

**APPENDIX B**

**Report of the Director of Services and Deputy Chief Executive  
Planning Committee**

**7 August 2012**

**PLANNING & DEVELOPMENT REPORT**

## **PLANNING COMMITTEE FRONT SHEET**

### **1. Background Papers**

For the purposes of Section 100(d) of the Local Government ( Access to information Act) 1985 all consultation replies listed in this report along with the application documents and any accompanying letters or reports submitted by the applicant, constitute Background Papers which are available for inspection, unless such documents contain Exempt Information as defined in the act.

### **2. Late Information: Updates**

Any information relevant to the determination of any application presented for determination in this Report, which is not available at the time of printing, will be reported in summarised form on the 'UPDATE SHEET' which will be distributed at the meeting. Any documents distributed at the meeting will be made available for inspection. Where there are any changes to draft conditions or a s106 TCPA 1990 obligation proposed in the update sheet these will be deemed to be incorporated in the proposed recommendation.

### **3. Expiry of Representation Periods**

In cases where recommendations are headed "Subject to no contrary representations being received by ..... [date]" decision notices will not be issued where representations are received within the specified time period which, in the opinion of the Director of Services and Deputy Chief Executive are material planning considerations and relate to matters not previously raised.

### **4. Reasons for Grant**

Where the Director of Services and Deputy Chief Executive's report recommends a grant of planning permission and a resolution to grant permission is made, the summary grounds for approval and summary of policies and proposals in the development plan are approved as set out in the report. Where the Planning Committee are of a different view they may resolve to add or amend the reasons or substitute their own reasons. If such a resolution is made the Chair of the Planning Committee will invite the planning officer and legal advisor to advise on the amended proposals before the a resolution is finalised and voted on. The reasons shall be minuted, and the wording of the reasons, any relevant summary policies and proposals, any amended or additional conditions and/or the wording of such conditions, and the decision notice, is delegated to the Director of Services and Deputy Chief Executive.

### **5. Granting permission contrary to Officer Recommendation**

Where the Director of Services and Deputy Chief Executive's report recommends refusal, and the Planning Committee are considering granting planning permission, the summary reasons for granting planning permission, a summary of the relevant policies and proposals, and whether the permission should be subject to conditions and/or an obligation under S106 of the TCPA 1990 must also be determined; Members will consider the recommended reasons for refusal, and then the summary reasons for granting the permission. The Chair will invite a Planning Officer to advise on the reasons and the other matters. An adjournment of the meeting may be necessary for the Planning Officer and legal Advisor to consider the advice required

If The Planning Officer is unable to advise at Members at that meeting, he may recommend the item is deferred until further information or advice is available. This is likely if there are technical objections, eg. from the Highways Authority, Severn Trent, the Environment Agency, or other Statutory consultees.

If the summary grounds for approval and the relevant policies and proposals are approved by resolution of Planning Committee, the wording of the decision notice, and conditions and the Heads of Terms of any S106 obligation, is delegated to the Director of Services and Deputy Chief Executive.

## **6 Refusal contrary to officer recommendation**

Where members are minded to decide to refuse an application contrary to the recommendation printed in the report, or to include additional reasons for refusal where the recommendation is to refuse, the Chair will invite the Planning Officer to advise on the proposed reasons and the prospects of successfully defending the decision on Appeal, including the possibility of an award of costs. This is in accordance with the Local Planning Code of Conduct. The wording of the reasons or additional reasons for refusal, and the decision notice as the case is delegated to the Director of Services and Deputy Chief Executive.

## **7 Delegation of wording of Conditions**

A Draft of the proposed conditions, and the reasons for the conditions, are included in the report. The final wording of the conditions, or any new or amended conditions, is delegated to the Director of Services and Deputy Chief Executive.

## **8. Decisions on Items of the Director of Services and Deputy Chief Executive**

The Chairman will call each item in the report. No vote will be taken at that stage unless a proposition is put to alter or amend the printed recommendation. Where a proposition is put and a vote taken the item will be decided in accordance with that vote. In the case of a tie where no casting vote is exercised the item will be regarded as undetermined.

## SECTION A- PLANNING APPLICATIONS

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**Residential development of up to 120 dwellings, including vehicular access, pedestrian and cycle links, public open space, childrens play area, structural landscaping, sustainable urban drainage and woodland planting (outline - all matters other than part access reserved)**

**Report Item No  
A1**

**Land East Of Ravenstone Road Ibstock Leicestershire**

**Application Reference  
12/00264/OUTM**

**Applicant:  
Davidsons Developments Limited**

**Date Registered  
16 March 2012**

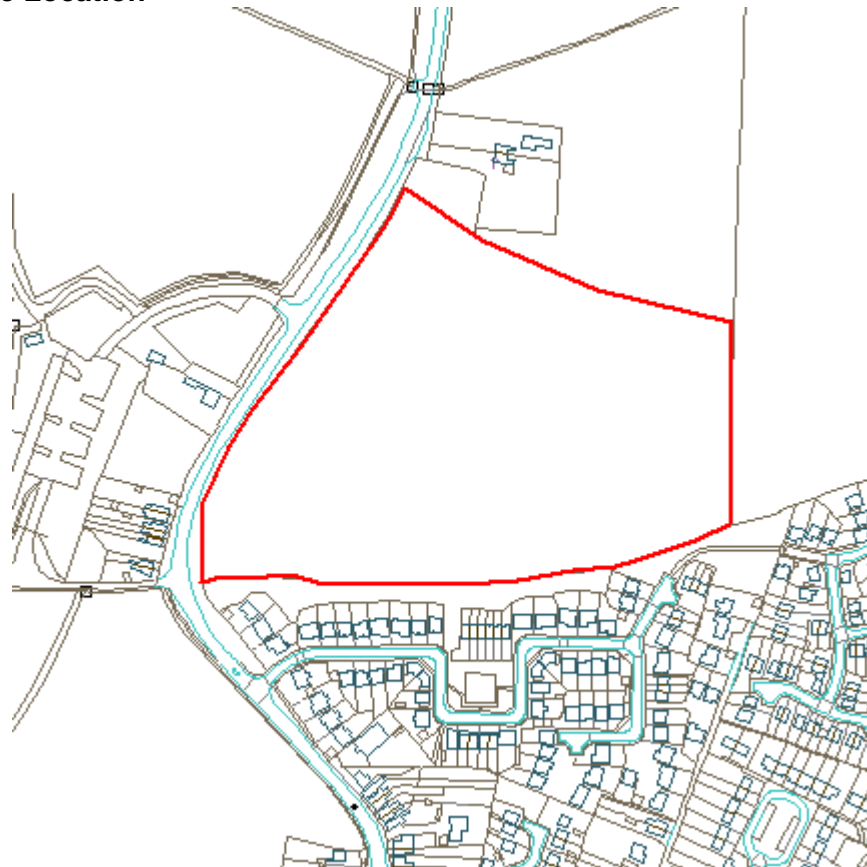
**Case Officer:  
James Mattley**

**Target Decision Date  
15 June 2012**

**Recommendation:  
PERMIT Subject to a Section 106 Agreement**

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### Indicative Site Location



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### Executive Summary of Proposals and Reasons for Approval

### **Call In**

The application is brought before the Planning Committee by Officers due to the application being subject of a Section 106 Agreement

### **Proposal**

This application seeks outline planning permission for residential development of up to 120 dwellings. Part access arrangements are included for consideration at this stage but all other matters are reserved.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals, including from Ravenstone with Snibston Parish Council (adjoining parish) and from members of the public. However, it is noted that Ibstock Parish Council support the application and there are also letter of support from members of the public.

### **Planning Policy**

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also relevant, however, are the District's housing land requirements, and the need (as set out in the National Planning Policy Framework) to demonstrate a five year supply.

### **Conclusion**

The report below indicates that, whilst the site is a greenfield site outside Limits to Development, having regard to the site's general suitability for housing (including its proximity to the built up area of Ibstock), the lack of conflict with the emerging Core Strategy and the opportunity to contribute towards the identified shortfall of new housing in Ibstock against the requirements of the emerging Core Strategy, release of the site for residential development would be appropriate in principle. The proposed development is considered acceptable in terms of access issues; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities.

### **RECOMMENDATION:- PERMIT, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS**

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

## ITEM A1 - MAIN REPORT

### 1. Proposals and Background

This is an outline planning application for residential development of up to 120 dwellings on a site of approximately 6.333 hectares to the east of Ravenstone Road and Melbourne Road, Ibstock currently used for agricultural purposes. Whilst all matters other than part access are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings, together with a central area of children's play and landscaping and on site and off site national forest planting.

Vehicular access is proposed onto Ravenstone Road and would be sited around 60 metres north of the access point into Sence Valley Country Park which is located to the west of the application site. Residential development, principally formed by dwellings on Chandlers Croft, is located to the south of the application site. To the east of the application site are open fields and further open fields are located to the north although there are two isolated residential properties (67 and 69 Ravenstone Road) located to the north. A public footpath (Q93) extends along (and within) the eastern boundary of the site and links the existing residential development to the south of the site with a footpath/bridleway to the north of the site.

### 2. Publicity

52 Neighbours have been notified (Date of last notification 20.03.2012 )

Press Notice published 28 March 2012

Site Notice posted 12 April 2012

### 3. Consultations

Ibstock Parish Council consulted 20 March 2012

County Highway Authority consulted 9 May 2012

Environment Agency consulted 9 May 2012

County Archaeologist consulted 9 May 2012

Hugglescote and Donington Le Heath Parish Council consulted 9 May 2012

National Forest Company consulted 9 May 2012

Severn Trent Water Limited consulted 9 May 2012

Natural England consulted 9 May 2012

NWLDC Urban Designer consulted 9 May 2012

LCC ecology consulted 9 May 2012

Head of Environmental Protection consulted 21 March 2012

Natural England consulted 21 March 2012

NWLDC Tree Officer consulted 21 March 2012

NWLDC Conservation Officer consulted 21 March 2012

LCC Development Contributions consulted 21 March 2012

NHS Leicester, Leicestershire And Rutland Facilities Management consulted 21 March 2012

Building Control - NWLDC consulted 21 March 2012

Head Of Leisure And Culture consulted 21 March 2012

Manager Of Housing North West Leicestershire District Council consulted 21 March 2012

Police Architectural Liaison Officer consulted 21 March 2012

LCC/Footpaths consulted 21 March 2012

National Forest Company consulted 21 March 2012

#### 4. Summary of Representations Received

**Ibstock Parish Council** supports the planning application.

**County Highway Authority** originally advised that there was a fundamental problem with the traffic distribution details included in the applicant's Transport Assessment (TA). However, following the submission of additional information the County Highway Authority raises no objections to the proposals on highway safety grounds subject to relevant conditions and developer contributions.

**Environmental Protection Officer** raises no objection to the proposed development subject to conditions.

**County Footpath Officer** raises no objection subject to conditions and notes to applicant ensuring that the existing footpath is unaffected.

**Leicester, Leicestershire and Rutland PCT** request a financial contribution of £60,255.36.

**County Education Authority** requests a financial contribution of £348,451.49.

**County Library Services Development Manager** requests a financial contribution of £7,560.

**County Waste Management** request a financial contribution of £7,736.

**Leicestershire Constabulary** request a financial contribution of £72,720.

**Environment Agency** raises no objection to the proposed development subject to the imposition of conditions.

**Severn Trent Water** raises no objection subject to conditions.

**County Ecologist** raises no objections to the proposed development subject to conditions and notes to applicant.

**National Forest Company** was originally concerned over the access arrangements that would have impacted upon over 120 metres of hedges and trees and suggested additional parkland planting within the public open space. However, following the submission of amended plans the National Forest Company are now satisfied with the proposed scheme.

**Natural England** is satisfied that, subject to conditions, that the proposal would not have a significant impact upon ecology but requests that the existing main hedgerow that runs through the site is only fragmented once by the access road. An amended masterplan has been received which shows the main hedgerow only fragmented once.

A total of 20 representations have been received which object to the application on the following grounds:

- extending to the north of Ibstock would be urbanising and unnecessary;
- the centre of Ibstock is becoming isolated from peripheral development;
- there does not appear to be a local housing need;
- the access arrangements are totally wrong and it would be more sensible to create a traffic island at the Sence Valley Park entrance;

- too many planning applications for housing in Ibstock;
- there should be a more gradual and co-ordinated approach to housing in Ibstock;
- new housing in Ibstock should be located close to the centre;
- development would impact upon the privacy of existing residents;
- ecology would be disturbed;
- the access would be dangerous; Melbourne Road/Ravenstone Road is already a very busy and fast stretch of road;
- local services and infrastructure could not cope with further housing development;
- the site is not allocated for housing in the current Local Plan;
- the proposed site is unsustainable as it is located on the northern edge of the village at the furthest point away from services and facilities;
- the site would be highly visible as it is not screened by landscape features;
- the location of the planting infers future plans to build on land currently identified as being of significant archaeological interest;
- the site is located within the open countryside and would be detrimental to it;
- construction of houses would lead to noise and disturbance;
- the development will bring closer the villages of Ravenstone, Donington Le Heath and Hugglescote;
- proposal would de-value existing property;
- the proposal would impact upon the outlook of existing dwellings;
- there should be a 10 metre woodland belt located at the south of the application site;
- the housing demand outlined in the draft core strategy can be accommodated by land to the south of Ashby Road;
- the access would not provide adequate visibility;
- the proposal would destroy an existing bridle path;
- trees and hedgerows will be lost;
- the proposal would detract from Sence Valley Country Park;
- the proposal would be built on green belt;
- object to the planting of more trees as these cause overshadowing;
- the visual impact of the development would be fairly high;
- a new multi-user route should be provided linking an existing track to Donington Le Heath and to Heather;

A total of 5 representations have been received supporting the application on the following grounds:

- the proposal would result in slower traffic speeds to the benefit of the surrounding area;
- the off-site works would make it easier to get to Sence Valley County Park by foot and by car;
- the product offered by Davidsons is of excellent quality and they have long been associated with Ibstock;
- would prefer this site to the Bellway scheme as that application would result in a reduction in the area of separation between Heather and Ibstock;
- the developers have worked closely with the community and incorporated a number of changes.

All representations received in respect of the application are available to view in full on the planning file.

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development.

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 policies of the East Midlands Regional Plan and North West Leicestershire Local Plan as set out in more detail in the relevant sections below are consistent with the policies in the NPPF and should be afforded weight in the determination of this application.

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

Paragraph 14 sets out the presumption in favour of sustainable development which, in respect of decision making, means that, unless material considerations indicate otherwise,

- "- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted."

"32 All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

"34 Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas."

"47 To boost significantly the supply of housing, local planning authorities should:  
 ...- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer

of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

"49 Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

"57 It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"59 Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."

"61 Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"100 Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere."

"118 When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;...
- ...- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"203 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

"204 Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development."

## **East Midlands Regional Plan**

Policy 1 sets out the Regional Core Objectives.

Policy 2 seeks to improve continuously the layout, design and construction of new development.

Policy 3 sets out a sequential approach for the distribution of development and economic activity. The policy also advises that priority should be given to making best use of previously developed land and vacant/underused buildings in urban or other sustainable areas. It suggests a distribution of development and economic activity including (i) new development concentrated primarily in and adjacent to the region's five Principal Urban Areas (PUAs); (ii) significant levels of development located in the three growth towns of Corby, Kettering and Wellingborough; and (iii) appropriate development of a lesser scale in the Sub Regional Centres (including Coalville, the only identified Sub Regional Centre in the District); and (iv) development needs of other settlements provided for.

Policy 12 states that, outside Derby, Leicester and Nottingham, employment and housing development should be located within and adjoining settlements. Such development should be in scale with the size of those settlements, in locations that respect environmental constraints, in particular those of the River Mease Special Area of Conservation and the surrounding countryside, and where there are good public transport linkages.

Policy 13a sets out the figures for Regional Housing Provision.

Policy 14 sets out the Regional Priorities for affordable housing.

Policy 26 seeks to ensure that sustainable development should ensure the protection, appropriate management and enhancement of the Region's natural and cultural heritage.

Policy 27 seeks to understand, conserve and enhance the historic environment, in recognition of its own intrinsic value, and its contribution to the Region's quality of life.

Policy 29 sets out priorities for enhancing the Region's biodiversity.

Policy 32 sets out the regional approach to water resources and water quality.

Policy 35 sets out the circumstances under which development should not be permitted if, alone or in conjunction with other new development, it would have an impact on flooding or flood risk.

Policy 48 states that Local Planning Authorities should apply the maximum amounts of vehicle parking for new development as set out in PPG13. Parking in excess of these standards should only be provided in exceptional circumstances.

Policy Three Cities SRS 3 states that within the context of Policy 13a (10,200 dwellings for the years 2006-2026 for North West Leicestershire), provision for new housing will be made at the following levels over 2006 – 2026 which, in North West Leicestershire, requires provision to be made for 510 dwellings per annum located mainly at Coalville, including sustainable urban extensions as necessary. At paragraph 4.2.29 of the Regional Plan it is pointed out that Sustainable Urban Extensions are proposed to Loughborough, Hinckley and Coalville so as to support their roles as Sub-Regional Centres.

The Government has stated that it intends to revoke all Regional Spatial Strategies. The Secretary of State for Communities and Local Government issued a statement on 6 July 2010 revoking all Regional Spatial Strategies. This was subsequently challenged in the High Court and the decision quashed. As such, therefore, the Regional Spatial Strategy was reinstated.

The Secretary of State issued a further letter in light of the decision of the High Court, in which he said that it was still the Government's intention to abolish Regional Spatial Strategies as part of the Localism Bill and that local planning authorities should continue to have regard to his letter of 27 May 2010 (in which he announced his intention to revoke Regional Spatial Strategies) as a material consideration in making decisions. This was subject to a further legal challenge. In this instance the High Court dismissed the appeal and so the proposed revocation of the Regional Spatial Strategy is a potential material consideration. Also, the Localism Act 2011 includes the proposed power to abolish Regional Spatial Strategies as intended.

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

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst others, public transport and services. This policy reflects advice in PPS 3 and PPG 13.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to centres, design etc. Within Coalville and Ashby-de-la-Zouch town centres, local centres and other locations well served by public transport and accessible to services a minimum of 40 dwellings per ha will be sought and a minimum of 30 dwellings per ha elsewhere (in respect of sites of 0.3 ha or above).

Policy H7 seeks good quality design in all new housing developments.

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

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 requires new development to respect the character of its surroundings.

Policy E6 seeks to prevent development where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part.

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria.

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

Policy L22 provides that major new development will only be permitted where adequate provision is made for open space for formal recreation use.

### **Other Policies**

#### **6C's Design Guide (Highways, Transportation and Development) – Leicestershire County Council**

Paragraphs 3.171-3.176 set out the County Council's guidance in relation to parking standards for residential development. This document also provides further info in relation to motor cycle/cycle parking, the design of on/off-street parking and other highway safety/design matters.

#### **District Council's Play Area Design Guidance Supplementary Planning Guidance**

Sets out the requirements for on-site children's play provision and specifies that a rate of 20 square metres per dwelling.

#### **North West Leicestershire District Council Affordable Housing SPD**

Key Principle 2 provides that affordable housing will be sought on all sites of 15 or more dwellings in the Ibstock area.

Key Principle 3 requires a minimum of 20% of residential units to be available as affordable housing within the Ibstock area.

#### **Pre-Submission Core Strategy (April 2012)**

The District Council considered its Pre-Submission Core Strategy at its meeting of 24 April 2012. The Council resolved to approve the Pre-Submission Core Strategy, agreed to the publication of the Core Strategy Development Plan Document, and delegated authority to officers to make minor changes to the Core Strategy following consultation and submit the amended document to the Secretary of State. The following Pre-Submission Core Strategy policies are considered relevant:

Policy CS1 provides that provision will be made for at least 9,700 new homes (an average of 388 per annum) in the District over the period 2006 to 2031.

Policy CS7 provides that new development, including new facilities and services will be directed to the most sustainable locations in accordance with the settlement hierarchy set out in that policy.

Policy CS8 provides that the countryside will be protected for the sake of its intrinsic character

and beauty, and limits development within the countryside to specified uses and of a scale and environmental impact compatible with its rural location.

Policy CS15 provides that sufficient land will be allocated to ensure the overall housing provision of at least 9,700 dwellings over the period 2006-2031.

Policy CS16 provides that all housing developments should be of a good standard of design and have a layout and built form that makes efficient use of land and complements the built form and character of the area in which it is situated, and that proposals for sites of 0.3ha or above should have a minimum net density of 30 dwellings per hectare.

Policy CS17 provides that the District Council will seek a mix of housing types, sizes and tenures in all new housing development.

Policy CS18 provides, amongst others, that a proportion of affordable housing will be provided on eligible sites.

Policy CS21 provides that all new residential development will have to demonstrate how it satisfies the Council's place-making principles:

Policy CS22 provides that new development will be supported by the provision of new or improved physical, social and green infrastructure needed to enable the amount of development proposed for the area.

Policy CS23 requires new development to maximise the efficient use of existing transport facilities in the district as it looks to a lower carbon future.

Policy CS24 requires new development to minimise carbon dioxide and other greenhouse gas emissions.

Policy CS25 provides that new residential developments will be expected to achieve the highest level technically and financially viable under the Code for Sustainable Homes.

Policy CS26 provides that new development will be directed towards areas at the lowest risk of flooding within the District.

Policy CS28 provides that Strategic Green Infrastructure Network will be protected and enhanced, and that new developments proposed in Policies CS32 to CS42 should contribute to the enhancement of the Strategic Green Infrastructure network.

Policy CS29 provides, amongst others, that new housing development makes provision for appropriate sport, open space and recreation facilities.

Policy CS30 provides, amongst others, that new developments within the National Forest will contribute towards the creation of the forest by including provision of tree planting and other landscape areas within them and/or elsewhere within the National Forest in accordance with National Forest Planting Guidelines.

Policy CS32 provides that new development should contribute to the protection and improvement of the natural environment.

Policy CS39 sets out the proposed development strategy for Ibstock and identifies a preferred

direction for growth to the west of Ibstock

The pre-submission draft Core Strategy includes an Infrastructure Plan, identifying infrastructure requirements in respect of Ibstock for healthcare and education contributions.

## 6. Assessment

### Principle of the Development

The application site is greenfield land located outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3. The emerging Core Strategy proposes a similar policy (Policy CS8) which limits development to that which requires a rural location (and does not include market housing).

However, in determining the application, whilst the proposals would be contrary to Policy S3 of the adopted Development Plan, regard must be had to other material considerations, including other Development Plan policies, the National Planning Policy Framework, and housing land supply.

### *Sustainability*

As set out above, the application site is an unallocated site, located outside the limits to development in the adopted Local Plan. In terms of the sustainability of the site, Local Plan Policy H4/1 states that the development of land for housing will be determined on a sequential approach. In terms of the site in Ibstock it would fall within category (f) 'other locations where appropriate in the context of other policies contained in the Local Plan'.

In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the preferred maximum walking distance to a town centre with 400 metres acceptable and 200 metres being desirable. Below are the distances from the centre of the site at the east of Ravenstone Road to local facilities and services.

Bus Stop - 460 metres  
 Primary School - 980 metres  
 Local centre - 1,040 metres  
 Post Office - 1,370 metres  
 Health Centre - 1,400 metres  
 Secondary School - 1,015 metres  
 Open Space - 186 metres

The application site is within 800 metres (preferred maximum walking distance) of two of the seven services/facilities listed previously. However, it should be noted that the list does not include the primary food supermarket, the Co-Op on Chapel Street, which is 650 metres from the proposed site. Therefore, on balance, it is considered that whilst the site is not within the preferred maximum walking distance of a number of the key services and facilities that the site is considered to be in a reasonably sustainable location.

### *Pre-Submission Core Strategy*

The emerging Core Strategy has gone through various consultations, most recently between 28 May and 9 July 2012. Provision is to be made for 388 dwellings per annum in the period (2006-

2031), 9700 dwellings in total. The Pre-Submission version endorsed by a meeting of Full Council on 24th April 2012 supports a split as follows:

Coalville	4950
Ashby de la Zouch	1400
Castle Donington	1300
Ibstock	550
Measham	550
Kegworth	450
Rest of the District	500

A settlement hierarchy for locating new development is identified, including new facilities and services. This hierarchy states that most new housing, employment and retail development will take place in the Coalville Urban Area, the remaining housing and employment development will be located in Rural Centres and small-scale housing and employment development will be located within the Limits to Development of Sustainable Villages. In the existing built-up areas of Rural Villages small-scale employment development will be permitted together with new housing where it satisfies a range of criteria and in the remaining settlements that fall within Countryside development will be restricted in accordance with the Countryside policy of the Pre-Submission Core Strategy.

Ibstock is identified as a Rural Centre due to its range of services and facilities. Although Ibstock is not at the top of the hierarchy, it is identified as one of a number of Rural Centres, outside of the Coalville Urban Area, that are suitable to accommodate development. In terms of housing numbers, for the period 2006-2031 provision is to be made for 550 dwellings in Ibstock, taking into account commitments there remains 290 dwellings to be provided.

Although the Core Strategy does not allocate sites to accommodate this development it does identify preferred locations. In Ibstock the preferred location for most of the new homes is to the west of Ibstock, this site is identified as being able to accommodate 220 of the new dwellings. A planning application has been submitted on land south of Ashby Road within the Broad Location identified in the Core Strategy for 191 dwellings. There is, therefore, a shortfall of at least 70 dwellings (and potentially rising to about 100 dwellings on the basis that the application on land to the south of Ashby Road has been submitted for 191 dwellings rather than 220 dwellings) against the overall requirement in Ibstock. The application site could, therefore, address this shortfall.

In conclusion on this issue, the Pre-Submission Core Strategy has been approved by Council and represents the Council's preferred approach to which some weight can be attached, although as the Core Strategy progresses more weight can be accordingly attributed to it. The application site is within an identified Rural Centre and is therefore a suitable location for new development. Notwithstanding the fact that this site is not specifically identified in the Core Strategy, it is the case that there is still a shortfall of at least 70 dwellings (and rising potentially to about 100 dwellings) in Ibstock compared to the overall requirement for 550 dwellings for the period 2006-2031. Whilst the application site would provide for more housing than this, as it relates to up to 120 dwellings, it is not considered so great a difference such that it would necessarily conflict with the Core Strategy.

#### *Housing Supply*

Paragraph 49 of the NPPF requires that, where a local planning authority cannot demonstrate a 5 year housing land supply, it should consider its housing supply policies out of date. As North West Leicestershire District Council has no housing supply policies paragraph 49 does not

apply. The requirement of paragraph 47, however, is such that a local planning authority should identify sufficient sites to meet the needs of the next five years, plus an additional 5% or 20% where there has been a record of persistent under delivery of housing.

In terms of the five year housing land supply when calculated based on the figures in the emerging Core Strategy, the position as of April 2012 is that the Local Planning Authority has 5.14 years' supply (when calculated using the residual method). However, when considered in the context of the requirement to provide an additional buffer of 5% (or 20% in the event of a record of persistent under-delivery), the relevant figure would be 4.85 years (with the 5% buffer) or 4.14 years (with the 20% buffer).

Regardless of whether the 5% or 20% buffer is applied, therefore, there is not a sufficient supply of housing land as required by the NPPF.

#### *Comprehensive Development*

Policy E6 of the Local Plan refers to Comprehensive Development and details that development will not be permitted where it would prejudice the comprehensive development and proper planning of a larger area of land of which the concerned site form part.

The proposed site east of Ravenstone Road forms part of a larger site as identified through the Council's Strategic Housing Land Availability Assessment (SHLAA) although the development of that site does not form part of the current approach to development of Ibstock as set out in the emerging Core Strategy. The larger site is site Ib18 in the Council's SHLAA and is 30.11 hectares and could accommodate around 300 dwellings (at 30 dwellings per hectare). As the application site only takes part of this larger area, there are some concerns that development could potentially prejudice a larger development and hence be contrary to Policy E6. In response to a request for clarification on this matter the agent acting on behalf of the applicant has advised that the applicant does not have a legal interest in land to the east of the planning application site. However, while the applicant does not have a legal interest in the land to the east, it is likely that a scheme could be designed at the reserved matters stage that did not prejudice access to and the future development of this land and as such there would not appear to be any conflict with Policy E6.

#### *Conclusions in respect of the Principle of Development and Planning Policy*

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The site the subject of this application is greenfield and is located outside Limits to Development in the adopted Local Plan and its development for housing would therefore be contrary to the provisions of Policy S3 of the Local Plan. However, the site is considered to be in a reasonably sustainable location and whilst the site is not part of the preferred Broad Location in the Core Strategy it would help to resolve the identified shortfall of new housing in Ibstock against the requirement in the Core Strategy. It is also noted that Ibstock Parish Council supports the application. Overall, therefore, the development of the site is considered acceptable in principle.

#### **Highway Safety**

All matters are reserved for subsequent approval except for access. The point of access proposed under the current application is via a new 6.0 metre wide access road off Ravenstone Road.

In respect of the application, the County Highway Authority (CHA) originally advised that there was a fundamental problem with the traffic distribution details included in the applicant's Transport Assessment (TA). The main concern related to an unrealistic number of traffic movements at the Ashby Road/Melbourne Road double roundabout and, therefore, it was unclear whether mitigation would be required and, if so, what it should be. In response to these concerns the applicant's highway consultant agreed to change the distribution base and re-assess the junction capacity.

This information has now been submitted as an addendum to the TA and includes revised development traffic distribution and revised off-site junction capacity assessments. The results show that 3 of the 4 junctions will operate over capacity in 2017 both with and without the development. Therefore the following off-site junction improvements are proposed by the developer:

1) Melbourne Road Non-Pedestrian Refuge Improvements. There is an existing non-pedestrian refuge on Melbourne Road that was installed as part of the Bellway Homes access arrangements. The proposal is to upgrade this to a full pedestrian refuge with tactile paving provided on both sides of Melbourne Road.

2) Ashby Road/Melbourne Road Double Mini-Roundabout Improvements. There is an existing pedestrian refuge on the eastern Ashby Road arm. The proposal is to upgrade this to a wider refuge as the existing one is substandard in width. It is also proposed to re-align the carriageway.

3) Leicester Road/Chapel Street/Co-Op Access-Ashby Road Mini-Roundabout Improvements. The additional information states that this junction operates over capacity at the present time and that there are a number of physical constraints that prevent highway improvements such as widening or kerb realignment. However, in order to offer some improvements to the existing mini-roundabout it is proposed to provide a new pedestrian central refuge with tactile paving on the Ashby Road arm of the junction.

In relation to this the County Highway Authority advise that their previous concerns relating to the TA have been addressed and that the proposed off-site junction improvements are considered acceptable.

In terms of the application site itself, the proposal includes for the provision of a right turn lane on Ravenstone Road to facilitate right turning movements from the south of the site. In addition traffic calming measures including a reduction in the speed limit are proposed. The County Highway Authority confirms that the vehicular access details comply with the standards contained in the Highway Authority's 6Cs developer guidance document in terms of their geometry (width, radii and alignment) and the visibility available to emerging vehicles.

In view of the above, the County Highway Authority raises no objections to the proposals on highway safety grounds subject to conditions, and subject to the contributions set out under Developer Contributions below, which would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use. It is noted that, amongst others, the County Highway Authority recommends the imposition of a condition relating to construction traffic routing. However, advice in Circular 11/95 appears to indicate that a condition should not be used to secure the routing element of this, hence it is recommended that this be included in the Section 106 agreement, along with other proposed obligations (relating to developer contributions) as set out in more detail later in this report.

The proposed development is therefore considered acceptable in terms of highway safety and would comply with Local Plan Policy T3 and T8 and the advice contained in the Highway Authority's 6Cs developer guidance document.

### **Neighbours' and Future Occupiers' Amenities**

As set out above, the site is proposed to be accessed via Ravenstone Road. This area of Ravenstone Road is not heavily populated with only sporadic and isolated residential dwellings and, therefore, it is not considered that the increased traffic using local roads generally as a result of the proposed development would lead to unacceptable impacts on residents' amenities.

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves are concerned, this would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 120 units could not be provided on the site in a manner which would not adversely impact upon neighbours' amenities.

### **Design**

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABI's new Building for Life criteria which scores on the basis of red/amber/green rather than a points based scoring system. The Council's Urban Designer has reviewed the proposals and with the exception of Question 2 (facilities), the scheme offers the potential to perform well against Building for Life. Given the outline nature of the application, and the scope that the Urban Designer considers there to be for building on the scores achieved thus far on the illustrative layout at the reserved matters stage(s), the Urban Designer raises no objection to the scheme. However, he advises that, in order to achieve positive scores at the reserved matters stage(s) the Building for Life assessment should be referenced within any decision notice. This could be secured through an appropriately worded note to applicant.

Therefore, whilst the scheme is not sufficiently advanced to be assessed fully against Building for Life, it is considered that it has been demonstrated that, in principle, an appropriate scheme could be secured at the reserved matters stage(s), and would comply with the relevant Development Plan policies and advice in the NPPF.

### **Landscape and Visual Impact**

The application has been accompanied by a landscape and visual impact assessment.

The landscape and visual impact assessment considers the impacts of the proposed development from a total of 9 viewpoints, including points in the immediate vicinity of the application site, as well as from more distant viewpoints from the north of the site such as Kelham Bridge Nature Reserve, Donington Le Heath and Leicester Road, Ravenstone.

In terms of landscape effects the report summarises that the site is characterised by arable and pasture agricultural use, with some trees and hedgerows. Apart from the boundary hedgerows and the hedgerows that run through the site there is considered to be little intrinsic landscape interest and the site is overlooked by the existing urban edge. The assessment concludes that the landscape changes to the site as a result of the development proposals would relate to a combination of adverse and beneficial landscape changes. The assessment suggests that the landscape changes to the site would have adverse impacts in terms of changes to landscape

character through the introduction of new dwellings on an existing agricultural field, but there would also be beneficial impacts in terms of green infrastructure such as new tree planting.

In terms of the anticipated impacts on public views, the effects are considered to range from moderately adverse to negligible, by virtue of the existing hedgerows and tree planting. It is also noted that the existing urban fringe (formed by residential dwellings off Chandlers Croft) is visible from a number of viewpoints from the north of the site. The assessment suggests that the visual impacts of the development would not be significantly adverse and over time, any moderately adverse visual impacts, would reduce as woodland planting matures.

These conclusions are considered reasonable, and it is accepted that, subject to appropriate landscaping, the visual impacts of the proposals would be reasonable and that, notwithstanding the site's location outside Limits to Development, unacceptable impacts on the amenities of the surrounding area would not be likely to arise.

In terms of the actual amounts of landscaping proposed, the National Forest Company comments that, based on the National Forest Company's guidance, 20% of the area would be required to be provided as woodland planting and landscaping (which would equate to 1.26ha). The applicant's propose that a total of 1.33ha of National Forest is proposed and that this would be made up by 0.86ha of on site planting and 0.47ha of off site planting. The off site planting is made up of a block of woodland planting to the north of the application site with the on-site planting consisting of additional strips of planting alongside the existing hedgerow and to the site boundary. The National Forest Company originally raised some concerns over the width of the planting, the extent of vegetation removal required by the access arrangements and that there would be scope for additional parkland planting within the public open space.

In response to these concerns the applicant's submitted an amended masterplan which identified additional woodland planting within the area of public open space, an additional hedgerow to the Ravenstone Road frontage as well as additional forest planting to the south of the application site (outside of the land under the control of the applicant). On this basis of the amended masterplan the National Forest Company raise no objections to the proposed development. Whilst additional planting to the south of the application site is welcomed it is noted that this lies within an area of National Forest planting as part of the approved Chandlers Croft development. Therefore, although this additional planting can be given little weight in terms of the overall level of National Forest planting, given that an acceptable level of planting is provided even when this area is discounted, then it is considered that the overall level of planting is acceptable.

Overall, therefore, subject to a Section 106 to secure the National Forest planting, and subject to an appropriate form of development being proposed at the reserved matters stage(s), it is considered that the landscape and visual effects of the proposed development are acceptable.

### **Trees**

The application has been accompanied by an arboricultural survey and impact assessment. This has been assessed by the District Council's Tree Officer, who originally concluded that the layout on the indicative masterplan indicates an intention to retain most of the established trees with the exception of some trees (located in TG1) where the proposed access road meets Ravenstone Road. Concern was expressed that the trees within TG1 had not been surveyed in detail, retention category C was not considered to accurately reflect the overall landscape value to Ravenstone Road, the lack of street or garden frontage trees and that the National Forest planting should be wider than that shown on the indicative plan. The Tree Officer recommends

that a tree protection plan, tree management plan, hedgerow management plan and full landscaping details are provided at the reserved matters stage.

In response to these concerns, the applicants have provided additional information in the form of an addendum to the arboricultural assessment which provides a full survey of TG1 and have also submitted a revised conceptual masterplan. The Council's Tree Officer is satisfied with the tree survey addendum and considers that it can be used as a basis for the detailed tree management and tree protection plans that would need to be submitted at the reserved matters stage. The survey does not identify structural defects or fungal pathogens which are present in some trees along the roadside and it is recommended that these details are included in the detailed tree management plan.

The Council's Tree Officer raises some concerns over the lack of screening of the development but this is dealt with elsewhere in the report.

### **Ecology**

The application is supported by an extended Phase 1 habitat survey. This concludes that the site is dominated by pasture, arable fields, hedgerows and trees. The hedgerows on the site represent Biodiversity Action Plan Priority Habitat. Some of the habitats provide interest to wildlife, in particular the hedges and trees provide adequate cover for feeding and nesting birds and suitable foraging for bat species. There is a single pond and a dry ditch on the site although both of these features are considered to provide very poor breeding habitat for Great Crested Newts. The survey confirms that the site is unlikely to provide a suitable habitat for Badgers, Water Vole or Reptiles.

The survey identifies two Local Wildlife sites, one is Kelham Bridge Nature Reserve which is located around 385 metres to the north of the application site and the other is Ibstock Cemetery Local Wildlife which is located around 620 metres to the south of the application site. It is noted that in some situations an increase in population in and around Local Wildlife sites has the potential to disturb sensitive habitats and the species they support. However, in this instance, the report concludes that any potential impact on these sensitive habitats will be significantly mitigated by the presence of Sence Valley Forest Park which provides an alternate area of public open space that is easily accessible from the application site.

In response to the application Leicestershire County Council's ecologist had raised a number of issues, but these all now appear to have been resolved to the County Ecologist's satisfaction. No objections are raised subject to the imposition of conditions including in respect of vegetation removal, reptiles, nesting birds and badgers. The County Ecologist does not consider that any designated sites of ecological importance would be affected as a result of the proposal. For its part, Natural England does not consider, subject to conditions, that protected species would be impacted upon. Natural England makes suggestions in relation to nature conservation enhancements, green infrastructure and sustainable design which would need to be addressed at the reserved matters stage could be secured through appropriately worded conditions.

Subject to the imposition of suitably-worded conditions, therefore, the submitted scheme is considered acceptable in ecological terms.

### **Developer Contributions**

Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the proposed development.

Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.

The relevant developer contributions are listed below.

#### *Affordable Housing*

The development is proposed to provide 20% of the scheme as affordable housing (i.e. 24 units, assuming the construction of the maximum 120 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 70% social rented and 30% intermediate housing will be sought. In terms of the actual unit types that the District Council's Strategic Housing Team would currently be seeking:

- 4 x 2 bed houses
- 8 x 3 bed houses
- 4 x 2 bed bungalows
- 6 x 1 bed properties (apartments or houses)
- 2 x 4 bed houses

However, it is accepted that the current requirements are likely to change over time, and it is considered appropriate for the Section 106 agreement to secure a minimum of 20% (and including the tenure split suggested above) with the actual contribution in terms of unit types to be agreed by the District Council.

#### *Transportation Contributions*

As set out under Highway Safety above, the County Highway Authority has requested the following developer contributions, required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use.

- Provision of Travel Packs informing new residents from what sustainable travel choices are in the surrounding area (which can be supplied by Leicestershire County Council at £50.18 per pack);
- 6 month bus passes (2 application forms to be included in Travel Packs and funded by the developer), to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (which can be supplied through Leicestershire County Council at (an average of) £331.20 per pass);
- Improvements to the two nearest bus stops (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities (£3,263 per stop);
- Information display cases at the two nearest bus stops, to inform new residents of the nearest bus services in the area (£120 per display); and
- Bus shelters at the two nearest bus stops, to provide high quality and attractive public transport facilities to encourage modal shift (£4,908 per shelter)

The applicants are agreeable to making these contributions.

#### *Education*

In respect of the proposed education contributions, Leicestershire County Council comments as follows:

**Primary School Requirements:**

The site falls within the catchment areas of Ibstock St. Denys Church of England Infant School and Ibstock Junior School. The Schools have a joint net capacity of 420 and 457 pupils are projected on roll should this development proceed; a deficit of 37 places (of which 8 are existing and 29 are created by this development). However, there are two other primary schools within a two mile walking distance of the development (Woodstone Community Primary School and Heather Primary School) which have an overall surplus of 2 places. This results in an overall deficit for the area of 35 places. In order to provide the additional primary school places anticipated by the proposed development the County Council request a contribution of £348,451.49. The applicants are agreeable to making this contribution.

**High School Requirements:**

The site falls within the catchment area of Ibstock Community College. The College has a net capacity of 707 and 640 pupils are projected on roll should this development proceed; a surplus of 67 places after taking into account the 12 pupils created by this development. Therefore, no education contribution is requested in respect of the High School sector.

**Upper School Requirements:**

The site falls within the joint catchment area of Ashby School and Coalville King Edward VII Science & Sports College. Ashby School has a net capacity of 1841 and 1748 pupils are projected on roll should this development proceed; a surplus of 93 places. Coalville King Edward VII Science & Sports College has a net capacity of 1193 and 1024 pupils are projected on roll should this development proceed; a surplus of 169 places. Therefore, no education contribution is requested in respect of the Upper School sector.

*Play and Public Open Space*

The application submission indicates that provision is proposed to be made for 0.99 ha of public open space on site, including a children's play area (LEAP) which makes up 0.24 ha of the total area. The size of the children's play area shown on the indicative plan would be in accordance with Local Plan Policy L21 and the Play Area Design Guidance SPG.

Local Plan Policy L22 and the Play Area Design Guidance SPG requires formal recreation open space (normally sports pitches) to be provided on sites of over 99 dwellings. However, the Local Planning Authority has an open space audit (2008) which identifies that there is an over provision of recreation grounds to the sum of 1.38Ha. On this basis, it is not considered that formal recreation open space will be necessary in this instance.

*National Forest Planting*

The applicants propose making both on-site (0.86 hectares) and off-site (0.47 hectares) planting that equates to a total of 1.33 hectares. In addition, the applicants have proposed to supplement existing national forest planting that is located to the south of the application site that was originally planted as part of the Chandlers Croft development. The National Forest Company are satisfied with the proposed planting. This would be secured by a Section 106 agreement that could be worded to ensure that should the on-site/off-site planting requirement not be met, the shortfall be addressed by way of a financial contribution (or equivalent off-site planting).

*Civic Amenity*

A contribution of £7,736 is proposed to be made by the developer for Civic Amenity facilities in accordance with the requirements of Leicestershire County Council. The applicants are agreeable to making this contribution.

*Library Services*

A contribution of £7,560 is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council. The applicants are agreeable to making this contribution.

*Healthcare*

The Leicester, Leicestershire and Rutland PCT Cluster requests a healthcare contribution of £60,255.36 as set out in the consultation response above, and relating to proposed expansion of the Ibstock GP practice at High Street, Ibstock based upon a contribution commensurate to the anticipated increased population arising from this development. The applicants are agreeable to making this contribution.

*Contributions sought by Leicestershire Constabulary*

Leicestershire Constabulary requests a developer contribution of £72,720 in respect of policing as set out in the consultation response above. This money is requested in relation to new staff, improving force communications, CCTV, contribution towards vehicles and extension to premises in Coalville, Enderby and Loughborough. On the basis of the information submitted, it is not clear how the requests are directly associated with the proposed housing scheme and not clear as to why, if not provided, this would make the scheme unacceptable in planning terms. Therefore, it is not considered that the requested contributions comply with Regulation 122 of the CIL Regulations, and would therefore be unlawful.

Insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in Circular 05/2005 and the CIL Regulations.

**Other Matters**

A public footpath Q93 extend along the eastern boundary of the site. The County Council's Rights of Way Officer has no objections but suggests that a condition is included to secure improvements to the footpath (including to its width and surfacing). This would need to be addressed at the reserved matters stage (as internal access is reserved for later consideration) and, therefore, a suitable note to applicant has been recommended.

In terms of drainage, Severn Trent Water and the Environment Agency have no objections to the development subject to the imposition of conditions and, therefore, the development of the site is considered acceptable in this regard.

The applicant's agent has drawn attention to the fact that the Localism Act requires local planning authorities to have regard to material considerations including local finance considerations. With reference to this it is noted that the New Homes Bonus would be payable on the application site but it is not considered that significant weight should be attached to this issue and, in any case, the application is considered to be acceptable in planning terms.

The applicant's agent has also pointed out that Ibstock Parish Council have a meeting on 19th June 2012 and one of the agenda items is to discuss whether to commence proceedings of a Neighbourhood Plan. The applicant's agent has indicated that if such a plan is progressed then this would include the application site for residential development. At the time of writing this report this matter has not been considered by the Parish Council but any update on this issue will be included on the update sheet.

A letter has been received by Pegasus Planning Group on behalf of Bellway Homes which considers that there are inconsistencies in the recommendation when compared to other recommendations that have been considered by the Planning Committee. It also states that the current application that Bellway have submitted on land to the south of Ashby Road is wholly consistent with the pre-submission draft core strategy and is located in a more sustainable location. The letter concludes that the best approach would be to defer the application until the issues raised in the letter are fully addressed.

### **Summary Reasons for Granting Planning Permission**

The site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and its development for housing would therefore be contrary to Local Plan Policy S3 and National policy designed to protect the countryside for its intrinsic beauty. The site is also greenfield. However, having regard to the site's general suitability for housing (including its proximity to the built up area of Ibstock), the lack of conflict with the emerging Core Strategy and the opportunity to contribute towards the identified shortfall of new housing in Ibstock against the requirements of the emerging Core Strategy, release of the site for residential development would be appropriate in principle. The proposed development would be acceptable in terms of transportation and highway safety issues, flood risk and drainage, landscaping and visual impact, ecological impacts, impacts on the cultural heritage of the area, residential amenity, geo-environmental conditions and design. No other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities. It is therefore recommended that outline planning permission be granted subject to conditions and relevant developer contributions.

### **RECOMMENDATION - PERMIT, subject to Section 106 Obligations, and subject to the following condition(s):**

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

*Reason - to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).*

- 2 Save for the details of vehicular access into the site from Ravenstone Road details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.

*Reason - This permission is in outline only.*

- 3 The proposed development shall be carried out strictly in accordance with the following plans:
- Site Location Plan (A.41,335C) deposited with the Local Planning Authority on 16 March 2012;
  - Access Design Proposals General Arrangements (20288\_03\_005 Rev C) deposited with the Local Planning Authority on 20 June 2012.

*Reason - To determine the scope of this permission.*

- 4 No development shall commence on site until a foul and surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the first occupation of the dwellings hereby approved.

*Reason - To prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the drainage system.*

- 5 No development shall commence on the site until a Risk Based Land Contamination Assessment in line with the recommendations of section 6 of GRM Ltd report Desk Study / Phase I Assessment ref: GRM/P5675/DS.1 December 2011 has been submitted to and agreed in writing by the Local Planning Authority. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- BS10175 Year 2011 Investigation Of Potentially Contaminated Sites Code of Practice;
- BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

The Verification Plan shall be prepared in accordance with the requirements of:

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - To ensure that the land is fit for purpose.*

- 6 None of the dwellings shall be occupied until such time as a verification investigation has been undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development, and the report showing the findings of the verification investigation has been submitted to and agreed in writing by the Local Planning Authority. The verification report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
  - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
  - Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
  - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
  - Demonstrate the effectiveness of the approved Remedial Scheme; and
  - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

*Reason - to ensure that the land is fit for purpose.*

- 7 Unless first agreed in writing by the Local Planning Authority, no site clearance operations that involve the destruction or removal of vegetation on the site shall be undertaken during the months of March to August (inclusive).

*Reason - To ensure that breeding birds are not adversely affected, in the interests of nature conservation.*

- 8 No development shall commence on the site until a survey of badgers within and in the vicinity of the site has been undertaken and the results (together with precise details of any associated mitigation measures and a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with any agreed mitigation measures and timetable.

*Reason - In the interests of nature conservation, and to comply with Policy 26 of the East Midlands Regional Plan.*

- 9 No works to trees within the site shall be undertaken at any time unless, within a period not more than one month prior to the works, the trees have been surveyed by a suitably qualified individual, and have been found to have no bats present.

*Reason - In the interests of nature conservation, and to comply with Policy 26 of the East Midlands Regional Plan.*

- 10 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated March 2012, Ref: 20288/PS/03-12/3199, FRA addendum dated 4 May 2012, Ref: AB/20288 and the following mitigation measures detailed within the FRA:

- Section 3.7 - Surface water drainage system/s to be designed in accordance with either the National Sustainable Urban Drainage Standards, or CIRIA C697 and C687, whichever take precedent when the detailed design of the surface water drainage system is undertaken.
- Sections 6.1 to 6.3, 7.9 and 8.1 to 8.5 - Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

*Reason - To prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site, to reduce the risk of flooding to the proposed development and future occupants, and to comply with Policy 35 of the East Midlands Regional Plan.*

- 11 No demolition and no development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. No demolition and no development shall take place other than in accordance with the agreed scheme.

*Reason - To ensure satisfactory archaeological investigation and recording.*

- 12 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason - To ensure satisfactory archaeological investigation and recording.*

- 13 None of the dwellings hereby permitted shall be occupied until such time as the provision of the access and right turning lanes, a new footway/cycleway links, new crossing facilities, changes to speed limits and other traffic calming features on Ravenstone Road as shown on drawing No. 20288\_03\_005 Rev C have been provided.

*Reason - To provide a satisfactory access and pedestrian and cycle links to the new development.*

- 14 No more than 10 of the dwellings hereby permitted shall be occupied until such time as the off-site highway works (realignment of the kerb line and new pedestrian crossing facilities) on Ashby Road at the double mini roundabout as shown on drawing No. 20288\_03\_007 Rev A have been provided.

*Reason - To ensure satisfactory pedestrian links to the new development.*

- 15 No more than 25 of the dwellings hereby permitted shall be occupied unless the off-site highway works (new pedestrian crossing facilities) on Ashby Road at the Co-op roundabout as shown on drawing No. 20288\_03\_009 Rev A have been completed.

*Reason -To ensure satisfactory pedestrian links to the new development.*

- 16 No development shall commence on site until a scheme showing details of an appropriate footway/cycleway link between the south eastern corner of the site and Victoria Road, to include lighting, has been submitted to and agreed in writing with the

Local Planning Authority. No more than 25 dwellings shall be occupied unless the agreed footway/cycleway link has been provided.

*Reason - To ensure satisfactory pedestrian and cycle links to the new development.*

- 17 No development shall commence on site until a scheme showing details of an appropriate footway/cycleway link between the south west corner of the site and the new internal access roads, to include lighting, has been submitted to and agreed in writing with the Local Planning Authority. No dwellings on the site shall be occupied unless the agreed footway/cycleway link has been provided.

*Reason - To ensure satisfactory pedestrian and cycle links to the new development.*

- 18 No development shall commence on site until a scheme showing details of an appropriate footway/cycleway link between the south east corner of the site and the new internal access roads, to include lighting, has been submitted to and agreed in writing with the Local Planning Authority. No more than 25 dwellings shall be occupied unless the agreed footway/cycleway link has been provided.

*Reason To ensure satisfactory pedestrian and cycle links to the new development.*

- 19 No development shall commence on site until a scheme for vehicle wheel cleansing facilities for construction vehicles (to ensure that the highway is kept free of mud, water, stones etc) has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the approved details.

*Reason - To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users.*

- 20 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.

*Reason - To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction.*

- 21 None of the dwellings hereby permitted shall be brought into use until such time as a Residential Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The dwellings shall not be occupied at any time unless in accordance with the agreed Residential Travel Plan (or any alteration first agreed in writing by the Local Planning Authority).

*Reason - To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to and from the site.*

- 22 Before first use of the development hereby permitted, visibility splays of 2.4 metres by 90 metres shall be provided at the junction of the access with Ravenstone Road. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

*Reason - To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.*

- 23 The first reserved matters application in respect of the matter of landscaping shall provide for a ecological/landscape management plan (including for trees and hedges), including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), together with a timetable for its implementation. The development shall be carried out in accordance with the landscape management plan, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure the protection of wildlife and supporting habitat, to secure opportunities for the enhancement of the nature conservation value of the site in line with National planning policy, to provide for an appropriate form of development, and to comply with Policies 2 and 29 of the East Midlands Regional Plan.*

- 24 Notwithstanding Conditions 1, 2 and 3 above, the first reserved matters application shall include a masterplan for the whole of the site setting out indicative details of site layout, areas of open space / children's play, landscaping, density parameters and scale, as well as details of any proposed phasing of development. All subsequent reserved matters applications shall be in general accordance with the approved masterplan unless any alteration to the masterplan is first agreed in writing by the Local Planning Authority. All development of the site shall thereafter be undertaken in accordance with the agreed phasing and timetable details (or any alternatives subsequently agreed in writing by the Local Planning Authority).

*Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner.*

- 25 At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources (as described in Annex 2 of the National Planning Policy Framework (March 2012). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority as a part of the first reserved matters submission. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - To ensure the scheme provides for a sustainable form of development, and to comply with the provisions of the East Midlands Regional Plan.*

- 26 All reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement within the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for the relevant dwelling certifying that the relevant Code Level has been achieved

*Reason – To ensure the scheme provides for a sustainable form of development.*

### **Summary Reasons for Granting Planning Permission**

North West Leicestershire District Council's decision to grant planning permission in this instance arose following careful consideration of the relevant provisions of the Development Plan and all other relevant material considerations. The following policies of the East Midlands Regional Plan and North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

#### **East Midlands Regional Plan (March 2009)**

Policy 1 sets out the Regional Core Objectives.

Policy 2 seeks to improve continuously the layout, design and construction of new development.

Policy 3 sets out a sequential approach for the distribution of development and economic activity. The policy also advises that priority should be given to making best use of previously developed land and vacant/underused buildings in urban or other sustainable areas. It suggests a distribution of development and economic activity including (i) new development concentrated primarily in and adjacent to the region's five Principal Urban Areas (PUAs); (ii) significant levels of development located in the three growth towns of Corby, Kettering and Wellingborough; and (iii) appropriate development of a lesser scale in the Sub Regional Centres (including Coalville, the only identified Sub Regional Centre in the District); and (iv) development needs of other settlements provided for.

Policy 12 states that, outside Derby, Leicester and Nottingham, employment and housing development should be located within and adjoining settlements. Such development should be in scale with the size of those settlements, in locations that respect environmental constraints, in particular those of the River Mease Special Area of Conservation and the surrounding countryside, and where there are good public transport linkages.

Policy 13a sets out the figures for Regional Housing Provision.

Policy 14 sets out the Regional Priorities for affordable housing.

Policy 26 seeks to ensure that sustainable development should ensure the protection, appropriate management and enhancement of the Region's natural and cultural heritage.

Policy 27 seeks to understand, conserve and enhance the historic environment, in recognition of its own intrinsic value, and its contribution to the Region's quality of life.

Policy 29 sets out priorities for enhancing the Region's biodiversity.

Policy 32 sets out the regional approach to water resources and water quality.

Policy 35 sets out the circumstances under which development should not be permitted if, alone or in conjunction with other new development, it would have an impact on flooding or flood risk.

Policy 48 states that Local Planning Authorities should apply the maximum amounts of vehicle parking for new development as set out in PPG13. Parking in excess of these standards should only be provided in exceptional circumstances.

Policy Three Cities SRS 3 states that within the context of Policy 13a (10,200 dwellings for the years 2006-2026 for North West Leicestershire), provision for new housing will be made at the following levels over 2006 – 2026 which, in North West Leicestershire, requires provision to be

made for 510 dwellings per annum located mainly at Coalville, including sustainable urban extensions as necessary. At paragraph 4.2.29 of the Regional Plan it is pointed out that Sustainable Urban Extensions are proposed to Loughborough, Hinckley and Coalville so as to support their roles as Sub-Regional Centres.

The Government has stated that it intends to revoke all Regional Spatial Strategies. The Secretary of State for Communities and Local Government issued a statement on 6 July 2010 revoking all Regional Spatial Strategies. This was subsequently challenged in the High Court and the decision quashed. As such, therefore, the Regional Spatial Strategy was reinstated.

The Secretary of State issued a further letter in light of the decision of the High Court, in which he said that it was still the Government's intention to abolish Regional Spatial Strategies as part of the Localism Bill and that local planning authorities should continue to have regard to his letter of 27 May 2010 (in which he announced his intention to revoke Regional Spatial Strategies) as a material consideration in making decisions. This was subject to a further legal challenge. In this instance the High Court dismissed the appeal and so the proposed revocation of the Regional Spatial Strategy is a potential material consideration. Also, the Localism Act 2011 includes the proposed power to abolish Regional Spatial Strategies as intended.

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

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst others, public transport and services. This policy reflects advice in PPS 3 and PPG 13.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to centres, design etc. Within Coalville and Ashby-de-la-Zouch town centres, local centres and other locations well served by public transport and accessible to services a minimum of 40 dwellings per ha will be sought and a minimum of 30 dwellings per ha elsewhere (in respect of sites of 0.3 ha or above).

Policy H7 seeks good quality design in all new housing developments.

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

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 requires new development to respect the character of its surroundings.

Policy E6 seeks to prevent development where it would prejudice the comprehensive

development and proper planning of a larger area of land of which the site concerned forms part.

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria.

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

Policy L22 provides that major new development will only be permitted where adequate provision is made for open space for formal recreation use.

### **Reason**

The site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and its development for housing would therefore be contrary to Local Plan Policy S3 and National policy designed to protect the countryside for its intrinsic beauty. The site is also greenfield. However, having regard to the site's general suitability for housing (including its proximity to the built up area of Ibstock), the lack of conflict with the emerging Core Strategy and the opportunity to contribute towards the identified shortfall of new housing in Ibstock against the requirements of the emerging Core Strategy, release of the site for residential development would be appropriate in principle. The proposed development would be acceptable in terms of transportation and highway safety issues, flood risk and drainage, landscaping and visual impact, ecological impacts, impacts on the cultural heritage of the area, residential amenity, geo-environmental conditions and design. No other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities. The proposed development therefore accords with the planning policies stated above.

### **Notes to applicant**

- 1 Before any works associated with the surfacing of the footpath are carried out, the County Council's approval should be obtained to the specification for this purpose. The applicant Company should contact the Rights of Way Inspector for the area, Mr. A. Perry, who is based at the Area Highways Office, Mountsorrel (Telephone No. 0116 305 0001). The Company will otherwise be responsible for ensuring that the legal line of footpath Q93 is not affected by any operations associated with the development, and that free access can be exercised safely by pedestrians at all times. Care should be taken to ensure that

pedestrians are not exposed to any elements of danger associated with construction works, and wherever appropriate they should be safeguarded from the site by a secure fence. In view of the close proximity of the construction works to the footpath, particular attention should be given to ensuring that no materials are stored on the line of the right of way and that no Contractors' vehicles are parked either along or across it restricting access. Any damage that may be caused to the surface of the footpath while the development is being carried out will be the responsibility of the applicant Company to repair at its own expense, to the satisfaction of the Highway Authority. The applicant Company should also be advised that no additional structures either of a temporary or permanent nature should be placed across the route of footpath Q93 without the written consent of the Highway Authority having been obtained. Unless a structure has been authorised, it constitutes an unlawful obstruction of the right of way and the County Council would be obliged to require its immediate removal.

- 2 At the reserved matters stage the County Footpath Officer advises that the footpath within the site should ideally comprise a minimum surfaced width of 2 metres together with grass borders of at least 1 metre either side.
- 3 Great Crested Newts and Reptiles are protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If any of these species are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0115 929 1191) should be notified and further advice sought. Failure to comply with this advice may result in prosecution.
- 4 Natural England advise that the reserved matters application should include for bat boxes across the site and encourages more permanent roosting provision into the dwellings (i.e roof voids).
- 5 Your attention is drawn to the comments received from Natural England (ref: 49073)
- 6 In relation to Condition 4, the Environment Agency advise that the scheme to be submitted shall demonstrate that any additional flows discharging into the surface water and foul sewerage network would not cause deterioration in the discharge quality or operation of any existing storm overflows/combined sewer overflows, upstream or downstream in the network. There should be no increase in spill frequency or volume from any overflow affected by the increased volume within the network. There should also be no new overflows in the foul drainage scheme. The scheme shall also include the following:
  - A surface water drainage system designed in accordance with either the National SUDS Standards, or CIRIA C697 and C687, whichever take precedent when the detailed design of the surface water drainage system is undertaken.
  - Detailed design (plans, cross sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
  - As part of the above drawings, the private outfall pipe, grill and overland flood flow routes described within paragraphs 5.4 to 5.7 of the approved FRA, should be clearly shown/marked.
  - details of how the schemes shall be maintained and managed after completion
- 7 Your attention is drawn to the comments received from Environment Agency (ref:

LT/2012/114438/01-L01).

- 8 In relation to Condition 12, you are advised that the scheme should include an assessment of significance and research questions; and:
- A detailed programme and methodology of site investigation and recording, comprising: (1) A pre-demolition historic building survey (EH Understanding Historic Buildings, Level 2), (2) Targeted inspection and recording following the soft-strip of Building 1, (3) Post-demolition exploratory trial trenching of the development area, specifically targeting the 19th and early 20th century pottery works, (4) Targeted area excavation of significant archaeological remains detrimentally impacted upon by the development scheme.
  - The programme for post investigation assessment
  - Provision to be made for analysis of the site investigation and recording
  - Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - Provision to be made for archive deposition of the analysis and records of the site investigation
  - Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

- 9 Your attention is drawn to the Building for Life assessment produced by the District Council's Urban Designer. The applicants are advised to have regard to the areas identified as having the greatest potential for achieving additional Building for Life points when formulating an appropriate form of development at the reserved matters stage(s).
- 10 The Developer will be required to enter into an agreement with the Highway Authority under Section 278 of the Highways Act 1980 for works within the highway and detailed plans shall be submitted and approved in writing by the Highway Authority. The Section 278 Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 11 A Section 106 agreement would be required in order to make the development acceptable and would need to include the following:
- Provision of on-site affordable housing
  - National Forest Planting (on-site and off-site)
  - Financial contribution in respect of healthcare
  - Financial contribution in respect of education
  - Financial contribution in respect of libraries
  - Financial contribution in respect of civic amenity
  - Provision / maintenance of a children's play area
  - Provision of travel packs to first occupiers of the new dwellings
  - Provision of bus passes to first occupiers of the new dwellings
  - Improvements to the two nearest bus stops
  - Provision of a bus shelter

- Construction traffic routing
- Section 106 monitoring

12 Notwithstanding the details submitted as part of this planning application, the first reserved matters application shall include details of the parking and turning facilities, pedestrian linkages, access widths, gradients, surfacing, signing and lining (including that for cycleways and shared use footway/cycleways), traffic calming measures and visibility splays that are in accordance with the design standards of the Leicestershire County Council as contained in its current design standards document.

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**Erection of 1 no. 250KW wind turbine and associated infrastructure**

**Report Item No  
A2**

**Hill Farm Willesley Wood Side Ashby De La Zouch  
Leicestershire**

**Application Reference  
12/00297/FUL**

**Applicant:  
Mr John Jacques**

**Date Registered  
4 April 2012**

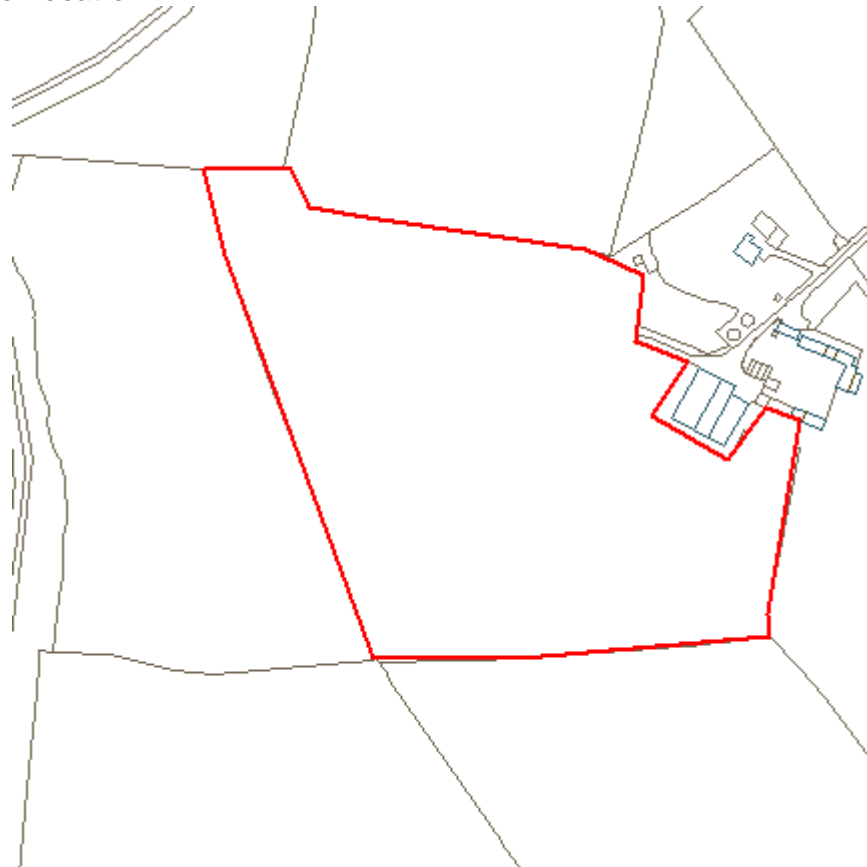
**Case Officer:  
Jenny Davies**

**Target Decision Date  
30 May 2012**

**Recommendation:  
PERMIT**

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**Indicative Site Location**



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## **EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL**

### **Call in**

The application is brought before the Planning Committee at the request of Councillor Jones on the grounds of local concern about the proposals.

### **Proposal**

This application seeks planning permission for the erection of one wind turbine on land at Hill Farm, Willesley Woodside, Ashby de la Zouch. The turbine will have a height of 45 metres to the tip of its blades, with its hub being 30 metres high and will be of grey steel monopole construction with its hub and rotor blades painted white. The site is located on the western side of Willesley Woodside, adjacent to the Hicks Lodge site.

### **Consultations**

Objections have been received in respect of the proposals, including from Ashby Woulds Town Council and Oakthorpe and Donisthorpe Parish Council with 29 objection letters and 3 letters of support being received from members of the public.

### **Planning Policy**

The application site is outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan. The recently published National Planning Policy Framework sets out national guidance on such proposals.

### **Conclusion**

The proposal complies with Policy S3 of the Local Plan and Policy CS8 of the pre-submission Core Strategy. The NPPF does not explicitly prevent renewable energy proposals from being located within the countryside. Therefore the proposal is acceptable in principle. The turbine will not be overly prominent or oppressive in the wider landscape of the locality and would not significantly undermine or change its character or that of the National Forest. The visual harm is limited to a small area in the immediate vicinity of the turbine and on balance this is not so significantly detrimental to the character of the area and visual amenities to justify a reason for refusal. The wider public interest of tackling climate change by reducing carbon emissions should be taken into account. There would not be a cumulative impact from any aspects or routes within or close to the District. The proposal would not adversely affect residential amenities in terms of noise, vibration, shadow flicker and outlook. The proposal is unlikely to significantly impact on the population status of breeding birds on the site and the locality and is unlikely to adversely affect other protected species. The proposal will not adversely affect aviation, archaeology, highway safety or the setting of the nearest listed building. It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a 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. The proposal does not raise any significant concerns in relation to other material considerations and other matters raised by the local community do not provide sufficient justification to refuse the application. The proposal is therefore recommended for planning permission.

### **RECOMMENDATION – PLANNING PERMISSION BE GRANTED subject to conditions:**

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

## ITEM A2 - MAIN REPORT

### 1. Proposals and Background

Permission is sought to erect one wind turbine on land at Hill Farm, Willesley Woodside, Ashby de la Zouch. The turbine will have a height of 45 metres to the tip of its blades, with its hub being 30 metres high and will be of grey steel monopole construction with its hub and rotor blades painted white. The turbine has a peak electricity generation capacity 250kW and will primarily provide for the needs of the farm holding before feeding surplus electricity into the national grid. Access to the turbine will be via the existing access track that serves Hill Farm from Willesley Woodside and via a temporary access track across the field in which the turbine will be sited. Underground cabling to the turbine from the existing electricity supply at the farm will also be located within this field.

The mast will be sited in a rural area characterised by arable fields and lakes and National Forest woodland plantations, some of which are associated with the reclaimed former Hicks Lodge coal mine. Numerous footpaths/cycle tracks run through the Hicks Lodge site and a path providing public access to Hicks Lodge from Ashby Road lies some 200 metres to the west of the site. Ashby Road and Willesley Wood Side lie some 350 metres and 440 metres to the south and east. The A42 lies approximately 1.4km to the south/south east of the site. The nearest dwelling to the site (Hill Farm) is occupied by the applicants and lies 190 metres to the north east, with several isolated dwellings beyond. There are other isolated dwellings to the south east and west with a cluster of dwellings to the south west on Ashby Road and the edge of the village of Donisthorpe lying further to the south west. The nearest listed building is the Church of St Thomas at Willesley which is located some 980 metres to the east of the site and is screened from view from the site by woodland. The site lies within the catchment area for the River Mease Special Area of Conservation (SAC).

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 3(i) of Schedule 2 to the Regulations it has been concluded that this proposal is not considered to constitute EIA development under the 2011 Regulations as its impacts are considered to not be significant.

### 2. Publicity

48 Neighbours have been notified (Date of last notification 6 July 2012)  
Site Notice posted 19.04.2012

### 3. Consultations

Ashby De La Zouch Town Council consulted 5 April 2012  
County Highway Authority consulted 5 April 2012  
Head of Environmental Protection consulted 5 April 2012  
Natural England consulted 5 April 2012  
County Archaeologist consulted 5 April 2012  
LCC ecology consulted 5 April 2012  
Airport Safeguarding consulted 5 April 2012  
Development Plans consulted 5 April 2012  
Highways Agency- Article 15 development consulted 5 April 2012  
MOD Safeguarding consulted 5 April 2012  
National Air Traffic Services consulted 10 April 2012  
Ashby Woulds Town Council consulted 10 April 2012  
Oakthorpe & Donisthorpe Parish Council consulted 10 April 2012

County Planning Authority consulted 2 May 2012  
Ramblers' Association consulted 2 May 2012  
National Air Traffic Services consulted 2 May 2012  
MOD Safeguarding consulted 2 May 2012  
Leicester & Rutland Wildlife Trust consulted 18 April 2012  
National Forest Company consulted 18 April 2012  
Forestry Commission- ancient woodland consulted 18 April 2012

#### 4. Summary of Representations Received

**Oakthorpe and Donisthorpe Parish Council** objects on the following grounds:

- the environmental report is inaccurate, wildlife could be damaged and affected, including biodiversity;
- sound levels would be intolerable;
- structure is inappropriate for inclusion in the National Forest and could affect tourism;
- the turbine will be within 100 metres of an existing memorial seat and pathway which could cause health and safety risks.

**Ashby de la Zouch Town Council** initially objected on the following grounds:

- ecological impact on wildlife;
- environmental impact of noise on properties in the surrounding areas and on a neighbouring Nature Reserve;
- visual impact on the surrounding area, including the neighbouring Nature Reserve and cycle centre.

Following the submission of additional information Ashby de la Zouch Town Council has withdrawn its objections.

**Ashby Woulds Town Council** objects to the application and makes the following comments:

- it recognises the need and support renewable energy sources, including turbines where appropriate;
- the turbine is not appropriate on ecological grounds and environmental impact;
- it is aware of other objections and information already submitted;
- there is a large amount of evidence of birdlife and a report detailing the number and type of birds recorded by two local residents at the site is provided;
- the main objection is the issue of the applicant's ecological survey;
- local knowledge of this area is exceptional and far in excess of the results of the survey which has not provided in any way an accurate assessment of the site;
- the applicant should explore other energy alternatives and to be a good neighbour a wind turbine would not be top of the list;
- a 250kw turbine would produce far in excess the amount of energy required to run the applicant's industry.

The Town Council has reiterated its comments on the application as follows:

- a report from Natural England contradicts some of the points raised in the ecological report by SES, Staffordshire Ecological Services Ltd (I understand a copy has been issued to you);
- concern that motorists using the local motorways will be distracted by this large structure – and especially at the notorious black spot;
- Hicks Lodge tourism and usage may suffer as it is a haven for quiet cycling, walking and contemplation – which will be ruined by the noise from the wind turbine;

- one resident at least, lives 450 metres from the proposed site;
- sleep deprivation for local people is a real threat due to the noise;
- may have an impact on some sub-stations causing disruption to local amenities;
- please ensure ALL reports are taken into account.

Following the submission of additional information Ashby Woulds Town Council still wishes to register its objection but has no further comments to add.

**The County Ecologist** initially advised that any impact to wildlife would be minimal and that she has no objection to the proposal in relation to impact on birds and the Hicks Lodge and Newfields Colliery sites. Following consideration of matters raised by local residents in relation to the accuracy of the initial ecological survey and the impact on birds, she advises that although her judgment is that there will not be a significant impact on birds, she recommends that the Authority gets a second opinion on this matter. Following the submission of additional ecological information, the County Ecologist has no objections.

**Natural England** has no objection in relation to impact on the River Mease SAC. It is also initially advised that it is satisfied that there will be no adverse impact on bats, birds and badgers as a result of the development and that its Standing Advice for protected species is a material consideration in the determination of the application. It also welcomes the Landscape & Visual Impact Assessment, notes the justification that the turbine will not affect local landscape character and requests that the impact on the National Forest is considered.

Following consideration of matters raised by local residents in relation to the accuracy of the initial ecological survey and the impact on birds, Natural England recommended that a further desk study search for local bird records and a report of its findings should be undertaken. Following the submission of additional ecological information, Natural England had no objection. Following the submission of further additional information from the applicant's ecologist, Natural England advises that it should be assumed that there are birds on site and that what needs to be considered by the Authority when determining the application is the size of the turbine rotor sweep area (i.e. – airspace that will be taken by a rotating blade), the evasive action that will be taken by the birds and the availability of suitable alternative habitat in the area. Natural England then sets out some detailed comments in respect of these matters and advises that it believes that the Authority has enough ecological information to determine the application. It concludes that its position on the application has not altered and advises referral to its response of 5 July 2012. However, it strongly recommends that mitigation and enhancement measures are secured as part of any planning consent.

**East Midlands Airport** has no safeguarding objection subject to a condition.

**National Air Traffic Safeguarding** has no safeguarding objection.

**The Environmental Services Manager** initially advised that he has no environmental observations and has no objections on noise grounds. He further advised, in response to an article from the British Medical Journal submitted by a local resident, that refusal of the application on noise grounds could well be challenged successfully as refusal would be contrary to government guidance.

**The Highways Agency** has no objections.

**The County Highway Authority** has no comments to make.

**The County Archaeologist** has no comments to make.

**The National Forest** makes the following comments:

- it will take a further 15-20 years for nearby young woodland to establish;
- impact on users of the National forest Cycle Centre and the wider local tourist industry should be taken into account;
- impact on users of public footpaths in the area should be taken into account and consultation undertaken with local user groups;
- opinion of Leicestershire County Council's Landscape Architect should be sought;
- impact on local owl populations should be considered and the opinion of Leicestershire Ecology Records Office sought;
- wider public consultation than required by the Development Management Procedure Order should be undertaken.

**The County Landscape Architect** initially advised that the Design & Access Statement and the Landscape and Visual Impact Assessment did not give full or proper consideration to landscape and visual matters and requested submission of a revised document. She advises that the revised report does not represent a proper assessment but as she does not have any concerns regarding the visual impact of the proposal and given its scale and nature she does not require submission of a further report.

**The County Planning Authority** advises that given the site's location on the former Hicks Lodge coal mine, there may be the potential for instability if the land is subject to load bearing forces.

No response has been received from the Ramblers Association, Leicestershire & Rutland Wildlife Trust, the Forestry Commission or the MoD by the date of this report. Any comments received from these consultees will be reported on the Update Sheet.

30 letters of representation have been received which object to the application on the following grounds:

#### *Ecology*

- ecological surveys and information submitted by the applicant's ecologist are inaccurate and flawed, in particular in relation to the numbers and types of birds on the site and the locality;
- significant impact on and danger to birds, in particular those species nesting at Hicks Lodge;
- significant impact on other wildlife, including bats;
- evidence shows that there are dangers to birds and wildlife from wind turbines;
- loss of key fragile habitats;
- impact on nearby Local Wildlife Site (Newfield Colliery);

#### *Residential Amenities*

- impact from noise and vibration, including on local residents' health and quality of life;
- new and impartial medical evidence shows there be adverse effects of wind turbines on nearby residents;
- turbine is closer to residential properties than in other parts of the UK and Europe so turbine should be re-sited in line with national guidelines;
- impact on property values;
- impact on views;

*Visual Impact and Impact on Locality*

- significant visual impact and an eyesore in this location;
- area has only just been regenerated and is now peaceful after closure of open cast mine;
- impact on tourism and local economy as it will deter people from visiting the area and using nearby footpaths, bridleways and cycle tracks;
- impact on peaceful environment found at nearby Horace Sankey Memorial Seat;
- inappropriate in the National Forest and setting of precedent for similar developments in the National Forest;

*Renewable Energy*

- turbine is of a commercial size and is a money-making scheme;
- negative impact of the turbine is not justified by its modest benefits
- concerns about wind turbine technology;
- turbines are inefficient due to their energy consumption;
- local and central government policies in relation to wind turbines are required;
- solar panels would be a better renewable energy alternative;

*Other Matters*

- further consultations should be carried out;
- no benefits for the community;
- local policies have equal weighting with renewable energy policies;
- proposal does not comply with the National Planning Policy Framework;
- does not meet the National Forest Strategy;
- impact on land stability, due to subsidence from underground mine workings;

Three letters of support has been received which make the following comments:

- the proposal is a part of the positive regeneration of the area;
- will improve the climate;
- the government cannot meet its renewable energy targets;
- need to use renewable energy as an alternative to nuclear power;
- the site is promising for a turbine;
- the proposal will enhance the site's setting

All representations received in respect of the application are available to view in full on the planning file.

## **5. Relevant Planning Policy**

### **National Planning Policy Framework**

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a

- whole; or
- specific policies in this Framework indicate development should be restricted.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:

- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- take account of and support local strategies to improve health, social and cultural wellbeing.

Paragraph 119 states that 'The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.'

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 sections of the NPPF that are relevant to this application are:

- 1 – Building A Strong Competitive Economy;
- 3 – Supporting a Prosperous Rural Economy;
- 7 – Requiring Good Design;
- 8 – Promoting Healthy Communities;
- 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change;
- 11 – Conserving and Enhancing the Natural Environment.

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

**East Midlands Regional Plan (RSS8):**

The revocation of Regional Strategies was challenged in the High Court by Cala Homes, the outcome of which was announced on the 10th November 2010. The revocation of Regional Strategies was found to be unlawful and as such they have been reinstated. When certain statutory provisions of the Localism Act 2011 are brought into effect in early 2012 it is the Government's intention to revoke the RSS. The Government has already undertaken strategic environmental impact assessments with this in mind.

Policy 2 seeks to improve continuously the layout, design and construction of new development.

Policy 3 sets out a sequential approach for the distribution of development and economic activity.

Policy 26 seeks to ensure that sustainable development should ensure the protection, appropriate management and enhancement of the Region's natural and cultural heritage, including that neither direct nor indirect damage to Natura 2000 sites (of which the SAC is one)

will be permitted.

Policy 28 sets out the regional priorities for environmental and green infrastructure.

Policy 29 seeks to deliver a major step change increase in the level of biodiversity across the East Midlands.

Policy 32 sets out the regional approach to water resources and water quality that local Authorities, developers, water companies, the Environment Agency and other relevant public bodies should work together towards.

Policy 40 sets out the regional priorities for low carbon energy generation and sets out the criteria for onshore wind energy.

Policy Three Cities SRS 5 seeks to promote the development of the National Forest in ways that generate environmental, economic and social benefits of both local and national significance.

Appendix 5 sets out the renewable energy targets referred to in Policy 40.

**North West Leicestershire Local Plan:**

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan.

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development, which includes for agriculture and forestry, farm diversification, a public service/utility, recreation/community facilities/tourism-related, National Forest-related or re-use/conversion of rural buildings.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy E7 seeks to provide appropriate landscaping in association with new development.

Policy F1 requires new development within the National Forest to reflect the importance of its setting.

Policy F2 sets out the criteria for maximising the potential for landscaping/planting as set out under Policy F1.

Policy F3 sets out the measures that will be used to secure landscaping/planting within the National Forest.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development.

## **Other Policies/Guidance**

### **Pre-Submission Core Strategy (April 2012)**

The pre-submission Core Strategy was recently out for public consultation. Adoption of the Core Strategy is not expected before spring 2013. Policy CS8 relates to development in the countryside and states that development will be limited to that which requires a rural location and is for specific types of development, which includes renewable energy.

Other relevant policies in the pre-submission document relate to the rural economy (Policy CS13), well-designed buildings and places (Policy CS21), transport (Policy CS23), land instability (Policy CS27), the National Forest (Policy CS30), the natural environment (Policy CS32) and the River Mease SAC (Policy CS33).

### **The Habitat Regulations**

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs) and the key issues relating to protected species.

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

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

### **River Mease Water Quality Management Plan – August 2011**

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

### **Planning for Renewable Energy: A Companion Guide to PPS22**

The Companion Guide offers practical advice as to how the policies in the former PPS22 (which has been cancelled by the NPPF) can be implemented on the ground. This document has not been explicitly cancelled by the NPPF although the support for renewable energy in policy terms has been carried forward in the NPPF and therefore the information and advice set out within the Companion Guide can be given some weight and used as a reference guide when considering applications relating to renewable energy.

## **6. Assessment**

The main considerations in the determination of this application relate to the principle and sustainability of the development, its visual impact and its impact on residential amenities, protected species, aviation and the River Mease Special Area of Conservation.

### **Principle of the Development**

The application site is located outside the limits to development where permission for new development would not normally be granted unless it is for certain uses as set out under Policy S3 of the adopted North West Leicestershire Local Plan. The supporting information states that the proposal is a diversification opportunity for the farm which will help sustain the farm

business in the long term and can generate additional revenue to ensure it continues to be economically viable. As such it can be considered to be a farm diversification scheme which is one of the categories set out under Policy S3. Furthermore it falls within one of the categories of appropriate development in the countryside set out under Policy CS8 of the pre-submission Core Strategy and requires a rural location as it is required in connection with an existing farm operation. Neither the adopted Local Plan or the pre-submission Core Strategy contain detailed policies relating to renewable energy proposals. Policy 40 in the RSS states that in order to help meet national targets low energy carbon proposals in locations where environmental, economic and social impacts can be addressed satisfactorily should be supported. Limited weight is given to Policy 40 due to the government's intention to revoke the RSS although it provides general support for the use of renewable energies.

At paragraph 97 the NPPF states that Local Planning Authorities should, "recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources" in order to help increase the use and supply of renewable energy, and one of the core planning principles at paragraph 17 of the NPPF is that decisions should "support the transition to a low carbon future and encourage the use of renewable resources (for example by the development of renewable energy)". At paragraph 98 it states that applicants should not be required to demonstrate the overall need for renewable energy and that planning applications should be approved if their impacts are or can be made acceptable. As such there is substantial weight in the NPPF for proposals which provide energy from renewable sources.

Given the support for farm diversification under Policy S3 and for renewable energy schemes in the countryside under Policy CS8 and that the NPPF does not explicitly prevent renewable energy proposals from being located within the countryside, it is considered that the proposal is acceptable in principle.

It should be noted that consideration of this application must be based on the proposal for one wind turbine and its planning merits. Concerns relating to subsidies for wind turbine technology are not material planning considerations. It a fundamental tenet of the planning system that every planning application is considered on its own merits and approval or refusal of this proposal does not set a precedent for the approval or refusal of other forms of development in the locality. If permission is granted for this turbine, any future applications for wind turbines in the locality or elsewhere in the District will not automatically be granted permission nor does it commit the Council to supporting such proposals. Future applications will be determined with regard to the relevant planning matters.

### **Landscape & Visual Impact**

The County Landscape Architect initially advised that supporting information did not give full or proper consideration to landscape and visual matters and requested submission of a revised document. The revised report also did not represent a proper assessment but the County Landscape Architect does not have any concerns regarding the visual impact of the proposal and given its scale and nature she did not require submission of a further assessment.

The site lies within Natural England's Landscape Character Area of the Leicestershire and South Derbyshire Coalfield. The surrounding land is either in agricultural use or is reclaimed from the former Hicks Lodge coal mine which has largely been planted with young trees and is now open for public access, with the National Forest Cycle Centre lying to the north/north west of the site. The turbine will be sited on an open grassed field to the south west of the farm buildings belonging to Hill Farm. The land rises up gradually from the south to its highest point to the north east of the turbine. The landscape is characterised by open fields and planted areas with an overall rural character and appearance, with woodland plantations, hedgerows,

small copses, individual trees, lakes and hedgerows in evidence. The A42, the village of Donisthorpe and the farm buildings provide some urban influence within the landscape. The telecommunications mast located to the south west of the site towards Measham is visible in some long views from within the locality.

There will be immediate open views of the turbine from the footpath to Hicks Lodge from Ashby Road which lies some 200 metres to the west of the site, as well as from the publically accessible lake to the south of the site, from parts of Hicks Lodge/the Cycle Centre to the north (including the Horace Sankey Memorial Seat located approximately 150 metres to the north west) and from parts of Willesley Woodside and Ashby Road. Some close views of the turbine will also be screened by changing land levels and existing tree planting so that the whole of the turbine is not visible. Some longer open views will be available from the northern and western parts of the Hicks Lodge site and views from Willesley Wood to the south will largely be screened by trees. There will be limited long public views from the west and north due to screening from changing land levels and built development associated with the villages of Donisthorpe and Moira. There will be an open view of the site from a section of the A42 to the south but as this a major trunk road where vehicles travel at high speeds drivers will only get a short glimpse of the turbine. The turbine is likely to be visible in much longer views from the western part of Donisthorpe and the stretch of road between Oakthorpe and Measham to the south west as well as other viewpoints in the locality. The mast will therefore be visible, to different extents, in a wide geographic area.

Notwithstanding the lack of formal landscape designation or recognition, it is accepted that the character of the area is valued locally by its residents and Parish Councils. The NPPF recognises that the "intrinsic character and beauty of the countryside" is a material planning consideration. The key issue therefore relates to the visual impact of the turbine and an assessment of whether that impact is acceptable.

The lack of any statutory landscape designations on or around the site is significant in assessing the level of harm arising from the proposal, although it is noted that the site lies within the National Forest. The application site does not have a particularly high scenic quality, but is a pleasant rural area, the appearance of which would obviously be altered by the presence of the proposed turbine. Most local residents, visitors and passers-by would probably regard the turbine, initially at least, as an alien feature, and the majority of people would be likely to perceive the development as detracting from the character of the landscape.

It is considered that there will not be a significantly detrimental visual impact in the wider landscape due to its colour, the backdrop, the screening available, the distance from the site and the differing extent of views. Furthermore this locality has some urban influences which impact on the rural setting. It is therefore considered that the turbine will not be overly prominent or oppressive in the wider landscape of the locality and would not significantly undermine or change its character or that of the National Forest.

The turbine will be prominent in closer views from the nearby footpath, the Memorial Seat, from parts of the nearby roads and from the lake to the south and as such there will be some localised landscape impacts. Concerns have also been raised by some residents and Parish Councils in respect of the proposal having a negative impact on the visual amenities experienced by walkers/cyclists and visitors. In order for these concerns to attract any significant weight, they should be based on some form of evidence rather than conjecture or prejudice. In this instance, these concerns are based on some local residents' perception of the impact of the turbine on their use of the nearby footpaths and local area, which is a very subjective matter and only a partial representation of the number of people who live in the area,

use the footpaths/local roads and visit the locality. There does not appear to be any meaningful evidence that these concerns are objectively justified in relation to the proposal.

It is clearly impossible to mitigate the visual and landscape impacts of a wind turbine. However most views from the roads will be screened by hedgerows and trees. The turbine will not obstruct views beyond and either side of it. As noted above there are some urban influences in the landscape and the area is not considered to have a significant scenic quality. Regard is also had to the fact that the lifespan of this turbine is limited to 25 years. Given these circumstances and that the harm is limited to a small area in the immediate vicinity of the turbine on balance this is not so significantly detrimental to the character of the area and visual amenities to justify a reason for refusal. Furthermore the wider public interest of tackling climate change by reducing carbon emissions should be taken into account. The proposal will reduce the carbon footprint for the District, means that at times the farm will have zero demand on the National Grid, enhancing the benefits to the wider environment, and the farm would also be able to offset its running costs and keep prices low to remain competitive and sustain its business in the long term.

The cumulative impact of wind turbines should also be taken into account. Currently within the District there are two medium-large turbines in operation at East Midlands Airport. Two turbines are proposed at Haunton in Lichfield but these currently do not have planning permission and would be approximately 11km from the site. Applications have not been submitted for potential wind farms at Chilcote/Stretton en le Field and Austrey in North Warwickshire/Hinckley and Bosworth. Therefore at present there is not considered to be a cumulative impact from any aspects or routes within or close to the District.

### **Residential Amenities**

A noise assessment has been provided with the application which refers to the technical guidance ETSU-R-97. The Environmental Services Manager initially advised that whilst the noise report submitted with the application is not adequate given the distances from the nearest residential properties she has no objection on noise impact grounds. Reference has been made to new and impartial medical evidence relating to the adverse effects of wind turbine noise. The Environmental Services Manager further advises that 'I would not disagree with the issues raised in the British Medical Journal article. It is well known that there is an association between wind turbine and adverse health effects. However, this is more relevant to the larger wind turbines and, not so much, the smaller micro-generation turbines that this application relates to. It is also known that Government guidance is standing firmly behind the guidance of the ETSU-R-97. Therefore, I would advise that refusal of this application on noise grounds may well be susceptible to successful challenge as any such refusal would be contrary to the ETSU-R-97 guidance.'

As noted in this response and also set out on the Department of Energy and Climate Change's website, at the current time government advice is that the ETSU report is the relevant guidance against which turbines should be assessed. It should also be noted that there are no national guidelines for the distance that turbines should be located away from dwellings. Therefore it is considered that a reason for refusal on the basis of the turbine not complying with the new evidence referred to above or not complying with non-existence national guidelines for distances from dwellings would not be sustainable on appeal.

In respect of vibration, the Department of Energy and Climate Change's website advises that 'There is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health. A comprehensive study of vibration measurements in the vicinity of a modern wind farm was undertaken in the UK in 1997 by ETSU

for the DTI (ETSU W/13/00392/REP). Measurements were made on site and up to 1km away – in a wide range of wind speeds and direction. The study found that:

- Vibration levels 100m from the nearest turbine were a factor of 10 less than those recommended for human exposure in critical buildings (i.e. laboratories for precision measurement).
- Tones above 3.0 Hz were found to attenuate rapidly with distance – the higher frequencies attenuating at a progressively increasing rate.

On the basis of this government advice, vibration is considered to not be an issue in this case given the sufficient distance to residential receptors.

Consideration is also given to potential for shadow flicker to residential properties (created by passing of the blades across direct sunlight). The Department of Energy and Climate Change advises that there are a number of variations in determining the likelihood of this occurring and its significance, in particular that it only occurs within 130 degrees either side of north from a turbine and that potential shadow flicker is very low when more than 10 rotor diameters (in this case 300 metres) from a turbine. In this case the nearest dwelling is 190 metres away to the north east from the site of the turbine which is well within the distance that shadow flicker can affect a property. However this property is occupied by the applicant and his family. Therefore it is considered reasonable to impose a condition requiring that the turbine is not operated other than by the occupants of this property to ensure they have control over the operation of the turbine and are aware of the potential for shadow flicker. The next nearest dwelling is sited 320 metres to the north east of the turbine and is therefore in a location where the potential for shadow flicker is very low.

There are a limited number of properties that would have a direct outlook of the turbine, largely due to the screening from vegetation, changes in land levels and the distance of the turbine from nearby dwellings. It is considered that the turbine would not be overwhelmingly dominant when viewed from these properties.

### **Protected Species and Ecology**

The ecological report found that the proposal will not affect any important habitats. The County Ecologist has advised that the proposal will not impact on any designated sites of ecological importance, including Newfield Colliery.

The turbine will occupy a grassed field with a small area of field lost to construct the turbine and provide the temporary access track. There are ponds, hedgerows, derelict buildings, young trees, lakes and woodland all in close proximity to the site. All of these are features could be used by European Protected Species (EPS) and as such species may be affected by this planning application, 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.

The original ecological report found no evidence of bats, badgers or breeding birds on the site or locality and the proposal would have a low impact on these species. Both Natural England and the County Ecologists were initially satisfied with the ecological report, its conclusions and recommendations. Subsequently several concerns were raised by local residents in respect of the adequacy and accuracy of the report in respect of breeding birds on the site and the locality, in particular at Hicks Lodge, and that these birds would be affected by the development. Following further comments from the County Ecologist and Natural England, a further report relating to the impact on birds was submitted. Natural England has no objection to this second report. Further letters from local residents were received, again expressing concerns regarding

the accuracy and adequacy of the second report. The applicant's ecologist responded to these concerns and his response, along with the additional letters from local residents were sent to Natural England and the County Ecologist. In respect of this further additional information, Natural England advises that it should be assumed there are birds on site, which given the information submitted by all parties, is accepted and that the Authority has enough ecological information to determine the application.

Natural England advises that the Authority should consider the size of the turbine rotor sweep area (i.e. – airspace that will be taken by a rotating blade), the evasive action that will be taken by the birds and the availability of suitable alternative habitat in the area and goes onto make the following detailed comments in respect of these matters.

- In respect of the size of the rotor sweep area, the turbine is classed medium and so the airspace that it will take up will be relatively small in comparison to its surroundings and when compared with larger wind farms with numerous turbines. This reduces the probability of a bird flying through and colliding with the turbine, although it does not mean it will not occur.
- Birds will naturally take evasive action to avoid structures and upon the sighting of a new feature in the landscape may be put off the area entirely. The recognised avoidance rate (i.e. – percentage chance that the bird will avoid the turbine) for short eared owl is 98%, which is documented on Scottish Natural Heritage's website and is regularly used in wind farm assessments across the country. It should not be assumed that all sixty short eared owl in the locality (if indeed that is the number as the submitted data on their numbers is unclear) will collide with the turbine as the birds will naturally take evasive action.
- In relation to the concern that short eared owl will be put off from the locality, the area of restored open cast mine (which currently appears to be at optimal suitability) is extensive and is not restricted to the one field where the turbine will be located. Indeed the applicant's ecologist has reported that there is similar recently restored similar habitat to the north of the wind turbine site. It can be argued that there is suitable alternative habitat for short eared owl to breed, hunt and forage and therefore this should not affect their population status as per their legal protection. Also there are no Special Protection Area (a European designation) considerations in this case.
- A lot of local residents' concern surrounds ground nesting species such as skylark, yellowhammer and meadow pipit. The Authority needs to consider what suitable alternative nesting habitat is available in the locality. Again the restored open cast mining fields and the wider arable landscape provides plenty of nesting opportunities for skylark, meadow pipit, yellowhammer and other species.

Reference has been made to Canada goose and mute swan regularly flying over the site. Natural England's Technical Guidance does not list Canada goose and mute swan as being significantly at risk from wind farms. The numbers of mute swan and geese that use the locality are not so high that the area is nationally or internationally important for these species. The turbine would sit below the usual flight height of this species although it is acknowledged that the birds could be flying at a lower height when taking off and landing. Furthermore it is reasonable to presume that geese or swans would take evasive action to avoid collision with the turbine and would not fly into the path of other turbines. The flight path to feeding/roosting habitats like the nearby lakes could be affected but given the number of waterbodies in the locality it is considered that there is sufficient availability of suitable alternative habitats nearby

so these species can continue breeding, feeding and roosting in the locality once the turbine is erected.

Natural England advises that given that there are birds nesting on and using the site and the locality, and as a positive biodiversity enhancement, a scheme of mitigation and enhancement specifically for the birds recorded in the locality should be secured. This can be dealt with by planning condition as the land on which these measures will be provided is within the applicant's ownership. Natural England concludes that it does not wish to alter its position on the application and refers to its response of 5 July 2012 which states it has no objection. Given the size of the turbine rotor sweep area, that most birds are likely to take evasive action and the availability of suitable alternative habitat in the area it is considered that the proposal is unlikely to significantly impact on the population status of breeding birds on the site and the locality.

In respect of other protected species, the turbine will be located 55 metres from the nearest potential bat foraging feature (a hedgerow) and will be over 115 metres from the farm buildings. The proposal therefore accords with technical guidance provided by Natural England (TIN051 and TIN059) which require development to be at least 50 metres from such features. Natural England and the County Ecologist are satisfied the proposal will not adversely affect bats.

The turbine will be located 320 metres from the nearest waterbody and is therefore unlikely to adversely affect great crested newts. The initial ecological report found the risk to badgers to be low. However as the surrounding habitat is suitable for badgers their presence during construction cannot be ruled out. Therefore the report suggests that during construction any pits/trenches left open overnight should contain a sloped side or ramp, which can be secured via planning condition. On this basis it is considered that the proposal will not adversely affect any other protected species.

### **Aviation**

East Midlands Airport has no safeguarding objection to the proposal subject to a condition. The site lies outside the safeguarding zones for Birmingham and Coventry Airports. Formal consultation of the CAA is also not required. The National Air Traffic Service (NATS) has no safeguarding objection to the application. The MoD has been consulted on the application but has not provided a response to date. Any comments received will be reported on the update sheet.

### **River Mease Special Area of Conservation/SSSI**

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

The River Quality Management Plan was published in August 2011 and was drawn up to ensure there is no adverse impact on the SAC from further development. The site is not within close proximity of the River Mease or any of its tributaries. The proposal does not include any foul drainage discharge. Given the nature of the turbine, it will not increase the level of surface water runoff from the site. The access track through the field will be of a temporary nature and any surface water will discharge straight into the field. However a condition can be imposed

requiring the temporary access track to be constructed from a permeable material to limit this run off. Natural England has no objection in terms of impact on the SAC subject to provisions being made so that surface water from the construction site do not enter the mains sewer, which can be secured by condition.

Given these circumstances it can therefore be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a 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**

The County Highway Authority and the Highways Agency have no objections in relation to highway safety and as such a reason for refusal on the basis of distraction to drivers could not be sustained. It is also noted that turbines are no longer an unfamiliar sight in this country. In addition, the risk of ice being cast from the blades towards the highway is unlikely and in any case there is sufficient separation given the distance from the nearest roads. The safe fall-over distance expected is the height of the turbine plus 10%, and this is easily achieved in respect of the nearby roads, footpaths and the nearby Memorial Seat.

The County Planning Archaeologist advised that the archaeological impact will be minimal. The nearest listed building is the Church of St Thomas at Willesley which is located some 980 metres to the east of the site and is screened from view from the site by woodland planting. As such there will be no impact on the listed building or its setting.

The County Planning Authority (CPA) notes that it is difficult to determine whether the turbine will be located on land within or just outside the excavation area of the former Hicks Lodge coal mine. Notwithstanding this, it notes that the turbine is in close proximity to the 'High Wall' where there may be some potential for instability if subjected to load bearing forces and as such the authority may seek confirmation of ground stability in the area. The CPA was advised that the turbine is located outside the Coal Authority Mining Referral Area and as such the Coal Authority do not require a detailed assessment of ground stability to be undertaken. The CPA state that if this Referral Area includes surface mining and the Coal Authority are happy that the turbine is not affected by previous surface working then it has no further comments. The CPA were then advised that the Referral Area includes where the potential instability and other safety risks of former coal mining activities, including former surface mining, is the greatest. It is therefore concluded that any ground instability issues are likely to be lesser on land outside the Referral Area.

The projected lifespan for this turbine is around 25 years and as such there will be decommissioning impacts. As it is not possible to project what ecological, highway and physical changes may occur around the site in that period, a condition to ensure prior submission of decommissioning detail is required. A temporary permission for 25 years is appropriate to ensure that any replacement, if at all, is considered appropriately.

The British Horse Society suggests a 200 metre exclusion zone around bridle paths to avoid wind turbines frightening horses although this is not a statutory requirement. The nearest footpath (which may be used by horses) is 200 metres to the west. The fields surrounding the site are all in the applicant's ownership and provide opportunities for any horses kept in these fields to be moved over 200 metres from the turbine.

The Midlands has recently transferred from analogue to digital transmission of television programming. Digital signals are not affected by electromagnetic interference. Radio signals are

also less susceptible to interference, and in any case there is a move towards digital transmission as well.

Concerns have been raised in respect of the wider environmental and economic benefits of the turbine as some consider the scheme will benefit the applicant and it goes beyond what is necessary for the farm, at the cost of the visual impact. The NPPF states that applicants should not be required to demonstrate the overall need for renewable energy and that authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

In response to the concerns raised in the letters of objection that are not covered above, impact on views, on property values and on nearby sub-stations are not planning matters and cannot be taken into account in the determination of the application.

Consultation has been undertaken with neighbouring Parish/Town Councils as well as other statutory consultees. Three site notices have been posted close to the site at the points where public footpaths that run close to the site meet the public highway network. Consultation letters were sent to all properties within a 800 metre distance of the site.

The proposal does not raise any significant concerns in relation to other material considerations and other matters raised by the local community do not provide sufficient justification to refuse the application.

#### **Reasons to Grant Planning Permission**

The proposal complies with Policy S3 of the Local Plan and Policy CS8 of the pre-submission Core Strategy. The NPPF does not explicitly prevent renewable energy proposals from being located within the countryside. Therefore the proposal is acceptable in principle. The turbine will not be overly prominent or oppressive in the wider landscape of the locality and would not significantly undermine or change its character or that of the National Forest. The visual harm is limited to a small area in the immediate vicinity of the turbine and on balance this is not so significantly detrimental to the character of the area and visual amenities to justify a reason for refusal. The wider public interest of tackling climate change by reducing carbon emissions should be taken into account. There would not be a cumulative impact from any aspects or routes within or close to the District. The proposal would not adversely affect residential amenities in terms of noise, vibration, shadow flicker and outlook. The proposal is unlikely to significantly impact on the population status of breeding birds on the site and the locality and is unlikely to adversely affect other protected species. The proposal will not adversely affect aviation, archaeology, highway safety or the setting of the nearest listed building. It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a 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. The proposal does not raise any significant concerns in relation to other material considerations and other matters raised by the local community do not provide sufficient justification to refuse the application. The proposal is therefore recommended for planning permission.

#### **RECOMMENDATION – PERMIT subject to the following conditions:**

- 1 The development shall be begun before the expiration of three years from the date of this permission.

*Reason - to comply with the requirements of Section 91 of the Town and Country*

*Planning Act 1990 (as amended).*

- 2 The proposed development shall be carried out strictly in accordance with the following schedule of plans, unless otherwise required by a condition of this permission:
- Location Plan (1:2500) received by the Authority on 12 April 2012;
  - Block Plan (1:500) received by the Authority on 25 April 2012;
  - Drawing No. 250-00-1500 (WTN 250 Tubular Tower 30m – Page 1 of 2) received by the Authority on 4 April 2012;
  - Drawing No. 250-00-1500 (WTN 250 Tubular Tower 30m – Page 2 of 2) received by the Authority on 4 April 2012.

*Reason - To determine the scope of this permission.*

- 3 The turbine shall be a Wind Technik Nord WTN 250kw model constructed of a grey steel tower with its hub (nacelle) and rotor blades painted white and its hub height being 30 metres and its maximum blade height being 45 metres, and permanently retained in accordance with these details.

*Reason - to ensure that the ecological, noise and visual impacts of the turbine do not vary during its lifetime.*

- 4 The turbine hereby approved shall be removed on or before 25 years from the date which the turbine is first used for electricity generation purposes or it ceases to be used for electricity generation purposes, whichever is sooner; with the blades, hub, tower, foundations and associated equipment removed and the ground restored to its former condition (as an agricultural field) unless a further application for planning permission for retention of the turbine has been submitted to and approved by the Authority. The Authority and East Midlands Airport shall be notified in writing of the date of the turbine first being used for electricity generation within one month of that date.

*Reason - In recognition of the limited life expectancy of the development hereby approved, and to ensure that the use does not become permanently established on the site; so that a record can be kept of all operational turbines to aid in the assessment of cumulative impact in the interests of air safety.*

- 5 Prior to the decommissioning of the turbine, details of the routing and access, manner of dismantling and disposal of materials (accounting for ecological, highway, safety and amenity impacts relevant to the date of decommissioning) shall be submitted to and agreed in writing by the Local Planning Authority. Decommissioning shall then be carried out in accordance with these agreed details.

*Reason - To ensure the highway, ecological, noise, aviation safety and any other physical impacts can be properly assessed in the context of the area at the time of decommissioning.*

- 6 The temporary access track shown within the red line boundary shown on the Location Plan received by the Authority on 12 April 2012 shall only be constructed of a permeable material and shall be removed from the site within two weeks of completion of construction of the turbine.

*Reason - In the interests of visual amenity; to prevent adverse impact on the River*

*Mease Special Area of Conservation/SSSI.*

- 7 Prior to the erection of the turbine hereby approved details of a scheme to prevent surface water runoff from entering the mains sewer system and draining into a soakaway or other sustainable drainage system shall be submitted to and agreed in writing by the Local Planning Authority. The turbine shall be constructed in accordance with the agreed scheme.

*Reason - In the interests of visual amenity; to prevent adverse impact on the River Mease Special Area of Conservation/SSSI.*

- 8 The turbine hereby approved shall only be operated by occupiers of the property known as Hill Farm/Romanchi (located approximately 190 metres to the north east of the turbine).

*Reason - To ensure the occupiers of the property have control over the turbine and are aware of its potential shadow flicker effects.*

- 9 No development shall commence on site until a scheme of mitigation and enhancement specifically for the birds recorded in the locality has been submitted to and agreed in writing by the Local Planning Authority. This scheme should include measures for the construction of the turbine, to ensure the habitat immediately surrounding the wind turbine is managed so that it becomes unattractive for nesting and hunting birds, the area north of the turbine site (referred to by Staffordshire Ecological Services) and the lake area that lies to the south east of the site (which is within the applicant's ownership) are specifically managed to be attractive for farmland nesting birds such as yellowhammer, meadow pipit and skylark and suitable additional habitat is provided on site for mute swan and Canada goose. The agreed scheme shall be provided in full before the turbine hereby approved is erected.

*Reason - To prevent significant impact on breeding birds.*

- 10 During construction of the turbine, any pits or trenches left open overnight should contain a sloped side or ramp.

*Reason - To assist any wildlife, in particular badgers, that have fallen into these pits/trenches to escape.*

### **Summary Reasons for Granting Planning Permission**

North West Leicestershire District Council's decision to grant planning permission in this instance arose following careful consideration of the relevant provisions of the Development Plan and all other relevant material considerations. Of particular relevance to this decision was central government advice contained within the NPPF and Circular 06/05 and the following policies of the North West Leicestershire Local Plan:

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan.

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development, which includes for agriculture and forestry, farm diversification, a public service/utility, recreation/community facilities/tourism-related, National Forest-related or re-use/conversion of rural buildings.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy E7 seeks to provide appropriate landscaping in association with new development.

Policy F1 requires new development within the National Forest to reflect the importance of its setting.

Policy F2 sets out the criteria for maximising the potential for landscaping/planting as set out under Policy F1.

Policy F3 sets out the measures that will be used to secure landscaping/planting within the National Forest.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development.

The proposal complies with Policy S3 of the Local Plan and Policy CS8 of the pre-submission Core Strategy. The NPPF does not explicitly prevent renewable energy proposals from being located within the countryside. Therefore the proposal is acceptable in principle. The turbine will not be overly prominent or oppressive in the wider landscape of the locality and would not significantly undermine or change its character or that of the National Forest. The visual harm is limited to a small area in the immediate vicinity of the turbine and on balance this is not so significantly detrimental to the character of the area and visual amenities to justify a reason for refusal. The wider public interest of tackling climate change by reducing carbon emissions should be taken into account. There would not be a cumulative impact from any aspects or routes within or close to the District. The proposal would not adversely affect residential amenities in terms of noise, vibration, shadow flicker and outlook. The proposal is unlikely to significantly impact on the population status of breeding birds on the site and the locality and is unlikely to adversely affect other protected species. The proposal will not adversely affect aviation, archaeology, highway safety or the setting of the nearest listed building. It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a 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. The proposal does not raise any significant concerns in relation to other material considerations and other matters raised by the local community do not provide sufficient justification to refuse the application.

### **Notes to applicant**

- 1 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

- 2 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk)

- 3 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £85 per request. Please contact the Local Planning Authority on 01530 454666 for further details.

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**Demolition of existing single storey dwelling and erection of 9.no dwellings with garaging and onsite car parking (Outline - Access and layout included)**

**Report Item No  
A3**

**240 Highfield Street Coalville Leicestershire LE67 3BP**

**Application Reference  
12/00366/OUT**

**Applicant:  
Elmslodge Construction Ltd**

**Date Registered  
25 April 2012**

**Case Officer:  
Elizabeth Hindle**

**Target Decision Date  
20 June 2012**

**Recommendation:  
PERMIT**

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**Indicative Site Location**



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## **EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL**

### **Call In**

The application is brought before the Planning Committee at the request of Councillor Johnson due to concerns about highways issues.

### **Proposal**

Outline planning permission, with access and layout included (scale, appearance and landscaping reserved for later determination), is sought for the demolition of the single-storey dwelling at 240 Highfield Street and the erection of nine dwellings with new vehicular access and on-site parking. The proposal includes the provision of a build-out of the footway on both sides of the new access to provide appropriate visibility splays.

### **Consultations**

Members will see from the main report below that 9no. representations have been received in objection to the proposed development on the grounds of privacy, landscaping, layout, design, flooding, highway safety and parking. Leicestershire County Council Highway Authority have raised no objection to the proposed development, subject to conditions. No objection has been raised by Severn Trent Water, subject to conditions. Any further representations or consultation responses received following the publication of the Agenda will be reported to Committee on the Update Sheet.

### **Planning Policy**

The site is located within Limits to Development, as defined by the North West Leicestershire Proposals Map, 2002. Despite the greenfield nature of the majority of the site, the land represents a sustainable location for new development given its location within Coalville. The proposal would offer an acceptable level of density for the location and would provide an appropriate use of the site. The proposed residential development would therefore accord with sustainability principles.

### **Conclusion**

The report below indicates that, despite the concerns raised in relation to highway safety the proposed access arrangement would be acceptable, with an appropriate width and visibility splays provided by the build-out. The proposed layout would provide an appropriate level and arrangement of off-street parking.

With regards to the impact on neighbouring residential amenities, it is considered that the proposed layout would be acceptable and, on the basis of the details under consideration at this outline stage, the development would not have a significant impact in terms of overlooking, overbearing or overshadowing.

On the basis of the indicative details submitted, the proposed residential development represents an appropriate form of development for the locality.

### **Summary Reasons for Granting Planning Permission-**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to highway, design and amenity criteria and compliance with the relevant policies of the Local Plan and other material considerations. Despite the greenfield nature of the majority of the site, the land is located within Coalville and therefore represents a sustainable location for new development. The proposal would offer an acceptable level of density for the location and would provide an appropriate use of the site. Whilst the plot sizes and layout would differ from that of the surrounding residential properties, it

would not be an inappropriate form of development for the locality. The indicative details illustrate that the development would be considerate of the appearance and scale of the residential properties nearby and would not appear out of keeping with the character of existing developments within the locality. Despite the concerns raised in relation to highway safety and parking, the proposal would provide an appropriate vehicular access and on-site parking arrangement. With regards to the impact on neighbouring residential amenities, it is considered that on the basis of the details under consideration at this outline stage, the development would not have a significant impact on the amenities of occupiers of surrounding properties. Overall therefore, the proposal is deemed to offer an appropriate form of development for the site and would comply with the relevant policies of the NPPF (2012), East Midlands Regional Plan (2009) and the North West Leicestershire Local Plan (2002).

### **RECOMMENDATION- PERMIT**

**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.**

## ITEM A3 - MAIN REPORT

### 1. Proposals and Background

Outline planning permission, with access and layout included (scale, appearance and landscaping reserved for later determination), is sought for the demolition of the single-storey dwelling at 240 Highfield Street and the erection of nine dwellings with new vehicular access and on-site parking. The application site is located on the north-western side of Highfield Street, east of the junction with Standard Hill.

Highfield Street is located within a residential area and comprises of a mix of dwellings types but principally two-storey terrace properties.

The proposed layout includes three dwellings (one detached and two semi-detached) positioned to the front of the site, following the building line along this stretch of Highfield Street. The vehicular access would be positioned between the detached dwelling and the semi-detached dwellings. A row of six dwellings would be positioned approximately 40m back from the highway boundary. Parking for the dwellings would be provided within the site comprising of two spaces per dwelling. Plots 2, 3 (semi-detached dwellings to front of the site), 4 and 5 (terrace properties within the back row of dwellings) would benefit from one space within a car port positioned in the middle of the site adjacent the north-eastern boundary, together with one space to the front of the car port. Plot 9 (end of terrace property within the back row of dwellings) would benefit from a single detached garage positioned towards the rear of the site adjacent the south-western boundary, together with one space in front.

The existing dwelling benefits from a vehicular access located towards the southern end of the site frontage. The proposal includes the provision of a new access, more centrally positioned within the site. Due to concerns that on-street parking would limit visibility from the access, the proposal includes the addition of a build-out of the footway on both sides of the access to provide appropriate visibility splays. Following advice from the County Highways Officer, an amended plan has been submitted to increase the width of the access to 4.8m wide.

As mentioned above, details of scale, appearance and landscaping are reserved for subsequent approval, however, the submission includes a Design and Access Statement and illustrative elevation details of the dwellings. The details indicate that the dwellings would be of a similar scale, appearance and form as the existing terrace properties along Highfield Street.

Whilst the single-storey dwelling of 240 Highfield Street remained at the time of the site visit, all trees and shrubs at the site, save for the rear boundary hedge, had been removed. The site benefits from a brick boundary wall along the south-western boundary and a close boarded fence to the north-eastern boundary.

No planning history for the site could be found, however, historic maps (1974-85) indicate that the land was the site of the former Standard Hill Methodist Church.

### 2. Publicity

20 Neighbours have been notified (Date of last notification 21 June 2012)

Site Notice displayed 21 June 2012

### 3. Consultations

County Highway Authority  
NWLDC Urban Designer  
LCC ecology  
County Highway Authority  
Severn Trent Water Limited  
Head of Environmental Protection

### 4. Summary of Representations Received

**Leicestershire County Council Highway Authority** – Whilst there are concerns about the prevalence of on-street parking along Highfield Street, particularly to the north-east of the site, the applicant has demonstrated that the impact of this in terms of visibility for vehicles egressing the site, can be mitigated by the formation of a physical build-out in the carriageway thus moving the give-way line out.

On receipt of amended plans, the plans are acceptable from a highways point of view. No objection subject to conditions.

**Leicestershire County Council Ecologist** – No bats or evidence of bats were found, no further work is necessary.

**Severn Trent Water Limited** – no objection subject to conditions

**North West Leicestershire District Council Environmental Protection Officer** – No observations

Nine letters of representation received from residents, objecting to the proposed development on the following grounds:

#### *Privacy*

- Plot 9 overlooks rear garden of No. 4 Standard Hill; the side elevation should have no windows or if essential be obscure and kept to a minimum;
- Rear row of properties would overlook No. 236 Highfield Street;

#### *Landscaping*

- No details of tree and hedge planting have been provided; No planting should be placed close to boundary wall with No. 4 Standard Hill and should be positioned in front of Plot 9 to provide privacy screening;

#### *Layout and design*

- No details of bin storage;
- Layout is unattractive and poor in design;
- Overdevelopment – properties appear crammed in;

#### *Flooding*

- No details of drainage and SUDs features;

#### *Highway safety and parking;*

- Would result in an increase in traffic;

- Visibility splays are below standard and would cause danger to footpath users and motorists;
- The access is too narrow and will not allow two vehicles to pass each other.
- Mass parking area in the centre of the site is not practical and would inevitably lead to parking in the street;
- Access to the garage serving Plot 9 should be at least 2.9m in width;
- Does not provide on-site parking spaces for visitors;
- It will exacerbate on-street parking areas and potential traffic accidents;
- The traffic calming measures proposed will impact on the availability of on-street parking and add to an already congested street;
- A request for access via the site to No. 238 Highfield Street has not been taken into account.

### 5. Relevant Planning Policy

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

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 policies of the East Midlands Regional Plan and North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

*East Midlands Regional Plan (adopted March 2009):*

Policy 1 (Regional Core Objectives) sets out the Regional Core Objectives.

Policy 2 (Promoting Better Design) seeks to improve continuously the layout, design and construction of new development.

Policy 3 (Distribution of New Development) sets out a sequential approach for the distribution of development and economic activity. The policy also advises that priority should be given to making best use of previously developed land and vacant/underused buildings in urban or other sustainable areas. It suggests a distribution of development and economic activity including (i) new development concentrated primarily in and adjacent to the region's five Principal Urban Areas (PUAs); (ii) significant levels of development located in the three growth towns of Corby, Kettering and Wellingborough; and (iii) appropriate development of a lesser scale in the Sub

Regional Centres (including Coalville, the only identified Sub Regional Centre in the District); and (iv) development needs of other settlements provided for.

Policy 12 (Development in the Three Cities Sub-area) states that, outside Derby, Leicester and Nottingham, employment and housing development should be located within and adjoining settlements. Such development should be in scale with the size of those settlements, in locations that respect environmental constraints, in particular those of the River Mease Special Area of Conservation and the surrounding countryside, and where there are good public transport linkages.

The Government has stated that it intends to revoke all Regional Spatial Strategies. The Secretary of State for Communities and Local Government issued a statement on 6 July 2010 revoking all Regional Spatial Strategies. This was subsequently challenged in the High Court and the decision quashed. As such, therefore, the Regional Spatial Strategy was reinstated.

The Secretary of State issued a further letter in light of the decision of the High Court, in which he said that it was still the Government's intention to abolish Regional Spatial Strategies as part of the Localism Bill and that local planning authorities should continue to have regard to his letter of 27 May 2010 (in which he announced his intention to revoke Regional Spatial Strategies) as a material consideration in making decisions. This was subject to a further legal challenge. In this instance the High Court dismissed the appeal and so the proposed revocation of the Regional Spatial Strategy is a potential material consideration. Also, the Localism Act 2011 includes the proposed power to abolish Regional Spatial Strategies as intended.

*North West Leicestershire Local Plan:*

Policy S2 (Limits to Development) of the Local Plan provides that development will be permitted on allocated sites and other land within the Limits to Development, identified on the Proposals Map, where it complies with the policies of this Local Plan.

Policy E3 (Residential Amenities) seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 (Design) seeks to achieve good design in new development.

Policy E7 (Landscaping) seeks to provide appropriate landscaping in association with new development.

Policy T3 (Highway Standards) requires development to make adequate provision for vehicular access, circulation and servicing arrangements.

Policy T8 (Parking) requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria.

Policy H4/1 (Hosing Land Release) sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst others, public transport and services.

Policy H6 (Housing Density) seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to

centres, design etc.

Policy H7 (Housing Design) seeks good quality design in new development.

## 6. Assessment

### **Principle and Sustainability:**

The site is located within the limits to development where the principle of residential development is considered acceptable under Policy S2 (Limits to Development) of the Local Plan, 2002, subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations. Regional Plan Policy 12 (Development in the Three Cities Sub-area) calls for housing developments outside of the cities of Derby, Leicester and Nottingham to be located within and adjoining settlements. The application site is located within Coalville and as such would comply with the principles of Regional Plan Policy 12 (Development in the Three Cities Sub-area).

Local Plan Policy H4/1 (Housing Land Release) seeks to direct the majority of housing to sustainable locations, which reflects guidance within Policy 3 (Distribution of New Development) of the East Midlands Regional Plan (2009) as well as that set out in the core principles of the NPPF (2012) (paragraph 17) together with paragraphs 14, 35, 49 and 55 of the NPPF. Both Regional Plan Policy 3 (Distribution of New Development) and Local Plan Policy H4/1 (Housing Land Release) set out a sequential approach to the distribution of development and the release of land for housing. The application site would fall within criterion (c), 'other appropriate land in Coalville' of Local Plan Policy H4/1 (Housing Land Release) and also within penultimate category (c) of the sequential test set out in Regional Plan Policy 3 (Distribution of New Development).

The second section of Local Plan Policy H4/1 (Housing Land Release) goes on to outline a set of criteria relating to the sustainability of the location. The site lies within the settlement of Coalville which is well served by public transport, services and facilities. As such the site is deemed to be in a sustainable location for new development and the use of this site for residential development would support the principles set out in Policy H4/1 (Housing Land Release) as well as those of the Regional Plan and the NPPF.

Regional Plan Policy 3 (Distribution of New Development) and Local Plan Policy H4/1 (Housing Land Release) also seek to direct the majority of housing to brownfield land, which is supported by the core principles (paragraph 17) and paragraph 111 of the NPPF, 2012. The majority of the site comprise of garden land, which, as outlined in the definition of previously developed land provided in Annex 2 of the NPPF, constitutes a greenfield site. Paragraph 53 of the NPPF outlines that inappropriate development of residential gardens should be resisted where there is the potential that the development would cause harm to the local area. It is considered that resisting development could not be justified in this case as the site's sustainable location would outweigh its greenfield status and the loss of part of the garden area would not be detrimental to the character of the area or result in the loss of protected open space or countryside.

Overall it is considered that the proposal accords with the principles of paragraphs 14, 17, 35, 49, 53, 55 and 111 of the NPPF; East Midlands Regional Plan Policies 3 (Distribution of New Development) and 12 (Development in the Three Cities Sub-area) and Local Plan Policy H4/1 (Housing Land Release) and represents an appropriate form of development in principle.

### *Density of Development:*

Policy H6 (Housing Density) of the North West Leicestershire Local Plan seeks to achieve as

high a net density as possible, subject to taking into account proximity and accessibility to centres, mix of housing types, good principles of design and layout, green space and landscaping requirements. This objective falls in line with that of Regional Plan Policy 2 (Promoting Better Design), which calls for developments which make the most efficient use of land.

Local Plan Policy H6 (Housing Density) recommends a minimum net density of 40 dwellings per hectare for sites located within sustainable settlements, but this only applies to sites of 0.3 hectares or more. The application site measures approximately 0.21 of a hectare in total, and the proposed development of nine dwellings at the site would therefore equate to a net site density of approximately 43 dwellings per hectare. The proposal is therefore considered acceptable for the purposes of Policy H6 (Housing Density) of the Local Plan, Policy 2 (Promoting Better Design) of the East Midlands Regional Plan and national guidance found within the NPPF, 2012.

**Layout and indicative design:**

The site is of sufficient size to accommodate the dwellings proposed with appropriate amenity space and on-site parking. The streetscene on the north-western side of Highfield Street encompassing the site is characterised by predominantly two-storey terrace properties, following a building line close to the highway boundary. The proposed development does not represent plot sizes and building layout typical of the locality and would result in the only form of 'backland' development along this stretch of Highfield Street. However, it is considered that the layout and footprint of the proposed dwellings would not be detrimental to the character or appearance of the local area and with the three dwellings sited along the frontage the proposed development would not be an inappropriate form of development for the locality. The precise details of the scale, appearance and landscaping of the development have not been included for consideration as part of this outline application and would be addressed through a reserved matters submission. However on the basis of the indicative elevation details provided it appears that the development would provide a sympathetic form of development for the locality. The proposal is therefore deemed to comply with the principles of the NPPF (2012), East Midlands Regional Plan Policy 2 (Promoting Better Design) and policies E4 (Design), H7 (Housing Design), T3 (Highway Standards) and T8 (Parking) of the North West Leicestershire Local Plan, 2002.

**Impact of Residential Amenities:**

The application site is situated between the two-storey residential dwellings of Nos. 248 and 238 Highfield Street. Neither of these properties have windows to the side gable ends of these properties facing the site. There are however ground floor level windows in the side elevation of the rear projection of No. 238 Highfield Street as well as ground and first floor level windows within the rear elevation of the projection. No. 248 Highfield Street also has first floor level windows in the rear elevation of the rear projection. It is not considered that the three dwellings proposed to the front of the site would significantly affect the amenities of occupiers of the neighbouring properties in terms of loss of light, privacy or outlook. There would be distances of approximately 25m and 28m between the row of dwellings proposed to the rear of the site and the rear elevations of No. 238 and 248 Highfield Street respectively, which are considered to be sufficient distances to prevent opportunities for overlooking and to result in a loss of light. A representation has been received objecting to the development on the grounds that the proposed dwellings would overlook No. 236 Highfield Street. The application site does not adjoin No. 236 Highfield Street and it is considered that there would be a sufficient distance between No. 236 and the site so as not to result in a development that would be significantly detrimental to the amenities of occupiers of this property in terms of overlooking.

The application site adjoins the rear boundaries of Nos. 3 – 9 Standard Hill and a representation has been received in objection to the development on the grounds that the proposed dwelling at Plot 9 would overlook No. 4 Standard Hill. With a distance of more than 30m between the dwelling proposed adjacent the boundary, Plot 9, and the nearest dwelling, No. 5 Standard Hill, it is not considered that the development would result in an overbearing or overshadowing form of development. In addition, as the detailed design of the dwelling is to be determined under a subsequent reserved matters application there is the possibility to safeguard the residents' amenities further.

It is therefore considered that the proposal would comply with the provisions of Policy E3 (Residential Amenities) of the Local Plan, 2002.

**Highway Standards and Parking:**

Concern has been raised within representations that the proposal would result in an increase in traffic, would exacerbate on-street parking and would result in dangers to highway users. As described above, the proposal includes alterations to the access arrangement, forming a 4.8m wide access positioned more centrally within the site than the existing together with a build-out of the footway on both sides of the access to provide appropriate visibility splays. The proposal would provide two on-site parking spaces per dwelling, which, given the proximity of the site to the centre of Coalville, is considered to be an acceptable level of on-site parking provision and would not lead to a greater demand for on-street parking. The County Highways Authority has advised that, following the amendments, the proposed access arrangement would be acceptable, with an appropriate width and visibility splays provided by the build-out. The representations received commented on the impact of the build-out on on-street parking and manoeuvrability.

The County Highways Officer commented on the concerns raised stating that *“Whilst it is true that the build-out will reduce the amount of on-street parking available to residents this has to be weighed against the safety implications of not having the build-out. In my view the loss of 1 space is acceptable in this regard. In terms of compromising the ability of residents to manoeuvre in/out of the parking spaces, I fail to see how the build-out would be any different to a parked car occupying this space. I cannot think of a credible reason why drivers wouldn't be able to negotiate this manoeuvre safely. There does appear to be scope to reduce the size of the build-out to the north-east of the access and this is something we would look at more closely as part of the s278 process should permission be granted.”* ... *“Having looked again at the properties opposite, there would be little if no impact. The only private access affected is the garage to no. 245. This is located opposite the smaller build out. I have measured the distance between the garage doors and the build out at over 9m. 6m is the required standard”*.

On the basis of the above advice, it is considered that the proposed access and parking arrangement would be acceptable and would not have a detrimental impact on highway safety. It is therefore considered that, subject to appropriate conditions, the proposal would comply with policies T3 (Highway Standards) and T8 (Parking) of the Local Plan, 2002.

**Ecology:**

It was advised by the County Ecologist that a Bat Survey should be undertaken prior to determination as the proposal involves the demolition of a property which by virtue of its location on the edge of the settlement adjacent to a proposed Local Wildlife Site may support bats. A survey report was subsequently submitted, which disclosed no evidence of bats, and as such the County Ecologist advised that no further work is necessary.

**Summary Reasons for Granting Planning Permission:**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to highway, design and amenity criteria and compliance with the relevant policies of the Local Plan and other material considerations. The site relates to previously developed land located within Coalville and therefore represents a sustainable location for new development. The proposal would offer an acceptable level of density for the location and would provide an appropriate use of the site. Whilst the plot sizes and layout would differ from that of the surrounding residential properties, it would not be an inappropriate form of development for the locality. The indicative details illustrate that the development would be considerate of the appearance and scale of the residential properties nearby and would not appear out of keeping with the character of existing developments within the locality. Despite the concerns raised in relation to highway safety and parking, the proposal would provide an appropriate vehicular access and on-site parking arrangement. With regards to the impact on neighbouring residential amenities, it is considered that on the basis of the details under consideration at this outline stage, the development would not have a significant impact on the amenities of occupiers of surrounding properties. Overall therefore, the proposal is deemed to offer an appropriate form of development for the site and would comply with the relevant policies of the NPPF (2012), East Midlands Regional Plan (2009) and the North West Leicestershire Local Plan (2002).

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

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

*Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).*

- 2 Approval of the details of the scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

*Reason - This permission is in outline only.*

- 3 No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

*Reason - To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway.*

- 4 The existing vehicular access that becomes redundant as a result of this development shall be closed permanently and the existing vehicular crossings reinstated within one month of the new access being brought into use in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

*Reason - To reduce the number of vehicular accesses to the site and consequently to reduce the number of potential conflict points.*

- 5 For the period of the construction, the applicant shall take measures to ensure that the highway is kept free of mud, water, stones etc, in accordance with details that shall have first been approved in writing by the Local Planning Authority in consultation with the Highway Authority.

*Reason - To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users.*

- 6 Before first occupation of any dwelling, car parking shall be provided, hard surfaced and made available for use in accordance with the approved details. The parking spaces shall thereafter be so maintained.

*Reason - To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.*

- 7 The development shall not be occupied until the vehicular access and off-site highway works have been constructed and completed in accordance with the approved plans. The access arrangement shall be retained as such thereafter.

*Reason - To ensure that suitable access is available for the development.*

- 8 No development shall commence on site until details of the materials for surfacing (hard bound materials) of the access drive and parking areas have been submitted to and approved in writing by the Local Planning Authority. Before first occupation of any dwelling, the access drive and parking area shall be surfaced in accordance with the approved details and shall be so maintained at all times.

*Reason - To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)*

- 9 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

*Reason - To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.*

- 10 No development shall commence on site until details of existing and proposed site levels and finished floor levels (including section drawings) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

*Reason - To ensure that the development takes the form envisaged by the Local Planning Authority and in the interests of residential amenities.*

- 11 The development hereby permitted shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:

- Amended number HF301, titled 'Location Plan', submitted with the Authority on 25

- April 2012;
- Amended drawing number HF302 Rev. C, titled 'Site Plan', deposited with the Authority on 13 June 2012;
  - Amended number HF303 Rev. C, titled 'Access Plan', deposited with the Authority on June 2012;

*Reason - To determine the scope of this permission.*

### **Summary Reasons for Granting Planning Permission-**

North West Leicestershire District Council's decision to grant planning permission in this instance arose following careful consideration of the relevant provisions of the Development Plan and all other relevant material considerations. The following policies of the East Midlands Regional Plan (2009) and North West Leicestershire Local Plan (2002) are consistent with the policies in the NPPF (2012) and should be afforded weight in the determination of this application:

*East Midlands Regional Plan (March 2009)*

- Policy 1 (Regional Core Objectives)
- Policy 2 (Promoting Better Design)
- Policy 3 (Distribution of New Development)
- Policy 12 (Development in the Three Cities Sub-area)

*North West Leicestershire Local Plan:*

- Policy S2 (Limits to Development)
- Policy E3 (Residential Amenities)
- Policy E4 (Design)
- Policy E7 (Landscaping)
- Policy T3 (Highway Standards)
- Policy T8 (Parking)
- Policy H4/1 (Housing Land Release)
- Policy H6 (Housing Density)
- Policy H7 (Housing Design)

### **Reason**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to highway, design and amenity criteria and compliance with the relevant policies of the Local Plan and other material considerations. The site relates to previously developed land located within Coalville and therefore represents a sustainable location for new development. The proposal would offer an acceptable level of density for the location and would provide an appropriate use of the site. Whilst the plot sizes and layout would differ from that of the surrounding residential properties, it would not be an inappropriate form of development for the locality. The indicative details illustrate that the development would be considerate of the appearance and scale of the residential properties nearby and would not appear out of keeping with the character of existing developments within the locality. Despite the concerns raised in relation to highway safety and parking, the proposal would provide an appropriate vehicular access and on-site parking arrangement. With regards to the impact on neighbouring residential amenities, it is considered that on the basis of the details under consideration at this outline stage, the development would not have a significant impact on the amenities of occupiers of surrounding properties. Overall therefore, the proposal is deemed to offer an appropriate form of development for the site and would comply with the relevant policies of the NPPF (2012), East Midlands Regional Plan (2009) and the North West

Leicestershire Local Plan (2002) stated above.

### Notes to applicant

- 1 Parking courtyard to be illuminated and enclosed by brick walls. Fences will not be permitted. Parking bays to be tarmac and delineated with 'T' blocks rather than white lining.
- 2 Frontage properties located either side of the access facing Highfield Street to be afforded dual aspect with windows at first and ground floor from habitable rooms to provide strong surveillance opportunities.
- 3 Roofscape requires additional interest in the form of chimneys or sun-tubes. The roof pitches of new properties will need to complement existing, as must the facing and roof materials and façade, brick headers and cills to articulated side elevations, eaves and verge detailing. Wet bedded verges and exposed eaves will be required. The applicant is advised to select a water struck brick with characteristics that complement the existing terraced housing. The applicant is also advised that a material that reflects the characteristics of a plain clay tile will be required, e.g. Marley Ashmore or Forticrete Gemini would be acceptable.
- 4 Every property must be provided with 2.11m<sup>2</sup> of dedicated and enclosed waste/recycling storage. A bin collection point will be required and this will need to be created to allow 1.25m<sup>2</sup> per unit served.
- 5 Rainwater downpipes should be positioned to reinforce the distinction between individual terraced units.
- 6 The proposal is situated in excess of 45 metres from the highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 7 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001)
- 8 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -  
  
For 'major' accesses - see Part 6 of the "6Cs Design Guide" (Htd) at [www.leics.gov.uk/Htd](http://www.leics.gov.uk/Htd).  
  
For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.
- 9 You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences.
- 10 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of

the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

- 11 It is advised that the appearance and scale of the development should follow the indicative elevation details illustrated on drawing number Hf304 submitted with the application on 25 April 2012.
- 12 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:
  - Collapse of shallow coal mine workings.
  - Collapse of, or risk of entry into, mine entries (shafts and adits).
  - Gas emissions from coal mines including methane and carbon dioxide.
  - Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
  - Transmission of gases into adjacent properties from underground sources through ground fractures.
  - Coal mining subsidence.
  - Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

## PLANNING APPLICATIONS- SECTION A

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

Residential development of 4 no. dwellings (Outline - All matters reserved)

Report Item No  
A4

The Car Park on Crescent Road of The Gate Inn Fairfield Road Hugglescote

Application Reference  
12/00543/OUT

Applicant:  
Mr S Davis

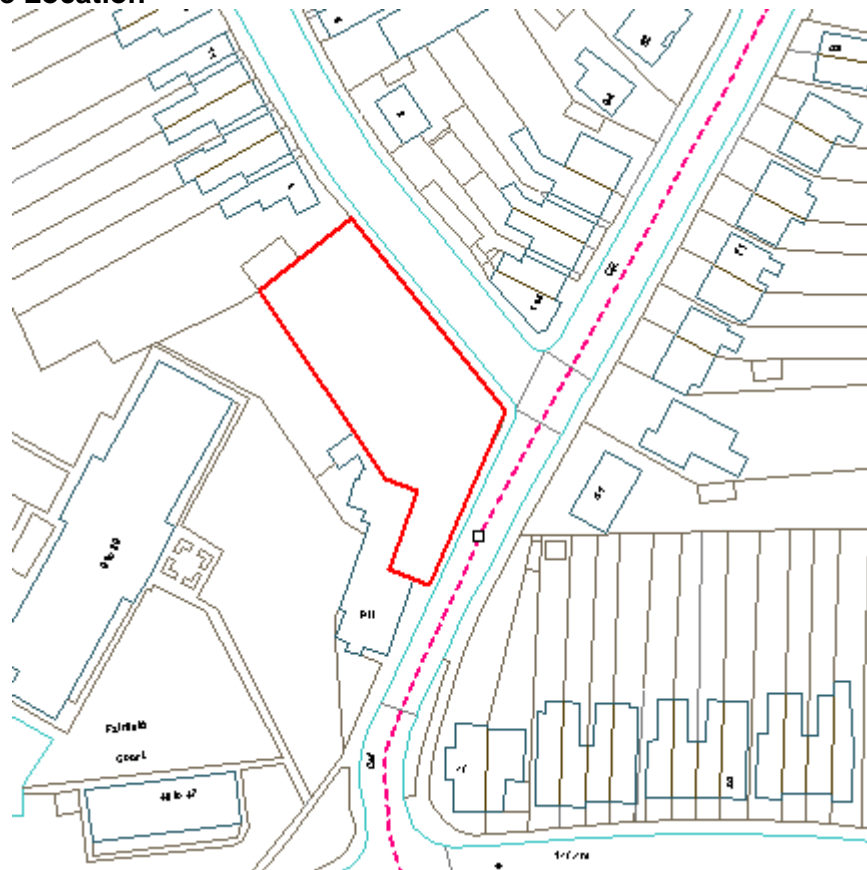
Date Registered  
22 June 2012

Case Officer:  
Elizabeth Hindle

Target Decision Date  
17 August 2012

Recommendation:  
PERMIT

### Indicative Site Location



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## **EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL**

### **Call In**

The application is brought before the Planning Committee at the request of Councillor Geary on the grounds of local concern about the proposals.

### **Proposal**

Outline planning permission, with all matters (layout, scale, appearance, access and landscaping) reserved for later determination, is sought for the erection of a row of 4no. dwellings on land that currently forms part of the car park and beer garden to The Gate Inn, which is situated on the corner of Crescent Road and Fairfield Road, Hugglescote.

### **Consultations**

Members will see from the main report below that 1no. representation has been received in objection to the proposed development on the grounds of highway safety and parking. Hugglescote and Donington le Heath Parish Council have not commented on the application. Leicestershire County Council Highway Authority have raised no objection to the proposed development, subject to conditions. No objection has been raised by Severn Trent Water, subject to conditions. Any further representations or consultation responses received following the publication of the Agenda will be reported to Committee on the Update Sheet.

### **Planning Policy**

The site is located within Limits to Development, as defined by the North West Leicestershire Proposals Map, 2002. As a previously developed site geographically well related to Coalville it is considered that the proposed residential development would accord with sustainability principles.

### **Conclusion**

The report below indicates that, on the basis of the indicative details submitted, the proposed residential development represents an appropriate form of development that would not have a significant impact on highway safety, parking or residential amenities.

### **Summary Reasons for Granting Planning Permission-**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to highway, design and amenity criteria and compliance with the relevant policies of the Local Plan and other material considerations. The settlement is geographically well related to Coalville and as such it is considered that the scheme for four additional dwellings at the site would accord with sustainability principles. The site is of sufficient size to accommodate the proposed dwellings without adversely affecting the character of the area or neighbouring residential amenities. The indicative details submitted are considered to be acceptable in terms of the proposed form of development, impact on highway safety, parking and residential amenity. Therefore, taking all of the above into account, it is considered that the application complies with relevant policies of the North West Leicestershire Local Plan, 2002, the East Midlands Regional Plan, 2009 and the National Planning Policy Framework, 2012 and should be granted outline planning permission, subject to conditions.

## **RECOMMENDATION - PERMIT**

**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.**

## ITEM A4 - MAIN REPORT

### 1. Proposals and Background

Outline planning permission, with all matters (layout, scale, appearance, access and landscaping) reserved for later determination, is sought for the erection of a row of 4no. dwellings on land that currently forms part of the car park and beer garden to The Gate Inn, which is situated on the corner of Crescent Road and Fairfield Road. The public house fronts Fairfield Road and the application site is situated on the south-western side of Crescent Road.

The site is located within a predominantly residential area, with dwellinghouses located to the north of the site and opposite on the north-eastern side of Crescent Road. A block of flats, Fairfield Court, is adjacent to the south-west.

The immediate area is mainly characterised by two-storey terrace properties (along Crescent Road) and two-storey semi-detached dwellings (along Fairfield Road).

Whilst all matters are reserved for subsequent approval, the supporting documentation, including an illustrative layout plan and a Design and Access Statement, indicates that the proposed dwellings would be two-storey and would be set back from the highway by approximately 6.0m to provide off-street parking, bin stores and landscaping to the front of the dwellings. The indicative layout suggests that two parking space would be provided for each dwelling, with tandem parking along the side of the end dwellings and four no. spaces to the front of the row. The dwellings would also benefit from private amenity to the rear. The proposal would not affect the public house building and includes retention of part of the beer garden and a car park for 17no. cars (including staff parking).

Planning history:

12/00237/OUT - Residential development of 4 no. dwellings (Outline - All matters reserved).  
Withdrawn

### 2. Publicity

28 No neighbours have been notified (Date of last notification 26 June 2012)

Site Notice displayed 26 June 2012

### 3. Consultations

Hugglescote And Donington Le Heath Parish Council consulted 26 June 2012

County Highway Authority consulted 27 June 2012

Severn Trent Water Limited consulted 27 June 2012

### 4. Summary of Representations Received

**Leicestershire County Council Highway Authority** – The submitted plans are in accordance with what was agreed at the pre-application stage and as such, considered acceptable in principle.

The new dwellings would be served direct from Crescent Road, a residential street which already serves properties along its length. Many houses in the vicinity do not benefit from off-street parking and therefore the provision of 2 spaces per property is more than adequate in this location and will not exacerbate existing on-street parking along Crescent Road or Fairfield Road.

The proposals will result in the loss of some of the pub car park however the remaining car park

will be modelled to provide 17 parking spaces. Based on existing levels of use this number of spaces is considered satisfactory and accords with Leicestershire County Council's own parking standards.

It is understood that objections have been received on the basis that the proposals may affect parking for those parents who use the car park for dropping off/collecting children from Hugglescote Primary School. This arrangement, if it does exist, does not appear to be defined in any of the planning consents related to the school and is therefore an informal arrangement which could be withdrawn at any time. As a result, no weight can be given to the same.

For the reasons given above, the proposals are acceptable from a highway point of view.

**Severn Trent Water Limited** – no objection subject to condition

**Hugglescote and Donington Le Heath Parish Council** – no response received.

One letter of representation received, objecting to the proposed development on the grounds that whilst the modified plan is an improvement, it is still does not address the fundamental problems, including:

- *loss of local parking provision* due to loss of parking area at pub (currently used by parents of nearby school) and due to access requirements to the new houses which will reduce available on-street parking;
- *traffic congestion* due to parking problems, and the impact on access for service vehicles;
- *highway safety* impacts on highway users due to the parking issues and traffic congestion.

## 5. Relevant Planning Policy

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

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 policies of the East Midlands Regional Plan and North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

*East Midlands Regional Plan (adopted March 2009):*

Policy 1 (Regional Core Objectives) sets out the Regional Core Objectives.

Policy 2 (Promoting Better Design) seeks to improve continuously the layout, design and construction of new development.

Policy 3 (Distribution of New Development) sets out a sequential approach for the distribution of development and economic activity. The policy also advises that priority should be given to making best use of previously developed land and vacant/underused buildings in urban or other sustainable areas. It suggests a distribution of development and economic activity including (i) new development concentrated primarily in and adjacent to the region's five Principal Urban Areas (PUAs); (ii) significant levels of development located in the three growth towns of Corby, Kettering and Wellingborough; and (iii) appropriate development of a lesser scale in the Sub Regional Centres (including Coalville, the only identified Sub Regional Centre in the District); and (iv) development needs of other settlements provided for.

Policy 12 (Development in the Three Cities Sub-area) states that, outside Derby, Leicester and Nottingham, employment and housing development should be located within and adjoining settlements. Such development should be in scale with the size of those settlements, in locations that respect environmental constraints, in particular those of the River Mease Special Area of Conservation and the surrounding countryside, and where there are good public transport linkages.

The Government has stated that it intends to revoke all Regional Spatial Strategies. The Secretary of State for Communities and Local Government issued a statement on 6 July 2010 revoking all Regional Spatial Strategies. This was subsequently challenged in the High Court and the decision quashed. As such, therefore, the Regional Spatial Strategy was reinstated.

The Secretary of State issued a further letter in light of the decision of the High Court, in which he said that it was still the Government's intention to abolish Regional Spatial Strategies as part of the Localism Bill and that local planning authorities should continue to have regard to his letter of 27 May 2010 (in which he announced his intention to revoke Regional Spatial Strategies) as a material consideration in making decisions. This was subject to a further legal challenge. In this instance the High Court dismissed the appeal and so the proposed revocation of the Regional Spatial Strategy is a potential material consideration. Also, the Localism Act 2011 includes the proposed power to abolish Regional Spatial Strategies as intended.

*North West Leicestershire Local Plan:*

Policy S2 (Limits to Development) of the Local Plan provides that development will be permitted on allocated sites and other land within the Limits to Development, identified on the Proposals Map, where it complies with the policies of this Local Plan.

Policy E3 (Residential Amenities) seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 (Design) seeks to achieve good design in new development.

Policy E7 (Landscaping) seeks to provide appropriate landscaping in association with new development.

Policy T3 (Highway Standards) requires development to make adequate provision for vehicular access, circulation and servicing arrangements.

Policy T8 (Parking) requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria.

Policy H4/1 (Hosing Land Release) sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst others, public transport and services.

Policy H6 (Housing Density) seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to centres, design etc.

Policy H7 (Housing Design) seeks good quality design in new development.

## **6. Assessment**

### **Principle and Sustainability:**

The site is located within the limits to development where the principle of residential development is considered acceptable under Policy S2 (Limits to Development) of the Local Plan, 2002, subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations. Regional Plan Policy 12 (Development in the Three Cities Sub-area) calls for housing developments outside of the cities of Derby, Leicester and Nottingham to be located within and adjoining settlements. The application site is located within the settlement of Hugglescote, which is considered to form part of Greater Coalville and as such would comply with the principles of Regional Plan Policy 12 (Development in the Three Cities Sub-area).

Local Plan Policy H4/1 (Housing Land Release) seeks to direct the majority of housing to sustainable locations, which reflects guidance within Policy 3 (Distribution of New Development) of the East Midlands Regional Plan (2009) as well as that set out in the core principles of the NPPF (2012) (paragraph 17) together with paragraphs 14, 35, 49 and 55 of the NPPF. Both Regional Plan Policy 3 (Distribution of New Development) and Local Plan Policy H4/1 (Housing Land Release) set out a sequential approach to the distribution of development and the release of land for housing. The application site would fall within criterion (b), 'previously developed land within in Coalville' of Local Plan Policy H4/1 (Housing Land Release) and also within penultimate category (c) of the sequential test set out in Regional Plan Policy 3 (Distribution of New Development).

The second section of Local Plan Policy H4/1 (Housing Land Release) goes on to outline a set of criteria relating to the sustainability of the location. The site lies within the settlement of Hugglescote which is geographically well related to Coalville and well served by public transport, services and facilities. As such the site is deemed to be in a sustainable location for new development and the use of this site for residential development would support the principles set out in Policy H4/1 (Housing Land Release) as well as those of the Regional Plan and the NPPF.

Regional Plan Policy 3 (Distribution of New Development) and Local Plan Policy H4/1 (Housing Land Release) also seek to direct the majority of housing to brownfield land, which is supported

by the core principles (paragraph 17) and paragraph 111 of the NPPF, 2012. The majority of the site comprises of hard surfaced land which formed the car park to the public house. As such the site is considered to fall within the definition of previously developed land provided in Annex 2 of the NPPF.

Overall it is deemed that the proposal accords with the principles of paragraphs 14, 17, 35, 49, 53, 55 and 111 of the NPPF; East Midlands Regional Plan Policies 3 (Distribution of New Development) and 12 (Development in the Three Cities Sub-area) and Local Plan Policy H4/1 (Housing Land Release) and represents an appropriate form of development in principle.

**Density of Development:**

Policy H6 (Housing Density) of the North West Leicestershire Local Plan seeks to achieve as high a net density as possible, subject to taking into account proximity and accessibility to centres, mix of housing types, good principles of design and layout, green space and landscaping requirements. This objective falls in line with that of Regional Plan Policy 2 (Promoting Better Design), which calls for developments which make the most efficient use of land.

Local Plan Policy H6 (Housing Density) recommends a minimum net density of 40 dwellings per hectare for sites located within sustainable settlements, but this only applies to sites of 0.3 hectares or more. The application site measures approximately 0.07 of a hectare in total, and the proposed development of four dwellings at the site would therefore equate to a net site density of approximately 57 dwellings per hectare. The proposal is therefore considered acceptable for the purposes of Policy H6 (Housing Density) of the Local Plan, Policy 2 (Promoting Better Design) of the East Midlands Regional Plan and national guidance found within the NPPF, 2012.

**Design, Residential Amenities and Highway Safety**

The site is of sufficient size to accommodate the proposed dwellings. The streetscene along Crescent Road is characterised mainly by two-storey terrace properties fronting the highway. The indicative details suggest that the proposed dwellings would be smaller in width than other terrace properties along Crescent Road and would be set back from the highway to accommodate off-street parking. Whilst this would differ from the predominant building line and form of development along Crescent Road it is not considered that it would represent an inappropriate layout or form of development that would harm the character or appearance of the locality. It is also noted that this layout would allow the development to benefit from an appropriate level of off-street parking for each of the new dwellings. The detailed design, scale, layout and landscaping would, however, be addressed through a subsequent reserved matters submission.

On the basis of the indicative siting and scale details provided at this stage it appears that the development would not result in an overbearing form of development. It is noted that there are ground and first floor level windows within the side elevation of the adjacent dwelling No. 1 Crescent Road and of the block of flats adjacent to the south-west, which face the site. On the basis of the indicative details it is considered that there would be sufficient distance between the application site and the neighbouring properties so as not to result in any significant loss of light or opportunities for overlooking. In addition, there is the possibility to safeguard the residents' amenities further through the reserved matters submission of details of the layout and design of the dwelling.

With respect to highway safety, an objection has been received on the grounds that the

development of the car park of the public house would result in a significant increase in on-street parking and traffic congestion. It is understood that the car park is often used by non-patrons and particularly by parents for dropping off/collecting children from Hugglescote Primary School nearby.

As advised by the County Highways Officer, this arrangement, if it does exist, does not appear to be defined in planning consents related to the school and is therefore an informal arrangement which could be withdrawn by the land owner at any time. As such, no weight can be given to this use of the car park in the determination of the application.

The proposal includes the laying out of 17 parking spaces within the remaining car park to serve staff and customers of the Public House. The County Highways Authority have advised that on the basis of the existing levels of use the proposed parking provision would be satisfactory and the proposal accords with Leicestershire County Council's own parking standards.

As mentioned above, the indicative layout suggests that the proposed dwellings would be served by two off-street parking spaces each, with four spaces provided to the front of the dwellings and tandem spaces provided at both ends of the row of dwellings. The County Highways Officer has advised that the proposed parking provision for the dwellings would be acceptable and would not exacerbate existing on-street parking along Crescent Road or Fairfield Road.

It is therefore deemed that, on the basis of the indicative details provided at this stage, the proposed development would provide an acceptable form of development, with no significant impact on residential amenities or highway safety and would comply with the principles of the NPPF, 2012, East Midlands Regional Plan Policy 2 (Promoting Better Design) and policies E3 (Residential Amenities), E4 (Design), Policy H7 (Housing Design), T3 (Highway Standards) and T8 (Parking) of the North West Leicestershire Local Plan, 2002.

**Summary Reasons for Granting Planning Permission:**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to highway, design and amenity criteria and compliance with the relevant policies of the Local Plan and other material considerations. The settlement is geographically well related to Coalville and as such it is considered that the scheme for four additional dwellings at the site would accord with sustainability principles. The site is of sufficient size to accommodate the proposed dwellings without adversely affecting the character of the area or neighbouring residential amenities. The indicative details submitted are considered to be acceptable in terms of the proposed form of development, impact on highway safety, parking and residential amenity. Therefore, taking all of the above into account, it is considered that the application complies with relevant policies of the North West Leicestershire Local Plan, 2002, the East Midlands Regional Plan, 2009 and the National Planning Policy Framework, 2012 and should be granted outline planning permission, subject to conditions.

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

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

*Reason - To comply with the requirements of Section 91 of the Town and Country*

*Planning Act 1990 (as amended).*

- 2 Approval of the details of the layout, scale, appearance, access and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

*Reason - This permission is in outline only.*

- 3 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.

*Reason - To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction.*

- 4 Before first occupation of the dwellings, the car park to the public house shall be hard surfaced, sealed, drained and marked out in accordance with the details shown on drawing reference '7486/ 007 A' and the car park shall thereafter be retained for that purpose for the occupiers of and visitors to the public house.

*Reason - To ensure that provision for vehicle parking clear of the highway is available for users of and visitors to the development in the interests of highway safety.*

- 5 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

*Reason - To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.*

- 6 The development hereby permitted shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:

- Drawing titled 'Location Plan' submitted with the application on 22 June 2012.
- Drawing titled 'Option 3' and referenced '7486/ 007 A', submitted with the application on 22 June 2012.

*Reason - To determine the scope of this permission.*

### **Summary Reasons for Granting Planning Permission**

North West Leicestershire District Council's decision to grant planning permission in this instance arose following careful consideration of the relevant provisions of the Development Plan and all other relevant material considerations. The following policies of the East Midlands Regional Plan (2009) and North West Leicestershire Local Plan (2002) are consistent with the policies in the NPPF (2012) and should be afforded weight in the determination of this application:

*East Midlands Regional Plan (March 2009)*

Policy 1 (Regional Core Objectives)  
Policy 2 (Promoting Better Design)  
Policy 3 (Distribution of New Development)  
Policy 12 (Development in the Three Cities Sub-area)

*North West Leicestershire Local Plan (2002)*

Policy S2 (Limits to Development)  
Policy E3 (Residential Amenities)  
Policy E4 (Design)  
Policy E7 (Landscaping)  
Policy T3 (Highway Standards)  
Policy T8 (Parking)  
Policy H4/1 (Hosing Land Release)  
Policy H6 (Housing Density)  
Policy H7 (Housing Design)

**Reason**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to highway, design and amenity criteria and compliance with the relevant policies of the Local Plan and other material considerations. The settlement is geographically well related to Coalville and as such it is considered that the scheme for four additional dwellings at the site would accord with sustainability principles. The site is of sufficient size to accommodate the proposed dwellings without adversely affecting the character of the area or neighbouring residential amenities. The indicative details submitted are considered to be acceptable in terms of the proposed form of development, impact on highway safety, parking and residential amenity. Therefore, taking all of the above into account, it is considered that the application complies with the planning policies stated above.

**Notes to applicant**

- 1 Every property must be provided with 2.11m<sup>2</sup> of dedicated and enclosed waste/recycling storage. A bin collection point will be required and this will need to be created to allow 1.25m<sup>2</sup> per unit served.
- 2 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -

For 'major' accesses - see Part 6 of the "6Cs Design Guide" (Htd) at [www.leics.gov.uk/Htd](http://www.leics.gov.uk/Htd)

For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.

- 3 It is advised that the appearance, scale and layout of the development should follow the indicative details submitted with the application on 22 June 2012.
- 4 The proposed development lies within an area which could be subject to current coal

mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

- 5 Severn Trent Water advise that there is a public sewer located within the application site.

## **PLANNING APPLICATIONS- SECTION A**

Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

Erection of a single storey detached dwelling (Resubmission)

Report Item No  
A5

Land Adjacent To Sunnyside Aqueduct Road Coleorton  
Coalville

Application Reference  
12/00470/FUL

Applicant:  
Mr Robert Oakley

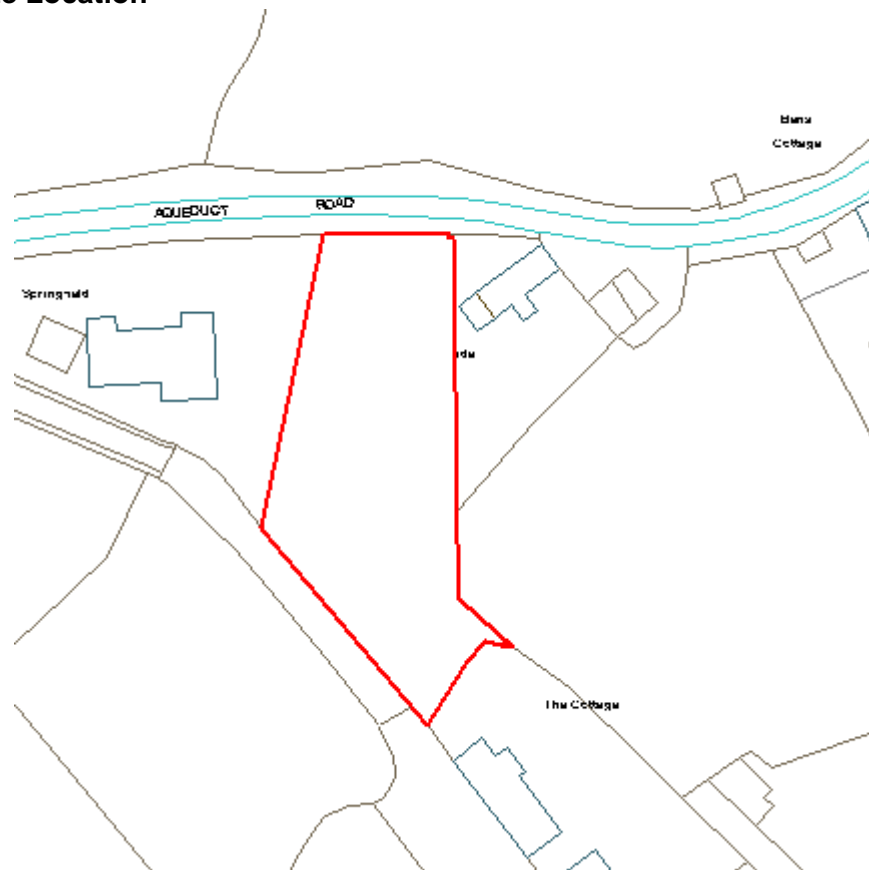
Date Registered  
29 May 2012

Case Officer:  
Adam Mellor

Target Decision Date  
24 July 2012

Recommendation:  
REFUSE

Indicative Site Location



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## **EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL**

### **Call In**

The application is brought before the Planning Committee at the request of Councillor Stevenson to allow Planning Committee to fully assess the highways implications.

### **Proposal**

Sunnyside is a two-storey detached dwelling situated on the south side of the road, where it is set back 3.0 metres, at its closest point, from the public highway. An existing vehicular access to the site provides off-street car parking and access to a detached garage. The site is situated within the defined limits to development, as identified in the North West Leicestershire Local Plan, and the surrounding area consists of residential properties, which vary in their type and design, and open countryside.

The proposed dwelling would be situated 3.5 metres from the south-western (side) elevation of Sunnyside, as well as 12.5 metres from the public highway and would have a width of 14.2 metres, length of 15.4 metres (which includes front and rear projections), eaves height of 2.7 metres and ridge height of 5.2 metres. A single storey rear projection would have a width of 5.3 metres, length of 4.5 metres, eaves height of 2.7 metres and ridge height of 4.4 metres whilst a single storey front projection would have a width of 4.4 metres, length of 2.1 metres, eaves height of 2.7 metres and overall height of 4.1 metres. In addition to these works a front canopy/porch would also be formed which would have a width of 3.1 metres, length of 1.0 metre, eaves height of 2.7 metres and overall height of 3.6 metres. Vehicular access to the site would be provided from Aqueduct Road.

### **Consultations**

No representations have been received from members of the public or the Parish Council and the County Rights of Way Officer and Severn Trent Water have no objections. The County Highways Authority would, however, object to the application on sustainability and highway safety grounds.

### **Planning Policy**

The development would be contrary to Policy T3 (Highway Standards) and H4/1 (Housing Land Release) of the North West Leicestershire Local Plan. It would, however, comply with Policies S2 (Limits to Development); E3 (Residential Amenities); E4 (Design); E7 (Landscaping); T8 (Parking); H6 (Housing Density) and H7 (Housing Design).

### **Conclusion**

Whilst in accordance with most of the policies of the North West Leicestershire Local Plan the development would be contrary to Policy H4/1 as it is unlikely that the occupiers of the proposed dwelling would walk to local services given the inadequacies in the width of Aqueduct Road and the fact that no footpaths exist. The development would also be contrary to Policy T3 as Aqueduct Road is substandard in its width, horizontal alignment and pedestrian footway provision and the introduction of additional vehicular traffic would therefore be to the overall detriment of highway safety. It is therefore recommended that the application be refused.

## **RECOMMENDATION – REFUSE AS CONTRARY TO POLICIES T3 AND H4/1 OF THE NORTH WEST LEICESTERSHIRE LOCAL PLAN.**

**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.**

## ITEM A5 - MAIN REPORT

### 1. Proposals and Background

This application is brought to the planning committee at the request of Councillor Stevenson and relates to planning permission for the erection of a single storey detached dwelling at Land Adjacent to Sunnyside, Aqueduct Road, Coleorton. Sunnyside is a two-storey detached dwelling situated on the south side of the road, where it is set back 3.0 metres, at its closest point, from the public highway. An existing vehicular access to the site provides off-street car parking and access to a detached garage. The site is situated within the defined limits to development, as identified in the North West Leicestershire Local Plan, and the surrounding area consists of residential properties, which vary in their type and design, and open countryside.

Planning permission was refused under application reference 12/00256/FUL on the 21st May 2012 for the same development proposal now submitted as it was considered contrary to Policies T3 and H4/1 of the North West Leicestershire Local Plan.

The proposed dwelling would be situated 3.5 metres from the south-western (side) elevation of Sunnyside, as well as 12.5 metres from the public highway, and would have dimensions of 14.2 metres in width by 15.4 metres in length (including single storey front and rear projections) and use of a pitched gable ended roof with an eaves height of 2.7 metres and overall height of 5.2 metres. A single storey rear projection would extend 4.5 metres from the eastern side of the southern (rear) elevation with a width of 5.3 metres and use of a gable ended pitched roof with an eaves height of 2.7 metres and overall height of 4.4 metres. The single storey front projection would extend 2.1 metres from the western side of the northern (front) elevation with a width of 4.4 metres and use of a pitched gable ended roof with an eaves height of 2.7 metres and overall height of 4.1 metres. A front canopy/porch would also be formed which would extend 1.0 metre from the centre of the northern (front) elevation with a width of 3.1 metres and use of a pitched gable ended roof with an eaves height of 2.7 metres and overall height of 3.6 metres. It is indicated on the plans that the dwelling would provide an integral garage, two bedrooms, an en-suite, bathroom, utility, lounge, kitchen and hall for the occupants.

A new vehicular access to the site would be formed off Aqueduct Road which would serve the proposed property along with associated turning and off-street parking.

A previous application for planning permission (Ref: 76/0499/P) for a two-storey extension to house was approved on the 23rd June 1976.

### 2. Publicity

Neighbours have been notified (Date of last notification 29 May 2012)

Site Notice displayed 11 June 2012

### 3. Consultations

Worthington Parish Council consulted 29 May 2012

County Highway Authority consulted 30 May 2012

Severn Trent Water Limited consulted 30 May 2012

Building Control - NWLDC consulted 30 May 2012

LCC/Footpaths consulted 30 May 2012

### 4. Summary of Representations Received

No letters of representation from neighbours have been received.

No representation from Worthington Parish Council has been received.

The County Highways Authority object to the application for the same reasons outlined under application reference 12/00256/FUL which were as follows: *"Aqueduct Road is substandard with regards to its width, horizontal alignment and pedestrian footway provision. Concerns about the suitability of the road network to accommodate a additional development has resulted in the Highway Authority recommending refusal of 3 similar applications in the immediate vicinity – an appeal against one of those refusals was dismissed in 2000; Concerns have also been raised by the Highway Authority with regards to sustainability. The application site is remote from local services, shops, employment areas and public transport and consequently scores very poorly from an accessibility point of view. Future residents of this dwelling would almost certainly be dependent on the use of a private motor vehicle on a day to day basis and this lack of transport choice is contrary to current government thinking set out in the NPPF and the Leicestershire Transport Plan 3. Furthermore, the application site is not located in an area identified in Policy CS7 of the NWLDC Core Strategy; For these reasons the proposals cannot be supported from a highway point of view."*

Severn Trent Water Limited has no objections.

## **5. Relevant Planning Policy**

### **National Planning Policy Framework (NPPF) – March 2012**

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

The NPPF (Para 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 policies of the East Midlands Regional Plan and North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

### **East Midlands Regional Plan**

The revocation of Regional Strategies was challenged in the High Court by Cala Homes, the outcome of which was announced on the 10th November 2010. The revocation of Regional Strategies was found to be unlawful and as such they have been reinstated, although the Government maintains its commitment to revoke Regional Spatial Strategies through the NPPF.

Policy 2 (Promoting Better Design);  
Policy 3 (Distribution of New Development);  
Policy 12 (Development in the Three Cities Sub-area);  
Policy 15 (Regional Priorities for Affordable Housing in Rural Areas);  
Policy 48 (Regional Car Parking Standards);

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

Policy S2 (Limits to Development);  
Policy E3 (Residential Amenity);  
Policy E4 (Design);  
Policy E7 (Landscaping);  
Policy H4/1 (Housing Land Release);  
Policy H6 (Density);  
Policy H7 (Housing Design);  
Policy T3 (Highway Standards);  
Policy T8 (Parking);

#### **Other Guidance**

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

## **6. Assessment**

### **Principle and Sustainability**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations. Policy H4/1 of the Local Plan aims to direct new development to sustainable locations and in doing so sets out a sequential approach to the release of housing land. This approach is shared in Policy 3 of the East Midlands Regional Plan as well as Paragraphs 14 and 19 of the NPPF.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. These are outlined as criteria (a) to (f) and the application site would fall within criterion (f) i.e. other locations where appropriate development in the context of other policies contained in the Local Plan. The second section of the policy goes on to outline a set of criteria relating to the sustainability of the location.

The concept of new development being directed to locations that minimise reliance on the private motorcar is set out in Policy H4/1 and this reflects national guidance contained in the NPPF. In considering the application reference is made to a recent appeal decision (Ref: APP/G2435/A/11/2144866) at Land Adjacent to The Brambles, Lower Moor Road, Coleorton which lies approximately 534.0 metres to the south-west of the site. In allowing the appeal the Inspector stated: *"Although the village is relatively spread out and in part straddles the busy A512 the appeal site is located within an area of dense development. It is approximately 50m from a combined post office and convenience store which offers a wide range of additional services including banking, dry cleaning and mobile phone top ups. The GP surgery is within approximately 200m. A pub is also within easy walking distance along well lit pavements. Whilst the primary school would be further away the distance involved is similar to that found in many suburban areas and so this consideration does not weigh heavily against the proposal. Regular bus services during the day passing along Lower Moor Road or the A512 connect the village to*

*Burton Upon Trent and Coalville. Supermarket home deliveries also avoid the need to travel by car in order to carry out the weekly food shop. Whilst the village clearly does not have the same range of services or as frequent public transport as the nearby towns of Coalville and Ashby de la Zouch it provides a sufficient range to meet the majority of day to day needs."*

The proposed site would be situated 470.0 metres from the post office/convenience store; 538.0 metres from the GP Surgery; 200.0 metres from the nearest bus stop and 450.0 metres from the nearest pub (The Gelsmoor). Whilst at present an hourly bus service runs between Coalville and East Midlands Airport (Bus No. 155) this service is to be cancelled in the near future, however an hourly bus service would still run between Coalville and Burton-on-Trent (Bus No. 9), with the nearest bus stop being 788.0 metres from the site, and a replacement Demand Responsive Transport (DRT) service would be established to cover the loss of Bus No. 155 to ensure the public transport sustainability of the site. Whilst these distances demonstrate that some of the services are within walking distance, the view is taken that occupiers of the proposed dwelling would be unlikely to walk to such services given that Aquaduct Road is a single width carriageway with no footpaths. Therefore it is considered that occupiers of the proposed dwelling are likely to have to travel by car for even the most basic services. On this basis it is considered that the proposed development would not comply with policy H4/1.

Paragraph 53 of the NPPF outlines that inappropriate development of residential gardens should be resisted where there is the potential that the development would cause harm to the local area. It is considered that the plot of land available to Sunnyside is large and as such the loss of part of the garden would not adversely impact on the amenities of the current occupants given the amenity space which would be retained. The loss of part of the garden area would also not be detrimental to the character of the area or result in the loss of a protected open space, as such a reason for refusal on the basis of the loss of part of the residential garden could not be justified in this instance given the sustainable nature of the site.

Overall, although the site is located within the limits to development and would not result in inappropriate development of residential gardens, it is considered to conflict with Policy H4/1.

### **Density**

Policy H6 of the North West Leicestershire Local Plan both seek to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account factors such as housing mix, accessibility to centres and design. Policy H6 of the North West Leicestershire Local Plan also requires a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services and a minimum of 30 dwellings per ha elsewhere.

With a site area of 0.14 hectares, the proposal would have a density of 7.14 dwellings per hectare. Whilst the density is lower than that advised in Policy H6, this density only applies to sites of 0.3 hectares or more. Having regard to the proposed density, the size of the site and the relationship with neighbouring properties, it is considered that the proposal for one dwelling would represent an efficient use of land in this instance. Therefore, the scheme is considered to be acceptable in relation to Policy H6.

### **Residential Amenity**

It is considered that the properties most immediately affected by the proposed works would be Springfield, a single storey detached property, situated to the west of the site and Sunnyside, a two-storey detached property, situated to the east of the site.

At present a substantial 2.4 metre high conifer hedge exists along the shared boundary between

the site and Springfield with the eastern (side) elevation of Springfield being situated 18.3 metres from the western (side) elevation of the proposal, although a conservatory to the southern part of the eastern (side) elevation of Springfield would be in closer proximity to the shared boundary. It is indicated on the submitted plans that the land levels slope upwards towards Springfield and given the presence of the boundary hedge, the overall height of the dwelling and the distance between the dwellings it is considered that the proposal would not have a significantly detrimental overbearing or overshadowing impact on the amenities of the neighbouring property. With regards to overlooking impacts one door is proposed in the western (side) elevation of the dwelling along with a lounge window on the rear projection, although the lounge window is situated 15.5 metres from the shared boundary, and given the presence of the boundary treatments it is considered that there would not be a significant overlooking impact. It is proposed to condition that no alterations be made to the roof, such as the insertion of dormers and roof lights, as they may have the potential to impact on the amenities of neighbours and as such should be considered under a detailed planning application submission. The design and position of Springfield would also ensure that it would not impact significantly on the amenities of any future occupant of the proposal.

In terms of the impacts on Sunnyside it is considered that it would be conditioned, as part of any grant of planning permission, that the boundary treatments to be established between the sites would be agreed in order to ensure that a suitable level of privacy would be provided. Sunnyside is orientated so that its rear elevation faces in a south-eastern direction and whilst a bay window exists on the south-western (side) elevation this would appear to be a secondary window to those on the rear elevation. In these circumstances it is considered that whilst the proposed dwelling would be in close proximity to the shared boundary the orientation of Sunnyside, as well as the proposed height of the dwelling, would ensure that it would not have a significantly detrimental overbearing or overshadowing impact on the occupant's amenities. No windows are proposed in the eastern (side) elevation of the dwelling and as such there would not be significant overlooking impacts with only an oblique angle of view being established from the first floor windows of Sunnyside onto the amenity area of the new dwelling given its orientation.

Overall the proposal would accord with Policy E3.

### **Design**

The need for good design in new residential development is outlined not only in Local Plan Policy H7, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that *"although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."*

Taking the above into account it is noted that Aqueduct Road has no consistency in the design or type of dwellings with sizes and proximity to the highway varying greatly. It is considered that the property has been designed so that it would appear rural in nature by the use of timber side opening doors on the garage, cill details, detailing to the front porch/canopy and the installation of chimneys on both gable ends. Given the design of the property and its overall modest scale, in relation to the size of the plot in which it is situated, it is considered that it would respect the character and appearance of the streetscape, given that it predominately reflects the design of Springfield, and would not impact adversely on the character and appearance of the surrounding area by virtue of it being situated within close proximity to the other built forms of development in the area. The position of Sunnyside and the presence of the boundary hedgerow to the western (side) boundary would also assist in screening the development from any wider public viewpoints.

It is proposed to condition that the materials to be used in the development would be submitted to and agreed in writing to ensure that the dwelling is constructed with materials which would be consistent with the characteristics of the surrounding area. Overall the scale, design and appearance of the dwelling and detached garage would be acceptable and would accord with the provisions of Paragraphs 57, 60 and 61 of the NPPF and Policies E4 and H7 of the Local Plan.

### **Highway Safety**

The County Highways Authority has raised concerns with regards to the suitability of the provision of a new dwelling on Aqueduct Road given the substandard nature of its width, horizontal alignment and pedestrian footway provision. In these circumstances it is considered that, whilst sufficient off-street parking could be provided for the dwelling, in accordance with Policy T8, and sufficient manoeuvring facilities could be provided within the site to ensure vehicles exit in a forward direction, the unsuitability of the highway network and the overall increase in vehicles using the road would be to the overall detriment of highway safety which would be contrary to Policy T3.

The County Highway Authority also recommends refusal for the reason that the proposed development could set a precedent for applications of a similar nature, which would prove difficult to resist, each requiring access to a road network considered unsuitable which would not be in the interests of road safety. However, given that it is a fundamental tenet of the Planning Acts that each application is considered on its own merits, it is not considered that an objection based on the potential creation of a precedent could be sustained on appeal in this instance.

### **Other Matters**

As part of the works it is proposed that part of the front boundary hedge and two trees would have to be removed to accommodate the development and the new vehicular access. It is considered that the trees to the site frontage, which are not protected by a Tree Preservation Order (TPO), contribute to the visual amenity of the streetscape but they are not considered to be of a quality which would be worthy of a TPO and as such should not prevent the implementation of the development. Taking this into account, as well as the fact that a Cherry tree would be retained to the frontage along with most of the boundary hedge, it is considered that a landscaping scheme could be conditioned as part of any grant of planning permission to ensure that suitable replacement tree planting would be provided and therefore ensure compliance with Policy E7.

With the removal of vegetation from the site the developers would need to ensure that due care is taken to prevent any impact on nesting birds and it is considered that a note to applicant would be sufficient in outlining that nesting birds are a protected species. On this basis the development would accord with the guidance within Circular 06/05.

### **Conclusions**

It is considered that the occupiers of the proposed dwelling would be unlikely to walk to local services given that Aqueduct Road is a single width carriageway with no footpaths. Therefore it is considered that occupiers of the proposed dwelling are likely to have to travel by car for even the most basic services which would be contrary to Local Plan Policy H4/1.

Given the substandard width, horizontal alignment and pedestrian footway provision of Aqueduct Road it is considered that the introduction of additional vehicular traffic from a new dwelling on the road network would be to the overall detriment of highway safety which would

be considered contrary to Policy T3 of the Local Plan. It is therefore recommended that the application be refused.

**RECOMMENDATION - REFUSE, for the following reasons;**

- 1 Policy T3 requires development to make adequate provision for vehicular access, circulation and servicing arrangements. Given the substandard width, horizontal alignment and pedestrian footway provision of Aqueduct Road it is considered that the road network in the vicinity is unsuitable to cater for additional traffic which would be introduced should the proposal be permitted. Therefore to permit the development would result in additional dangers to road users which would be contrary to the aims of Policy T3 of the North West Leicestershire Local Plan.
- 2 Policy H4/1 which sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst other things, public transport and services. It is considered that the occupiers of the proposed dwelling would be unlikely to walk to local services given that Aqueduct Road is a single width carriageway with no footpaths. As such, the proposed development is contrary to the provisions of Adopted North West Leicestershire Local Plan Policy H4/1.

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Erection of a single storey rear extension

Report Item No  
A6

68 Cropston Drive Coalville Leicestershire LE67 4HR

Application Reference  
12/00500/FUL

Applicant:  
Miss Sarah Tripp

Date Registered  
6 June 2012

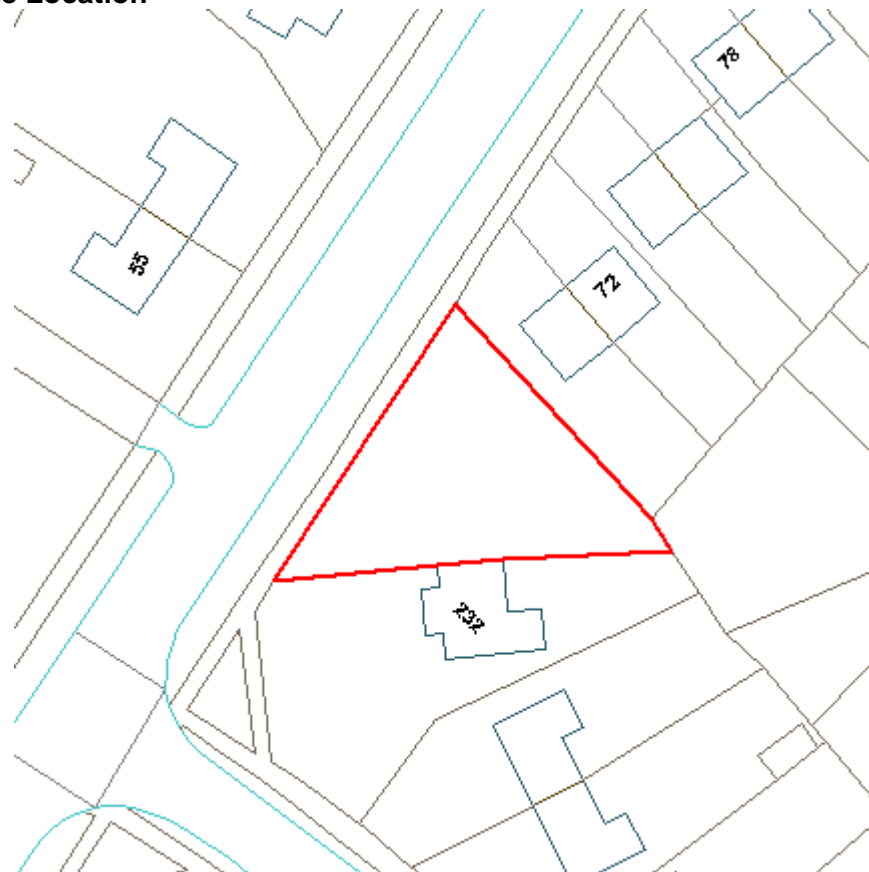
Case Officer:  
Anna Edwards

Target Decision Date  
1 August 2012

Recommendation:  
PERMIT

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**Indicative Site Location**



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## **EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL**

### **Call In**

The application is brought before the Planning Committee at the request of Councillor Wyatt on the grounds of local concern about the proposals.

### **Proposal**

Planning permission is sought for the erection of a single storey rear extension at 68 Cropston Drive, Coalville. The extension will provide for a ground floor bedroom with en-suit shower room.

### **Consultations**

No representations have been received from members of the public and Airport Safeguarding raises no objection to the proposal. Any representations received following the publication of the Agenda will be reported to Committee on the Update Sheet.

### **Planning Policy**

The development is considered to comply with guidance contained within the National Planning Policy Framework (2012) and the relevant policies of the North West Leicestershire Local Plan (2002).

### **Conclusion**

The report below indicates that the principle of the extension to an existing dwelling is acceptable; the single storey rear extension would not result in any significant harm to the amenities of occupiers of surrounding properties in terms of overbearing, overshadowing or overlooking impacts. Overall the design and form of the extension would not be significantly detrimental to the character or appearance of the surrounding area.

### **Summary Reasons for Granting Planning Permission**

The site is located within the limits to development where the principle of extensions to existing dwellings is considered acceptable. The proposal is not considered to affect residential amenity in the area or have any significant detrimental design impacts. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the Local Plan, in this case S2, E3 and E4. It is therefore recommended that the application be permitted.

## **RECOMMENDATION - PERMIT**

**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.**

## ITEM A6 - MAIN REPORT

### 1. Proposals and Background

Planning Permission is sought for the erection of a single storey rear extension at 68 Cropston Drive, Coalville.

The subject property is a semi-detached two storey dwelling, situated on the eastern side of Cropston Drive. The site is located in a predominantly residential area with dwellings surrounding the site to the north, east, south and west. The subject property is located within Limits to Development.

The proposed single storey rear extension will be constructed from facing brick, concrete roof tiles and white Upvc windows. The proposal will provide for a ground floor bedroom with en-suite shower room.

There is no relevant planning history

### 2. Publicity

Nine neighbours have been notified (Date of last notification 12 June 2012)

### 3. Consultations

Airport Safeguarding

### 4. Summary of Representations Received

No representations have been received from members of the public.

Airport Safeguarding raises no objection to the proposal.

Councillor Wyatt called the application in for committee consideration stating:

I wish to call in 12/00500/FUL 68 Cropston Drive due to outstanding unauthorised planning issues at this property and concerns expressed to me about this issue from neighbours.

### 5. Relevant Planning Policy

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

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

#### North West Leicestershire Local Plan

Policy S2 sets out that development will be permitted on allocated sites and other land within the Limits to Development, where it complies with the policies of this Local Plan.

Policy E3 seeks to prevent development, which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

Policy T3 requires development to make adequate provision for vehicular access, circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development. In relation to car parking standards for dwellings, an average of 1.5 spaces off-street car parking spaces per dwelling will be sought.

## **6. Assessment**

### **Principle**

The site is located within the Limits to Development as set out on the Proposals Map to the Local Plan where the principle of extensions to existing dwellings are considered acceptable subject to impacts upon design, amenity, highway safety and any other material considerations.

### **Residential Amenity**

Consideration has been given to the impact of the development on surrounding residential properties despite not receiving any letters of representation during the course of the application. It has, however, been called in for committee by a ward councillor, it is considered that the issue raised is not a material planning consideration in the case of this application for a single storey rear extension. The most immediately affected dwelling would be the attached dwelling; No.232 Bradgate Drive to the south of the application site. Given that the extension is of a single storey and would be located to the eastern side/rear elevation of the existing dwellinghouse and the boundary with No. 232 consists of a 1.8 metre high closed board fence it is not considered that there would be any significant overlooking, overbearing or overshadowing impacts to the amenities of No.232. It is noted that the positioning and orientation of the proposed single storey extension would have little impact on the natural flow of light to the neighbouring property.

It is, therefore, deemed that the development would not have any significant detrimental impact upon neighbouring residential amenities and is considered to be acceptable in relation to Policy E3 of the Local Plan.

### **Design**

Consideration has also been given to the design of the extension and whether it would have an

acceptable impact upon the character and appearance of the dwelling itself and the street scene.

The extension would be constructed in facing brick, concrete roof tiles and white PVC-U windows. It would be appropriate to attach a condition to this planning permission to ensure that these materials match those already used on the existing dwellinghouse so that the extension appears well related to the main dwellinghouse.

Overall, the design, appearance and scale of this proposal is acceptable and would not look out of keeping with the character and appearance of the surrounding area or the existing dwelling and is considered to be compliant with Policy E4 of the Local Plan.

### **Highway Safety**

The proposal, a single storey extension to the rear of the property, would have no impact on the existing parking arrangement on the site; therefore, it is considered that the proposal would not conflict with highway safety policies T3 and T8 in the Local Plan.

### **Other Matters**

During the course of the application a Ward Councilor called in the application for committee consideration. It is considered that the issue raised is not a material planning consideration in the case of this application for a single storey rear extension. The 'unauthorised planning issues' were dealt with under Enforcement enquiry 10/00158/UD relating to untidy land and unauthorised business from the property; and 10/00254/UD for the erection of an unauthorised garage. Both cases have been investigated and both cases are now closed.

### **Conclusion**

The proposal is not considered to affect residential amenity in the area, have any significant detrimental design impacts or conflict with highway safety. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the Local Plan, in this case S2, E3, E4, T3 and T8. It is therefore recommended that the application be permitted.

### **RECOMMENDATION - PERMIT, subject to the following conditions;**

- 1 The development shall be begun before the expiration of three years from the date of this permission.

*Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).*

- 2 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:

- Drawing No. 12/ST/3a deposited with the Local Planning Authority on 3 June 2012;
- Drawing No. 12/ST/4 deposited with the Local Planning Authority on 3 June 2012.

*Reason - To determine the scope of this permission.*

- 3 All external materials used in the development hereby permitted shall be of the same type, texture and colour as those used in the existing building, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - to ensure a satisfactory standard of external appearance.*

### **Summary Reasons for Granting Planning Permission**

North West Leicestershire District Council's decision to grant planning permission in this instance arose following careful consideration of the relevant provisions of the Development Plan and all other relevant material considerations. Of particular relevance to this decision were the following policies of the North West Leicestershire Local Plan:

Policy S2 sets out that development will be permitted on allocated sites and other land within the Limits to Development, where it complies with the policies of this Local Plan.

Policy E3 seeks to prevent development, which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

Policy T3 requires development to make adequate provision for vehicular access, circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development. In relation to car parking standards for dwellings, an average of 1.5 spaces off-street car parking spaces per dwelling will be sought.

### **Reasons:**

The proposal would not affect residential amenity in the area, have any significant detrimental design impacts or conflict with highway safety. The proposal complies with the relevant policies in the Local Plan, in this case S2, E3, E4, T3 and T8. As such, the application is permitted.

**Alterations to the roof including dormer windows and  
rooflights**

**Report Item No  
A7**

**2 Aspens Hollow Thringstone Coalville Leicestershire**

**Application Reference  
12/00404/FUL**

**Applicant:  
Mr Eric Palmer**

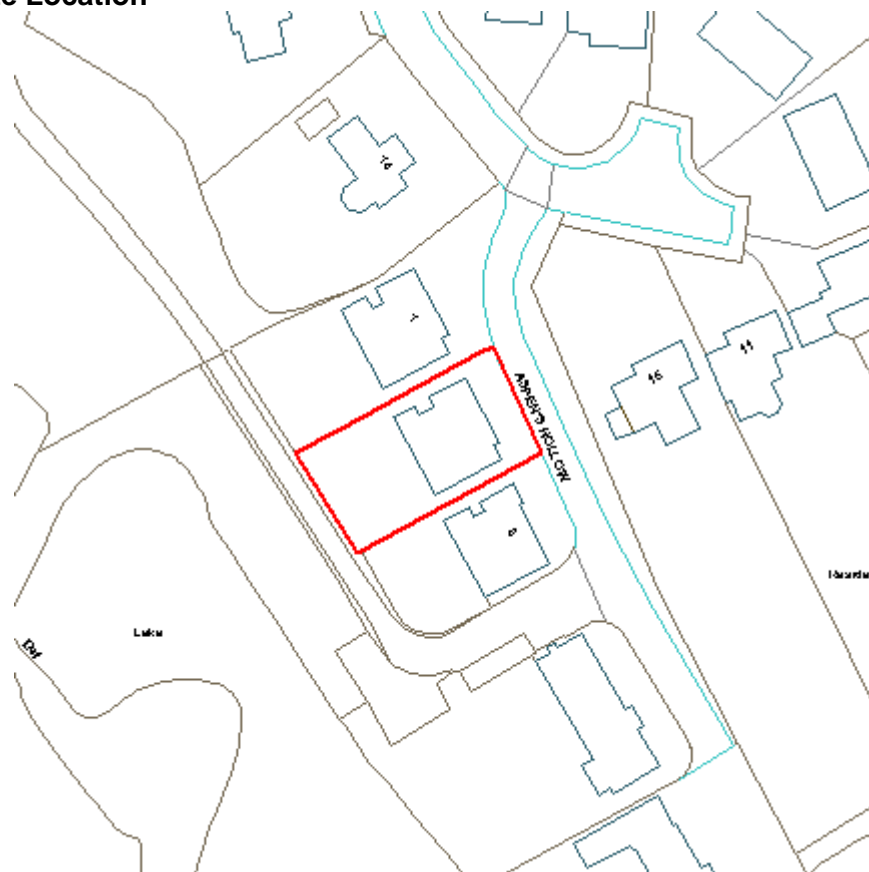
**Date Registered  
10 May 2012**

**Case Officer:  
Beth Harris**

**Target Decision Date  
5 July 2012**

**Recommendation:  
PERMIT**

**Indicative Site Location**



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## **EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL**

### **Call In**

The application is brought before the Planning Committee at the request of Councillor Spence due to concerns over loss of residential amenity.

### **Proposal**

Alterations to roof with the provision of two dormer windows and a single rooflight.

### **Consultations**

Members will see from the main report below that one representation has been received in objection to the proposed development on the grounds of loss of residential amenity.

### **Planning Policy**

The site is located partly within Limits to Development and partly within the Green Wedge, as defined by the North West Leicestershire Proposals Map, 2002. There are no objections in principle to the proposals and there is no material harm posed by the proposals to the openness or intrinsic value of the Green Wedge.

### **Conclusion**

The report below indicates that, on the basis of the details submitted, the proposed represents an appropriate form of development that would not have a significant detrimental impact by way of residential amenity or design.

### **Summary Reasons for Granting Planning Permission-**

Part of the site lies within the Limits to Development and part lies within Coalville - Whitwick-Swannington Green Wedge as defined in the Local Plan. The principle form of development is acceptable within the Limits to Development and the proposal would not be detrimental to the open character of the Green Wedge and is not considered to compromise the aims of Policy E20. The proposal would create a degree of relationship change to the side windows and conservatory at No.15 Field Close, this however is not considered to be so significantly harmful to warrant refusal. The proposal is not considered to have any significant detrimental design impacts. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the Local Plan, in this case S2, E20, E3, E4. It is therefore recommended that the application be permitted.

## **RECOMMENDATION- PERMIT**

**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.**

## ITEM A7 - MAIN REPORT

### 1. Proposals and Background

No.2 Aspens Hollow is a detached one and a half storey dwelling within a residential area of Thringstone. No. 1 and 3 Aspens Hollow and No.15 Field Close are the immediate neighbours of the application site. No.1 Aspens Hollow is a two storey detached dwelling north of the application site, No.3 Aspens Hollow is a two storey detached dwelling south of the application site and No.15 Field Close is a two storey detached dwelling east of the application site. No 15 Field Close is on a higher ground level than the application property and has side windows and a conservatory which face the front elevation of No.2 Aspens Hollow. A hedge greater than 2 metres in height is situated west of the curtilage of No.15 Field Close.

Part of the application property is located within Limits to Development and part is located within the Green Wedge as defined in the Local Plan.

Planning permission is sought for two dormer windows and one rooflight on the front elevation of the property,

The dormer windows would each measure 1.6m in width, 1.9m in length (measured from the highest point) and 2.0m in height. The dormers would have pitched roofs and would be set 0.3 metres below the ridgeline of the existing dwelling. A rooflight would be located north of the proposed dormer windows and would measure 0.9m in width and 1m in height.

Rear elevation drawings are submitted, which show one proposed dormer window and three rooflights. The proposed dormer window and rooflights are permitted development in the rear roofslope and are not assessed as part of the application.

Planning History:

92/01117/FUL – erection of two dwellings (full application amended scheme)

### 2. Publicity

Six neighbours have been notified (Date of last notification 16 May 2012)

Site Notice displayed 17 May 2012

### 3. Consultations

Leicestershire County Council Ecologist

### 4. Summary of Representations Received

**Leicestershire County Council Ecologist** states that a bat survey would not be required as part of the application. However the applicant must be aware of the legislation surrounding protected species and the requirement to stop work immediately should bats be discovered.

One neighbour objection has been received. The neighbour states that when the development at Aspens Hollow was first proposed, they sought an agreement from the developer that no dormer windows or rooflights would be incorporated on the front elevations, to avoid loss of privacy and overlooking for No.15 Field Close. The proposal concerns the neighbours since the dormer windows and rooflights would face directly towards habitable rooms of 15 Field Close affecting at ground floor: Lounge, Conservatory, Kitchen and at first floor, Bedrooms 1, 2, and 3.

The neighbour notes that although the loss of amenity would be less when the hedge is in leaf, during autumn and winter the thorn hedge provides minimum screening. Concerns were expressed that if permitted, the occupiers of No.2 Aspen Hollow would be able to look directly into the living space and bedrooms at No.15 Field Close from their first floor windows.

## 5. Relevant Planning Policy

"The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

The NPPF (Para 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.

North West Leicestershire Local Plan

Policy S2 (Limits to Development)  
Policy E30 (Green Wedge)  
Policy E3 (Residential Amenities)  
Policy E4 (Design)

## 6. Assessment

### Principle

Part of the application site (the front of the dwelling) is situated within the Limits to Development and part is situated within the Green Wedge as defined by the Local Plan.

The principle of extensions and alterations to existing dwellings are considered acceptable within the Limits to Development. Policy E20 (Green Wedge) of the Local Plan states that development will not be permitted which would adversely affect or diminish the present open and undeveloped character of the Green Wedge, with any built development permitted being limited to minor structures and facilities that are ancillary to agriculture, forestry, minerals extraction and outdoor sports and recreation uses. The application dwellinghouse is already located on the land, and it is noted that the application entails the insertion of dormer windows and a rooflight for No.2 Aspens Hollow. Therefore it is considered that the proposal would not adversely affect or diminish the present open and undeveloped Green Wedge, and whilst the proposal does not fall strictly within the categories of the adopted Local Plan under Policy E20, it is not considered to comprise the aims of Policy E20 of the adopted Local Plan. It is therefore necessary to consider impact upon design, amenity, and other material considerations.

### **Effect on Residential Amenities**

The most immediate affected dwelling would be No.15 Field Close which is located east of the application site. No.15 Field Close has side windows to the lounge and kitchen on the ground floor, 3 bedrooms on the first floor and a conservatory on the side elevation which face the front elevation of No.2 Aspens Hollow.

The Districts Development Guidelines state extensions of two storeys or more in height should not result in a distance of less than 14 metres between the extension and a habitable room window to an adjacent dwelling. The proposed additions to the roof are to be set into the existing roof slope and are therefore set back of the front elevation of the property.

There would be approximately 17m between the side windows (which are primarily secondary windows) and the proposed dormer windows at Aspens Hollow, and a distance of approximately 15m from the proposed dormer windows and conservatory at No.15 Field Close. These distances exceed the Districts Development Guidelines.

There is also a road - Aspens Hollow, between the application property and No. 15 Field Close, and there is high hedge, greater than 2 metres, adjacent to the side windows and conservatory at No. 15 Field Close, which will help reduce the opportunity for intervisibility between the dormer windows and the side windows (particularly the ground floor windows) and the conservatory at No.15 Field Close, principally when in leaf, but still offering some screening at other times. In addition, there is no restriction on the height that this hedge could be grown to.

The proposed rooflight would provide light to the ground floor lounge. The rooflight would be over 1.7m from the floor level of the lounge and would not overlook any neighbouring dwellings.

It is considered that the proposal would not detrimentally overbear upon or overshadow any neighbouring dwellings.

As mentioned above the proposed dormer windows would cause some overlooking to the side windows and conservatory at No.15 Field Close, however in this instance it is deemed that the overlooking would not be so significant to refuse the application, due to the reasons mentioned above. It is, therefore, considered that the proposal accords with Policy E3 of the Local Plan.

### **Design**

Consideration has also been given to the design of the proposal and whether the dormer windows and rooflight have an acceptable impact upon the character and appearance of the dwelling itself and the street scene.

The dormer windows would be located on the front elevation and would be stepped down from the ridge line and would be well related to each other. The dormer windows would be clad with lead, the roof tiles used would match those used in the existing roof, and the windows would be brown Upvc. The proposed materials would ensure that the dormer windows would relate to the materials used in the existing dwelling.

The proposed roof light would be of a relatively large scale, however is considered to not detrimentally affect the appearance of the existing dwelling.

Overall, the design, appearance and scale of this proposal is acceptable and would not look out of keeping with the character and appearance of the surrounding area or the existing dwelling and is considered to be compliant with Policy E4 of the Local Plan.

**Summary reasons for granting planning permission**

Part of the site lies within the Limits to Development and part lies within Coalville - Whitwick-Swannington Green Wedge as defined by the Local Plan. The principle form of development is acceptable within the Limits to Development and the proposal would not be detrimental to the open character of the Green Wedge and is not considered to compromise the aims of Policy E20. The proposal would create a degree of relationship change to the side windows and conservatory at No.15 Field Close, this however is not considered to be so significantly harmful to warrant refusal. The proposal is not considered to have any significant detrimental design impacts. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the Local Plan, in this case S2, E20, E3, E4. It is therefore recommended that the application be permitted.

**RECOMMENDATION - PERMIT, subject to the following conditions;**

- 1 The development shall be begun before the expiration of three years from the date of this permission.

*Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).*

- 2 The external materials to be used in the development hereby permitted shall be in strict accordance with those specified in the application unless alternative materials are first agreed in writing with the Local Planning Authority.

*Reason - To ensure a satisfactory standard of external appearance.*

- 3 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:

- Elevation side south east submitted with the application on the 10th May 2012;
- Elevation side north west deposited with the Authority on the 15th June 2012;
- Front elevation north east amended plan deposited with the Authority on the 15th June 2012.

*Reason - To determine the scope of this permission.*

**Summary reasons for granting planning permission**

North West Leicestershire District Councils decision to grant planning permission in this instance arose following careful consideration of the relevant provision of the Development Plan and all other relevant material considerations.

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

Policy S2 (Limits to Development)  
Policy E20 (Green Wedge)  
Policy E3 (Residential Amenities)  
Policy E4 (Design)

**Reasons:**

Part of the site lies within the Limits to Development and part lies within Coalville - Whitwick-Swannington Green Wedge as defined by the Local Plan. The principle form of development is

acceptable within the Limits to Development and the proposal would not be detrimental to the open character of the Green Wedge and is not considered to compromise the aims of Policy E20. The proposal would create a degree of relationship change to the side windows and conservatory at No.15 Field Close, this however is not considered to be so significantly harmful to warrant refusal. The proposal is not considered to have any significant detrimental design impacts. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the Local Plan, in this case S2, E20, E3, E4. It is therefore recommended that the application be permitted.

**Notes to applicant**

- 1 Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bat or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0115 929 1191) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000.00 or to imprisonment for a term not exceeding six months, or both.

**SECTION B- OTHER MATTERS**

**RESIDENTIAL DEVELOPMENT OPPOSITE THE ROYAL HOTEL, STATION ROAD,  
ASHBY DE LA ZOUCH**

**PLANNING PERMISSION REF: 07/00564/FUL**

**PLANNING COMMITTEE 7<sup>TH</sup> AUGUST 2012**

**BACKGROUND AND PROPOSALS}**

The residential development comprising the Royal Mews is situated on the western side of Station Road, Ashby de la Zouch, opposite the Grade II (star) listed Royal Hotel and the Bath Grounds, and was completed in November 2008. The three/four storey apartment building, which comprises 57 No. Units (16 No. one bed units and 41 No. two bed units), was constructed following a grant of planning permission in June 2006 (ref: 06/00553/FUL). This planning permission, along with a subsequently revised scheme incorporating external alterations (ref: 07/00564/FUL), were both the subject to Section 106 Agreements which provided for payment of commuted sums in relation to education provision (£20,353), library facilities (£2,560), civic amenity site facilities (£4,974), health care provision (£33,231) and formal play area provision (£56,250) along with a commuted sum of £532,440 in lieu of on-site affordable housing provision. Also subject to the Section 106 Agreement were the necessary County Council and District Council monitoring fees of £250 and £1500 respectively.

The Section 106 document provided for the various commuted sums to be paid at various trigger points. The sums in respect of education provision, library facilities, civic amenity site facilities were due for payment upon completion of the Section 106 documentation and were paid by the developers accordingly.

In relation to affordable housing, health care provision and play area provision, upon 10% of occupation of the dwelling units, 10% of the commuted sum payments were due and were all duly paid by the developers. The remaining 90% of these commuted sum payments were due for payment upon 60% occupation of the dwelling units. The developers paid in full the commuted sums in relation to health care provision and play area provision.

However, in relation to affordable housing, while 10% of the off-site commuted sum equating to a sum of £53,244 was paid, the balance of £479,196 remained outstanding.

In 2010, Members may recall that the applicants confirmed that, whilst the scheme was nearing 60% occupation of the dwelling units, due to the change in the economic climate they were not in a position to pay off the outstanding commuted sum for the affordable housing provision in one lump sum. Rather, and whilst still proposing to pay the outstanding commuted sum in full, the applicants, at that stage, were requesting that the terms of the Section 106 Agreement be amended to provide for the payment to be 'staggered' over a three year period upon the sale of the remaining units. The supporting documentation submitted by the applicants at that time referred to the recession and banking crisis which had an adverse impact on sales of the apartments.

The supporting documentation was referred to the District Valuation Officer for independent verification.

At Planning Committee on 6<sup>th</sup> June 2010, Members were advised of the District Valuation Officers conclusions that the developer's information on construction costs and sales values was what would be expected to be seen for this type of scheme. Also as noted by the District

Valuation Officer, the request for such variations to the timing of Section 106 Agreement payments was being increasingly seen by (local planning) authorities nationally. Indeed, nationally there have increasingly been requests from developers for commuted sums payments to waived completely or reduced. In this instance, and at that time, however, the developers were not seeking any reduction in the payment but rather that the terms of the Section 106 be amended to provide for staggered payments over a defined three period. In light of the economic circumstances at that time, and the fact that the District Council would still ultimately receive the commuted sum for the off-site affordable housing envisaged at the time the development was granted planning permission, it was considered that the request to amend the Section 106 Agreement as detailed by the developers was reasonable. Members therefore resolved to permit the amendment to the Section 106 Agreement according and subsequently a Deed of Variation was completed.

Despite the agreement to amend the terms of the original Section 106 Agreement, the remaining balance of £479,196 remains outstanding. In September 2011, further correspondence was received from the applicant, which stated as follows:

*"We would like to discuss with you the possibility of agreeing an immediate settlement of the outstanding amount under the s106 agreement dated 17 October 2007 (Planning Permission 07/00564/FUL).*

*We currently have an agreed amended version of the above 106 which has been signed by ourselves and our bank and is with the County and District for their signature. This however, was negotiated some time ago now and only deals with the timing of payments and not the actual amount.*

*Following our continued marketing of the apartments over the last 3 years or so we still have a number of units we are unable to sell other than to the investment market. We now have an offer from an investor who wants to buy the remaining units but obviously at a reduced rate. We are keen to finish this project now as on the current sales rate it could take approximately 3 more years to complete. Our proposal therefore, in conjunction with our bank (Close Brothers PLC), is to make an offer to the Council of £200,000 in full and final settlement of the outstanding amount under the current 106 agreement. This payment can be made immediately on acceptance of this offer.*

*We appreciate that this will probably need to go before the DV to verify the figures etc. and have therefore attached the up to date financial summaries of the project. These are the up dated versions of the figures which were analysed by the DV when we negotiated the current amended version of the 106 last year. With this information it should be fairly easy for the DV to look at the position as the only two areas that have changed are the sales figures (lower) and the costs (higher) due to interest roll up on the loans etc."*

As this figure was significantly below the required amount of £479,196 under the terms of the Section 106 Agreement, the applicant was requested to re-consider their revised offer of £200,000 and this was subsequently raised to £225,000. Officers still had reservations about this figure and as with the previous request to amend the terms of the original Section 106 Agreement, this matter was referred to the District Valuation Officer for an independent assessment and verification.

During the next six months, there was considerable correspondence between the applicant and the District Valuation Officer in relation to the applicants Development Appraisal and the method of assessment to be used in the valuation. However, the District Valuation Officer has

concluded that in the continuing economic climate, the required affordable housing contribution of £479,196 would render the scheme unviable. However, he has estimated that, in his opinion, a reduced figure of around £315,000 - £330,000 would still make the scheme viable. In order to be more precise, the District Valuation Officer would need to undertake further sensitivity analysis testing and remodelling of the figures.

Further discussions have since taken place with the applicant and it was clear that there was some dispute about the figures the District valuation Officer had used to reach his conclusions and these concerns still exist. However, in order to settle the matter expediently and without incurring further costs in re-assessing viability further, the applicant subsequently increased their offer to £280,000 in full and final settlement.

## **CONSULTATION RESPONSES**

As the proposals to amend the Section 106 relate wholly to a matter within the District Council's remit, it has not been considered necessary to consult any other statutory body.

## **DEVELOPMENT PLAN POLICIES**

There are no relevant planning policies in relation to the consideration of a revised Section 106 contribution for the Royal Mews development.

## **ASSESSMENT**

The Council continues to receive requests from developers for commuted sums payments to be waived or reduced. Indeed, on a number of current undetermined schemes, viability is a major issue when considering Section 106 contributions.

It is clear from the District Valuation Officers viability assessment report that the off-site affordable housing contribution of £479,196 required by the existing Section 106 Agreement (as amended by deed of variation) for the Royal Mews development is no longer viable due to the continuing economic downturn.

Therefore, the main issue for Members to consider now is whether the revised offer from the applicant of £280,000, as full and final settlement of the affordable housing contribution for the Royal Mews, is acceptable in this case.

It is clear that the applicants offer falls below the estimated sum of between £315,000 - £330,000, suggested as being a viable affordable housing contribution by the District Valuation Officer. However, in order for a more accurate and definitive figure to be provided, further costly and time consuming viability assessment work would still need to be undertaken. Given the significant length of time already spent by Officers in trying to resolve this matter, the need for extra work and the potential for further disagreement on the method of assessment between the applicant and District Valuation Officer, the view has been taken that an acceptable compromise situation has now been reached. This view is also supported by the District Council's Affordable Housing Enabling Officer who has also been involved in the on-going discussions and negotiations on this matter.

Therefore, it is recommended that the request to pay a reduced off-site affordable housing contribution of £280,000 as full and final settlement is acceptable in this instance. This would mean that the Royal Mews development would still have secured a total affordable housing sum

of £333,244. It is also recommended that the Councils solicitors be instructed to complete the required deed of variation for the Section 106 Agreement.

**RECOMMENDATION- TO PERMIT THE AMENDMENT OF THE SECTION 106 AGREEMENT ATTACHED TO PLANNING PERMISSION REFERENCE: 07/00564/FUL IN LINE WITH THE DETAILS SET OUT IN THE ABOVE REPORT.**

**LIST OF APPLICATIONS FOR PLANNING COMMITTEE 7 August 2012**

**Section A – Planning Applications**

Item	Reference	Details	Amend	Print	Sign	Sent
A1	12/00264/OUTM					
A2	12/00297/FUL					
A3	12/00366/OUT					
A4	12/00543/OUT					
A5	12/00470/FUL					
A6	12/00500/FUL					
A7	12/00404/FUL					

**Section B – Other Matters**

Item	Reference	Details	Amend	Print	Sign	Sent
B1						