

Having declared an interest in the item, Councillor D Bigby removed himself from the Committee to join the public gallery prior to being invited to speak as Ward member. Councillor J Geary joined the Committee as his substitute.

The Principal Planning Officer presented the report to Members.

Mr D Harrison, objector, addressed the Committee. Concerns were raised on the ability of the applicant to complete the project with the finance available and to the standard it deserved. He also referred Members to the response from Historic England which raised concerns.

Councillor D Bigby, Ward Member, addressed the Committee. Although he had not objected to the application, he explained that he had several concerns including the robustness of the legal arrangements, the consequences should the applicant go out of business, the loss of trees and insufficient mitigation to replace them, lack of social housing and education contribution, and spoilt view between the hotel and the Bath Grounds. However, he acknowledged the need for the restoration of the hotel and that the proposals would enable that rather than demolition which local residents were opposed to.

Councillor D Bigby then left the meeting for the duration of the discussions and voting on the application.

In determining the application Members acknowledged the level of restoration required for the hotel and the importance of the building for the history of the area. Some concerns were shared particularly in relation to on the loss of trees, comments received from Historic England and the viability of the business proposed for the building once complete. Following further discussion on the complexity of the application and some explanation on the S106 Agreement regarding the different phases of the development, it was the general consensus that the proposal was the best way to save the building.

The officer's recommendation was moved by Councillor R Blunt and seconded by Councillor R Canny.

The Chair put the motion to the vote. A recorded vote being required, the voting was as detailed below.

RESOLVED THAT:

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

At the conclusion of the item, Councillor D Bigby returned to the public gallery.

Motion to permit the application in accordance with the officer recommendations (Motion)	
Councillor Russell Boam	For
Councillor Richard Blunt	For
Councillor Morgan Burke	For
Councillor Rachel Canny	For
Councillor Doug Cooper	For
Councillor David Everitt	For
Councillor John Geary	For
Councillor Peter Moulton	For
Councillor Carol Sewell	For
Councillor Jenny Simmons	For
Councillor Nigel Smith	Abstain
Carried	

14. 22/01811/FULM: CHANGE OF USE OF LAND TO RECREATION USE INCLUDING THE FORMATION OF SPORT PITCHES, PARKING AREA, IMPROVED ACCESS AND LANDSCAPING

Having declared an interest in the item, Councillor D Bigby remained in the public gallery prior to being invited to speak as the adjoining Ward member. Councillor J Geary remained in the Committee as his substitute.

The Senior Planning Officer presented the report to Members.

Ms C Birch, objector, addressed the Committee. She explained the issues residents were currently experiencing from the football club, particularly noise, parking and traffic on the narrow country lane access to the site. She felt that the proposals would only worsen the situation and requested that the Committee defer the application to allow further highway assessments with the Highways Authority.

Ms K Carpenter, agent addressed the Committee. She explained that the proposal was intended to provide additional space for those that currently use the facility rather than to grow the club. Reference was made to the dialogue between the club and the residents undertaken in recent months and confirmation was given that this would continue. The much-needed traffic management plan was highlighted, and it was confirmed that it would be prepared along with participation of the Police and Highway Authority to ensure car parks were used rather than the neighbouring area.

Councillor D Bigby, adjoining Ward Member, addressed the Committee. He acknowledged the value of the club for the area but explained that he had called in the application due to the number of objections from residents. He shared his main concerns in relation to traffic and parking in the area due to the proposals leading to significantly more visits to the facility. The response from the Highways Authority was questioned as the design statement referred to the growth and investment in the club which clearly indicated why the application to expand the facility has been submitted. To conclude, he was disappointed that considering the years of complaints relating to traffic issues, it was only now that a traffic management plan had been considered.

Councillor D Bigby then left the meeting for the duration of the discussions and voting on the application.

In determining the application, discussions were had on the parking issues and Members noted the objectors request for further highway assessments. However, it was agreed that as the Highway Authority had raised no concerns on two occasions, there was no grounds to defer for that reason. During discussions Members did acknowledge the parking issues in the area but also the importance of the facility, therefore it was

suggested by a Member that a condition be added for a Liaison Committee comprising of representatives of the club and residents be established to keep communication open and repair the breakdown in relationships. Both the Officers and the agent agreed that this was acceptable but would need to be secured by a S106 agreement.

The officers recommendation with the additional requirement for a S106 agreement in relation to the establishment of a Liaison Committee was moved by Councillor R Blunt and seconded by Councillor J Simons.

The Chair put the motion to the vote. A recorded vote being required, the voting was as detailed below.

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Head of Planning and Infrastructure, with an additional requirement for a S106 agreement in relation to the establishment of a Liaison Committee comprised of representatives from Ashby Ivanhoe Football Club and residents.

At the conclusion of the item, Councillor D Bigby returned to the Committee. Therefore, as no longer required as a substitute, Councillor J Geary left the meeting.

Motion to permit in accordance with the officer's recommendation (Motion)	
Councillor Russell Boam	For
Councillor Richard Blunt	For
Councillor Morgan Burke	For
Councillor Rachel Canny	For
Councillor Doug Cooper	For
Councillor David Everitt	For
Councillor John Geary	Abstain
Councillor Peter Moulton	Abstain
Councillor Carol Sewell	For
Councillor Jenny Simmons	For
Councillor Nigel Smith	Abstain
Carried	

15. 22/01366/OUT: ERECTION OF FIVE NO.THREE BEDROOM DWELLINGS (OUTLINE - ACCESS AND LAYOUT INCLUDED)

The Senior Planning Officer presented the report to Members.

Mr P Rowland, agent, addressed the Committee. He confirmed that he had worked closely with officers in the pre-application stage and that no objections had been received from the statutory consultees. As there was no material planning reasons to refuse this application he urged Members to permit it in accordance with officers recommendations.

Councillor T Gillard, Ward Member, addressed the Committee. Speaking with many years of local knowledge he felt that if approved the proposal would have a detrimental impact on the area due to an increase in traffic on an already congested road, flood risk in an area already suffering due to drainage issues and wildlife on the site. He also shared concerns with the removal of part of the boundary wall which is a historic part of the area. A number of policies were raised as grounds for the Committee to refuse the application and Members were urged to do so.

Following a discussion on the historical wall on the site, Members were informed that the wall was not protected and could be taken down at any point. This applicant intended to retain most of the wall and reuse the material that was removed.

In determining the application Members discussed the flood risks, the current untidy state of the site and the traffic impact. Members felt that two-storey dwellings would not be acceptable on rear part of the site as it would be out of character for the area and overbearing, the applicant was urged to bear that in mind at reserved matters stage. Officers suggested that a note be added to the permission should it be granted for a suggested scheme of development in relation to what would be acceptable.

The officer's recommendation was moved by Councillor R Canny and seconded by Councillor R Boam.

The Chair put the motion to the vote. A recorded vote being required, the voting was as detailed below.

RESOLVED THAT:

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

Motion to permit in accordance with the officer's recommendation (Motion)	
Councillor Russell Boam	For
Councillor Dave Bigby	Abstain
Councillor Richard Blunt	For
Councillor Morgan Burke	For
Councillor Rachel Canny	For
Councillor Doug Cooper	Abstain
Councillor David Everitt	Against
Councillor Peter Mout	Against
Councillor Carol Sewell	Against
Councillor Jenny Simmons	For
Councillor Nigel Smith	Against
Carried	

The meeting commenced at 6.00 pm

The Chairman closed the meeting at 7.45 pm

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APPENDIX B

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

16 August 2023

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 list of the proposed planning 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.

Erection of 80 dwellings including temporary construction access, parking, pedestrian links and open space to parcel E (reserved matters of access, appearance, landscaping, layout and scale to outline planning permission ref. 13/00956/OUTM)

Report Item No
A1

Land Adjacent To Grange Road Hugglescote Coalville Leicestershire

Application Reference
23/00012/REMM

Grid Reference (E) 443209
Grid Reference (N) 312431

Date Registered:
2 January 2023
Consultation Expiry:
2 August 2023
13 Week Date:
27 April 2023

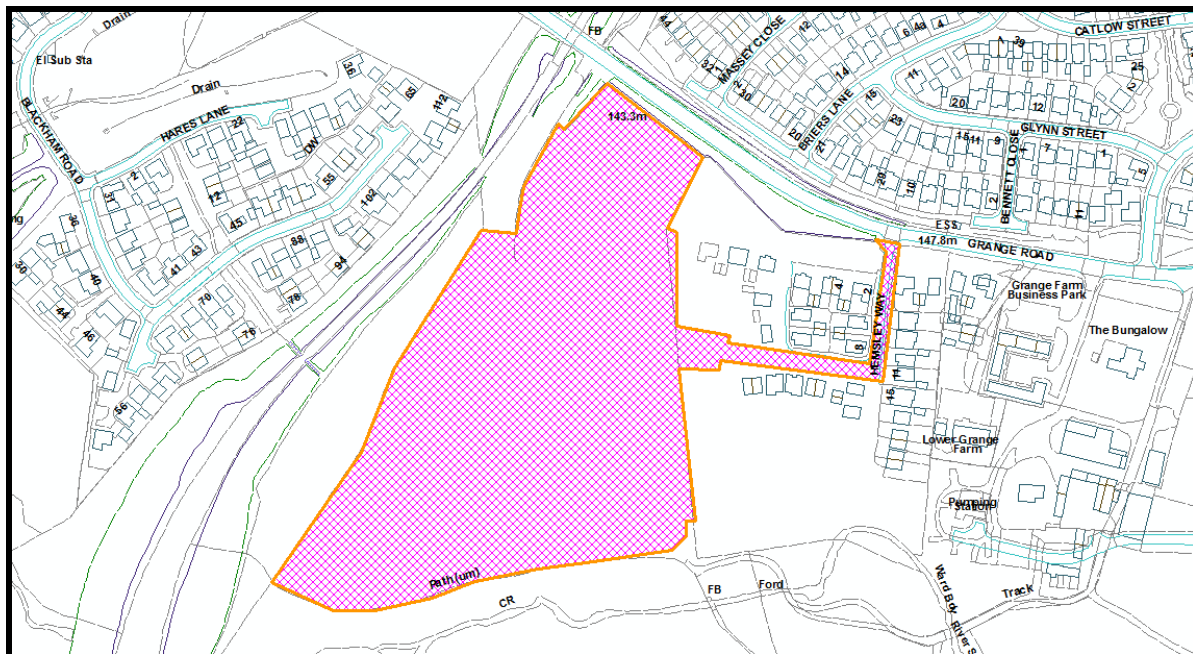
Applicant:
Cadeby Homes Ltd

Extension of Time:
To be agreed

Case Officer:
James Knightley

Recommendation: Permit, subject to conditions

Site Location - Plan for indicative purposes only



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Reason the case is called to the Planning Committee:

The application is referred to Planning Committee for determination at the request of Councillor Johnson on the basis of highway issues (including traffic generation, vehicular access, highway safety, road width and public right of way impacts), impact on residential amenity (including noise and general disturbance), flooding, and impacts on nature and ecology.

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

- 1 Compliance with outline planning permission
- 2 Approved plans
- 3 Landscaping (compliance with submitted details, submission and approval of a timetable for implementation prior to occupation, and maintenance / replanting)
- 4 Hard surfacing (submission and approval of details prior to occupation, including provision of transition strips to proposed roads)
- 5 Materials (submission and approval of details prior to any construction above damp proof course)
- 6 Boundary treatment (submission and approval of details prior to occupation)
- 7 Tree / hedgerow protection
- 8 Levels (submission and approval of details prior to commencement)
- 9 Pedestrian and cycle connections (submission and approval of details prior to occupation, including linkages to adjacent land, right of way crossing and signing / waymarking of routes)
- 10 Scheme for the treatment of public rights of way (submission and approval of details prior to commencement) of any works affecting the line of any right of way (where not covered under the above)
- 11 Implementation of works to former mineral railway line as part of its provision as a recreational route (submission and approval of details prior to occupation, together with a timetable for implementation)
- 12 Car parking (including vehicle charging points) and turning provided prior to relevant dwelling's occupation
- 13 External lighting (submission and approval of details prior to occupation)
- 14 Windows, doors, rainwater goods, utility boxes, chimneys, eaves and verges (compliance with details and / or submission and approval of details prior to any construction above damp proof course)
- 15 Windows to car parking areas provided prior to relevant dwelling's occupation
- 16 Bin / recycling storage and collection points (submission and approval of details prior to occupation)
- 17 Street name plates (submission and approval of details prior to installation)
- 18 Retaining walls / structures (submission and approval of details prior to installation)
- 19 Provision of signage in respect of unadopted roads / drives intended for public use (submission and approval of details prior to installation, and installed prior to first occupation of any dwellings on the relevant route)
- 20 Site access provided as shown prior to occupation of any dwellings
- 21 Provision of measures to prevent drainage of surface water into the public highway prior to occupation of the relevant dwelling
- 22 Compliance with Construction Traffic Management Plan
- 23 Compliance with site-specific Travel Plan

MAIN REPORT

1. Proposals and Background

This is a reserved matters application for the erection of 80 dwellings on a parcel of land of approximately 4.6 hectares forming part of the wider South East Coalville development (and identified as Phase E1 of the wider South East Coalville consortium scheme).



The above image shows the site in relation to its surroundings including an earlier phase of the South East Coalville consortium site (Phase D1) to the east, the Taylor Wimpey (Blackham Road) development to the west (beyond the former mineral railway line), and part of the Davidsons Lower Bardon) site to the north.

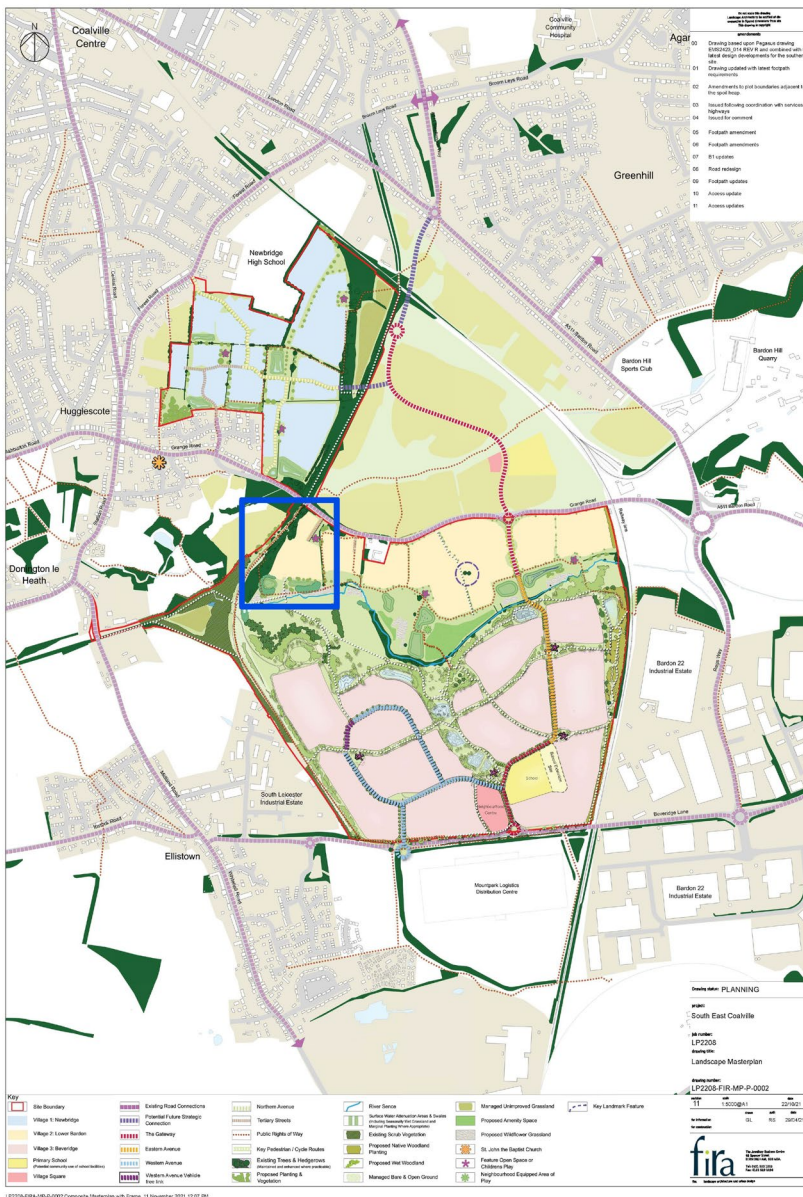
View south from north eastern part of site (with Phase D1 to left):



View north east (towards Phase D1) from southern part of site:



The plan extract below shows the approximate location of the parcel within the wider scheme.



The original outline planning permission (ref. 13/00956/OUTM) was determined at the Planning Committee in December 2014, and issued in September 2016 following completion of a Section 106 obligation securing contributions including in respect of affordable housing, travel plans, travel packs, bus passes, children’s play / public open space / recreation, biodiversity enhancement, education, civic amenity, libraries and healthcare. An associated Section 278 agreement between the applicants and Leicestershire County Council secured contributions towards off-site highways infrastructure.

All matters were reserved for subsequent approval, and all five reserved matters for the phases to which this application relates (i.e. access, appearance, landscaping, layout and scale) are included for consideration as part of this reserved matters submission. However, the outline planning permission was accompanied by an indicative development framework plan indicating

the general location of built development, open space and highway infrastructure within the site, and has subsequently been subject to approved discharge of condition submissions in respect of a site-wide masterplan, design code and a vehicular access strategy.

The phase the subject of this application is located to the southern side of Grange Road, adjacent to an existing parcel recently carried out by the same developer (Phase D1), and to the east of the former mineral railway (now used as a recreational route). The proposed scheme would be accessed by vehicles via Phase D1 (and using the existing access into that phase from Grange Road (Hemsley Way and Lovett Close). Land to the west and south of the current application phase is identified as public open space with pedestrian routes.

Relevant Planning History

13/00956/OUTM Development of up to 2,700 dwellings, up to 2 Ha for a new local centre including up to 2,000sqm for A1, A2, A3, and AS uses, up to 499sqm for public house restaurant, up to 400sqm for children's day nursery and up to 500sqm for new medical centre; new primary school, on-site National Forest planting and areas of public open spaces, new bus routes and bus infrastructure and associated highways and drainage infrastructure (Outline - all matters reserved) – Approved 26 September 2016

2. Publicity

20 Neighbours have been notified
 Site Notice displayed 1 February 2023
 Press Notice published Leicester Mercury 8 February 2023

3. Summary of Consultations and Representations Received

Hugglescote and Donington le Heath Parish Council comments as follows:

- Proposed construction access unsafe
- Construction access for HGVs not possible via Ashburton Road / Station Road due to weight restriction, and traffic approaching via Central Road will struggle due to tight junction
- Queries data used for speed surveys
- Large vehicles will be unable to manoeuvre into or out of the construction access without swinging across the road
- Reduced visibility to construction access due to vertical alignment of road
- Insufficient radii to existing estate junction
- Dedicated right turn lane should be provided to existing estate junction
- Queries availability of nearby bus routes following recent timetable changes
- Disagree with District Council's Environmental Protection officer's comments on the application
- Existing estate residents will be subject to noise, dirt, damage and disruption
- Working hours limitation should be imposed
- Affordable properties welcomed
- Accommodation above garages may be impractical

Environment Agency has no objections

Leicestershire County Council Lead Local Flood Authority has no objections

Leicestershire County Council Highway Authority has no objections subject to conditions

Leicestershire Police makes a number of recommendations in respect of reducing the opportunities for crime

National Forest Company recommends the provision of additional shrub planting in the area adjacent to the proposed SuDS pond and the attachment of conditions in respect of the implementation of the landscaping scheme

North West Leicestershire District Council Environmental Protection team has no objections

North West Leicestershire District Council Strategic Housing Team has no objections

North West Leicestershire District Council Waste Services Team – no comments received

University of Hospitals of Leicester NHS Trust requests a financial contribution of £23,115 in respect of healthcare services

Third Party Representations

Councillor Johnson queries the safety of the proposed construction access

26 further representations have been received, objecting on the following grounds:

Subject	Reason for Objection
Access Issues	Existing access to Grange Road unsuitable for additional use due to poor visibility, traffic speeds / conditions on Grange Road and proximity of private drives on Hemsley Road
	Existing access unsafe
	Proposals do not comply with Leicestershire Highway Design Guide
	Lack of footway to Grange Road
	Site should be accessed direct from Grange Road (as per the construction access)
	Construction access location unsafe
	Damage to existing estate road
	Congestion to existing estate road
	Traffic lights should be installed to temporary construction access
	Nearby rights of way should be improved and diverted to enable continued use in times of flooding

	Construction worker parking on existing estate road
	Traffic calming required to existing estate road
	Congestion at Hugglescote Crossroads
Amenity Issues	Noise, dust and fumes from passing vehicles
	Noise and disruption during construction works
Flood Risk	Proposed dwellings will be at risk of flooding and erosion
Other	Number of dwellings is lower than as set out in the approved masterplan and phasing details
	Loss of access to public open space
	Nonsensical design
	Purchasers of existing dwellings were not made aware of proposed further development
	Limited green space proposed

All responses from statutory consultees and third parties are available to view in full on the Council's website.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2021)

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

- Paragraphs 8, 11 and 12 (Achieving sustainable development)
- Paragraphs 47, 55, 56 and 57 (Decision-making)
- Paragraphs 108, 111 and 112 (Promoting sustainable transport)
- Paragraphs 124 and 125 (Making effective use of land)
- Paragraphs 126, 130, 131, 132 and 133 (Achieving well-designed places)
- Paragraph 169 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraphs 174 and 185 (Conserving and enhancing the natural environment)

Further advice is provided within the DLUHC's Planning Practice Guidance.

Adopted North West Leicestershire Local Plan (2021)

The application site lies within Limits to Development as defined in the adopted Local Plan and is also identified as a site with planning permission for housing under Policy H1 (site H1h). The following adopted Local Plan policies are considered relevant to the determination of this application:

Policy D1 - Design of new development

Policy D2 – Amenity
Policy H6 – House types and mix
Policy IF1 – Development and Infrastructure
Policy IF3 – Open Space, Sport and Recreation Facilities
Policy IF4 – Transport Infrastructure and new development
Policy IF7 – Parking provision and new development

Hugglescote and Donington le Heath Neighbourhood Plan (2021)

The site lies within Limits to Development as defined in the Neighbourhood Plan. The following adopted Neighbourhood Plan policies are considered relevant to the determination of this application:

Policy G1 – Limits to Development
Policy G2 – South East Coalville Development Scheme
Policy G3 – Design
Policy H1 – Housing Mix
Policy T1 – Transport Assessment for New Housing Development
Policy T2 – Residential and Public Car Parking

Other Policies

Good Design for North West Leicestershire SPD
Leicestershire Highway Design Guide (Leicestershire County Council)

5. Assessment

Principle of Development

The principle of development on this site for residential purposes was established by the grant of the original outline planning permission in September 2016 and, as a submission for reserved matters approval, the present application essentially seeks agreement of details in respect of the access, appearance, landscaping, layout and scale. Assessment of this application should therefore relate to the implications of the particular scheme proposed under this reserved matters application; issues relating to the principle of the development and associated matters are not relevant to this application.

Other Matters Relating to the Outline Planning Permission

In addition to a range of conditions requiring submission and approval of details in respect of various matters prior to trigger points such as commencement / occupation etc., the outline planning permission also requires certain matters to be included as part of the reserved matters application(s) (either for the site as a whole or the relevant phase). These conditions include requirements in respect of: provision of a masterplan (Condition 5); a design code (Condition 8); a statement setting out how the design code has been complied with (Condition 9); details of modelling and buffer works relating to the River Sence (Conditions 11 and 16); a vehicular access strategy (Condition 27); a site-specific Travel Plan for the relevant phase (Condition 31); and details of continuous routes suitable for buses (Conditions 32 and 33). However, whilst these conditions generally require these matters to be submitted with the first reserved matters application for the relevant phase, the consortium has already sought to address the majority of these on a site-wide basis under separate (approved) discharge of condition applications, and

the submission requirements under Conditions 5, 8, 11, 16, 27, 32 and 33 have, in effect, already been complied with. In terms of the remaining conditions referred to above, the following conclusions are reached:

Condition 9: In accordance with the condition, the application is accompanied by a statement setting out how, in the applicant's view, the scheme meets the requirements of the approved design code, and the requirements of the condition are met. Officers' assessment of the scheme's performance against the code is set out in more detail under Urban Form, Design and Site Layout below.

Condition 31: The application is accompanied by a Travel Plan; further assessment is set out under Highway Safety, Transportation and Access Issues below.

Also relevant in this instance is the issue of compliance with the masterplan details previously approved under Condition 5 (and as referred to above). The masterplan details approved under this condition incorporate a masterplan drawing and accompanying masterplan statement. The masterplan statement defines the wider site's phasing, and identifies the number of dwellings to be provided within each phase. In the case of the phase the subject of the current application (Phase E1), the masterplan statement indicates that 82 dwellings would be provided (whereas 80 are proposed under the reserved matters application). Further consideration to this point is set out under Urban Form, Design and Site Layout below.

Urban Form, Design and Site Layout

The proposed site layout is shown below.



As set out above, under the provisions of the approved site-wide masterplan and phasing, 82 dwellings are proposed to this parcel. Whilst it is acknowledged that this would not fully comply with the provisions of the details previously approved under Condition 5 (as referred to above), it is accepted that the extent of the shortfall is not extensive and that, overall, the design quality would not in this instance be adversely affected. It is also noted that the individual parcel figures set out in the approved phasing details total 2,700 dwellings which, itself, is the *maximum* figure allowed for under the outline planning permission (and, as such, in the event that the overall development was not to provide for the full 2,700 maximum figure, some minor reduction in numbers of dwellings within individual phases would inevitably occur).

The proposed development would provide for a net density of approximately 28 dwellings per hectare. Paragraph 124 of the NPPF requires development to make efficient use of land; the density of the proposed development would, when having regard to the location of the development and the implications of meeting the relevant local design policies, be considered reasonable in this location.

As per previous reserved matters submissions in respect of the wider South East Coalville site, the scheme is intended to be a landscape-led development in accordance with the principles set out in the agreed design code for the site as a whole and the landscaping proposed would accord with the street typologies approved under the code.

In addition to the requirements of the design code, it is noted that adopted local policies (including Local Plan Policy D1, Neighbourhood Plan Policy G3, and the Good Design for North West Leicestershire SPD) set out a number of design requirements (including, in the cases of the Neighbourhood Plan and the Good Design for North West Leicestershire SPD, some fairly detailed criteria), and which also need to be taken into account the determination of this application (but also when taking into account the design approach for the development as a whole already established through the approval of the site-wide design code, and when considering any varying objectives of these documents in the round).

During the course of the application, the scheme has been the subject of discussions between officers and the applicant, intended to address a number of concerns raised by officers (including the District Council's Urban Designer) in respect of the originally submitted scheme, including the scheme's relationship to open space to the west, elevational treatment / window proportions, house type disposition, block structure, car parking, legibility / the provision of a strong street type hierarchy and pedestrian connections.

Further to the most recently submitted amended layout, the District Council's Urban Designer has reiterated earlier officer comments relating to the potential to provide a link between the proposed Locally Equipped Area for Play (LEAP) and the former mineral line to the west. He also queries whether some of the house types used may be plotted in a more consistent manner within the scheme so as to ensure greater alignment of roof pitches and form, and whether an alternative corner unit can be considered so as to turn the affected corners more successfully (i.e. by using "true" corner turner units that address both streets in full). Insofar as these issues are concerned, the agents confirm that they would be agreeable to revisiting these issues with officers following a positive Planning Committee resolution. It is considered that this would be a reasonable approach, having regard to the relatively detailed nature of these design issues. Subject to the appropriate resolution of these matters prior to the issuing of any decision (and by way of attaching conditions, if required), it is considered that the scheme would achieve an acceptable level of design quality.

In terms of housing mix issues, Local Plan Policy H6 requires a mix of housing types, size and tenure to meet the identified needs of the community; Neighbourhood Plan Policy H1 requires a mixture of housing types specifically to meet the latest assessment of identified local needs in Hugglescote and Donington le Heath. Whilst tenure is in effect addressed by the existing Section 106 obligations securing affordable housing (with a minimum 7.5% required) as part of the development, Local Plan Policy H6 refers to the need to have regard to the most up-to-date Housing and Economic Development Needs Assessment (HEDNA), and sets out the range of dwelling size (in terms of numbers of bedrooms) identified as appropriate in the HEDNA as follows:

Tenure	No. of Bedrooms (% of each tenure type)			
	1	2	3	4+
Market	0-10	30-40	45-55	10-20
Affordable	30-35	35-40	25-30	5-10

Following amendment, the submitted scheme proposes the following (%):

Tenure	No. of Bedrooms			
	1	2	3	4+
Market	-	6.8	25.7	67.6
Affordable	16.7	50.0	33.3	-

Insofar as the market housing is concerned, it is noted that the scheme would be more weighted towards larger units than as suggested in the HEDNA although it is acknowledged that Policy H6 indicates that the HEDNA mix is one of a number of criteria to be considered when applying the policy, and that Inspectors’ decisions elsewhere in respect of housing mix have indicated that reserved matters applications cannot normally be used to secure a specific mix of house types (i.e. as housing mix is not, in itself, a reserved matter). The outline planning permission for this site pre-dates the adoption of the Local Plan / Policy H6 and there is therefore no mechanism within the outline permission to control housing mix.

Local Plan Policy H6 also requires a proportion of dwellings suitable for occupation by the elderly (including bungalows) for developments of 50 or more dwellings; two single storey dwellings are included within the proposed development. The policy also requires a proportion of dwellings suitable for occupation or easily adapted for people with disabilities; the applicant advises that their design team has undertaken a feasibility exercise to determine whether their house types can be made adaptable in accordance with Part M4(2) of the Building Regulations (which is, in effect, an optional standard under the Regulations beyond the minimum Part M4(1) “visitable dwellings” requirements). In particular, they advise that the standards contain numerous internal and external requirements and, in order to achieve these requirements, would need to make considerable amendments to each house type tested (and which, they advise, would result in impacts on the overall layout). They advise that, whilst it may be possible to adapt some of their house types in the longer-term, this may not be particularly straightforward, and would not wish to make these changes having regard to impacts on the layout as a whole. In this regard, therefore, the proportion proposed would be none, and this conflict with this element of Policy H6 would need to be taken into account in the overall planning balance. The officer view is that, given the scheme’s acceptability overall, this issue in itself would not be so unacceptable as to warrant a refusal of the application.

In terms of affordable housing generally, as set out above, the Section 106 agreement requires the provision of a minimum of 7.5% of the proposed dwellings within each phase to be affordable. However, the need to comply with the terms of the Section 106 agreement is not directly relevant to the determination of this reserved matters application (and the precise nature of the proposed affordable contribution within the phase the subject of this application would need to be agreed separately under the provisions of the Section 106 agreement prior to commencement on the phase). Nevertheless, in terms of the affordable provision indicated, it is

proposed that 6 of the proposed units (i.e. 7.5%) would be provided, thus ensuring that the development would meet the minimum requirements for the phase.

Insofar as the mix of affordable units is concerned in terms of dwelling size and tenure type, this would also need to be resolved under the provisions of the Section 106 agreement, but the Strategic Housing Team nevertheless confirms that it is content with the location, unit size (in terms of bedroom numbers) and tenure mix of the affordable properties indicated at this time. Whilst it is acknowledged (for the reasons set out above) that the details of the affordable housing contribution would be a matter for approval under the Section 106 agreement rather than the current reserved matters application, it is nevertheless noted that the proposed affordable units would be grouped together in one area (in the northern part of the site); by contrast, Local Plan Policy H4 and Neighbourhood Plan H2 seek to ensure that affordable units are “integrated” within the design and layout of a development, and the NPPF requires development to contribute towards creating mixed and balanced communities. In this case, however, it is considered that, whilst the affordable units within this phase would be in a single group, when considered in the context of the wider development of which it forms part (where the affordable units would be dispersed amongst all residential phases), and given the relatively small number of dwellings in the group (6), the grouping of affordable units in this part of the phase would not be unacceptable.

Insofar as other sustainability credentials of the development are concerned, the applicant confirms that ground source heat pumps would be installed, and that Building Regulations requirements would be exceeded in terms of wall cavities and insulation.

It is noted that Policy G3 of the Neighbourhood Plan provides, amongst others, that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. The majority of the proposed dwellings would benefit from on-plot car parking, thus ensuring that safe, accessible and convenient charging would be possible, in accordance with the policy. The applicant also confirms that electric vehicle charging point wiring would be provided, allowing occupiers to fit a vehicle charging point post completion if required. For those plots where parking spaces would not be directly adjacent to their associated dwellings, EV charging points are proposed to be installed.

Under the provisions of the Section 106 obligation entered into at the outline stage, a significant contribution to green infrastructure (including public open space, children’s play and National Forest planting) is required to be implemented (within the site as a whole). Insofar as this part of the wider site is concerned, the submitted layout broadly corresponds with the various areas of proposed green infrastructure on the site-wide masterplan, and would be considered to provide a suitable contribution to the network of open space proposed as part of the development’s overall landscape-led approach. The phase is identified on the approved masterplan as being the location of one of the 10 proposed LEAPs. It is noted that the proposed LEAP would be sited slightly further to the west than as indicated on the masterplan, but this departure is not considered significant, nor to result in any material adverse effects. Whilst, under the provisions of the Section 106 agreement, the developers are required to agree details of the open space (including specification of LEAPs) within each phase prior to commencement within the phase in question, it is nevertheless noted that, in terms of the indicated size and location of the proposed open space, the relevant minimum area and separation distances from dwellings for LEAPs would be met, as would the expected range of equipment / activities based on the details indicated on the plans submitted at this stage. The area of open space would also be overlooked by a number of dwellings in this part of the site, thus providing a suitable degree of supervision.

Notwithstanding the above conclusions, however, it is noted that, under the provisions of the Section 106 agreement (and associated side agreements), the developer for each phase of this part of the wider development is required to agree the details of those areas of public open space etc. under that agreement prior to occupation of the relevant phase. As such, the approval of the details of these areas is essentially a matter relating to discharge of planning obligations rather than the current reserved matters application. The approved Masterplan Statement indicates that implementation of the open space works will take place prior to occupation of 75% of the dwellings within this phase. In effect, this includes the areas of landscaping and SuDS features to the edges of the site as shown on the site layout, together with other non-developed land within this phase (including land to the south as far as the watercourse, and to the west as far as the former mineral railway).

Highway Safety, Transportation and Access Issues

As set out above, whilst the site is subject to an agreed vehicular access strategy, the details of the proposed means of access is a reserved matter for determination as part of this application. As also referred to, the submitted scheme shows the proposed dwellings served via Phase D1. A separate temporary construction access is proposed direct from Grange Road (the centre of which would be located approximately 20m to the east of the former railway bridge).

The existing access serving Phase D1 is shown below:



The location of the proposed construction access is shown below:



The approved site-wide masterplan and vehicular access strategy identify a priority junction access into this phase from Grange Road (approximately 80m to the east of the former railway bridge, as shown on the extract below).



As set out above, the proposed scheme would be served via the existing vehicular access to Phase D1 from Grange Road, and would not therefore reflect this element of the approved masterplan or vehicular access strategy. Whilst this departure from the masterplan and vehicular access strategy is noted, the key issue is, it is considered, whether or not this would lead to any unacceptable impacts (including in terms of, not only highway safety, but also residential amenity (and as considered in more detail under the relevant section below)).

Proposed (Permanent) Site Access

As set out above, the site is proposed to be accessed via the existing priority junction to Grange Road serving Phase D1. In response to County Highway Authority concerns regarding the increased use of the junction, the applicant now proposes to amend the access by increasing its radii to 10m. Whereas the County Highway Authority advises that it would normally require the provision of a Stage 1 Road Safety Audit (RSA) in association with such an amendment, given the existing junction geometry and the changes proposed, the County Council confirms that it is not essential for the RSA to be submitted prior to determination of the application (albeit advises the applicant that a Stage 1 RSA will be required (i.e. as part of separate consent for works within the highway)).

Proposed Pedestrian Crossing

As part of the proposals, the applicant has proposed the provision of a new puffin type pedestrian crossing to Grange Road. At present, there is an uncontrolled crossing point (pedestrian dropped kerbs with tactile paving) to the western side of the junction. Following the submission of a PV2 assessment (an assessment used to determine the relationship (and associated extent of conflict) between numbers of pedestrian and vehicular movements at a crossing point), the County Highway Authority takes the view that the existing dropped kerb crossing would remain the most appropriate crossing type in this instance, given the ratios between numbers of pedestrian and vehicular users. In particular, the County Highway Authority advises that providing a formal crossing without adequate justification can give rise to highway safety concerns in that, where there is insufficient demand for a formal crossing to be provided, drivers do not anticipate that they will be required to stop to allow pedestrians to cross. On this basis (and given the results of the PV2 assessment), the County Highway Authority does not support the provision of a formal pedestrian crossing in this location.

In terms of the suitability of the existing pedestrian dropped kerb, the County Highway Authority confirms that appropriate forward visibility would be available.

Construction Access

It is noted that, under the provisions of the existing Section 106 agreement, details of construction traffic routing are required to be agreed on a phase by phase basis with Leicestershire County Council prior to commencement on the relevant phase. Insofar as the access itself is concerned, the County Highway Authority had initially raised concerns regarding the proposed construction access visibility to the east of the access which, it advises, would potentially be obstructed by the existing vertical crest curve on the westbound approach. In support of the proposals, the applicant's transportation consultants have drawn attention to a number of factors which, in their view, would indicate that the shortfall in the vertical visibility would be limited, and would not create a road safety problem in this instance.

In response (and when taking into account the arguments put forward on behalf of the applicant), the County Highway Authority takes the view that the visibility at the temporary site access would be acceptable subject to the imposition of a Temporary Traffic Regulation Order (TTRO) to temporarily reduce the speed limit on Grange Road to 30mph. The County Highway Authority advises that all cost associated with the implementation of the TTRO would be at the applicant's expense and should be progressed as part of a future Section 184 technical approval process.

The County Highway Authority had initially also raised concerns in respect of the submitted swept path analysis relating to this access; in response, amended details have been provided including a corner taper, and which, the County Council advises, has improved the swept path analysis shown. Whilst the County Highway Authority takes the view that the manoeuvre shown would still not be "ideal", on the basis of the applicant's submitted Construction Traffic Management Plan, a banksman would be used to assist such movements. It is noted that the outline planning permission already includes conditions in respect of the management of construction vehicles but, having regard to the specific additional elements identified by the County Highway Authority, it would be considered appropriate to attach a further condition at this reserved matters stage so as to ensure that the additional measures identified by the County Council were secured.

On the basis of the above, therefore, the County Highway Authority considers that the use of the proposed temporary construction access would be acceptable in highway safety terms.

Internal Layout

The County Highway Authority confirms that the submitted scheme would be acceptable for the purposes of adoption in terms of its internal route network. It is also noted that, in order to meet the requirements of the approved design code, additional transition strips will be required (in effect, a tool to provide cues to drivers that they are entering a lower order street typology) to be implemented; it is recommended that this be addressed by way of condition. It is noted that off-street parking provision in accordance with the relevant standards in the Good Design for North West Leicestershire SPD and Leicestershire Highway Design Guide would be provided.

Pedestrian Routes / Public Rights of Way

The site is crossed by public rights of way (N50 and N52) (albeit the existing route only relates to the areas of public open space and SuDS features to the southern and south western parts of the site).

Insofar as the impacts on the existing rights of way are concerned, the County Highway Authority draws attention to the need for an application to be made for the diversion of the affected footpaths. In terms of the acceptability of the proposed works to the rights of way, the County Highway Authority notes that the proposed diversions would be suitable in terms of width, surfacing and proposed verge provision, and in accordance with the proposed wayfinding strategy relating to the wider site.

In terms of the amenity impacts on right of way, it is considered that the development of the site in itself would, inevitably, have some implications on the rural character of the affected routes (which, at present, pass through undeveloped grassland at this point). However, it is accepted that some impacts will often be unavoidable when developing a greenfield site, and it is also acknowledged that the proposals would continue to provide what would, it is considered, be a pleasant non-vehicular route for walkers etc., and passing by the proposed SuDS pond.

In addition to the items already addressed above relating to the implementation of adjacent open space works, the approved Masterplan Statement also confirms that the works within the proposed Dismantled Railway Corridor (and including the associated recreational route) would be delivered commensurate with the various adjacent residential phases. As per previous approvals relating to phases adjacent to the former railway on the northern side of Grange Road, it is considered appropriate to attach conditions in order to ensure that the part of the route between Grange Road and the River Sence is delivered / enhanced as a pedestrian and cycle route in conjunction with the development of Phase E1.

Travel Plan

As set out above, (and as per the requirements of Condition 31 of the outline planning permission) the application is accompanied by a Travel Plan relating to this phase of the wider scheme, and which sets out a range of measures designed to reduce reliance on single occupancy vehicle trips (and in accordance generally with the Framework Travel Plan for the site as a whole forming part of the outline application submissions). This site-specific Travel Plan has been assessed by the County Highway Authority and, following amendments made to the document to address issues initially raised by the County Highway Authority, no objections are raised.

Overall in respect of highway safety, transportation and access issues, the scheme is considered acceptable, and would meet the relevant policy requirements (including Local Plan Policies IF4 and IF7 and Neighbourhood Plan Policies T1 and T2).

Residential Amenity

Having regard to the separation distances between proposed and existing dwellings (in excess of 20m at their closest points), there are no existing neighbours considered to be materially affected by the proposed dwellings themselves; insofar as future residents of the proposed development are concerned, the proposed layout is considered to include appropriate relationships between the new dwellings, providing for an acceptable level of amenity, and for the most part complying with the relevant Local Plan and SPD policies. Whilst some garden areas would not meet the minimum requirement of the SPD (in terms of total area), it is accepted that, in this instance, the harm that would result from this limited shortfall would not be unacceptable, nor would result in any adverse amenity impacts.

It is noted that objections have been received from occupiers of the recently undertaken development to Phase D1 with respect to amenity impacts arising from vehicles accessing Phase E1 via the earlier phase (including those associated with noise, dust and fumes). It is also noted that, given the intention of the applicant to utilise a separate construction access direct from Grange Road, these concerns are principally likely to relate to the impacts of vehicles belonging to occupiers of or visitors to the additional dwellings following their completion.

Whilst it is acknowledged that there would be some degree of disturbance from the comings and goings of vehicles along the wider development's estate roads, the existing dwellings adjacent to the route that would serve the additional properties are not sited unusually close to the road, and such an arrangement would not be an uncommon situation in terms of the numbers of dwellings involved whereby properties closer to the "entrance" to an estate are inevitably passed by vehicles accessing dwellings further beyond. It is also noted that no objections are raised by the District Council's Environmental Protection team. On balance, it is not considered that the proposals would be unacceptable in this regard, nor in respect of any other residential amenity issues.

Whilst the Parish Council has suggested the imposition of a working hours restriction, it is noted that the outline planning permission in effect already secures this. Under Condition 7 of the outline planning permission, no works can commence within a phase of development until such time as a scheme detailing all mitigation measures identified as part of the original Environmental Statement (and which include compliance with a Construction Environmental Management Plan) has been submitted and approved.

Subject to the above, therefore, the proposals are considered to meet the requirements of Local Plan Policy D2.

Other Matters

Whilst objections have been raised in respect of the proposed dwellings' susceptibility to flooding, it is noted that, in accordance with the original flood risk assessment undertaken at the outline stage, the proposed dwellings would be located within Flood Zone 1 (i.e. land having a less than 0.1% annual probability of river flooding), and would also not be within any areas identified as being at medium or high risk of surface water flooding. Flood risk and drainage

issues associated with the site have already been dealt with at the outline application stage, and the site is subject to conditions attached to the outline planning permission in respect of these matters. Nevertheless, insofar as the proposed SuDS are concerned (and whilst the precise details would be a matter for discharge of conditions on the outline permission), the general form (including gradient and, as a result, likely requirement for fencing etc.) would, in principle, be capable of meeting the design requirements for such features as set out in the District Council's Good Design for North West Leicestershire SPD. No objections are raised by the Environment Agency or the Lead Local Flood Authority.

It is noted that a contribution towards healthcare has been made by the University of Hospitals of Leicester NHS Trust. Notwithstanding concerns over similar requests made elsewhere in Leicestershire (in terms of CIL compliance, having regard to the use of such requests to address NHS funding mechanism issues, rather than directly mitigating the impacts of the development), it would nevertheless not be considered appropriate to seek additional Section 106 contributions at this reserved matters stage. Under the provisions of the Section 106 obligation entered into at the outline stage, a total of £276,931.20 in contributions towards primary care is required to be made in association with the development as a whole (with pro rata payments required to be made on a phase by phase basis (50% prior to commencement of the phase, and 50% prior to occupation of 50% of the dwellings)).

Conclusions

As set out above, the principle of the development has already been established by way of the outline planning permission, and assessment is therefore limited to those issues falling within the reserved matters.

The reserved matters scheme the subject of this application is considered to be acceptable, and previously raised design and highway safety concerns are considered to have been addressed to an acceptable degree. It is therefore recommended that reserved matters approval be granted.

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Variation of conditions 2 and 11 and removal of condition 12 of planning permission 20/01887/FUL to allow amendments to the approved drawings and revised bird nesting provision within the development

Report Item No
A2

6 West End Long Whatton Loughborough Leicestershire LE12 5DW

Application Reference
22/00427/VCU

Grid Reference (E) 447512
Grid Reference (N) 323682

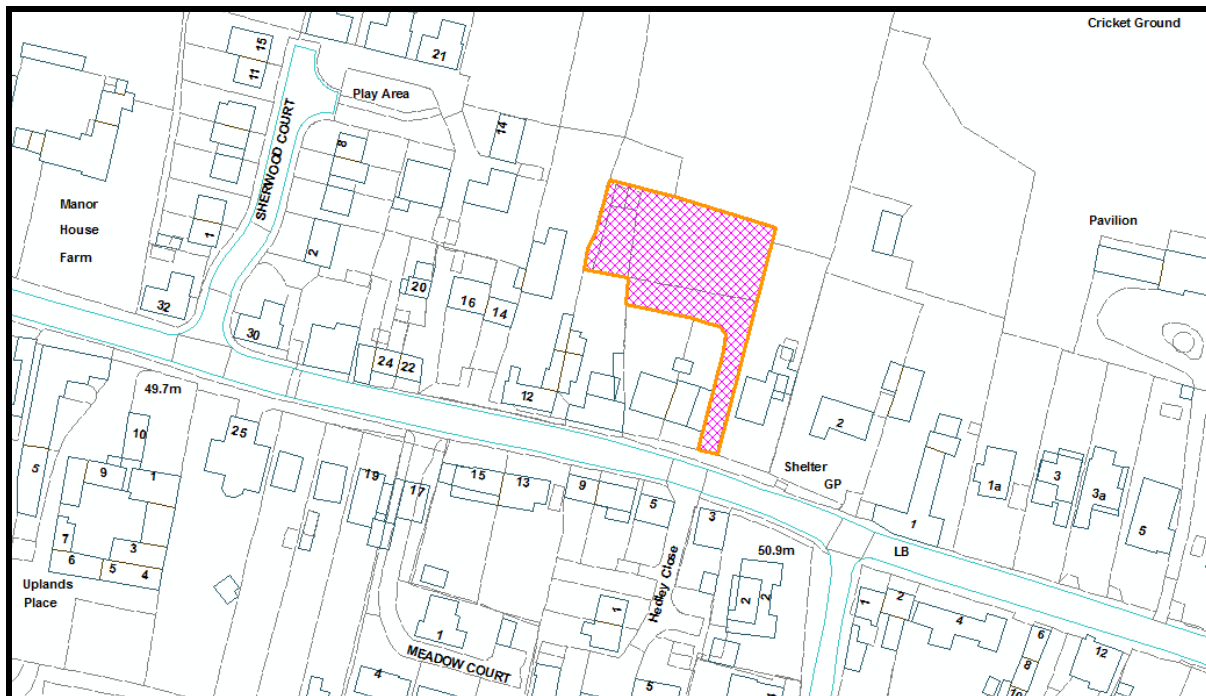
Date Registered:
24 May 2022
Consultation Expiry:
1 June 2023
Determination Date:
19 July 2022
Extension of Time:
TBC

Applicant:
Mr J Hambleton

Case Officer:
Hannah Exley

Recommendation: Permit, subject to conditions

Site Location - Plan for indicative purposes only



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Reason the case is called to the Planning Committee:

The application is brought to the Planning Committee at the request of the Strategic Director for Place due to local concerns in relation to this scheme which are outlined in the representations section of the report.

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

- 1 Approved plans
- 2 Development in accordance with agreed Construction Method Statement
- 3 Development in accordance with agreed Written Scheme of Investigation (WSI)
- 4 Development in accordance with agreed Surface Water Drainage Details
- 5 Maintenance of agreed surface water drainage scheme
- 6 1.0 metre by 1.0 metre pedestrian visibility splays
- 7 Vehicular visibility splays of 2.4 metres by 43 metres
- 8 Access arrangements as per the approved drawings
- 9 Parking and turning facilities as per the approved drawings
- 10 Bird box provision as per the approved drawings and retention in perpetuity
- 11 Native hedgerow planting and tree planting in accordance with agreed details
- 12 Tree and Hedgerow Protection during construction
- 13 Development in accordance with the Construction Methods and Precautionary Measures set out in the Protected Species Survey Report
- 14 Soft Landscaping in accordance with agreed scheme
- 15 Hard Landscaping/Boundary Treatments in accordance with agreed scheme
- 16 Materials in accordance with approved details
- 17 Details of roof lights

MAIN REPORT

1. Proposals and Background

This is an application to vary conditions 2 (approved plans) and 11 (nesting birds) and remove condition 12 (nesting birds photographic evidence) of planning permission 20/01887/FUL for the 'Erection of one detached dwelling' which was approved on 23.12.21.

The site is on the northern side of West End and is accessed via a field gate and the proposed dwelling would be located to the north of No.s 6 and 8 West End. To the east and west of the site are existing residential properties fronting West End and to the north is an agricultural field which extends up to Long Whatton Brook. The site lies within the Long Whatton Conservation Area and is also within Flood Zone 1.

Site Location Plan and Aerial Image (north indicated by arrow):



The proposed variation seeks to amend the approved drawings for the development to allow for the following amendments:

- increase in the height of the ridge and eaves heights of the dwelling as set out in table below:

Main Ridge as approved	Main eaves as approved	Ridge to side element as approved	Eaves to side element as approved
8400mm	5080mm	5240mm	2550mm

Main Ridge as proposed	Main eaves as proposed	Ridge to side element as proposed	Eaves to side element as proposed
8460mm	5410mm	5760mm	2620mm

Height Difference	Height Difference	Height Difference	Height Difference
+60mm	+330mm	+520mm	+70mm



Please note the above images are to illustrate the differences in general terms and should not be used to extract or compare dimensions.

- the width of the two-storey element has increased by 0.27m and the width of the single-storey element has reduced by the same amount (such that the overall width of the dwelling at ground floor level remains the same);
- an additional floor of accommodation within the roof space to provide an additional bedroom with ensuite and walk-in wardrobe (taking the dwelling from a four bedroomed dwelling (as previously approved) to a five bedroom dwelling);
- a new roof light to the rear roof slope serving a bedroom and a new triple light roof light to front roof slope to serve a stairwell;
- increase in the depth of the single storey element with an associated increase in height (as detailed above) to allow for an open plan living/dining space at ground floor level and an ensuite and wardrobe to be provided in the roof space and including the provision of an additional first floor window in the side gable to serve the en-suite;
- enlarged ground floor window to front elevation of the single storey element;
- reduction in the number of glazed panels to ground floor door openings in the rear elevation but with overall glazed openings remaining the same size;
- slightly shallower roof pitch from 101 degrees to 104 degrees.
- the application also includes revised details of bird nesting provision within the site as required by conditions 11 and 12 of the original permission.

The application form details that no work has commenced on site but at the time of the officer site visit, work had commenced, and the dwelling and garage are now substantially complete externally. Members are advised that the application was being held to enable the discharge of conditions to the original permission (22/01593/DIS) so as to avoid the need to impose the same conditions on any new permission going forward. During this period, the development on site deviated from both the originally approved scheme and the revised scheme as originally proposed. This necessitated the need for further amended plans to be submitted to ensure that the development sought reflected that which had been built on site.

The conditions of planning permission 20/01887/FUL that are proposed to be varied by this application are repeated below:

Condition 2 (Approved Plans):

The development, hereby permitted, shall be carried out strictly in accordance with the following plans and details unless otherwise agreed in writing with the Local Planning Authority:

- *Drawing WE SP Rev E Site Plan and section received by the Local Planning Authority on 10th November 2021;*
- *Drawing WE P Rev E Proposed Plans received by the Local Planning Authority on 10th November 2021;and*
- *Un-numbered Site Plan drawing received by the Local Planning Authority on 10th November 2021;*
- *Flood Risk assessment and Drainage Strategy prepared by RAB Consultants received by the Local Planning authority on 26th October 2021;and*
- *Protected Species Survey prepared by Griffin ecology Ltd received by the Local Planning authority on 29th March 2021.*

Unless otherwise required by another condition of this permission.

Reason: In the interests of certainty and to ensure the development is carried out in accordance with the approved plans and details.

Condition 11 (Bird nesting provision):

Notwithstanding the submitted plans, nor Condition 2 above, no building shall be erected on site above damp proof course level until such time as the details of the required bird boxes (1 x integrated sparrow terrace and 2 x house martin cups) to be integrated within the development and a timetable for their installation have first been submitted to and agreed in writing by the Local Planning Authority. The bird boxes shall be integrated within the development in accordance with the agreed details and timetable and shall thereafter be so retained and maintained for the lifetime of the dwelling hereby approved.

Reason: In the interests of protected species.

The condition of planning permission 20/01887/FUL that is proposed to be removed by this application is repeated below:

Condition 12 (Photographic evidence bird boxes):

Before first occupation of the development hereby approved, photographic evidence of the bird boxes in strict accordance with the details approved under condition 11 shall first be submitted to and approved in writing by the Local Planning Authority. The development, hereby permitted, shall not be occupied until such time as photographic evidence has been provided to and approved in writing by the Local Planning Authority.

Reason: To ensure the protection of wildlife and supporting habitat and in the interests of protected species.

Relevant Planning History:

- 23/00893/FUL - Siting of sewage treatment plant and compressor housing (This application had been submitted to the District Council but is currently invalid. It has been included within this report because it is relevant to matters raised in neighbour representations that have been received).
- 22/00782/DIS - The approval of details reserved by conditions 3 (Construction Management Statement), 4 (Archaeological Works), 5 (Surface Water Drainage Scheme) and 6 (Maintenance of SUDs) relating to planning permission reference 20/01887/FUL (Conditions Discharged 02.08.22).
- 22/01593/DIS - The approval of details reserved by conditions 11 (Bird Box Provision), 13 (Hedgerow Details), 16 (Landscaping Details), 17 (Hard Surfacing and Boundary Treatments) and 18 (Materials) relating to planning permission reference 20/01887/FUL (Split Decision – Conditions 13, 16, 17 and 18 discharged / Condition 11 Bird Box Provision not discharged 03.08.23).

2. Publicity

18 Neighbours have been notified.
 Press Notice published Derby Evening Telegraph 15 June 2022.

3. Summary of Consultations and Representations Received

The following summary of responses is provided.

Long Whatton and Diseworth Parish Council initially raised no objections, advising that "The changes proposed to the previously approved plans appear to be minimal and should not have a detrimental effect on any neighbouring properties. There is an objection on a point of principle, which the Parish Council has some experience of and sympathy with. The proposed change should be approved in advance as suggested and condition 2 of the previous permission amended but not removed."

In respect of the amended plans, the Parish Council advise as follows:
 "The Parish Council is disappointed to see that despite previous applications and consultations this latest application appears to be 'retrospective' in that the original permissions have been ignored. This development was approved as a two-storey building and should remain so".

NWLDC Conservation Officer identifies no harm to heritage assets from the proposed variation subject to revised details of roof lights being approved.

Leicestershire County Council - Ecology has no objections to the revised bird box details that have been installed within the garage subject to a condition to ensure the retention of the bird boxes.

Leicestershire County Council - Archaeology advises that there are no new impacts in this

variation of condition compared to the previous application. At the time of the consultation, the County Archaeologist also advised that they were awaiting the report for trail trenching and this has since been received and discharged under discharge of condition application 22/00782/DIS.

East Midlands Airport (as the airport safeguarding authority has no objections subject to conditions and notes to applicant.

Leicestershire County Council - LLFA - no response received.

Leicestershire County Council – Highways – raises no objection.

Severn Trent Water Ltd - no response received.

Third Party Representations

12 letters of neighbour representation have been received raising objection on the following grounds:

Grounds of objection	Description of Impact
Scale	Previous proposal was reduced in size to address concerns about the scale in relation to existing development and the inclusion of additional development goes against this
	The building dominates the area
	The proposal exceeds the height of the original proposal and the amended plans reflect what has been built on site
	An additional floor of living accommodation is proposed and roof lights have been reintroduced when they were previously requested to be removed from the front elevation
	The design goes against the original advice of officers about only two-storey development being appropriate and would be out of keeping with neighbouring development
	The footprint of the building is greater than the approved scheme
Appearance	The relationship between the first floor windows and the eaves is different to the approved plans to accommodate an attic room
	There is a chimney on the plans which is not present on the building on site
	Windows have been added to the roof without approval during the build and the amended plans seek to retain some of them
	North facing roof lights would be better as they would not give rise to solar gain and result in the window being kept open
	The dwelling should be a modest two-storey, four bedroomed property with rooflights kept to a minimum and kept away from public view
Garage	The garage location has changed in relation to the house
Residential Amenities	Overlooking, all roof lights should be removed
	Overlooking from roof lights in the southern roofslope
	Overbearing impacts
	Loss of quiet enjoyment of neighbouring properties
	Concern about windows being added where the chimney should be which would result in overlooking
Airport Safeguarding	Roof lights would be contrary to the requirements of East Midlands

	Airport
Drainage and flood risk	A septic tank has been brought onto the site which was not permitted by the previous approval
	The applicant discovered a land drain running from an unknown point on West End, under No.8 West End to a chamber in the southern curtilage of the development site. The applicant has connected this to a point of his drainage system and built a retaining wall enclosing the chamber.
	The LLFA/STW should be reconsulted on the land drain situation as a large infrastructure pipe has been fed into a 4 inch pipe on the site
Loss of vegetation	The plans omit the original proposal to 'retain original hedge'
Precedent	Approval would set a precedent for further additional development
Amendments	The amendments do not overcome the concerns of local residents
Breaches in the previous planning permission	Hedgerows have been removed contrary to Condition 14 (hedgerow protection) and trees have been removed, both of which are used by nesting birds
	Condition 4 (archaeology) has been breached as works have been completed before trial trench findings were agreed
	The applicant is changing whatever he likes without action being taken making a mockery of the planning system
	Additional fencing has been erected outside the development area

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2021)

Paragraphs 8, 11 and 12 (Achieving sustainable development);
 Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);
 Paragraphs 55 and 56 (Planning conditions and obligations);
 Paragraphs 60, 61, 62, 69, 74, 75 and 77 (Delivering a sufficient supply of homes);
 Paragraph 100 (Promoting healthy and safe communities);
 Paragraphs 104, 107, 110, 111 and 112 (Promoting sustainable transport);
 Paragraphs 119, 120, 124 and 125 (Making effective use of land);
 Paragraphs 124, 127, 128, 129 and 130 (Achieving well-designed places);
 Paragraph 159 and 167 (Meeting the challenge of climate change, flooding and coastal change);
 Paragraphs 174, 175, 176, 180 (Conserving and enhancing the natural environment);
 Paragraphs 197 and 199-202 (Conserving and enhancing the historic environment).

Adopted North West Leicestershire Local Plan (2021)

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

- Policy S1 Future housing and economic development needs
- Policy S2 Settlement hierarchy
- Policy D1 Design of new development;
- Policy D2 Amenity;
- Policy H4 Affordable Housing.
- Policy IF4 Transport infrastructure and new development;

Policy IF7 Parking Provision
Policy EN1 Nature Conservation;
Policy EN6 Land and air quality
Policy He1 Conservation and enhancement of NW Leicestershire's historic environment
Policy Cc2 Flood risk
Policy Cc3 Sustainable drainage systems

{b Long Whatton and Diseworth Neighbourhood Plan}

This is a designated Neighbourhood Plan Area but this cannot be afforded any weight in the decision making process as the Neighbourhood Plan is at an early stage of preparation and has not yet been published for consultation.

Other Policies/Guidance

National Planning Practice Guidance
Leicestershire Highways Design Guide
Good Design for North West Leicestershire SPD - April 2017.

5. Assessment

Principle of Development

The principle of this development has already been established by the previous planning permission (20/01887/FUL).

The main issue in the determination of the application is, therefore, whether the revised proposals to amend the design of the dwelling/ecology details would be acceptable in terms of residential amenities, highway safety, ecology, design and impacts on heritage assets, flood risk and drainage.

This report should be read in conjunction with that of the earlier application that establishes the principle of development.

Design and Heritage Assets

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 and the Council's Good Design SPD but also paragraphs 127 and 130 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 in a Conservation Area, "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".

Paragraph 197 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 199) 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 within the Long Whatton Conservation Area and the appraisal document identifies the importance of the agricultural landscape between the Long Whatton Brook and the northern edge of the built settlement as being important both historically and for the setting they provide for the village. The site access offers a glimpse from a public vantage point into this important rural landscape.

The character of the Long Whatton Conservation Area is derived from the informal grouping of farmhouses, outbuildings and the former agricultural related cottages along the principal linear thoroughfare. Vernacular buildings are typically modest and simple in form and are mainly two storeys in height with integral chimney stacks and are built on narrow plots either facing the street frontage or at right angles. Buildings to the rear are typically outbuildings or modest cottages.

During the course of the previously approved application, amendments were sought to reduce the overall scale of the development to ensure that the development would reflect the scale and character of existing development within the locality. Concern has been raised by residents that the current proposal represents a backward step towards the originally submitted scheme and that the applicant will secure that original proposal through incremental additions to the development. Whilst the proposal would increase the size of the proposal, this would be to a limited extent and would include single storey development with some additional accommodation to the rear and within the roofspace above. The width of the proposed two-storey accommodation would be 0.27m greater than the approved scheme but the single storey element would be reduced by the same amount. The proposed ridge and eaves heights would be increased as set out below:

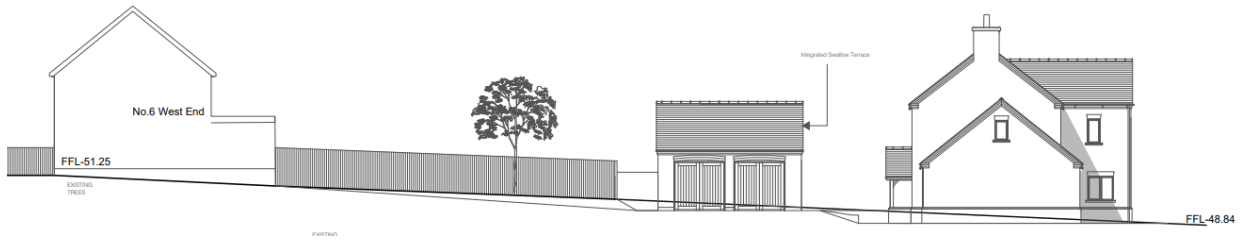
Main Ridge as proposed	Main eaves as proposed	Ridge to side element as proposed	Eaves to side element as proposed
Height Difference	Height Difference	Height Difference	Height Difference
+60mm	+330mm	+520mm	+70mm

It is noted that the overall main ridge height would be just 60mm greater than the approved ridge height. The eaves height would be greater by 330mm, resulting in a slightly shallower roof pitch to the building. The greatest difference in height would be to the ridge of the side element of the building with an increase of 520mm to the ridge and 70mm to the eaves. It is noted that the submitted scheme retains two chimneys on each gable as per the originally approved scheme. Whilst the development on the site currently only has one chimney, the applicant is aware of the need to ensure that the development, when complete, includes two chimneys as proposed.

Site Cross section:

No. 6 West End


Proposed dwelling

The scheme would still be significantly smaller in volume than the scheme which officers originally considered under application 20/01887/FUL and which officers sought to reduce in scale. The proposed dwelling and garage have been constructed on site and how the building integrates within the streetscape and the Long Whatton Conservation Area is visible on site. The dwelling is set at a lower land level to West End and part of the development is visible from public vantage points through gaps between buildings and through the access drive into the site. Whilst some roof lights are proposed, the number has been reduced during the course of the application to a single large roof light in the front elevation which is subdivided vertically into three lights and a single roof light in the rear elevation. This amendment has been secured following the advice of the Council’s Conservation Officer. The building on site contains more roof lights than currently proposed but the applicant is aware of the need to ensure that the development accords with the approved plans should permission be granted.

Proposed Plans and Elevations



When having regard to land levels and the visibility of the site from public vantage points, it is not considered that the amended proposal would result in a dwelling that would appear out of keeping with the scale or character of the approved dwelling or that of neighbouring development. In terms of impacts on heritage assets, the Conservation Officer has been consulted and identifies no harm to heritage assets as a result of the proposed amended plans, subject to details of roof lights being agreed as the specific product details provided are not deemed to be acceptable for a Conservation Area location.

View through access drive between No's 4 and 6 West End:



The dwelling had been built up to ridge height in this photograph and the chimney to the two-storey development and roof to the side element can just be seen behind the tree which is not in leaf.

Overall, subject to conditions, the revised details provided are considered acceptable and would ensure that the proposal would remain compliant with Policy He1 of the adopted Local Plan, and Paragraphs 197 and 199-202 of the NPPF.

Residential Amenities

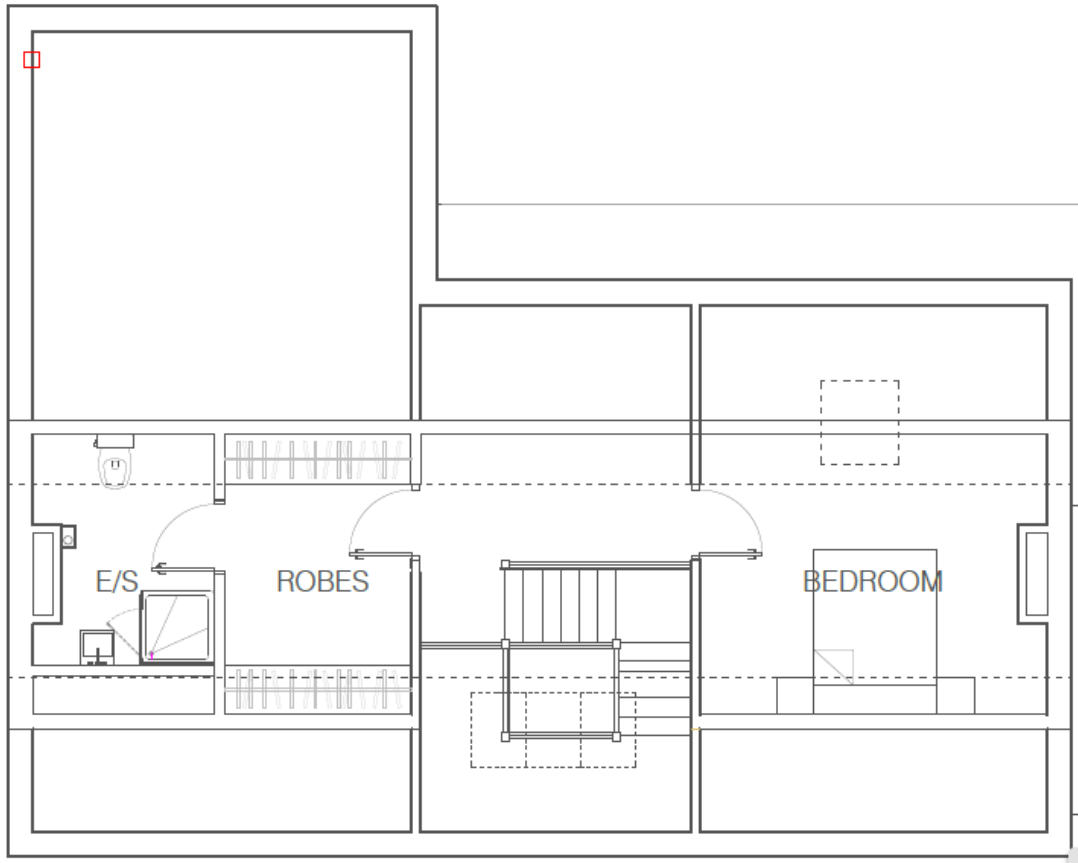
Concerns have been raised by local residents about overlooking from new windows within the roof space of the dwelling adversely affecting the enjoyment of their properties.

The proposed amendments would introduce three new windows, one at first floor level in the side (east) elevation serving an en-suite bathroom and two roof lights at second floor level serving a stairwell and bedroom. One is located to the front roof slope and the other to the rear roof slope.

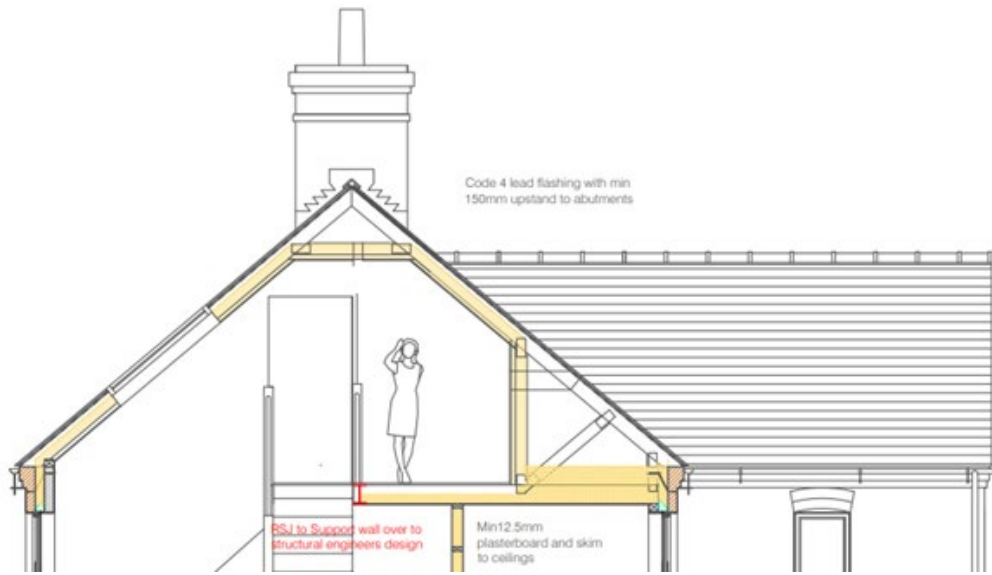
The new roof light to the rear elevation would serve a bedroom but would face northwards towards a field and therefore, would give rise to no overlooking. The new first floor window in the eastern side gable would serve a non-habitable room and would be located 10m off the common boundary with the nearest property to the east. When having regard to the distance involved and the non-habitable nature of the room served by the window, it is not considered that any significant overlooking would arise from the window. The large three-light roof light located in the front elevation would serve a stairwell (non-habitable room) and would be located

over 13m from the common boundary with the properties to the south of the site (No.s 6 and 8 West End). Whilst it is acknowledged that a resident of the property could stand on the landing at the top of the stairwell (at a distance of 1.5m from the closest point (top) of the roof light) and look out of the window, when having regard to the distance involved and the non-habitable nature of the room served by the roof light, it is not considered that any significant overlooking would arise from the window to warrant a refusal on this ground.

Proposed second floor layout showing the position of roof lights:



Cross section showing the relationship between the front roof light and the landing:



Photograph of the front elevation as built on site:



Photograph of the rear/west side elevation as built on site:



Photograph of the dwelling is relation to the rear boundary of properties fronting West End:



The proposed scheme would also give rise to increased dimensions in height of the development and in the width of the two-storey development, however, when having regard to the siting of the dwelling away from the neighbouring boundaries, it is not considered that the proposal would give rise to any significantly greater overbearing or overshadowing impacts than

the previously approved scheme. Concern has been raised about the location of the garage but this is shown as previously approved.

Concern has been raised about additional windows being added to the dwelling in the future. No conditions restricting new windows were imposed on the original permission and it is not considered that justification exists to add such a condition now. Windows to side elevations above ground floor level are controlled through permitted development rights and there is a distance of over 10m between the front of the property and the rear garden to the neighbouring properties to the south which should be sufficient to prevent significant overlooking.

Overall, it is not considered that the proposed dwelling would have any significantly detrimental impact upon the amenities of neighbouring residential properties (or future neighbouring residents) and the proposal is considered to be acceptable in relation to Policy D2 of the adopted Local Plan and the Good Design SPD.

Highway Safety

The proposed variation would increase the number of bedrooms within the property from four to five but the parking requirements for the dwellings would remain the same. No changes are proposed to parking and access arrangements and therefore, no objection is raised to the proposed variation of condition 2 by the County Highways Authority.

Photograph looking up the site access drive towards West End:



It is not considered that the proposed amendments would impact upon highway safety and therefore, would comply with the provisions of Policies IF4 and IF7 of the adopted Local Plan, the NPPF and the Leicestershire Highway Design Guide.

Ecology

Condition 11 of the original permission required the provision of one integrated sparrow terrace and two house martin cups. The proposed amendments to the design of the scheme has meant that the house martin cups cannot be integrated within the design of the building. The County Ecologist has been consulted on the revised scheme, which includes one sparrow terrace within the end gable of the garage building on the site. These have been installed and photographs have been provided to verify this (see below).



The County Ecologist is satisfied with the details of the proposed sparrow terrace and raises no objection to the proposed variation of condition 11 subject to a condition requiring the retention of the nesting provision. Condition 12 required the provision of photographic evidence to demonstrate that the nesting provision had been installed and therefore, this condition is no longer required and can be removed should permission be granted.

Overall, the proposal would remain compliant with Policy En1 of the adopted Local Plan, Paragraphs 174 and 180 of the NPPF and Circular 06/05.

Whilst concern has been raised about breaches to condition 14 (trees and breeding birds), the condition requires that the *"neighbouring mature trees as well as the elder and bramble scrub to the northern fence line should be retained and protected, where possible, as part of the proposed in line with BS5837. Should this not be possible and clearance and management works be required, these should be timed to avoid bird nesting season March to August (inclusive) or be preceded by a nesting bird check by a suitably qualified ecologist."* The condition does not require the retention of the trees and whilst it has been indicated that the trees have been removed within the breeding season, given the requirements of the condition, replacement trees could not be secured through the planning process. Whilst the alleged loss of bird nests cannot be recovered, nest provision is being secured within the development.

Approved landscaping scheme:



It is also noted that a landscaping scheme was approved under discharge of condition application 22/01593/DIS which provides for retained and new tree planting within the site and a new hedgerow alongside a post and rail fence along the northern boundary of the site. Concern has been raised about the development site spilling out into the field beyond in the absence of a boundary at the present time but the development is not yet complete and the applicant is aware of the need to ensure compliance with the approved landscaping scheme following a visit from the Council's Enforcement team.

View of the rear (northern) boundary of the site:



Flood risk and Drainage

The site lies within Flood Zone 1 (which has the lowest risk of flooding), is not within an area impacted by surface water flooding as defined on the Environment Agency's Surface Water Flood Maps, and there are no areas of surface water flooding on the site. Notwithstanding this, concern was raised by local residents during the course of the previous application and consultation with the Local Lead Flood Authority (LLFA) was undertaken and resulted in conditions being imposed in respect of surface water drainage. The LLFA and Severn Trent Water has been consulted on the application but no response has been received.

The proposal would give rise to additional built development but given the small scale of the increase, it is not considered that the proposals would give rise to any material change in surface water run-off at the site that could not be accommodated within the approved surface water drainage scheme.

Overall, it is not considered that the proposed would impact upon surface water drainage and would not increase the risk of flooding at the site or elsewhere and therefore, would comply with the provisions of paragraph 167 of the NPPF and Policies Cc2 and Cc3 of the adopted Local Plan.

Concern has been raised about the applicant connecting to an existing land drain. The applicant's agent has advised that:

On clearing the site an old collapsed silt trap was uncovered in the southwest corner of the site. The trap was overgrown with brambles etc and clearly was nonfunctional. Upon further investigation it was determined it went to a soakaway under the old ménage.

Having monitored the drain, no discharge was noted, even after heavy rain. With no information as to what the drain was for the builder decided to rebuild the silt chamber and install a new outfall pipe under the garage which was connected to the new storm system for the house. This was done so that on the off chance that any water does come down the pipe it will be drained away and not cause any issues.

The surface water drainage scheme for the site (to which the above drain has been connected) was agreed by the District Council under discharge of condition application 22/00782/DIS in consultation with the Local Lead Flood Authority and includes an attenuation basin within the field to the north of the site in the ownership of the applicant.

Concern has also been raised about a septic tank being brought onto the site as the original scheme proposed to connect to the mains foul sewer. The Council's Enforcement team has visited the site and the applicant has confirmed that a package treatment plant has been brought onto the site but has not been installed. The applicant has been advised that alterations to the foul drainage cannot be dealt with under the variation of condition application as there is no foul drainage condition to vary. The applicant has also been advised that they may be unable to secure a permit from the Environment Agency due to the close proximity of the site to the mains sewer. The applicant has submitted an application to the District Council for siting of the package treatment plant in connection with the dwelling but this is currently invalid. At the same time, the applicant has advised that they have made an application for a permit from the Environment Agency. The applicant has advised that no work on the package treatment plant will be undertaken on site unless the necessary permissions have been secured.

Other

East Midlands Airport (as the airport safeguarding authority has no objections subject to conditions and notes to applicant. Some of the suggested conditions relate to dust control, installation of exterior lighting, solar panels and reflective materials (other than glass) but the proposed scheme does not raise additional issues in respect of these matters and therefore, the imposition of the suggested conditions could not be justified when they were not requirements of the original permission.

An informative is proposed about upward lighting below the newly proposed roof lights which is specific to the new proposals and therefore, can be added as a note to applicant.

Concern has been raised about the development setting a precedent for further development but it is a fundamental principle of planning legislation that each application should be assessed on its own planning merits and, for the reasons set out above, the proposed scheme is considered acceptable.

Conditions

Planning permission ref: 20/01887/FUL, was subject to 18 conditions, of which 3 conditions (conditions 2, 11 and 12) are for consideration in this application and will need to be updated. Condition 1 is no longer required as the development has started on site. Two discharge of condition applications have been made 22/000874/DIS and 22/01593/DIS. Application 22/00782/DIS relates to conditions 3 (Construction Management Statement), 4 (Archaeological Works), 5 (Surface Water Drainage Scheme) and 6 (Maintenance of SUDs) and has been determined. Those conditions will need to be re-worded accordingly to reflect the details approved. Application 22/01593/DIS relates to conditions 13 (Hedgerow Details), 16 (Landscaping Details), 17 (Hard Surfacing and Boundary Treatments) and 18 (Materials) and has been determined. Those conditions will need to be re-worded accordingly to reflect the details approved. All other planning conditions in respect of the previous planning permission

would continue to apply to the site and would need to be attached to any new planning permission for the site.

Conclusion

In conclusion, the principle of this development has already been established as acceptable through the earlier grant of planning permission (20/01887/FUL). The main issue in the determination of the application is, therefore, whether the revised proposal would be acceptable in terms of impact upon residential amenities, highway safety, ecology, design and heritage assets, flood risk and drainage. Overall, it is considered that there would not be any significant material impacts upon residential amenities, highway safety, ecology, design and heritage assets, flood risk and drainage and there are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is considered to accord with relevant guidance and policy provided by the National Planning Policy Framework and the adopted North West Leicestershire Local Plan.

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Change of use of garden land (class C3) to beer garden (sui generis) and associated works (including new fencing and seating)

Report Item No
A3

Railway Tavern 5 Tamworth Road Ashby De La Zouch
Leicestershire LE65 2PW

Application Reference
22/01177/FUL

Grid Reference (E) 435534
Grid Reference (N) 316151

Date Registered:
11 March 2023

Consultation Expiry:
25 July 2023

Applicant:
Caroline Funnell

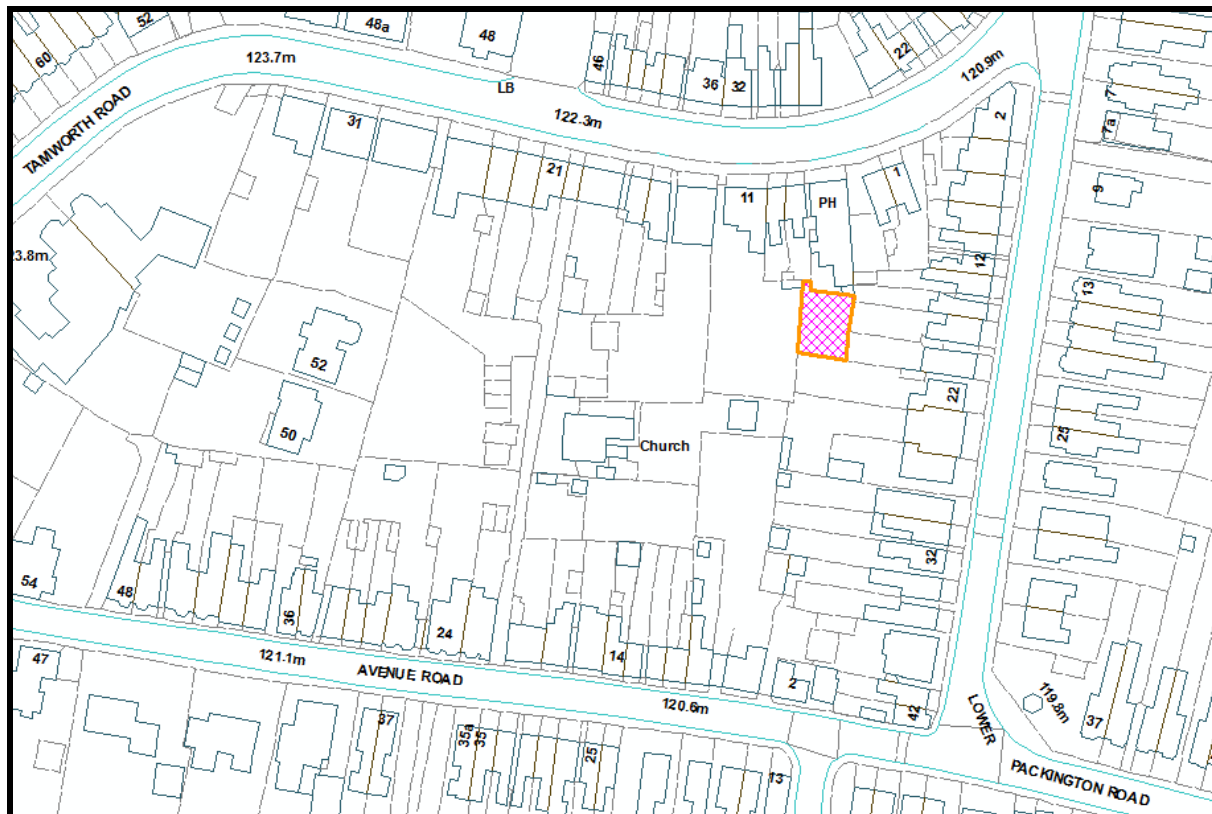
Determination Date:
3 June 2023

Case Officer:
Chris Unwin-Williams

Extension of Time:
17 August 2023

Recommendation: Permit, subject to conditions

Site Location - Plan for indicative purposes only



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Reason the case is called to the Planning Committee:

The application is brought before the Planning Committee due to a call-in request from Cllr Bigby. The following reasons were provided for the call-in request:

- Impact of the beer garden on adjacent neighbours in terms of noise nuisance and disturbance and this is contrary to policies D1 and D2 of the Local Plan.
- The land is to be changed to an employment land use which is contrary to policy EC2 (2)c of the Local Plan.

RECOMMENDATION - PERMIT subject to the following conditions: -

- 1 Time limit – 3 years
- 2 Plans List
- 3 Materials
- 4 Acoustic boundary treatment scheme as set out on plan numbers SSA.2023.128-002 REV C and SSA.2023.128-004 REV C received by the Local Planning Authority on 03.08.2023 (to specifications outlined in noise assessment report) to be provided prior to first use of beer garden.
- 5 Development shall be in accordance with noise management plan.
- 6 Full details of landscaping scheme for submission and approval prior to first use of beer garden.
- 7 Beer Garden Hours Restriction as follows:
 - 17:30-21:30 Monday – Thursday
 - 15:00-21:30 Fridays
 - 14:00-21:30 Saturdays
 - 12:00-21:30 Sundays and Bank Holidays
- 8 External Lighting scheme to be submitted for approval prior to first use of beer garden (Details shall include the position, height, luminance and type of lights and maximum lux levels).

MAIN REPORT

1. Proposals and Background

The application seeks planning permission for the proposed change of use of garden land (class C3) to a beer garden (sui generis) and associated works (including new fencing and seating) at Railway Tavern, 5 Tamworth Road, Ashby De La Zouch.

The land subject to the change of use proposals (outlined in red below) would be located behind the existing southern boundary of The Railway Tavern, Tamworth Road and would be sited adjacent to the rear boundaries of properties located on Lower Packington Road on the eastern and southern boundaries of the land, whilst would be sited adjacent to the rear gardens of neighbouring properties along Tamworth Road to the west.

Site Location Plan



Amended plans were received following updated comments received by Environmental Protection to lower the height of the acoustic fencing (to 1.8m from 2.4m) and ensuring this would be sited on all main boundaries of the beer garden (the western, eastern and southern boundaries). Given the minor alterations and that fencing at this height could be installed without the need for planning permission, an additional consultation period was not carried out.

Precise measurements of the proposal are available to view on the submitted plans.

The site is located within Limits to Development as defined by the adopted Local Plan.

Recent Planning History

- 02/01614/FUL - Erection of front porch and replacement bay window roof and windows (Application Permitted 13.01.2003)
- 05/00417/FUL - Erection of single storey rear extension and new pitched roof (Application Permitted 06.05.2005)

2. Publicity

16 Neighbours have been notified.
Site Notice displayed 6 April 2023.

3. Summary of Consultations and Representations Received

- **Ashby Town Council** – Objects to the application on grounds of overlooking, noise impacts and disturbance resulting from the proposals and highways issues. Additionally, objections are raised on health and safety grounds and impacts on local ecology. The proposal would also be contrary to Policy H3 in respect of Windfall sites and would not accord with Local Plan Policy D2 (amenity)
- **Ward Member** – Requests that the application be called-in to committee as this would not accord with Policies D1, D2 and EC2.
- **Environmental Protection** – No objection subject to conditions.
- **Conservation Officer** – Identifies less than substantial harm.
- **Tree Officer** – No objections.
- **LCC Minerals** – No comment.
- **LCC Ecology** – No objections but note that the proposals do not meet the requirement to provide Biodiversity Net Gain (BNG)
- **LCC Highways** – No objections.
- **Natural England** – No objections.

All responses from statutory consultees and third parties are available to view in full via the Council website. Only comments which raise material planning issues can be considered.

Neighbouring properties were consulted on an initial and revised consultation period (which included a noise assessment and responses to objections), and a site notice was posted and 9 no. objections were received.

Comments received through both the initial and revised consultation period are summarised below:

Grounds of objection	Description of impact
Residential Amenity Impacts	The proposals will negatively impact quiet enjoyment of neighbouring outdoor amenity space
	The change of use would result in

PLANNING APPLICATIONS- SECTION A

	overlooking impacts and a loss of privacy
	The proposals would result in unacceptable noise impacts from use of the garden, general background noise associated with the use as well as the playing of music.
	The proposals may result in an increase in anti-social behaviour due to the intensified use.
	Concerns that any limits imposed on hours of use could not be appropriately enforced
	Concerns that the proposed acoustic fencing would result in exacerbation of noise impacts to the west and north as this would only be located on the eastern and southern boundaries.
	The proposals would be contrary to Neighbourhood Plan Policy H3 (Windfall Sites) and would not accord with Local Plan Policy D2.
	The proposals could result in Health and Safety issues with an intensified use of a small area
	The proposals could result in further development or expansion of the business resulting in further impacts to surrounding residents
Ecology	The proposals would reduce habitats for local wildlife
	Concerns regarding the proposed removal of boundary hedgerows to facilitate the works
Highway safety	The proposals would result in parking issues on Tamworth Road and subsequent impacts on surrounding residents
Heritage Impacts	The proposals would result in impacts on nearby heritage assets (Grade II Listed Buildings)
Flooding	The proposals may exacerbate flooding issues in the area through an increase in impermeable surfacing
Other Matters	Concerns regarding the accuracy of the noise report and its conclusions commissioned by the applicant.
	Concerns the proposals would result in a lowering of property values
	Concerns some neighbours have been omitted from consultation process.
	The proposals may negatively impact upon the overall use of the nearby church as a community facility and use as a space for community events.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2021)

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

Paragraphs 8 and 10 (Achieving sustainable development);
 Paragraphs 11 and 12 (Presumption in favour of sustainable development);
 Paragraphs 38, 47, 55, 56 and 57 (Decision-making);
 Paragraphs 81 and 83 (Building a strong, competitive economy);
 Paragraphs 86, 87, 88, 90 and 91 (Ensuring the vitality of town centres);
 Paragraphs 92 and 93 (Promoting healthy and safe communities);
 Paragraphs 105, 107, 108, 109, 110, 111 and 112 (Promoting sustainable transport);
 Paragraphs 126, 128, 130, 131, 132 and 134 (Achieving well-designed places).
 Paragraphs 159 and 167 (Meeting the challenge of climate change, flooding and coastal change)
 Paragraphs 180, 185 and 187 (Conserving and enhancing the natural environment)
 Paragraphs 199, 200, 201 and 202 (Conserving and Enhancing the Historic Environment)

Adopted North West Leicestershire Local Plan (2021)

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:

Policy S2 - Settlement Hierarchy
 Policy D1 - Design of New Development
 Policy D2 – Amenity
 Policy IF2 – Community and Cultural Facilities
 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 – Sustainable Drainage Systems

Ashby De La Zouch Neighbourhood Plan (2018)

Policy S1: Presumption in Favour of Sustainable Development
 Policy S2: Limits to Development
 Policy S4: Design
 Policy E2: Small and Start-Up Businesses
 Policy T1: Traffic Management
 Policy NE4: Nature Conservation
 Policy NE5: Trees and Hedgerows

Other Policies and Guidance

Planning Practice Guidance

Leicestershire Highways Design Guide

Good Design for North West Leicestershire SPD - April 2017

The Habitats Regulations (The Conservation of Habitats and Species Regulations 2017)

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

River Mease Water Quality Management Plan - August 2011

Natural England - advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites - March 2021

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, includes the adopted North West Leicestershire Local Plan (2021).

The site is located within the Limits to Development as defined by the adopted Local Plan. The proposed development is located within the Key Service Centre of Ashby which is defined under Policy S2 as “Smaller than the Principal Town in terms of population and also the range of services and facilities they provide, they play an important role providing services and facilities to the surrounding area and are accessible by some sustainable transport. A significant amount of development will take place in these settlements but less than that in the Principal Town.”

The proposals seek permission for a proposed change of use of garden land (class C3) to a beer garden (sui generis) and associated works (including new fencing and seating) at Railway Tavern, 5 Tamworth Road, Ashby De La Zouch.

Whilst the proposal would not be located within the Town Centre, the proposal would result in the expansion of an existing business which corresponds to the aims and objectives of Local Plan Policy IF2 which outlines that:

“Community and cultural services and facilities should be retained and wherever possible improvements facilitated to the quality, accessibility and levels of provision by:

b) Allowing the expansion or enhancement of existing community and cultural facilities to assist continuing viability, particularly in areas where new development will increase the demand for facilities.”

Comments were received by Councillor Bigby relating to the proposals lack of compliance with Policy EC2 which provides guidance on new employment land allocation. It is noted that paragraph 8.12 of the Local Plan provides a definition of employment land which includes use Classes B1 (now Class E), B2 and B8 of the Use Classes Order 2015 only. Therefore, given that the proposals would be for an extension of a beer garden (Sui Generis) for an existing business, and would not fall under one of the applicable use classes, no further assessment of this policy is required. Further, the overall residential amenity impacts of the scheme are assessed in the following sections.

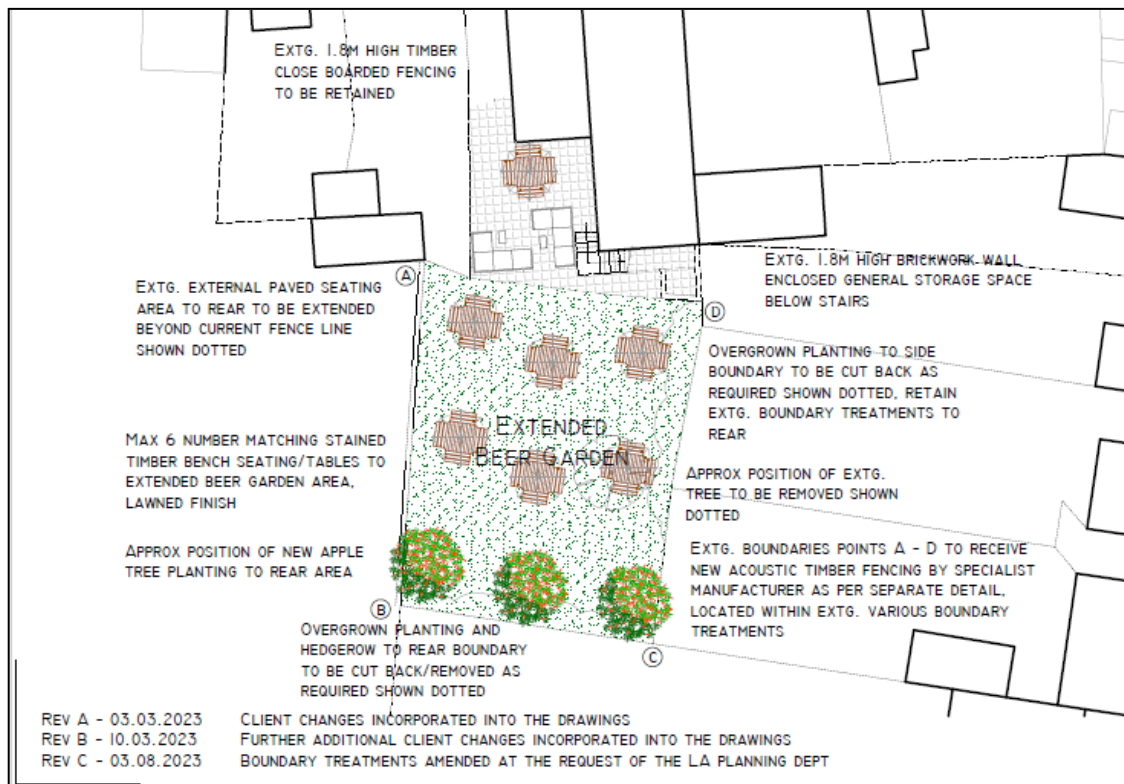
Given the above, it is considered the principle of development would be acceptable and the proposal would comply with Local Plan Policies S2 and IF2. The principle of development is therefore considered acceptable subject to acceptable design, heritage, amenity, highways, and other relevant considerations.

Design, Character and Heritage impacts

The application seeks planning permission for the change of use of garden land (class C3) to a beer garden (sui generis) and associated works (including new fencing and seating) at Railway Tavern, 5 Tamworth Road, Ashby De La Zouch. The application site is not located within a Conservation Area and the application property is not Listed. However, the proposed land subject to the change of use is sited nearby to the Grade II Listed Properties, Nos. 18 and 20 Lower Packington Road.

The proposals (as demonstrated on the below plan) would involve the removal of 1 no. tree and the cutting back of the hedgerow on the eastern boundary of the site as well as the siting of 6 no. picnic benches on the land. Additionally, there would be boundary alterations including the erection of new acoustic fencing (specified as 1.8m in height on the western, eastern and southern boundaries) and the planting of replacement trees.

Proposed Site Plan



Paragraph 197 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 199) 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.

Policy He1 of the Local Plan states that in order to ensure the conservation and enhancement of the historic environment, proposals for development should:

- a) conserve or enhance the significance of heritage assets within the district and their settings;
- b) retain buildings, settlement patterns, features and spaces, which form part of the significance of the heritage asset and its setting;
- c) contribute to the local distinctiveness, built form and scale of heritage assets through the use of appropriate design, materials and workmanship; and
- d) demonstrate a clear understanding of the significance of the heritage asset and of the wider context in which the heritage asset sits.

Given the minor nature of the alterations, which would include the removal of vegetation (which could be carried out on the site without the need for planning permission) and the introduction of seating and new fencing (which could be installed without the need for planning permission up to 2m in height) to surround the site, and given that the fencing would fall below limits allowed under relevant permitted development rights, it is not considered the proposals would result in harm to the setting of the nearby Listed Buildings.

Further, the Conservation Officer was verbally consulted throughout the course of the application who confirmed that, although the proposal would result in less than substantial harm to the setting of the nearby Listed Building, this harm would be to a limited degree. As per paragraph 202 of the NPPF, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. It is considered that in this instance the harm can be outweighed by the public benefits of the scheme which in this case would be the continued viability of an existing business and the continued operation of a community facility.

Whilst comments were received throughout the course of the application relating to the loss of the green nature of the application site to facilitate the proposals, it is noted that any decision on the application would be subject to a condition to ensure hard and soft landscaping details would be submitted for approval to the Local Planning Authority. Further, it is noted in the applicant's responses to objections that *"Changes to vegetation would be minimal and new trees would also be planted. The garden will be grassed where it is currently grassed, and paved where currently paved. The plan is simply to site picnic benches in the garden for use of customers."*

Overall, subject to conditions, it is considered the proposals would comply with Local Plan Policies D1, EN3 the guidance set out within the Council's Good Design Guide, Ashby Neighbourhood plan policy S4 and the advice set out within the NPPF subject to the imposition of appropriately worded conditions.

Assessment of objections regarding impacts on design, character and heritage impacts

Objection	Response
The proposals would result in impacts on nearby heritage assets (Grade II Listed Buildings)	The above assessment concludes that given the minor nature of the proposals, including garden furniture and fencing, the proposals would result in less than substantial harm. However, this harm is outweighed by the public benefits of the proposal.

Impact upon Residential Amenity

The land subject to the change of use proposals would be located behind the existing southern boundary of The Railway Tavern, Tamworth Road and would be sited adjacent to the rear boundaries of properties located on Lower Packington Road on the eastern and southern boundaries of the land, whilst would be sited adjacent to the rear gardens of neighbouring properties along Tamworth Road to the west.

Third party letters of objection have been received relating to the impact of the proposal on residential amenity, by way of overbearing impacts, noise, overlooking/loss of privacy among other things. Of principle concern within the objections was the impact of the proposed development on noise levels and the subsequent disturbance to surrounding occupants.

In relation to noise impacts and resulting conflict between new development and existing businesses or facilities, the Planning Practice Guidance notes that:

“The agent of change (in this instance the applicant) will also need to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified. Adopting this approach may not prevent all complaints from the new residents/users about noise or other effects, but can help to achieve a satisfactory living or working environment, and help to mitigate the risk of a statutory nuisance being found if the new development is used as designed.”

The Planning Practice Guidance goes on further to specify that this mitigation could include *“engineering solutions, layout optimisation, the use of planning conditions and obligations or through the use of noise insulation.”* In noise sensitive areas, the Guidance goes on further to state that *“noise barriers can be an effective solution”*.

Throughout the course of the application, Environmental Protection were consulted on the proposal who requested further information in the form of an acoustic report as well as requesting additional details on the acoustic barrier. Following a review of the submitted noise report, Environmental Protection confirmed they have no objections to the application subject to the imposition of conditions including an operational hours restriction for the beer garden (limited to no later than 21:30), the conditioning of the noise management plan and a condition to secure an acoustic boundary treatment scheme of a minimum 1.8m high to the eastern, southern and western boundaries of the beer garden to the specifications as outlined in the noise assessment report.

These comments were forwarded onto the applicant who subsequently provided revised plans to ensure acoustic fencing at 1.8m above ground level would be applied to the southern, western and eastern boundaries of the proposed beer garden which is considered to have addressed the need for the submission of a further details on a boundary treatment scheme. As such, it is recommended that a compliance condition for an acoustic boundary treatment scheme is attached to the decision. Further, updated comments have been sought from Environmental Protection which shall be included in the subsequent committee update sheet.

Further, following a review of the proposals and objections by Officers, an additional condition is recommended to be added in respect of lighting details.

Whilst a condition relating to amplified music has been considered, as per paragraph 55 of the NPPF, planning conditions should be kept to a minimum and should only be used where they

satisfy six tests which include that they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other aspects. It is not considered such a condition would be reasonable as noise nuisance would be considered under separate legislation nor is it considered such a condition could be enforceable. Therefore, this will not be applied as part of any decision on the application.

Overall, whilst it is noted objections have been received in relation to neighbour amenity impacts (of which Officer responses are included in detail below), the above assessment has demonstrated that subject to the imposition of conditions, it is considered the application would accord with Local Plan Policy D2 and the advice contained within the NPPF.

Assessment of objections regarding impacts on residential amenities

Objection	Response
<p>The proposals will negatively impact quiet enjoyment of neighbouring outdoor amenity space</p>	<p>It should be noted that the proposed beer garden would seek an extension to an existing outdoor paved area to form a beer garden on land currently classified as “garden land”.</p> <p>It is noted Environmental Protection have reviewed the submitted noise assessment and subject to the imposition of conditions including restrictions on operation hours, adherence to the noise management plan, the securing of acoustic fencing to the eastern, southern and western boundaries, no objections were raised.</p> <p>Further, following a review of the proposals and objections by Officers, an additional condition will be added in respect of lighting details to limit impacts on surrounding occupants.</p>
<p>The change of use would result in overlooking impacts and a loss of privacy</p>	<p>The site itself is relatively flat and the proposed development would only result in the installation of garden furniture at ground level.</p> <p>Proposed and existing boundary treatments would ensure there would be limited views to surrounding garden amenity spaces and ground floor habitable windows.</p> <p>Whilst there would be a line of sight to neighbouring first floor windows, it is not considered this would result in unacceptable levels of overlooking to warrant the refusal of the application given that the proposals would be located at ground level only.</p>

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<p>The proposals would result in unacceptable noise impacts from use of the garden, general background noise associated with the use as well as the playing of music.</p>	<p>Please see the main text above which addresses this point in full.</p>
<p>The proposals may result in an increase in anti-social behaviour due to the intensified use.</p>	<p>Adherence to the noise management plan as part of the noise assessment would be conditioned as part of any decision on the application. This plan includes specific actions for dealing with anti-social behaviour and ways to follow up with the pub management should any incidents occur.</p> <p>Notwithstanding the above, it is noted that any granting of this planning permission does not preclude statutory nuisance under the Environmental Protection Act 1990.</p>
<p>Concerns that any limits imposed on hours of use could not be appropriately enforced</p>	<p>As discussed in the report above, limits will be imposed on hours of use of the beer garden, and it is noted that the Environmental Protection Team recommends the closure of the garden by 21:30 at the latest.</p> <p>Adherence to this condition would be monitored by our planning enforcement team and noise issues can be reported to the Environmental Protection Team who can investigate further.</p>
<p>Concerns that the proposed acoustic fencing would result in exacerbation of noise impacts to the west and north as this would only be located on the eastern and southern boundaries.</p>	<p>This is noted and as part of any decision on the application, a condition would be imposed to ensure an acoustic fencing scheme is submitted for approval to be erected on the eastern, southern and western boundaries of the site.</p>
<p>The proposals would be contrary to Neighbourhood Plan Policy H3 (Windfall Sites) and would not accord with Local Plan Policy D2.</p>	<p>The above assessment has established that there would be acceptable impacts on neighbour amenities subject to conditions.</p> <p>Furthermore, policy H3 of the Neighbourhood plan does not apply as it relates to Windfall housing development and this scheme does not constitute a housing development.</p>
<p>The proposals could result in Health and Safety issues with an intensified use of a small area</p>	<p>Whilst this is noted, it is not considered an extended beer garden would result in unacceptable health and safety issues and no issues were raised by Environmental Protection during the lifetime of the application.</p>

The proposals could result in further development or expansion of the business resulting in further impacts to surrounding residents	The Local Authority is not aware of any further plans for expansion. However, should any further plans be submitted, each application would be assessed on its own merits.
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Highway Considerations

Objections have been received throughout the lifetime of the application citing concerns in relation to the potential for an increase in traffic generated by the proposals and the potential impact this could have on highway safety.

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

During the course of the application, Leicestershire County Council Highways were consulted. The Highway Authority commented as follows:

“The LHA has checked its Personal Injury Collision (PIC) database and there have been 6 recorded PICs within a 500m radius of the existing site within the last five years. Of this, 5 were classed a slight and 1 was classed as severe. The LHA also note that there was a fatal PIC recorded 550m from the site. The LHA has reviewed the circumstances of each of these incidents and is satisfied that there is no evidence to suggest that the development proposal would exacerbate the likelihood of further such incidents occurring.

There currently is no vehicle parking provided at the site and there is no scope for such provisions to be added within the submitted application. The LHA add that for the proposed Use Class (Sui Generis), the LHA has no parking standards contained within the Highway Requirements for Development (HRfD) which is available at (<https://resources.leicestershire.gov.uk/sites/resource/files/field/pdf/faq/2022/3/22/Highway-requirements-for-development-part-4-parking-standards.pdf>) it would therefore be unreasonable for the LHA to insist on any additional parking provision for the proposals.

The site itself is located within a sustainable location which is served by several bus route and has advisory parking bays located along Tamworth Road. In addition, it is noted from the above PIC data that none of the collisions were caused by indiscriminate parking. As such the LHA would not be able to demonstrate the proposals would cause a severe impact on the highway, and as such the proposals do not conflict with paragraphs 110 and 111 of the National Planning Policy Framework (2021).”

The application is considered to be in accordance with the guidance set out within the Leicestershire Highway Design Guide and the application is considered to be acceptable when having regard to Local Plan Policies IF4 and IF7, Ashby Neighbourhood Plan Policies S4 and T1 as well as the guidance set out within the NPPF.

Assessment of objections regarding highways impacts

Objection	Response
The proposals would result in parking issues on Tamworth Road and subsequent impacts on surrounding residents	Whilst this was noted, following consultation with LCC Highways, it was concluded it would be unreasonable for the LHA to insist on any additional parking provision for the

	<p>proposals given there is currently no vehicle parking provided at the site and there is no scope for such provisions to be added within the submitted application.</p> <p>Additionally, any impact would not meet the severe threshold for refusal on highways grounds as per paragraph 111 of the NPPF.</p>
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Ecology and Trees

Paragraph 174 of the NPPF states, amongst other things, that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

Paragraph 180 of the NPPF states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

During the course of the application, Leicestershire County Council Ecology were consulted who raised no objections to the proposal but noted that the application at present does not meet the requirement to provide net gains as part of the scheme.

It is noted the site would remain as grassed and paved as existing but the development would involve the removal of some existing vegetation to facilitate the proposals, but the plans also include additional soft landscaping. Given the limited alterations proposed, it is considered net gain could be secured subject to a landscaping scheme to provide net gains on site.

Subject to the imposition of the above condition, the application is considered to be in accordance with ecology requirements in paragraph 180 of the NPPF.

Additionally, whilst objections were raised in relation to the removal of hedgerows onsite to facilitate the proposed works, it is noted that no objections were raised by the Tree Officer during the course of the application. The proposal would therefore accord with Policy En3 of the adopted Local plan, Ashby Neighbourhood Plan Policies NE4 and NE5 as well as the guidance set out within the NPPF.

Assessment of objections regarding ecology impacts

Objection	Responses
The proposals would reduce habitats for local wildlife	<p>The proposals would involve the cutting back of existing boundary planting and the removal of 1 no. tree and it should be noted that no objections were raised by the Council's Tree Officer.</p> <p>Nevertheless, it should also be noted that replacement landscaping is proposed (including 3 no. trees to the rear of the site) which would be conditioned as part of any</p>

	decision on the application, and this should improve habitat on site rather than reduce it.
Concerns regarding the proposed removal of boundary hedgerows to facilitate the works	The proposals would involve the cutting back of existing boundary planting, but it should be noted that such works could be carried out without the need for planning permission. Replacement planting is included within the overall scheme.

Impact upon the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) - Habitat Regulations Assessment

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. Discharge into the river from non-mains drainage systems and from surface water disposal can also result in an adverse impact on the SAC, including in relation to impacts on water quality and flow levels.

The proposal could result in an impact on the SAC, which may undermine the conservation objectives as it may result in the additional discharge of foul drainage to the treatment works / use of a non-mains drainage system and surface water drainage discharge.

In March 2022 Natural England published advice in respect of the nutrient neutrality methodology which can be used to mitigate against the impacts of additional phosphate entering the SAC from foul drainage associated with new development.

The development proposes a change of use of garden land (class C3) to a beer garden (sui generis) and associated works (including new fencing and seating).

Natural England recently issued updated advice regarding nutrients in the River Mease catchment, dated 16th March 2022. Among other things, this advice outlines that development which will not give rise to additional overnight stays within the catchment does not need to be considered in terms of any nutrient input, except in exceptional circumstances. This is a result of a likelihood that those using the development live locally, within the catchment, and thus their nutrient contributions are already accounted for within the background.

As the proposed development will not create additional overnight stays within the catchment, and this development is not considered likely to attract users from outside the catchment, it is considered that no additional foul discharge will be created; thus, it is unlikely to have a significant effect on the River Mease SAC.

In relation to surface water discharge, given that the development would be limited to a change of use, removal of hedgerows, the siting of garden furniture on the land and the erection of acoustic fencing, the proposals would be sited on existing permeable surfaces and therefore, there is not expected to be a significant change in surface water discharge from the site. As such, it is not considered reasonable to attach a surface water drainage scheme condition in this instance.

On the above basis, it is considered that the integrity of the River Mease SAC would be preserved, and the development would accord with Policy En2 (River Mease Special Area of Conservation) and Cc3 (Water - Sustainable Drainage Systems) of the adopted Local Plan and

Policy NE4 of the Ashby Neighbourhood Plan.

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

Flood Risk and Drainage

The site is situated within Flood Zone 1, an area at lowest risk from fluvial flooding, as well as in an area not impacted by a low, medium or high risk surface water flooding, as defined by the Environment Agency's Surface Water Flood Maps.

It was noted that throughout the course of the application, comments were received citing concerns that the development would result in an increase in flooding impacts due to an increase in impermeable surfaces on the site. As outlined in the submitted application documents, there will be no change in the area of grass or hardstanding and the proposals would simply site garden furniture on the land for use as a beer garden. Given the above, it is not considered reasonable to attach a surface water drainage condition as part of any decision on the application.

On the basis of the above, the proposal is unlikely to result in an increase in flooding on the site or elsewhere and would comply with Policies CC2 and CC3 of the Local Plan and the guidance set out within the NPPF.

Assessment of objections regarding flood risk and drainage impacts

Objection	Response
The proposals may exacerbate flooding issues in the area through an increase in impermeable surfacing	There would be no proposed increase in impermeable surfaces on the site and any landscaping would be subject to condition as part of any decision on the application.

Other Matters

Throughout the course of the application, other matters have been raised which do not fall under the above categories and are assessed below:

Objection	Response
Concerns regarding the accuracy of the noise report and its conclusions commissioned by the applicant.	The proposed noise survey was commissioned by the applicant on the request of the Environmental Protection Team and was carried out by a third party. This was reviewed by the Environmental Protection Team and no issues were raised in relation to its contents, accuracy or subsequent conclusions.
Concerns the proposals would result in a lowering of property values	This is not a material consideration in the determination of this or any other planning application.
Concerns some neighbours have been omitted from consultation process.	Neighbour representations were sent out to all sites immediately adjoining the land in

	<p>question and the application was also publicised with a site notice. Therefore, the Council met its statutory requirements for publicising this application.</p>
<p>The proposals may negatively impact upon the overall use of the nearby church as a community facility and use as a space for community events.</p>	<p>Paragraph 81 of the NPPF outlines that “Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”</p> <p>It is noted the proposal would allow for the expansion of an existing business to secure its continued viability. Whilst comments are noted in relation to the nearby church, given the two facilities are currently in operation, it is not considered the expansion of a beer garden alone would lead to a detrimental impact on usage of the nearby community facility. This is also speculation on behalf of the objector and cannot be considered as material in the determination of this application.</p>

Conclusion

Whilst the application is located outside the defined centre, given the proposals would result in a change of use of garden land to a beer garden to secure the continued viability of an existing business and community facility, it is considered the proposal would be compliant in principle and would accord with Policies, S2 and IF2 of the Local Plan. Further, an assessment has been carried out on the proposals which confirms that the proposals would not fall under the requirements of Policy Ec2 (which relates to employment land). Further, the proposal is not considered to have any significant detrimental design, heritage, residential amenity, river mease, flooding, ecology or highway impacts subject to conditions.

There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with Policies S2, D1, D2, IF2, IF4, IF7, En1, En2, En3, He1, Cc2 and Cc3 of the Local Plan (2021) and would accord with the guidance set out within the Council's Good Design SPD, Ashby Neighbourhood Plan Policies S1, S2, S4, E2, T1, NE4 and NE5 and the guidance set out within the NPPF. It is therefore recommended that the application be permitted.

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