

Erection of up to seven detached single storey dwellings  
(Outline - with access included for determination)

Report Item No  
A2

Land Adjacent To 30 Ashby Road Packington Ashby De La  
Zouch Leicestershire LE65 1TD

Application Reference  
16/00718/OUT

Applicant:  
Mr And Mrs K Waring

Date Registered:  
13 June 2016

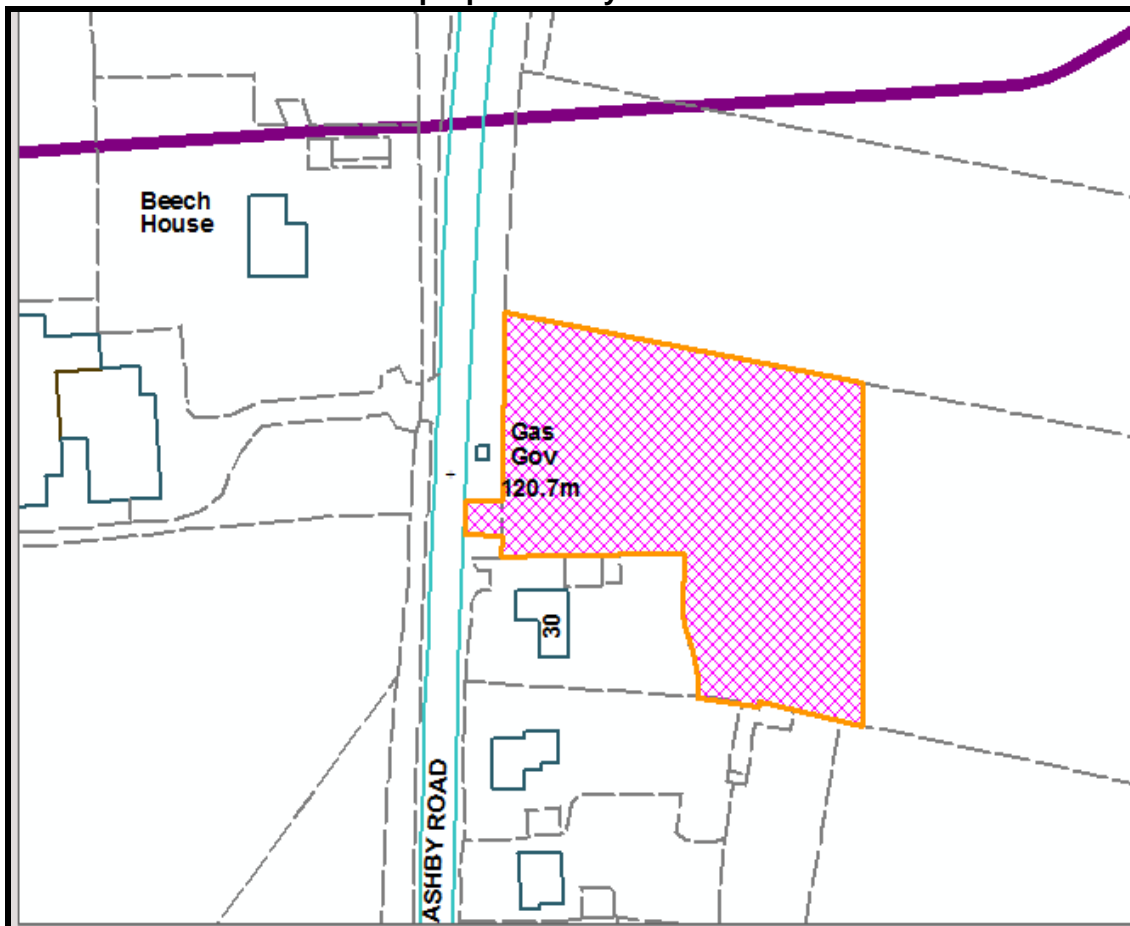
Case Officer:  
Jenny Davies

Consultation Expiry:  
20 July 2016

Recommendation:  
REFUSE

8 Week Date:  
8 August 2016  
Extension of Time:  
None Agreed

Site Location - Plan for indicative purposes only



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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

This application has been called to Planning Committee by Councillor Nigel Smith on the grounds that the site is outside the Limits to Development, on a fast road and planning permission has already been granted for more houses in Packington than the Local Plan requirements.

### **Proposal**

Outline planning permission (with access included for determination) is sought for the erection of up to seven single storey detached dwellings on land adjacent to No. 30 Ashby Road, Packington. The indicative layout shows five dwellings adjacent to the site's northern boundary and two dwellings adjacent to its southern boundary, facing onto a central access drive. An existing access would be closed and a new access provided onto Ashby Road.

### **Consultations**

One letter of objection has been received from a member of the public and Packington Parish Council has raised objections. The County Ecologist initially recommended refusal on the basis of an inadequate ecology survey; following a site visit the County Ecologist has withdrawn this objection. No other objections have been received from statutory consultees.

### **Planning Policy**

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

### **Conclusion**

In conclusion, the proposal would be socially sustainable, would have limited economic benefits, would not result in a significant loss of BMV and would not result in any unacceptable impacts on the built or historic environment. However as the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of Policy S2 of the submitted Local Plan. Significant harm would also arise from impact on the rural character and visual amenities of the countryside, which would conflict with Policy S3 of the adopted Local Plan, Policy S3 of the submitted Local Plan and the NPPF. The resulting environmental harm from these impacts would significantly and demonstrably outweigh the social and economic benefits, and therefore it is considered that, overall, the proposal does not constitute sustainable development.

## **RECOMMENDATION - THAT PLANNING PERMISSION BE REFUSED**

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

## MAIN REPORT

### 1. Proposals and Background:

Outline planning permission (with access included for determination) is sought for the erection of up to seven detached single storey dwellings on land adjacent to No. 30 Ashby Road, Packington. The site constitutes approximately 0.48 hectares of grassland located on the eastern side of Ashby Road. Open fields lie to the north, east and south east, with existing dwellings to the south and a farm to the west. The site is fairly level although it is set approximately half a metre lower than the road.

The indicative layout shows five dwellings adjacent to the site's northern boundary and two dwellings adjacent to its southern boundary, facing onto a central access drive. Indicative plans have also been provided showing three 'typical single storey dwellings.' The site is currently served by a field access, which would be closed, with a new access proposed towards the southern end of its boundary with Ashby Road. A small stretch of frontage trees/hedgerow may need to be removed to provide the new access. The plans show that the remainder of this hedgerow would be retained, along with the hedgerows on the site's boundaries with adjacent dwellings and their gardens. The application initially proposed a cesspool as a temporary solution for foul drainage discharge but it would now have a mains sewer connection.

The site lies within the catchment area of the River Mease Special Area of Conservation.

The agent has submitted a detailed statement in support of the application which concludes that the proposal represents sustainable development in accordance with the NPPF and should be permitted. The applicant has also made reference to other applications permitted outside limits to development and on that basis concludes that this application should also be allowed.

The full contents of this correspondence are available for Members to view on the planning file.

#### *Planning History*

Two similar applications for the erection of two detached dwellings and single garages along with new vehicular access and associated works (13/00874/FUL and 14/00434/FUL) on the front part of the site were both refused by Planning Committee in December 2013 and June 2014 on the grounds that their physical intrusion of this type of ribbon development into the countryside would be to its overall detriment.

#### Other history:

- 94/0260/P - Erection of one single storey detached dwelling and detached garage (outline) - Refused 8th June 1994;
- 95/0355/P - Erection of one single storey detached dwelling and detached garage (outline) - Refused 7th June 1995, Dismissed at Appeal 30th July 1996;
- 11/00891/FULM - Proposed stable block with hay store, tack room and tractor shed, laying of hardstanding, erection of gates, alterations to vehicular access and change of use of the land for the keeping of horses - Approved 10th January 2012.

### 2. Publicity

3 Neighbours have been notified, (date of last notification) 21/06/2016.

Site Notice displayed 24 June 2016.

Press Notice published Leicester Mercury 29 June 2016.

### 3. Summary of Consultations and Representations Received

#### Statutory Consultees

**Packington Parish Council** objects on the following grounds:

- traffic management measures are required to improve vehicle and pedestrian safety on one of the busiest roads in the area;
- whilst all development can impact on the environment and place pressures on local services, the planning system should be used to ensure new development does not have any adverse impacts on infrastructure;
- the proposal is not on the mains sewer;
- proposals that would result in loss of or have an adverse effect on local green spaces should not be permitted;
- is it not correct under national and local planning policy that development in the open countryside and outside the limits to development will only be allowed in exceptional circumstances.

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

**Severn Trent Water** has no objection subject to a condition.

**The Environment Agency** advises that whilst it is unable to object to cesspools it does not promote their use for foul drainage.

**Natural England** has no objections subject to conditions.

**The County Ecologist** initially objected on the grounds of an inadequate ecology survey; following a site visit she has withdrawn this objection.

**The County Archaeologist** requests the imposition of conditions.

**The County Highway Authority** has no objections subject to conditions.

**The National Grid** has no objections.

#### Third Party Representations

One letter of objection has been received which objects on the following grounds:

- noise levels and traffic disruption during construction;
- a single access is inadequate;
- noise and disruption from normal daily activities of occupiers of new dwellings would become a permanent feature and an intrusion;
- visual mass totally out of proportion with nearby buildings and locality, in particular as would be located at the end of a row of single dwellings and adjacent to open countryside;
- the view from the north from Ashby Road would be of a virtually unbroken aspect of development, extending more than 100 metres from the road edge along the site's northern boundary;
- the surcharge on the sewage system from foul and storm drainage would be considerable and may lead to disruption to the existing system.

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

## 4. Relevant Planning Policy

### National Planning Policy Framework (NPPF) - March 2012

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

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

Paragraph 10 (Achieving sustainable development)  
 Paragraph 14 (Presumption in favour of sustainable development)  
 Paragraph 17 (Core planning principles)  
 Paragraphs 32 and 35 (Promoting sustainable transport)  
 Paragraphs 47, 49 and 55 (Delivering a wide choice of high quality homes)  
 Paragraphs 57, 58, 59, 60, 61 and 64 (Requiring good design)  
 Paragraph 69 (Promoting healthy communities)  
 Paragraphs 96, 99, 100 and 103 (Meeting the challenge of climate change, flooding and coastal change)  
 Paragraphs 109, 112, 118, 119 and 123 (Conserving and enhancing the natural environment)  
 Paragraphs 203 and 204 (Planning conditions and obligations)

### Adopted North West Leicestershire Local Plan:

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

Policy S1 - Overall Strategy  
 Policy S3 - Countryside  
 Policy E2 - Landscaped Amenity Open Space  
 Policy E3 - Residential Amenities  
 Policy E4 - Design  
 Policy E7 - Landscaping  
 Policy E8 - Crime Prevention  
 Policy F1 - National Forest - General Policy  
 Policy F2 - Tree Planting  
 Policy F3 - Landscaping & Planting  
 Policy T3 - Highway Standards  
 Policy T8 - Parking  
 Policy H4/1 - Housing Land Release  
 Policy H6 - Housing Density  
 Policy H7 - Housing Design

### Submitted North West Leicestershire Local Plan

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. Examination hearing sessions were held in January and March 2017 and the Council undertook a six week consultation on its Main Modifications from 12 June 2017. The comments received have been considered. The Council's position is that no further changes are required. All of the comments received,

together with the Council's response, have been forwarded to the Inspector who will, in due course, advise of the next steps. The weight to be attached by the decision maker to this submitted version (as proposed to be modified) should be in accordance with the approach set out in Paragraph 216 of the NPPF, having regard to the stage now reached towards adoption, the extent to which there are unresolved objections to the policies relevant to the determination of this application, and the degree to which the emerging policies are consistent with the NPPF.

S1 - Future Housing and Economic Development Needs  
S2 - Settlement Hierarchy  
S3 - Countryside  
D1 - Design of New Development  
D2 - Amenity  
H4 - Affordable Housing  
H6 - House Types and Mix  
IF4 - Transport Infrastructure and New Development  
IF7 - Parking Provision and New Development  
En1 - Nature Conservation  
En2 - River Mease Special Area of Conservation  
En3 - The National Forest  
Cc2 - Water - Flood Risk  
Cc3 - Water - Sustainable Drainage Systems

#### **Other Guidance**

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

#### **5. Assessment**

The main considerations in the determination of this application relate to the principle of development, its design/layout and impacts on the character of the area, archaeology, residential amenities, highway safety, drainage and flood risk, the River Mease SAC/SSSI and protected species/ecology.

#### **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 (2002 (as amended)).

The application site lies outside the defined Limits to Development within the adopted Local Plan and the submitted North West Leicestershire Local Plan, with new dwellings not being a form of development permitted in the countryside by Policy S3 of both Plans. Policy S2 of the submitted Local Plan also advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. The agent makes reference to the appeal decision at Swepstone Road, Heather, where 36 dwellings were allowed. However the

most recent appeal for new housing in the countryside in the District relates to that for eight dwellings at Normanton Road, Packington (15/01051/OUT refers). The Packington Inspector agreed with the Heather Inspector and took the view that Policy S3 of the adopted Local Plan would attract limited weight as it relates to planning requirements for the District up to 2006 and it takes a very restricted approach to housing in the countryside when compared with the NPPF. The Packington Inspector, whilst acknowledging that the Heather Inspector had given submitted Policy S3 limited weight, afforded the submitted Local Plan moderate weight, given its current stage in the examination process being at main modifications stage (with public consultation having now ended) and it being subject to some unresolved objections. Having regard to this site being adjacent to the same village as the appeal site, it is considered appropriate to adopt a similar approach. On this basis it is necessary to consider the proposal against paragraph 14 of the NPPF, including the 'tilted balance', which indicates that where relevant policies are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) as set out in the NPPF.

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

It is acknowledged that the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006). However in the recent Normanton Road appeal decision the Inspector did not consider there was a current or pressing need for the Council to review the Limits to Development for Packington proposed in the submitted Local Plan.

In terms of social sustainability Packington provides a range of day to day facilities, e.g. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites, along with a limited hourly public transport service. These services/facilities are within 800 metres to one km (preferred maximum walking distance) of the site, and there is a footway with streetlighting running along Ashby Road into the village. The centre of Ashby-de-la-Zouch is also located approximately 1.5km from the site, where a wider range of services can be found and is considered to be accessible on foot or by cycling. Therefore, it is considered that occupiers of the dwellings would not necessarily be dependent on the private car. Taking all of these matters into account it is considered that the site is socially sustainable in terms of access to services/facilities.

Given the scale of the development, and when taking into account other sites that have been granted planning permission since 2014 or are currently proposed in the village (totalling 50 dwellings), it is considered that the proposal would not result in unsustainable demands on local services and facilities. The proposal would also have limited economic benefits which would include local construction jobs and helping to maintain local services in the area.

In terms of environmental sustainability the proposal would result in the loss of agricultural land. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). It is not clear what class of agricultural land the site falls within. Whilst the NPPF does not suggest that the release of smaller BMV sites is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost. Therefore given the relatively limited extent of the

potential loss of the site, at 0.48 hectares, it is considered that this is not sufficient to sustain a reason for refusal in this case.

Furthermore, as set out in more detail below, the proposal would not result in any unacceptable impacts on the built or historic environment. However as the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of Policy S2 of the submitted Local Plan. Furthermore as set out below, significant harm would arise from impact on the rural character and visual amenities of the countryside which would conflict with Policy S3 of the adopted Local Plan, Policy S3 of the submitted Local Plan and the NPPF. The resulting environmental harm from these impacts would significantly and demonstrably outweigh the social and economic benefits, and therefore it is considered that, overall, the proposal does not constitute sustainable development.

In response to the applicant's comments about other developments outside limits being approved, Members will be aware that a number of applications for residential development outside limits to development across the District have been allowed in the last few years. However, each application has to be dealt with on its own merits and as more weight can now be afforded to the submitted Local Plan due to the stage it has reached, circumstances have changed and where harm can be demonstrated as indicated above, applications can be refused in accordance with the relevant policies in the submitted local plan.

### **Design**

The proposal results in a density of 14.6 dwellings per hectare. The NPPF states that authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate having regard to the location of the site on the edge of a village adjoining the countryside and the character of the area.

The submitted plans show seven large single storey detached dwellings of similar sizes, although these plans are indicative and their detailed scale, design and layout would be considered at reserved matters stage. However based on the indicative layout, the site could accommodate all of the necessary requirements (private gardens, parking/turning space) for up to seven dwellings without being too cramped. Furthermore given the site's location within the National Forest adjacent to open countryside there would be a need for reinforce the landscaping of the site, which could also be accommodated. As such it is considered that proposal would not conflict with Policies E4 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

### **Character of the Area and Visual Impact**

The site is outside the Limits to Development under the adopted and submitted Local Plans. On this basis the proposal would be assessed against the context of Policy S3 of the adopted Local Plan and Policy S3 of the submitted Local Plan, and paragraph 17 of the NPPF which requires the planning system to recognise the intrinsic character and beauty of the countryside. As noted earlier in the report in the 'Principle' section, Policy S3 of the adopted Local Plan is considered to have limited weight, and Policy S3 of the submitted Local Plan is considered to have moderate weight.

The two previous applications for two dwellings on the site (13/00874/FUL and 14/00434/FUL) were both refused on the same grounds:

*Whilst the Council cannot demonstrate a five year housing land supply it is considered that a proposal for two dwellings would not make a significant contribution to that shortfall and in these circumstances the physical intrusion of this type of ribbon development into the countryside,*



*which should be recognised for its intrinsic character and beauty, would be to its overall detriment and as such contrary to the aims of Policy S3 of the adopted North West Leicestershire Local Plan and Paragraph 17 of the National Planning Policy Framework.*

On both schemes two dwellings were proposed at the front of the site, broadly in line with No. 30, with the site's rear boundary being in line with the rear boundary to No. 30. The current site is larger as it extends further back from Ashby Road (by around 67 metres from the site's front boundary) and wraps around the rear of No. 30's rear boundary, forming an L-shape.

The site is an undeveloped grass field bordered on two sides by mature hedgerows interspersed with trees, with a mature hedgerow partly occupying part of its front boundary with Ashby Road, a post and rail fence on its northern boundary and its eastern boundary currently being open (as the site is part of a larger field). Some existing natural screening is in place, although there are open views of the site from Ashby Road, in particular from the north and the public footpath which runs parallel with the site approximately 120 metres to the north, and the site appears as a self-contained field. The area is characterised by open fields with post and rail fencing, trees and hedgerows forming the boundaries, with housing located immediately to the south and a farm located directly opposite the site to the west, which is itself isolated from other development and surrounded by open fields. As such the area is rural in character and provides the rural setting for the village when travelling along Ashby Road. The site is closely associated with the rural landscape to the east and in particular the north, given the post and rail fencing, giving the landscape on the eastern side of Ashby Road an open character. As a consequence the site contributes positively to the undeveloped nature of the area on the approach to the village along Ashby Road and in views towards the village from the public footpath.

Whilst the scale, layout and external appearance of the dwellings is not included at this outline stage, up to seven dwellings and their associated ancillary development on the site, including an access drive, parking and turning areas that would be required as Ashby Road is classified, would be visible both from Ashby Road and the public footpath due to the open views available of the site. Views from the north along Ashby Road and from the public footpath are currently of frontage dwellings with rear gardens and ancillary development, e.g. outbuildings. The development of the site could introduce development extending up to 67 metres back from the front boundary and, regardless of the number of dwellings built, would extend development into the open countryside in an open and prominent location. Whilst there is part of a hedgerow on the Ashby Road boundary, and additional planting is proposed along the northern and eastern boundaries, dwellings would be visible above and through this planting, in particular in the winter months.

Whilst it is considered that the proposed development will impact adversely on the character and visual amenities of the rural environment, it is considered that the dwellings would not be isolated. However, the proposal would result in the urbanisation of the site and physical intrusion into the countryside from ribbon development, which would diminish its present open and rural character and contribution to the character and visual amenities of the area along Ashby Road and in views from the public footpath, and would be an incongruous encroachment into the rural environment.

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

Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

### **Archaeology**

The Leicestershire and Rutland Historic Environment Record (HER) indicates that the development area lies in an area of archaeological interest, to the north of the medieval and post-medieval historic settlement core of Packington. Also to the west of the site is an area likely to represent the remains of prehistoric occupation and settlement, to the north an area thought to represent prehistoric field systems and enclosures and to the north east a cropmark possibly prehistoric in origin. Appraisal of the HER indicates that little or no previous archaeological investigation has been undertaken within the development area or in its vicinity. Therefore in the absence of site specific information, the County Archaeologist advises that it is difficult to evaluate the archaeological potential of the development site.

An appraisal of available aerial photographs suggests the presence or former presence of ridge and furrow earthworks to the south of the site, indicating the site lies within the former extent of the openfield system that would have surrounded Packington through much of the medieval and post-medieval periods. The County Archaeologist advises that this indicates that the area has a low potential for significant medieval or later archaeological remains with greater potential for prehistoric remains.

Buried archaeological evidence spanning the period from the prehistoric to the earliest evolution of the village (potential yet unidentified heritage assets) could be present within the development area. Paragraph 141 of the NPPF states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development.

Therefore, the County Archaeologist has no objections to the proposal subject to the imposition of conditions for an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording. Subject to these conditions, it is considered that the proposal would comply with the provisions of the NPPF.

It is noted that no response was received from the County Archaeologist on the two previous applications for dwellings on the site. However in this case a response has been received, and given that the size of the site has increased, it would be reasonable to impose the recommended conditions.

### **Residential Amenities**

The proposal would result in an increase in traffic using the new access drive which runs close to No. 30 Ashby Road and its rear garden. However the situation would not be dissimilar to a development on a corner site with a side road running close to dwellings and their rear gardens, which was considered in an appeal decision to be a yardstick for an acceptable standard, and which already occurs in other parts of the village. It is also not unusual to find housing adjacent to other areas of housing, and it is unlikely to generate significantly detrimental levels of noise and disturbance. It is also noted that the Council's Environmental Protection team raise no objections. Whilst noise and disturbance may occur during construction, this would be for a temporary period, and the Council has separate powers under the Environmental Protection Act to investigate such matters.

No. 30 Ashby Road has one window in its side elevation facing the site serving a bedroom, along with rear windows serving habitable rooms, and has a large rear garden with a mature hedgerow forming the boundary. No. 28 Ashby Road has rear windows. There are also

domestic outbuildings (which appear to be associated with either No. 26 or 28 Ashby Road) located on part of the site's southern boundary. Whilst the layout is indicative, it is considered that a scheme for up to seven dwellings could be accommodated on the site without resulting in significant detriment to the occupiers of Nos. 28 and 30 and users of the outbuildings from direct overlooking, overshadowing and oppressive outlook. Detailed consideration of this issue could be dealt with at reserved matters stage. As such the proposal would comply with the provisions of Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.

### **Highway Safety**

Access is included for determination at this stage. The County Highway Authority has not raised any objections to the proposal subject to conditions, including provision of a refuge for pedestrians adjacent to the access along with a crossing facility, and relocation of the bus stop, and amendments to the radii and kerbs/crossing details of the new access. There is considered to be space within the site for up to seven dwellings and the required parking and turning provision in accordance with the Highway Authority's 6Cs Design Guide. The Highway Authority therefore advises that in its view the residual cumulative impacts of development can be mitigated and are not considered severe in accordance with paragraph 32 of the NPPF, subject to conditions. It is therefore considered that the proposal would comply with Policies T3 and T8 of the adopted Local Plan, Policies IF4 and IF7 of the submitted Local Plan and paragraph 32 of the NPPF.

### **Drainage and Flood Risk**

The site lies within Flood Zone 1 which is the lowest risk area for flooding from watercourses. No parts of the site are identified by the Environment Agency to be at low to high risk from surface water flooding. Severn Trent Water has no objections subject to a condition relating to details of foul and surface water drainage. On this basis it is considered that proposal is unlikely to result in significant impacts in relation to drainage and flood risk and would not conflict with Policies CC2 and CC3 of the submitted Local Plan and the NPPF in respect of these matters.

### **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 First and Second Development Windows (DCS1 and 2) have been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). Both DCS1 and DCS2 are considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF. There is no capacity available under DCS1 and so DCS2 was adopted by the Council on 20 September 2016.

Due to the lack of capacity under DCS1 the use of a cesspool was proposed as an interim solution, with connection to the mains sewer at a later stage under DCS2. Whilst the Environment Agency advised that it could not object to use of a cesspool it also advised that it does not promote their use either, and that the National Planning Practice Guidance clearly states that first presumption must be to connect to the foul sewer. Given that the site is in a location where it could connect to the mains sewer the Council were of the view that in this case use of a cesspool would not be appropriate. Furthermore once DCS2 was adopted the Council took the view that sites located outside the Limits to Development would not be acceptable under DCS2. However following the recent appeal decision relating to Normanton Road, Packington, the Council has changed its approach to utilising capacity within DCS2, and as such the proposal can connect to the mains sewer system. The Environment Agency and

Natural England have both issued Standing Advice relating to the River Mease SAC under which they do not need to be consulted if the proposal connects to the mains sewer and the applicant is agreeable to payment of the DCS contribution.

Surface water discharge using a sustainable drainage system is usually sought on sites within the SAC catchment, in order to reduce the level of surface water treated by Severn Trent Water, and this could be secured by condition.

The flows from the seven dwellings need to be taken into account against the existing headroom at Packington Treatment Works, which serves this area. At March 2016 capacity was available for 3368 dwellings but this is reduced by the number of dwellings that already have consent or are under construction at March 2016 (1444) and a further 390 which have subsequently been granted permission or have a resolution to permit in place, giving capacity for 1534 dwellings. As such it is considered that capacity is available at the relevant treatment works for the foul drainage from the site.

Therefore it can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI and would comply with the Habitat Regulations, the NPPF and Policies S2, EN1 and EN2 of the submitted Local Plan.

### **Protected Species/Ecology**

There are trees, hedgerows and grassland on or close to the site along with large gardens being in close proximity and a small pond over 130 metres to the east, which are all features that could be used by European Protected Species (EPS) or national protected species. Therefore the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions and to the requirements of the Wildlife and Countryside Act 1981 (as amended).

The County Ecologist initially advised that a larger area of grassland would be affected than under the two most recent applications for the site, and that she found the ecology survey to be unsatisfactory and would need to visit the site to check its accuracy. The County Ecologist was unable to access the site in October 2016 and as such could not ascertain whether the grassland was species-rich nor check the accuracy of the ecology report. An updated ecology report was submitted in November 2016, and the County Ecologist advised that she would still need to visit the site given the concerns she had previously raised regarding the original ecology report that had been undertaken by the same consultant. The County Ecologist therefore raised a holding objection in December 2016, on the basis that she needed to visit the site and that the earliest time she could now visit would be April 2017. Following a visit to the site in April 2017 the County Ecologist advised that the grassland is not specie-rich and therefore she has no objections.

The submitted Ecology Survey states that no evidence was found of badgers using the site, that the pond is dried up, no evidence was found on bats on the site and no trees were found to be suitable for bats and that no sites were identified for great crested newts. The County Ecologist has not raised any objections in relation to protected species. On this basis it is considered that the proposal would not adversely impact on protected species or ecological features and the proposal complies with the Habitats Regulations 2010 and Policy EN1 of the submitted Local Plan.

### **Other Matters**

It appears that a small stretch of frontage trees/hedgerow may need to be removed to provide the new access. The hedgerow is unlikely to be impacted on by visibility splays given it is set back from the edge of the road. Replacement hedgerow could be planted in place of the existing access. The hedgerows along the boundaries with adjacent dwellings and gardens are shown to be retained and there appears to be enough space within the site to accommodate seven dwellings without impacting on these hedgerows. As such the proposal would comply with the provisions of Policies E2 and E7 of the adopted Local Plan.

The indicative layout plan states that the dwellings would have a maximum total floor area not exceeding 1000 square metres, which could be secured by condition. As such the proposal would be below the 1000 square metres gross floorspace / 11 or more dwellings threshold for seeking affordable housing and developer contributions for services/facilities.

There is an electricity substation located adjacent to the site's front boundary. National Grid has advised it has no objections to the application.

### **Conclusion**

In conclusion, the proposal would be socially sustainable, would have limited economic benefits, would not result in a significant loss of BMV and would not result in any unacceptable impacts on the built or historic environment. However as the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of Policy S2 of the submitted Local Plan. Significant harm would also arise from impact on the rural character and visual amenities of the countryside, which would conflict with Policy S3 of the adopted Local Plan, Policy S3 of the submitted Local Plan and the NPPF. The resulting environmental harm from these impacts would significantly and demonstrably outweigh the social and economic benefits, and therefore it is considered that, overall, the proposal does not constitute sustainable development.

### **RECOMMENDATION, REFUSE for the following reason(s):**

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development which includes that the planning system needs to perform an environmental role, including protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan and Policy S3 of the submitted North West Leicestershire Local Plan provide a presumption against non-essential residential development outside the Limits to Development. Policy S3 of the submitted Local Plan states that land identified as countryside will be protected for the sake of its intrinsic character and beauty. Policy S2 of the submitted Local Plan advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. As the site is outside the Limits to Development it would conflict with the settlement hierarchy and strategic housing aims of Policy S2 of the submitted Local Plan. The proposal would also result in significant harm to the character and rural appearance of the locality and the proposal would appear as an unwarranted and incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment, and would be contrary to Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policy S3 of the submitted Local Plan. The resulting environmental harm from these impacts would significantly and demonstrably outweigh the social and economic benefits, and therefore it is considered that, overall, the proposal does not constitute sustainable development.