

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

Report Item No
A2

Land Off Redburrow Lane Normanton Road Packington Leicestershire

Application Reference
17/01575/OUT

Applicant:
Mr And Mrs Keith Goodwin

Date Registered:
10 October 2017

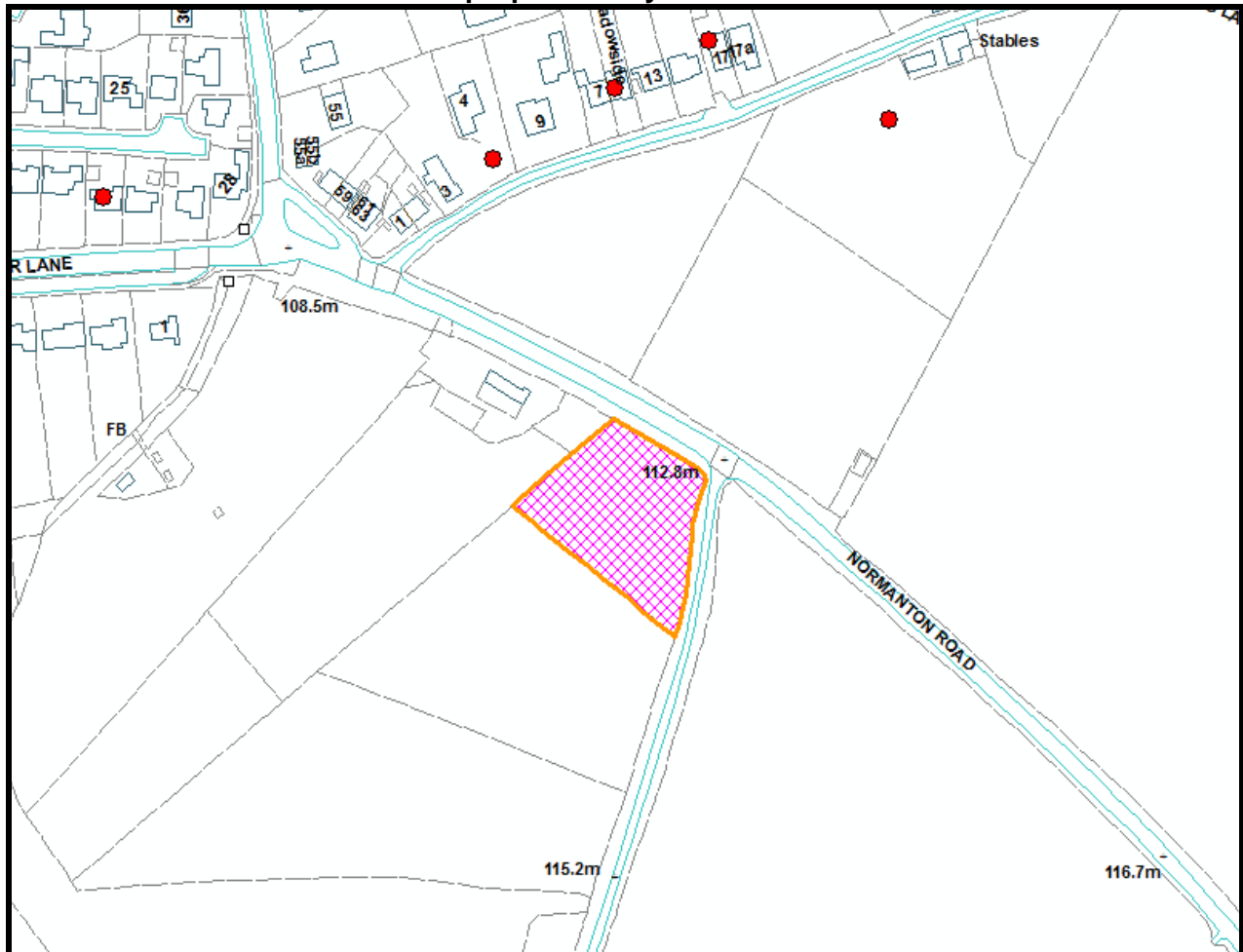
Case Officer:
Jenny Davies

Consultation Expiry:
15 November 2017

Recommendation:
REFUSE

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

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

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

Proposal

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

Consultations

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

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

Planning Policy

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

Conclusion

The key issues arising from the application details are:

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

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

RECOMMENDATION - THAT PLANNING PERMISSION BE REFUSED

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

MAIN REPORT

1. Proposals and Background

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Publicity

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

3. Summary of Consultations and Representations Received

Statutory Consultees

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

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

Leicestershire County Council Ecologist has no objections subject to conditions.

The Lead Local Flood Authority has no comments to make.

NWLDC Environmental Protection team has no environmental observations.

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

Third Party Representations

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

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

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

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

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

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

4. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

Draft National Planning Policy Framework (2018)

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

Adopted North West Leicestershire Local Plan (2017):

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

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

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

Other Guidance

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

5. Assessment

Principle of the Development

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Character and Visual Impact

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

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

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

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

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

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

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

Siting and Design

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

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

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

SPD.

Historic Environment

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

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

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

Residential Amenities

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

Trees and Ecology

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

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

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

Highway Safety

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

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

could not be justified in this case.

River Mease Special Area of Conservation

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

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

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

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

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

Other Matters

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

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

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

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

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

Conclusion

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

RECOMMENDATION, REFUSE for the following reason:

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