

Erection of road related facilities - including petrol filling, service station, restaurant, cafe and formation of petrol forecourts, aprons and parking areas

Report Item No  
A1

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

Application Reference  
16/00216/FULM

Applicant:  
Euro Garages

Date Registered:  
25 February 2016

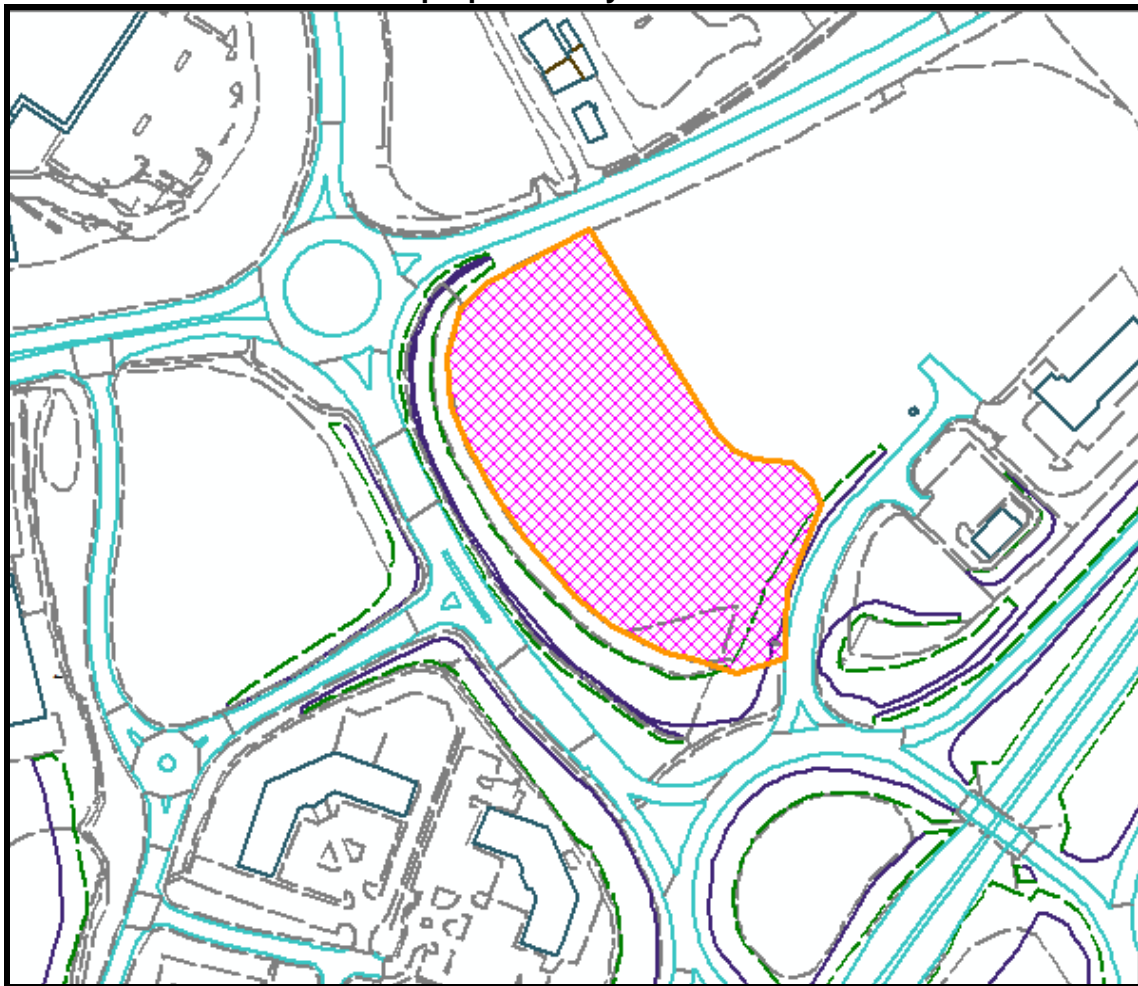
Case Officer:  
Adam Mellor

Consultation Expiry:  
29 March 2016

Recommendation:  
PERMIT Subject to Section 106 legal agreement

8 Week Date:  
26 May 2016  
Extension of Time:  
5 April 2017

Site Location - Plan for indicative purposes only



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## **EXECUTIVE SUMMARY OF PROPOSALS**

### **Reason for Call In**

The application is reported to the Planning Committee, at the request of Councillor Allman on the grounds of highway safety, impact on traffic on Nottingham Road, un-sustainable development, services and facilities already being provided, air pollution and the application being matter of local concern.

### **Proposal**

Full planning permission is sought for the erection of road related facilities at Flagstaff Island, Ashby de-la Zouch, including a petrol filling station, shop and two A3 restaurant/cafe uses.

### **Consultations**

Ashby Town Council have raised objections to the application but no other objections have been raised by statutory consultees or third parties.

### **Planning Policy**

The application site is located outside the Limits to Development, and is designated under Saved Policy T4(b) - Road Related Services, as defined in the adopted Local Plan.

### **Conclusion**

The principle of development of the site, which has been established by previous grants of outline planning permission and Saved Policy T4(b) of the adopted Local Plan, indicates that in the event of the planning permission lapsing for road-related facilities on the site it will be renewed subject to the policies of the Local Plan and other material considerations. Whilst the site lies outside the Limits to Development, it is specifically designated under Policy T4(b) for such uses and as such, the application proposal is acceptable in terms of impact on the River Mease SAC and DCS2.

The proposal is considered to be acceptable in design terms and will have no significant impacts on highway safety, flooding, archaeology, ecology, land contamination or residential amenity.

It is therefore recommended that planning permission be granted, subject to the imposition of planning conditions and Section 106 obligations.

**RECOMMENDATION - PERMIT, subject to Section 106 obligations and the imposition of conditions:**

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

## MAIN REPORT

### 1. Proposals and Background

Full planning permission is sought for the erection of road related facilities at Flagstaff Island, Ashby de-la Zouch.

The scheme comprises Euro Garages, Petrol Filling Station and Forecourts, and Use Class A3 Restaurant and Cafe (intended to be Kentucky Fried Chicken Restaurant and Starbucks Coffee Shop).

The application site is located outside the Limits to Development, and is designated under Saved Policy T4(b) - Road Related Services, as defined in the adopted Local Plan Proposals Map 2002.

#### Relevant Planning History:-

12/00448/FULM - Erection of road related service facilities - Withdrawn - 03.09.2012

06/00235/OUT - Erection of road related service facilities (outline including details of access) - Approved - 12.10.2006

### 2. Publicity

7 Neighbours have been notified.

Site Notice displayed 2 March 2016.

Press Notice published Leicester Mercury 9 March 2016.

### 3. Summary of Consultations and Representations Received

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

**Ashby Town Council** raises the following objections:-

"There are highways issues associated with increased traffic generation created by the new facilities. This leads to highway safety concerns on the Flagstaff Island. In addition there will be an impact on traffic flows and highways safety on roads leading to Flagstaff Island, caused by the increased volume in traffic".

**Natural England** has raised no objections to the application, subject to the imposition of planning conditions.

**Environment Agency** has raised no objections to the application, subject to the imposition of planning conditions.

**Highways England** has raised no objections to the application.

**The Coal Authority** has raised no objections to the application, subject to the imposition of a planning condition.

**Leicestershire County Council - Highways** has raised no objections to the application,

subject to the imposition of planning conditions.

**Leicestershire County Council - Ecology** has raised no objections to the application, subject to the imposition of a planning condition.

**Leicestershire County Council - Archaeology** has raised no objections to the application.

**Leicestershire County Council - Lead Local Flood Authority** has raised no objections to the application, subject to the imposition of planning conditions.

**NWLDC Environmental Protection** has raised no objections to the application, subject to the imposition of a planning condition.

**NWLDC Environmental Protection - Land Contamination** has raised no objections to the application, subject to the imposition of planning conditions.

### **Third Party Representations**

No third party letters of representation have been received.

## **4. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework*

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

Save where stated otherwise, the policies of the adopted Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

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

Paragraph 14 (Presumption in favour of sustainable development);  
Paragraphs 19 and 20 (Building a strong, competitive economy);  
Paragraphs 24 and 26 (Ensuring the vitality of town centres);  
Paragraphs 32 and 34 (Promoting sustainable transport);  
Paragraphs 57, 61 and 64 (Requiring good design);  
Paragraphs 100 and 103 (Meeting the challenge of climate change, flooding and coastal change); and  
Paragraphs 118 and 120 (Conserving and enhancing the natural environment).

### **Adopted North West Leicestershire Local Plan (2002)**

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

Policy S3- Countryside

Policy T4 - Road Related Services - Commitments

Policy E2 - Landscaped Amenity Open Space  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E7 - Landscaping  
Policy F1 - National Forest General Policy  
Policy T3 - Highway Standards  
Policy T8 - Parking

### **Submitted North West Leicestershire Local Plan**

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

S1 - Future Housing and Economic Development Needs  
S3 - Countryside  
D1 - Design of New Development  
D2 - Amenity  
IF7 - Parking Provision and New Development  
EN2 - River Mease Special Area of Conservation

### **Pre-Submission Ashby de la Zouch Neighbourhood Plan**

The pre-submission Ashby Neighbourhood Plan has now been published and is currently out for consultation until 13 March 2017. The draft policies listed below are considered relevant to this application, however, in view of the early stage to which the pre-submission Neighbourhood Plan has been progressed only limited weight can be attributed to its policies at this stage.

Policy S1 - Presumption in favour of sustainable development  
Policy S4 - Design  
Policy T6 - Car Parking

### **Other Policies/Guidance**

National Planning Practice Guidance - March 2014.  
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System.  
River Mease Water Quality Management Plan - August 2011.  
River Mease Water Quality Management Plan - Developer Contribution Scheme June 2016.

### **6Cs Design Guide (Leicestershire County Council)**

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

## **5. Assessment**

The main issues for consideration in the determination of this application relate to the principle of development, design, highway considerations, drainage and flood risk, impact upon the River Mease Special Area of Conservation/SSSI and other matters.

### **Principle of Development**

#### *Background*

In January 1999, outline planning permission (ref: 98/0855) was granted for the erection of a hotel, restaurant and petrol filling station on land to the north west of the Flagstaff Island, adjacent to the A42 with vehicular access included for determination at that stage. The application was a renewal of a previous permission on the site, which had originally been granted on appeal in January 1992 (ref: 90/0395) and similar outline (ref: 94/1141).

In October 2001, reserved matters applications were approved for the erection of a 41-bedroom hotel situated at the north-eastern corner of the site adjacent to the northbound entry slip road onto the A42 (ref: 01/00964/REM) and for the construction of the access road into the site from the approved access position to the hotel site boundary (ref: 01/01111/REM).

A reserved matters application (ref: 01/00285/REM) was also approved for the erection of a restaurant with a drive through facility within the south-western area of site.

The hotel (Premier Travel Inn) and associated access road and the restaurant (McDonalds) have been completed and a series of applications (ref: 08/00670/FULM) for a hotel extension and various advertisement consent have subsequently been granted

In 2006, an application for outline planning permission (ref: 06/00235) was granted for the erection of road related service facilities.

This is the same area of the site which was previously the subject of the outline planning permission for such a use and the same as this application.

#### *Policy Designation and Impact upon the Town Centre*

The NPPF states that significant weight should be placed on the need to support and help achieve economic growth through the planning system and that local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

The principle of development of the site, as set out above, has been established by the previous grants of outline planning permission and Saved Policy T4(b) of the adopted Local Plan indicates that in the event of the planning permission lapsing for road-related facilities on the site it will be renewed subject to the policies of the Local Plan and other material considerations.

Paragraph 6.24 of the adopted Local Plan states that "Service facilities are petrol filling stations and restaurants including those with rest facilities."

The site will fall outside Limits to Development within the submitted Local Plan and Policy S3 states that in areas designated as Countryside on the submitted plan Policies Map, development for transport infrastructure (criterion r) will be supported. It is, however considered that given that the policy has not yet been tested, in the opinion of the Local Planning Authority, the NPPF and Policy T4(b) at this stage carries greater weight, in this case.

Shop and restaurant uses are main town centre uses and an assessment on the impact on the town centre in terms of vitality and viability and the sequential test would normally be required. However, in this instance, given that Policy T4(b) indicates that in the event of the planning permission lapsing for road-related facilities on the site (which includes shop and restaurant uses), it will be renewed subject to the policies of the Local Plan and other material considerations, it is considered that no assessment in respect of the sequential test or impact on the vitality and viability of the town centre needs to be undertaken.

Accordingly, for the reasons discussed above, there is no objection in principle to the scheme submitted subject to all other matters below being adequately addressed.

## **Design**

Discussions have been undertaken during the course of the application to improve the design and landscaping of the scheme.

The form of the buildings are predominantly rectangular in shape, of single storey proportions and with flat and mono pitch roofs.

The designs are contemporary and following the submission of amended plans there is a consistent approach across the site through the use of materials. The schemes now comprise a mixture of glazing, natural stone, timber vertical boarding and composite panels. The improvements to the materials ensures that this scheme reflects the National Forest setting.

The scheme is therefore considered to be in conformity with Saved Policy E4 of the adopted Local Plan, Policy D1 of the submitted Local Plan and overarching intentions of the NPPF.

## **Highway Considerations**

Access is proposed from the existing access road, which already serves McDonalds, Premier Inn and Brewers Fayre.

The scheme proposes separate parking provision and cycle shelters for each of the uses, which are linked by footpath and raised pedestrian crossings. Off-site, the scheme proposes to construct a footpath to meet the existing footpath on Lountside.

The scheme has been considered by the Highways Agency who raises no objection, and the County Highway Authority (CHA) also raise no objections, subject to the imposition of conditions.

With regards to contributions, the CHA have requested contributions towards travel packs, 6 month bus passes, and a traffic regulation order (to secure road markings and signage) and inclusion of a routing agreement to be included within the legal agreement.

The CHA have also requested a condition in relation to the details of routing of construction traffic. In the opinion of the Local Planning Authority it would be difficult to differentiate between the general traffic and the specific construction traffic, and therefore it would not be enforceable. Furthermore, this is not considered necessary given the proximity of the site to the A42 and A511 and as such, a routing agreement will not be included in the legal agreement or be secured by condition.

Overall, it is considered that the development would not have any significant impact upon highway safety or parking provision and the proposal is considered to be acceptable in relation to Saved Policies T3 and T8 of the adopted Local Plan, Policy IF7 of the submitted Local Plan and Leicestershire County Council's 6Cs Design Guide.

## **Drainage and Flood Risk**

The scheme has been considered by Leicestershire County Council - Lead Local Flood

Authority (LLFA) who originally required additional information in relation to sustainable drainage and associated calculations.

During the course of the application, additional information has been submitted by the applicant and re-consultation has been undertaken with the LLFA.

The LLFA have confirmed that they raise no objection, subject to conditions in relation to a surface water scheme, management and maintenance.

Accordingly, subject to the imposition of conditions it is considered that the scheme would not result in an un-acceptable adverse impact upon flood risk.

### **Impact on the River Mease Special Area of Conservation/SSSI**

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

The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

The River Mease Developer Contribution Scheme Second Development Window (DCS2) was adopted by the Council on 20 September 2016 which has limited capacity available for new development. Having regard to this limited capacity the Authority has had to decide how to deal with applications within the catchment area. In the Authority's opinion, the limited capacity should be directed to the most sustainable locations for new development within the District. Whilst the site lies outside the Limits to Development, it is specifically designated under Policy T4(b) of the adopted Local Plan for such uses and therefore the view is taken that this application is acceptable under DCS2.

During the course of the application, at the request of officers, the applicant has provided comparable figures from similar existing road related services. It is considered that this is a reasonable approach and the figures to be used to ascertain the contribution for this site is therefore:-

- a) Road Services = 591 customers x 12 (x 1mg/day) x 2.5 = £17,730
- b) Starbucks = 166 x 12 (x 1mg/day) x 2.5 = £4,980
- c) KFC = 166 x 12 (x 1mg/day) x 2.5 = £4,980
- d) Staff = 70 x 12 (x 1mg/day) x 2.5 = £2,100

Accumulatively this results in a contribution of £29,790.00. The applicant has confirmed that they are agreeable to paying the contribution which is to be secured by way of a legal agreement.

The flows will need to be taken into account against the existing headroom at Packington Treatment Works. At the time of writing this report sufficient capacity exists and therefore no concerns are raised in respect of capacity.



The Environment Agency has confirmed that as the site is located 75 metres from a tributary of the Gilwiskaw Brook, conditions are required in respect of a scheme to install underground tanks and a scheme to install oil and petrol separators, the details of which shall be first submitted to and approved in writing by the Local Planning Authority. Conditions to this effect are recommended to be imposed.

Severn Trent Water have raised no objection to the application, subject to the imposition of a condition in relation to the disposal of surface water and foul drainage. As Severn Trent do not comment on the discharge of conditions submissions in relation to surface water, a separate condition in relation to foul drainage is suggested, in this case.

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

### **Other Matters**

#### **Impact upon Residential Amenity**

There are no residential dwellings that will be immediately impacted upon as a result of the proposal.

The Council's Environmental Health Team have confirmed that whilst existing residential properties are sited at sufficient distances away, some mitigation from noise and dust during the construction phase should be afforded to the existing hotel and recommend a condition for a construction method statement.

#### **Archaeology**

The County Council Archaeologist has raised no objections to the application.

#### **Ecology**

The application has been accompanied by an Ecological Appraisal which has been considered by the County Council Ecologist who has raised no objection to the application, subject to a condition requiring that the landscaping is undertaken in accordance with the submitted details.

#### **Land Contamination**

The Council's Environmental Protection Team have raised no objections to the development with regards to ground contamination or land instability, subject to conditions.

#### **Coal**

The site lies within the Coal Authority Referral Area and accordingly a Coal Mining Risk Assessment accompanied the application submission. The Coal Authority has been consulted on the application and concurs with the recommendations of the Coal Mining Risk Assessment and site investigations which have been undertaken and raises no objection to the development, subject to the imposition of a planning condition.

## Financial Contributions

On consideration of the financial requests received in respect of this application, it is considered that the following meet the CIL tests and a Section 106 Agreement would secure the following, which the applicant is agreeable to:-

- River Mease DCS2 contribution of £29,790;
- Either 0.36ha of woodland planting or a financial contribution of £7,200 in lieu of on-site provision;
- Traffic Regulation Order at a cost of £5,000;
- Travel Packs; and
- 6 Month Bus Passes.

## Conclusion

The NPPF states that significant weight should be placed on the need to support and help achieve economic growth through the planning system and that local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

The principle of development of the site, has been established by the previous grants of outline planning permission and Saved Policy T4(b) of the adopted Local Plan indicates that in the event of the planning permission lapsing for road-related facilities on the site it will be renewed subject to the policies of the Local Plan and other material considerations. It is considered that this type of use, would not be suitable, within the town centre and therefore the site represents the most sequentially preferable location for this specific development. Whilst the site lies outside the Limits to Development, it is specifically designated under Policy T4(b) of the adopted Local Plan for such uses and therefore the Authority is of the view that this application proposal is acceptable in terms of impact on the River Mease SAC and DCS2.

Subject to the imposition of conditions, the proposed development would be acceptable in terms of impact upon the residential amenities, highway safety, coal mining, flood risk and drainage, ecological and archaeological impacts and impact on the River Mease SAC/SSSI.

Appropriate contributions to the River Mease DCS2 and highway infrastructure would also be made so as to mitigate the impacts of the proposals.

There are no other relevant material planning considerations that indicate planning permission should not be granted and therefore, subject to the imposition of planning conditions and Section 106 obligations, the application is recommended for approval.

## **RECOMMENDATION - PERMIT, subject to section 106 obligations and the imposition of the following conditions:-**

1. Time limit
2. Approved plans
3. Approved material samples
4. Levels to be agreed
5. Boundary treatments to be agreed
6. Landscaping to be agreed
7. Coal mining
8. Land contamination/verification investigation

9. Underground tanks
10. Oil and petrol separators
11. Construction method statement
12. Foul drainage
13. Site traffic management plan
14. Off-site footway provision
15. Parking, turning and cycle parking
16. No development within the public highway
17. Surface water