

Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	4.30 pm on Tuesday, 8 July 2014
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Member Services (01530 454512)

The Monitoring Officer would like to remind members that when they are considering whether the following items are exempt information under the relevant paragraph under part 1 of Schedule 12A of the Local Government Act 1972 they must have regard to the public interest test. This means that members must consider, for each item, whether the public interest in maintaining the exemption from disclosure outweighs the public interest in making the item available to the public.

## AGENDA

Item	Pages
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. DECLARATION OF INTERESTS</b>	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
<b>3. MINUTES</b>	
To confirm and sign the minutes of the meeting held on 10 June 2014.	<b>5 - 12</b>
<b>4. PLANNING APPLICATIONS AND OTHER MATTERS</b>	
Report of the Head of Regeneration and Planning.	<b>13 - 16</b>



## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	<p><b>13/00249/OUTM: Employment uses (B2/B8) of up to 1,300,000 sqft (120,773 sqm approx) with associated ancillary uses and associated infrastructure, including a new access from Beveridge Lane and off-site highway improvements, earthworks and ground modelling, together with new landscaping, including habitat creation and provision of a new community woodland park (outline - all matters other than part access reserved)</b></p> <p>Land At Little Battleflat Farm Beveridge Lane Coalville Ellistown</p>	PERMIT Subject to a Section 106 Agreement	17 - 52
A2	<p><b>14/00309/FULM: Use of land for the operational use of military and civilian "off Road Vehicles" (Including tanks, Armoured fighting vehicles, Heavy duty vehicles and off-road 4x4's) along with provision of 3.0 metre high straw bunds (Revised Scheme)</b></p> <p>Measham Lodge Farm Gallows Lane Measham Swadlincote</p>	PERMIT Subject to a Section 106 Agreement	53 - 76
A3	<p><b>14/00133/FUL: Erection of two no. 250 KW Wind Turbines and associated infrastructure, including access track (Resubmission of Planning Application 13/00266/FUL)</b></p> <p>Land Off Farm Town Lane Farm Town Coleorton</p>	PERMIT	77 - 106
A4	<p><b>14/00311/VCI: Variation of condition 5 of planning permission 2009/0624/07 in order to allow for amended operating times</b></p> <p>Newbridge High School Forest Road Coalville Leicestershire</p>	PERMIT Subject to a Section 106 Agreement	107 - 116
A5	<p><b>14/00405/FUL: Erection of nine residential dwellings</b></p> <p>Land At Chapel Street Oakthorpe Swadlincote Derby</p>	REFUSE	117 - 140
A6	<p><b>14/00320/FUL: Erection of a detached dwelling (Amended Scheme)</b></p> <p>Land To The Rear 31 The Green Thringstone Coalville Leicestershire</p>	REFUSE	141 - 150
A7	<p><b>14/00481/FUL: Erection of a new agricultural cattle building</b></p> <p>Fields Farm Main Street Worthington Ashby De La Zouch</p>	PERMIT	151 - 160

## Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
<b>A8</b>	<b>14/00355/FUL: Installation of solar PV panels on roof, installation of a bio mass boiler with metal flue and formation of thermal store</b>  Ley Farm Callans Lane Heath End Ashby De La Zouch	<b>PERMIT</b>	<b>161 - 166</b>
<b>A9</b>	<b>14/00356/LBC: Installation of solar PV panels on roof, installation of a biomass boiler with metal flue, and formation of thermal store</b>  Ley Farm Callans Lane Heath End Ashby De La Zouch	<b>PERMIT</b>	<b>167 - 172</b>

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MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 10 JUNE 2014

Present: Councillor D J Stevenson (Chairman)

Councillors R Adams, G A Allman, A Bridges (Substitute for Councillor T Gillard), J Bridges, J G Coxon, D Everitt, J Houlton, D Howe, R Johnson, G Jones, J Legrys, T Neilson, V Richichi (Substitute for Councillor N Smith), M Specht, R Woodward and M B Wyatt

In Attendance: Councillors R D Bayliss and T J Pendleton

Officers: Mrs V Blane, Mr C Elston, Mrs H Exley, Mrs C Hammond, Mr D Hughes and Mr J Mattley

### **1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors T Gillard and N Smith.

### **2. DECLARATION OF INTERESTS**

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

Councillors R Woodward, D Everitt, D Howe, R Johnson, R Adams, M B Wyatt, J Houlton, J G Coxon, and M Specht declared that they had been lobbied without influence in respect of item A1, application number 13/00959/OUTM, A2, application number 13/01002/OUTM and A5, application number 14/00188/FULM.

Councillor J Legrys and G A Allman declared that they had been lobbied without influence in respect of item A1, application number 13/00959/OUTM, A2, application number 13/01002/OUTM, A3, application number 13/00141/OUTM and A5, application number 14/00188/FULM.

Councillor T Neilson declared that he had been lobbied without influence in respect of item A1, application number 13/00959/OUTM, A2, application number 13/01002/OUTM, A3, application number 13/00141/OUTM, A4, application number 14/00309, A5, application number 14/00188/FULM and A6, application number 14/00020/FUL.

Councillor A Bridges declared that she had been lobbied without influence in respect of item A1, application number 13/00959/OUTM and A2, application number 13/01002/OUTM.

Councillor V Richichi declared that he had been lobbied without influence in respect of item A1, application number 13/00959/OUTM and A2, application number 13/01002/OUTM and also declared a non pecuniary interest in both items as a resident of Spring Lane, Packington.

Councillor D J Stevenson declared that he had been lobbied without influence in respect of item A1, application number 13/00959/OUTM, A2, application number 13/01002/OUTM and A5, application number 14/00188/FULM. He advised the committee that he had received numerous phone calls and letters in respect of item A5 and felt that the application should be considered by the committee, but advised that he had not made up his mind.

### **3. MINUTES**

Consideration was given to the minutes of the meeting held on 6 May 2014.

It was moved by Councillor J Coxon, seconded by Councillor D Howe and

RESOLVED THAT:

The minutes of the meeting held on 6 May 2014 be approved and signed as a correct record.

#### **4. PLANNING APPLICATIONS AND OTHER MATTERS**

Consideration was given to the report of the Head of Regeneration and Planning, as amended by the update sheet circulated at the meeting.

The Chairman moved that item A4, application number 14/00309/FULM be deferred to allow a consultation response from the County Council Ecologist to be received and assess the revised representations received from objectors. It was seconded by Councillor J Legrys.

RESOLVED THAT:

Application number 14/00309/FULM be deferred to allow a consultation response from the County Council Ecologist to be received and assess the revised representations received from objectors.

Before moving onto the next application, the Head of Regeneration and Planning stated the following:

‘Members are aware that they will be considering two major housing applications in Packington and as such it is useful to provide a brief overview on the issues of sustainability and scale of development considered appropriate for the village before looking at the merits of each individual application.

Firstly, in terms of the sustainability of the site, Packington provides a range of day to day facilities, i.e. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites.

There is also a limited public transport service; the No. 7 service currently provides a service Monday to Saturday (approximately every 1.5-2 hours) and serves Measham, Ashby de la Zouch, Atherstone and Nuneaton with a total of 11 buses running per day. The County Council has confirmed that the No.7 service will not be serving Packington going forward due to the No.19 Service now providing an hourly service between Ashby and Measham via Packington.

Ashby de la Zouch is located approximately 2.3km walking distance from the centre of the site, where amongst other services retail, secondary education, a library and GP surgeries can be found. There would be continuous footways available to facilitate pedestrian access to this nearby market town. Furthermore, it is considered that the short distance involved and the relatively low traffic flow along the routes available and local gradients, would encourage cycling.

Therefore, it is considered that Packington is a sustainable settlement that is capable of accommodating some new housing growth.

In terms of the scale of new development that might be considered appropriate for Packington, as previously advised at the Planning Committee in April with the Appleby Magna applications, no formal policy decision has been made as to the amount of development in percentage terms that might be appropriate in individual villages. However, what Officers have sought to do when looking at these applications is to look at

the scale of growth in comparison with what was anticipated for the District in the now withdrawn Core Strategy so as to provide members of the Planning Committee with some local context.

In terms of likely future needs the GL Hearn Leicester and Leicestershire Housing Requirements Study which was used to inform the housing requirement in the now withdrawn Core Strategy includes information regarding future natural change across the district. This Study projected a 23.4% increase in housing was required across the District from 2006-2031, which was reflected in the now withdrawn Core Strategy.

As set out in the update sheet, the number of properties within Packington has been recalculated using 2011 Census information from the Office of National Statistics (a reputable source of information), which confirms that there are 324 properties within Packington. This has implications for the level of growth and therefore, revised calculations have been undertaken and the implications have been considered.

When considered cumulatively, the two major housing proposals for the village (a maximum of 72 dwellings), would equate to a 22% increase in new dwellings within the village, which would represent a higher level of growth anticipated for the villages than proposed across the District as a whole in the GL Hearn Study. When taking into account new dwellings/commitments this growth increases to 23.7% and 24% respectively.

This revised figure (representing the level of growth) is slightly higher than that envisaged for the District as a whole and it is higher than that envisaged for smaller settlements within the Core Strategy. However, Members are advised that even if a development takes the scale of growth in a settlement over that which was envisaged district wide in the Core Strategy, this should not be a reason for refusal on its own (particularly as no weight can be attached to the provision of the Core Strategy). A particular adverse impact would have to be demonstrated.

When having regard to the sustainability credentials of Packington, it is considered that this level of cumulative development (growth) for Packington is considered acceptable.

Therefore, while it can be concluded that, on balance, the level of growth for Packington as indicated, is appropriate, each application has also been considered on its own merits and these have been assessed in the detailed reports on the agenda taking into account all other material planning considerations, and these will now be presented briefly in turn.'

## 5.

### A1

#### **13/00959/OUTM: RESIDENTIAL DEVELOPMENT FOR UP TO 42 DWELLINGS (OUTLINE - DETAILS OF ACCESS INCLUDED)**

Land At Spring Lane/Normanton Road Packington Ashby De La Zouch

The Senior Planning Officer presented the report to Members.

Mr C Miles, Parish Councillor, addressed the Committee. He informed the Committee that this was an unprecedented development on a greenfield site. He advised Members that it would be a 15% increase in the number of homes in the village, leading to 150 people, at least 80 cars, putting pressure on full schools and doctors, and very little job opportunities in the area. He stated that there were more suitable recommended sites within the boundary of the village for development, and felt that the application was opportunist and it flew against common sense. He felt that if the application was approved it would be an open the door for other applications and urged the Committee to refuse.

Ms S Ball, objector, addressed the Committee. She stated that residents in the area understood the need for growth, but felt that there were more suitable, individual sites in the centre of the village. She expressed concerns that both the applications that were

being considered would add over 70 properties to the village, which would be out of scale for the area and alter the character. She advised that it was at least a 10 minute walk to the centre of the village and urged members to refuse the application on the grounds that the development was too big for the site, it was 1.5 miles away from the nearest school and it would result in the loss of the countryside.

Mr S Clarke, agent, addressed the Committee. He stated that the applicants had carefully considered the application and following discussions had improved a number of issues to make the development as successful as possible. He highlighted that the site would include twelve affordable housing units, improve highway links and that there would be a financial contribution towards the existing playground in the village. He advised that the applicant had listened to concerns over the listed building and tree planting, had removed the footpath links onto Spring Road and was in agreement with the negotiated S106 contributions.

Councillor T Neilson stated that as there was no local plan to consider the application against it would be very difficult to refuse and moved the officer's recommendation. The proposal was not seconded.

Councillor V Richichi stated that he had come into the meeting with an open mind and having listened to officers and speakers, he expressed concerns over the speed of traffic along Spring Lane, that the local school was already at capacity, that the development was outside the limits to development and on the wrong side of the village, and the increased risk to flooding that the development could bring. He moved that the application be refused on the grounds of highways and flooding. It was seconded by Councillor G A Allman.

Councillor J Legrys expressed concerns over the access to the site and the local road networks that were already very busy. He stated that with the withdrawal of school bus services and the nearest senior school being in Ashby, there appeared to be no well lit footpath for school age children to use from the site. He also expressed concerns over the possible flooding impact and supported the refusal of the application.

The Head of Regeneration and Planning reminded Members that there had been no objections from either the Highways Authority or the Environment Agency.

The motion to refuse the application was put to the vote and LOST.

Councillor M Specht seconded Councillor T Neilson's proposition to move the officer's recommendation.

Councillor R Woodward raised concerns that, should the application be permitted, how the site area would be protected from any future development. The Head of Regeneration and Planning advised him that as it was for an outline application for 42 dwellings any proposal to amend the application would need to be reported back to Committee.

Councillor G Jones raised concerns that Packington would not benefit enough from the S106 contributions and the lack of education provision within the village, which would therefore require children to travel to the next available school.

The Head of Regeneration and Planning advised Members that they could request a note to be added to the permission suggesting detailed negotiations between the applicant and contribution receivers on how the S106 money would be spent.

Councillor J Bridges stated that the Committee was entitled to request detailed lists on how the S106 money was to be spent on future applications allowing Members to have the necessary information to make decisions.



The motion to permit the application in accordance with the officer's recommendation was put to the vote and

RESOLVED THAT:

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

**6. A2  
13/01002/OUTM: ERECTION OF 30 DWELLINGS, INCLUDING 8 AFFORDABLE HOMES (OUTLINE - ACCESS INCLUDED)**

Land South Of Normanton Road Packington Ashby De La Zouch Leicestershire

The Senior Planning Officer presented the report to Members.

Mr C Miles, Parish Councillor, addressed the Committee. He advised that the development would be located outside the village boundary and if permitted, combined with the previous application it would lead to a 25% increase in houses. He stated that the Core Strategy had recommended that over 25 years the district should provide 130 dwellings across the 17 villages. He felt that had the Local Development Framework been in place, the application would not have been brought to Committee. He expressed concerns that it was large development on a greenfield site, that was not planned.

Mr P Harley, objector, addressed the Committee. He advised that he had lived in his home for one year and was surrounded by applications. He expressed concerns over the increase in traffic that the development would generate, with an average of 2 vehicles per house which would all be heading to the other side of the village. He stated that he would look forward to the development of the village, providing it was in the right location, but felt that on this occasion the democratic planning process had been ignored.

Mr J Steedman, agent, addressed the Committee. He stated that the settlement would provide a solution to the demand for new housing in the district and would help the area to thrive. He advised that all technical matters had been addressed and the frontage would be an attractive gateway to the village.

Councillor Richichi stated that his views on the application were the same as the previous application. He advised that should the application be approved then conditions would be required to protect the village. He therefore moved to refuse the application. It was seconded by Councillor M B Wyatt.

Councillor T Neilson stated that the application has to be considered through the National Planning Policy Framework and had tied the Committee's hands. He advised that he could not see a reason for refusal, therefore would be voting to permit.

Councillor J Legrys stated that he would be voting for refusal as before and felt that the application had additional issues. He felt that the development was out of character for the village and shared sympathy for the speakers, in agreeing that there was no democratic process in planning. He stated that the development was outside the limits, and that he had concerns over flooding and the impact on the highways.

Councillor G Jones stated that the application had come as there was a shortage of housing in the area and added that he would like to see bungalows built as affordable housing.

The motion to refuse was put to the vote and was LOST.

The officer's recommendation was moved by Councillor M Specht, seconded by Councillor G Jones and

RESOLVED THAT:

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

7. **A3**  
**13/00141/OUTM: DEVELOPMENT OF UP TO 450 RESIDENTIAL DWELLINGS AND REINSTATEMENT OF 1.1KM OF ASSOCIATED CANAL, PROVISION OF PUBLIC OPEN SPACE AND VEHICULAR, EMERGENCY AND FOOTPATH ACCESS (OUTLINE APPLICATION - ALL MATTERS RESERVED EXCEPT ACCESS)**  
 Land At Measham Waterside Burton Road Measham Derby

The Planning and Development Team Manager presented the report to Members.

Mr P Oakden, in support, addressed the Committee. He stated that he had lived near Measham for 40 years and through the Ashby Canal Trust had promoted the restoration of the canal. He advised that the project had both Local Authority and Government approval, and that the length under construction would open up opportunities to open the rest of the canal. He stated that the canal would bring benefits to the area such as business opportunities and installing pride in the community. He also advised that the developers had worked with the trust for many years and that they hoped to bring positive effects to the area.

Mr P Leaver, agent, addressed the Committee. He reminded the Committee that at the October meeting they had granted permission and that the work to the canal remained the main focus, and that if the developer was to make contributions to the usual recipients, then that would take the money away from the canal. He advised that they would support a partially compliant scheme and urged Members to approve recommendation B.

Councillor T Neilson expressed concerns over the problems that had arisen. He stated that lots of comments were made back in October over the canal, but he now had concerns that it was a large development and that both the schools and medical centre were full. He advised that he would like to see the canal and that it would benefit Measham. He stated that it would not be a satisfactory conclusion if recommendation A was proposed.

Councillor J Bridges advised that he agreed with Councillor T Neilson, as the reinstatement of the canal would open the area up to the rest of the country and that it would be unique to the area. He stated that the leisure and tourism brought in a large portion of the business to the area. He went on to advise the Committee that they must depart from the norm and he would be going against his normal thoughts and moved recommendation B. It was seconded by Councillor V Richichi.

Councillor J Legrys stated that he was torn between all three options and was aware of the time that officers had put into the application. He felt that if option B was approved it would give partial policy compliance, but could lead the authority to a judicial review with no S106 contributions and that schools and health would not benefit from the option. He expressed his sadness that the parties could not get together to resolve the issue.

Councillor G Jones supported recommendation B and stated that the Council should be in the driving seat for tourism and leisure, and the canal would bring benefits to the district as a whole.

Councillor D J Stevenson stated that the trust had fought hard to get the link, but felt, with a heavy heart that there was now only one recommendation to consider and that was recommendation C as the application could now not give what was promised.

Councillor T Neilson stated that he felt recommendation B was too rash. He advised that the section of canal would not connect to any other section at the present time, and as nice as it would be to see the canal, without other contributions, there would be no benefit to the residents of Meaham.

Councillor G A Allman supported Councillor J Bridges' comments, adding that the reinstatement of the canal would benefit the whole district, but only if the Committee provided it by supporting recommendation B.

The motion to permit officer's recommendation B was put to the vote and was LOST.

The officer's recommendation C was moved by Councillor T Neilson, seconded by Councillor R Woodward and

RESOLVED THAT:

The application be refused on the grounds that the developer is not agreeable to the S106 requirements and therefore, the proposal does not represent sustainable development.

8. **A4**  
**14/00309/FULM: USE OF LAND FOR THE OPERATIONAL USE OF MILITARY AND CIVILIAN "OFF ROAD VEHICLES" (INCLUDING TANKS, ARMoured FIGHTING VEHICLES, HEAVY DUTY VEHICLES AND OFF-ROAD 4X4'S) ALONG WITH PROVISION OF 3.0 METRE HIGH STRAW BUNDS (REVISED SCHEME)**  
 Measham Lodge Farm Gallows Lane Measham Swadlincote

As the application was deferred earlier in the meeting it was not considered.

9. **A5**  
**14/00188/FUL: ERECTION OF TWO DETACHED DWELLINGS WITH GARAGING**  
 18 Meadow Lane Coalville Leicestershire LE67 4DL

The Senior Planning Officer presented the report to Members.

Ms D Beniston, objector, addressed the Committee. She explained that she was representing residents from Greenfields Drive and their main concerns were that the application did not meet policies E4, E5, H4/1 and H7, and therefore should be refused. She stated that the development would not be setback from the road and therefore not in keeping with the surrounding area. She also stated that the road onto which the development would be accessed from was already congested, as was the road junction, and the new dwellings would lead to additional cars parking on the road, close to the junction. She advised Members that the rear gardens of the adjoining properties would be overlooked and the proposal was being shoehorned into a small area. She urged the committee to refuse the application on the grounds of detrimental impact.

Mr Raju, agent, addressed the Committee. He advised the Members that the applicant lived on Meadow Lane and wished to develop the large rear garden. He stated that the scheme had been amended as it had gone along to address objections that had been received. He advised Members that a dwelling opposite the site being considered had received permission to develop the garden, and this in turn had set a precedent. He highlighted to Members that the site would have off-road parking, no objections had been

received from highways and that the development would provide local jobs. He urged the Committee to permit the application.

Councillor R Adams stated that, having read through the objections and on seeing the site, he felt that the development would not be in keeping with the rest of the area and that the garages were too small. He therefore could not support the application and moved that the application be refused on the grounds that it would not respect the character of the surrounding area. It was seconded by Councillor J Legrys.

Councillor D Everitt felt that the Committee had been misled as it was quite clear that the other properties on the other development were set back from the road, and therefore were not the same.

Councillor M B Wyatt stated that he was pleased to hear the comments from the other Members. He felt that the development would have a detrimental effect on the area and would therefore be supporting the motion to refuse the application.

Councillor J Legrys stated that he had concerns over the site not being setback from the road. He also expressed his disappointment that highways felt that there were no issues, having seen firsthand how busy the road was around the school finishing time, and cars reversing off the site could lead to incidents involving school age children. He would be supporting the refusal.

RESOLVED THAT:

The application be refused on the grounds that the application did not accord with Policy E4 of the North West Leicestershire Local Plan.

**10. A6**  
**14/00020/FUL: PROPOSED CHANGE OF USE OF RETAIL UNIT AND OFFICES TO**  
**FOUR RESIDENTIAL DWELLINGS**  
 64 High Street Measham Swadlincote Derby

The Planning and Development Team Manager presented the report to Members.

The officer's recommendation was moved by Councillor T Neilson and seconded by Councillor J Legrys.

Councillor T Neilson stated that he had called in the application as he had concerns over access issues, however without objections from the statutory consultees he felt there was no case to refuse the application.

RESOLVED THAT:

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

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.50 pm

**APPENDIX B**

**Report of the Director of Services  
Planning Committee**

**8 July 2014**

**PLANNING & DEVELOPMENT REPORT**



## **PLANNING COMMITTEE FRONT SHEET**

### **1. Background Papers**

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

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

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

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

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

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

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

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

Where the Director of Services' 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.

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

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

## **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.

## **8. Decisions on Items of the Director of Services**

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.

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PLANNING APPLICATIONS- SECTION A

**Employment uses (B2/B8) of up to 1,300,000 sqft (120,773 sqm approx) with associated ancillary uses and associated infrastructure, including a new access from Beveridge Lane and off-site highway improvements, earthworks and ground modelling, together with new landscaping, including habitat creation and provision of a new community woodland park (outline - all matters other than part access reserved)**

**Report Item No  
A1**

**Land At Little Battleflat Farm Beveridge Lane Coalville  
Ellistown**

**Application Reference  
13/00249/OUTM**

**Applicant:  
Paragon (Coalville)**

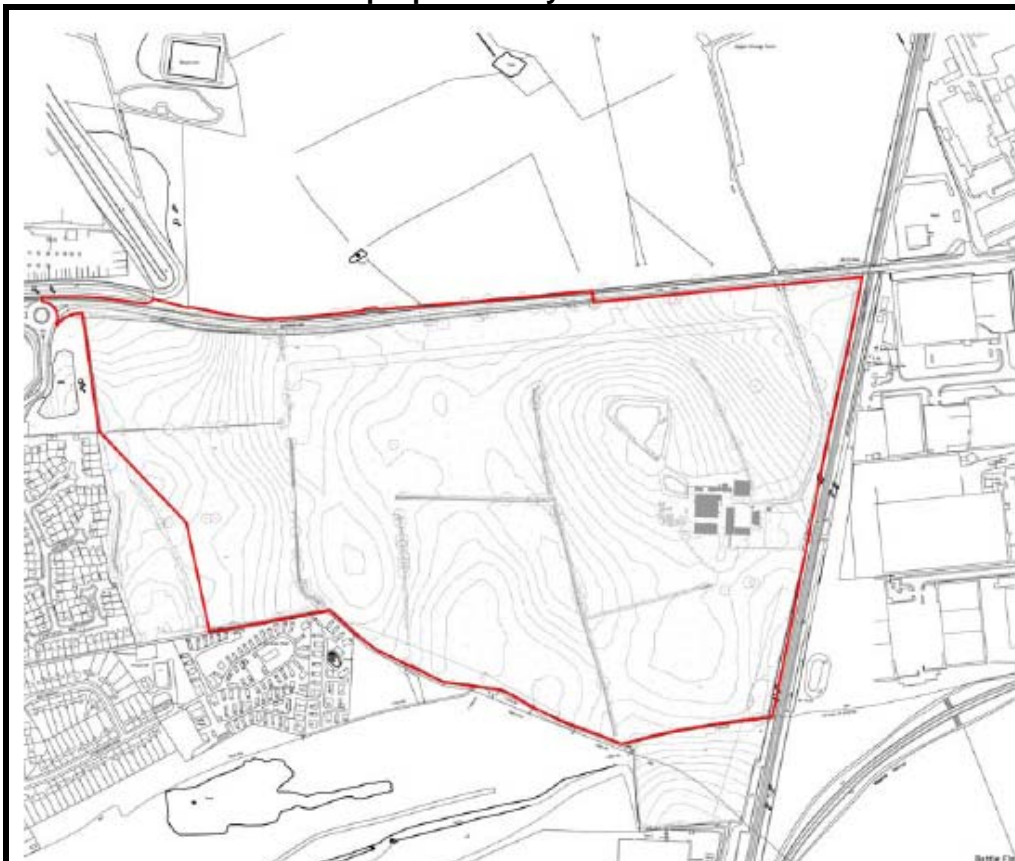
**Date Registered  
15 April 2013**

**Case Officer:  
James Knightley**

**Target Decision Date  
15 July 2013**

**Recommendation:  
Permit Subject to Section 106**

**Site Location - Plan for indicative purposes only**



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

### **Proposal**

The application seeks outline planning permission for the erection of units for employment use (within Classes B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), together with associated landscaping and green infrastructure.

The application is in outline with all matters reserved save for the access insofar as it relates to the proposed vehicular access point into the site from Beveridge Lane.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals.

### **Planning Policy**

The majority of the application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application is the supply of employment land in the context of the National Planning Policy Framework (NPPF).

### **Conclusion**

The report below indicates that, whilst the site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, having regard to the existing position in terms of employment land supply within the District and the requirement within the NPPF for Local Planning Authorities to support economic growth through the planning system, the principle of the development is considered acceptable in land use terms. Whilst concerns have been raised by neighbouring occupiers regarding a range of issues, including the impacts on residential amenity, the application is accompanied by an Environmental Statement which indicates that, subject to appropriate mitigation, these issues or other adverse environmental impacts arising from the proposed development would not indicate that planning permission ought to be refused.

### **RECOMMENDATION:-**

**PERMIT, SUBJECT TO THE WITHDRAWAL OF THE SECRETARY OF STATE FOR TRANSPORT'S TR110 DIRECTION DATED 7 MAY 2014, SUBJECT TO SECTION 106 OBLIGATIONS, SUBJECT TO CONDITIONS, AND SUBJECT TO ANY ADDITIONAL CONDITIONS AS RECOMMENDED OR DIRECTED BY THE COUNTY HIGHWAY AUTHORITY AND THE SECRETARY OF STATE FOR TRANSPORT**

**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 Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

This is an outline planning application, accompanied by an Environmental Statement, for employment development (B2 general industrial and B8 storage & distribution) of a site of approximately 36 hectares to the south of Beveridge Lane currently used for agricultural purposes. Whilst some matters are reserved for subsequent approval, an illustrative masterplan has been submitted which shows:

- Employment development (uses within Classes B2 and B8 (up to 1,300,000 square feet (120,773 square metres), provided over an area of approximately 25 hectares in the format of a range of unit sizes, with the larger units located towards the eastern end of the development)
- Future rail sidings zone
- Vehicular access from Beveridge Lane
- Green Infrastructure / Landscaping / National Forest planting with public access (approximately 11 hectares)

As set out above, the application is in outline. All matters are reserved save for the access insofar as it relates to the proposed vehicular access into the site from Beveridge Lane. The remainder of the "access" matters (i.e. including circulation routes through the site itself) are reserved for subsequent approval. In terms of the scale of the development, the application documents indicate that proposed building footprints would be between 600sqm and 100,000sqm, and with building heights varying between 6 and 18 metres.

The site is located adjacent to a number of land uses, including residential, agricultural, a quarry, and the Leicester to Burton railway (beyond which is located other employment development, within the Interlink business park). The existing units within the closest part of the Interlink estate have a range of maximum heights, varying between approximately 11 and 17 metres in height (albeit located at a higher ground level than much of the existing land within the current application site).

The application was included on the agenda for the 6 May 2014 Planning Committee as it was understood from the applicants that, unless a decision was made in respect of the application at the earliest opportunity, a potential occupier was likely to withdraw its interest in the development, with the resulting impacts on job creation opportunities. The Planning Committee report indicated, however, that officers were of the opinion that the supporting information submitted in respect of the application was, at that time, insufficient to enable the Local Planning Authority to come to a fully reasoned view in respect of it, particularly in respect of the transportation, noise and air quality impacts, and deferral was recommended. The application was, however, subsequently withdrawn from the agenda at the request of the applicants, and therefore not considered by the Committee.

### 2. Publicity

Neighbours have been notified.

Site Notice displayed 19 April 2013

Press Notice published 24 April 2013

### **3. Consultations**

Ellistown And Battleflat Parish Council consulted 3 June 2014  
Head of Environmental Protection consulted 3 June 2014  
LCC/Footpaths consulted 3 June 2014  
Ellistown And Battleflat Parish Council consulted 10 June 2014  
County Highway Authority consulted 10 June 2014  
Highways Agency- Article 15 development consulted 10 June 2014  
Ellistown And Battleflat Parish Council consulted 15 August 2013  
County Highway Authority consulted 15 August 2013  
Highways Agency- Article 15 development consulted 15 August 2013  
Ellistown And Battleflat Parish Council consulted 25 September 2013  
Network Rail consulted 25 September 2013  
County Highway Authority consulted 25 September 2013  
LCC/Footpaths consulted 25 September 2013  
Ellistown And Battleflat Parish Council consulted 29 October 2013  
County Highway Authority consulted 29 October 2013  
Highways Agency- Roadside Service Area consulted 29 October 2013  
County Highway Authority consulted 8 May 2013  
Highways Agency- Article 15 development consulted 8 May 2013  
Ellistown And Battleflat Parish Council consulted 16 April 2013  
Nicola Land Ibstock Parish Council consulted 16 April 2013  
County Highway Authority consulted 16 April 2013  
Environment Agency consulted 16 April 2013  
Severn Trent Water Limited consulted 16 April 2013  
Head of Environmental Protection consulted 16 April 2013  
Natural England consulted 16 April 2013  
NWLDC Tree Officer consulted 16 April 2013  
County Archaeologist consulted 16 April 2013  
LCC ecology consulted 16 April 2013  
Airport Safeguarding consulted 16 April 2013  
NWLDC Urban Designer consulted 16 April 2013  
County Planning Authority consulted 16 April 2013  
LCC Development Contributions consulted 16 April 2013  
Head Of Leisure And Culture consulted 16 April 2013  
Police Architectural Liaison Officer consulted 16 April 2013  
LCC/Footpaths consulted 16 April 2013  
Highways Agency- Article 15 development consulted 16 April 2013  
National Forest Company consulted 16 April 2013  
Hinckley & Bosworth Borough Council consulted 16 April 2013  
Network Rail consulted 16 April 2013  
DEFRA consulted 16 April 2013  
FRCA (MAFF)- loss of agricultural land consulted 16 April 2013  
Ramblers' Association consulted 16 April 2013  
LCC Fire and Rescue consulted 16 April 2013  
Head of Environmental Protection consulted 23 May 2013

### **4. Summary of Representations Received**

**Environment Agency** has no objections subject to conditions

**Highways Agency** directs that planning permission not be granted in view of unresolved issues relating to the potential impacts on the M1 motorway

**Leicestershire County Council Archaeologist** has no objections

**Leicestershire County Council Ecologist** has no objections subject to conditions

**Leicestershire County Council Education Authority** advises that a developer contribution in respect of education services is not required

**Leicestershire County Council Landscape Officer** has no comments

**Leicestershire County Council Library Services Development Manager** advises that a developer contribution in respect of library services is not required

**Leicestershire County Council Waste Management Authority** advises that a developer contribution in respect of civic amenity services is not required

**Leicestershire County Council Highway Authority** final comments awaited (see Means of Access, Highways and Transportation Issues below)

**Leicestershire County Council Planning Authority** advises that the southern portion of the proposed site lies within an area designated as a mineral consultation area for clay but that, given the nature of the proposed development and the southern landscape buffer, there are no issues relating to mineral sterilisation.

**Leicestershire County Council Rights of Way Officer** has no objections subject to further amendments to the proposed rights of way plan

**National Forest Company** has no objections subject to conditions and Section 106 obligations

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

**Network Rail** has no objections subject to conditions

**North West Leicestershire District Council Environmental Health** has no objections subject to conditions

**North West Leicestershire District Council Cultural Services Officer** advises that a number of rights of way cross the site which would need addressing as part of the planning process

**Severn Trent Water** has no objections subject to conditions

**Third Party representations**

264 representations have been received, objecting on the following grounds:

- Development not needed
- Existing industrial units remain empty
- Increased traffic
- Noise
- Adverse impact on air quality

- Loss of property value
- Area currently has low unemployment
- Loss of agricultural land
- Impact on wildlife / ecology / habitat
- Loss of trees / hedgerows
- Loss of village identity
- Contrary to adopted North West Leicestershire Local Plan Policy E21
- Coalescence of Hugglescote and Ellistown
- Contrary to Ellistown and Battleflat Parish Plan which showed that 91% of respondents did not want more employment land and 71% valued green spaces, wildlife, places to walk and tranquillity
- Contrary to emerging Core Strategy
- Inaccuracies / old data in the submitted Environmental Statement
- Flooding
- Brownfield sites should be used
- Light pollution
- Vacant land available on nearby industrial estates
- Adverse impact on rail safety
- Loss of view
- Overdominant
- Loss of light
- Insufficient landscaping
- Low skilled / paid jobs will not boost the local economy
- Site should be accessed via existing Interlink industrial estate
- Limited screening provided by proposed tree planting
- Balancing ponds would increase insect bites
- Site is in the National Forest
- Railway bridge not suitable for large volumes of heavy traffic
- UK Coal has not restored land in Ashby de la Zouch
- Insufficient infrastructure to accommodate the development (including healthcare and schools)
- Would render nearby properties uninhabitable
- Low water pressure
- Disturbance / disruption during construction works
- Will not help reduce carbon dioxide emissions
- Increased vermin
- Air quality report receptor locations for the AQMA are not in Ellistown
- Site access should be relocated away from Ellistown
- Transport Assessment data out of date
- Transport Assessment modelling not robust
- Excessive car parking

## 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.

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

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

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

Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that "this means:

- 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."

"19 The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system."

"20 To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century."

"28 Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings..."

"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."

## PLANNING APPLICATIONS- SECTION A

- "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."
- "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."
- "101 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding."
- "112 Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."
- "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..."
- "123 Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."
- "124 Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality



Management Areas is consistent with the local air quality action plan."

- "131 In determining planning applications, local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness."
- "160 Local planning authorities should have a clear understanding of business needs within the economic markets operating in and across their area. To achieve this, they should:
- work together with county and neighbouring authorities and with Local Enterprise Partnerships to prepare and maintain a robust evidence base to understand both existing business needs and likely changes in the market; and
  - work closely with the business community to understand their changing needs and identify and address barriers to investment, including a lack of housing, infrastructure or viability."
- "161 Local planning authorities should use this evidence base to assess:
- the needs for land or floorspace for economic development, including both the quantitative and qualitative needs for all foreseeable types of economic activity over the plan period, including for retail and leisure development;
  - the existing and future supply of land available for economic development and its sufficiency and suitability to meet the identified needs..."
- "173 Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."
- "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."

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

The majority of the application site lies outside of Limits to Development as defined in the adopted Local Plan (with a small section of highway land included within the application site located adjacent to the Rushby Road roundabout falling within Limits to Development). No other

site-specific policies apply. The following adopted Local Plan policies are considered relevant:

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

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

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 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 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 T10 requires development to make provision for effective public transport operation.

Policy T13 requires adequate provision for cycle parking.

## **Other Policies**

### **South East Coalville Development Brief**

A Development Brief for the South East Coalville Strategic Development Area has been prepared by consultants on behalf of the developers' consortium with interests in the land in conjunction with the Local Planning Authority, and including input from other professional consultants, stakeholders and members of the local community, in order to inform the process of planning and development of land at South East Coalville.

The draft Development Brief was considered by the District Council's Cabinet at its meeting of 23 July 2013 where it was resolved that the production of the Development Brief for South East Coalville be noted, that regard be had to the Development Brief when negotiating on and determining planning applications in the South East Coalville Broad Location, and that the Development Brief form part of the evidence base for the [then] submission Core Strategy.

## **Submission Core Strategy**

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

## **6. Assessment**

### **Principle of Development**

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

In terms of the adopted North West Local Plan, the site is outside Limits to Development. 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.

Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as those within the National Planning Policy Framework (NPPF).

### ***Employment Land Supply***

As set out under Relevant Planning Policy above, the NPPF seeks to encourage proposals for employment / business uses where such schemes would represent sustainable development. Whilst the site is located outside Limits to Development as defined in the adopted Local Plan, regard must also be had to the need to provide for sufficient employment land for new businesses.

The North West Leicestershire Core Strategy was submitted to the Secretary of State on 24 June 2013. Policy CS2 of the submission draft Core Strategy set out the overall District-wide requirement for employment land (i.e. 164 hectares), taking into account existing identified employment sites and commitments, as well as identifying an overall residual requirement of 60 hectares; Policy CS36 included for provision be made for 20 to 25 hectares of employment land in the proposed Broad Growth Location to the South East of Coalville (within which the application site fell). Following an exploratory meeting with the Planning Inspector appointed to examine the Core Strategy, however, it was agreed to withdraw the Core Strategy and, as a result, no weight should be attributed to its provisions in this regard. However, whilst the Core Strategy itself has been withdrawn, the background evidence upon which its provisions in respect of employment land requirements were based is nevertheless considered to remain robust, and it is therefore still accepted that a need remains for the additional 60 hectares of employment land in addition to existing commitments as previously referred to in the Core Strategy. Whilst the site lies outside Limits to Development as defined in the 2002 adopted North West Leicestershire Local Plan, these Limits to Development were drawn having regard to, amongst others, employment land requirements up until the end of the Plan Period (i.e. to 2006) and, as such, less weight should be attributed to any conflict with Policy S3 in the overall planning balance. It is noted that objections have been raised on, amongst others, the grounds that there are existing employment units and sites currently vacant within the area, and this is indeed the case (and including on the adjacent Interlink business park). However, the additional employment land requirements which had been identified in the in the evidence base for the

draft Core Strategy were for additional employment land (i.e. over and above any existing land, even if unoccupied).

### ***Contribution to Sustainable Development***

As set out above, the NPPF contains a presumption in favour of sustainable development. Having regard to the three dimensions of sustainable development, it is concluded as follows:

#### *Economic Dimension:*

The NPPF gives a very strong steer that support should be given for proposals which boost the economy and provide job opportunities. The application documents suggest that this proposal would create around 1,300 full time equivalent jobs although, given that the application is for B2 and B8 uses with no specific amount for each use, it is not known what type of jobs these will be. Given that Coalville is the largest centre of population and employment within the District, it is considered reasonable to assume that there will be a need for more employment opportunities in the Coalville area (and hence the former draft Core Strategy's proposals in respect of the significant development within the South East Coalville broad location).

#### *Social Dimension:*

The economic benefits associated with the proposed development would, by virtue of the jobs created, also be expected to provide some social benefits. Furthermore, on the basis of the proposed bus service diversion forming part of the application proposals (so as to connect the application site with services to Coalville and Leicester), this would also be considered to provide wider social benefits for those communities served by these bus services by virtue of the enhanced access to services and facilities that would result.

#### *Environmental Dimension:*

The site is identified as countryside in the adopted Local Plan. However, the Local Plan only covers the period to 2006 and so the employment requirements contained therein are not up to date. Whilst the NPPF makes it clear that sites of lower environmental quality should be preferred to those of higher value, it appears inevitable that there will be a need for greenfield sites to be released to meet future needs; furthermore, there do not appear to be any brownfield sites available elsewhere in the District of the scale of this proposed development. Further issues in respect of the environmental dimension of sustainable development are considered in more detail within the relevant sections below including, for example, issues such as the impacts on the natural and historic environment, accessibility of the site and loss of agricultural land.

Having regard to the three dimensions of sustainable development, therefore, and having regard to the conclusions in respect of various technical issues below, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to employment land supply, would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of land outside of the defined Limits to Development, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and, by virtue of its location, close to the existing built up area and associated services, has the potential to perform well in terms of need to travel and the movement towards a low carbon economy subject to the provision of suitable pedestrian, public transport and cycle linkages.

### ***Conclusions in respect of the Principle of Development***

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 majority of the site lies outside Limits to Development. As such, the scheme would be in conflict with the relevant Development Plan and other policies designed to protect the countryside from inappropriate development.

However, it is also necessary to consider any other relevant material considerations, including the Government's current intentions in respect of the need to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF), and the current position in the District in terms of employment land supply. Whilst the Core Strategy has been withdrawn, the evidence base used in this regard in terms of calculating the required amount of employment land within the District is considered to remain relevant, and the proposed development would make a contribution towards this. Whilst the contribution made would represent a significant proportion of the overall requirement within the District, it is not considered that there are other, more suitable, sites (in terms of their location and other credentials) elsewhere in the District which would be sufficient to meet the identified need.

Thus, overall, the need for and benefits of the proposed development of the site in terms of stimulating economic growth are considered to outweigh the conflict with the Development Plan, thus making the development acceptable in principle.

### **Detailed Issues**

In addition to the issues of the principle of development, consideration of other issues relevant to the application (and including those addressed within the Environmental Statement) is set out in more detail below.

### **Landscape / Visual Impact and National Forest planting**

The development has been assessed in terms of its landscape and visual effects both during and after construction. The Environmental Statement identifies what the applicants' landscape consultants consider to be the site's zone of visual influence, and assesses the impacts on a range of viewpoints in the surrounding area, both in the immediate vicinity of the site and further afield. The Environmental Statement suggests that the site is of medium landscape condition and is of low / medium landscape sensitivity to new employment development. It is suggested that the site landscape is potentially tolerant of change, but that there are some valued (and relatively higher sensitivity) features (i.e. hedgerows and trees) that ought to be conserved wherever practicable within any development proposals.

The site itself currently includes arable farmland and networks of trees and hedgerows, some of which are proposed to be retained following development.

In terms of mitigation, it is noted that raised landscaped bunds are proposed in order to limit a number of the views of the proposed development, and the Environmental Statement states that the principle of the development's landscape and green infrastructure proposals is to deliver functional well designed green spaces that will offer biodiversity, landscape and recreational benefits, whilst mitigating the effects of the proposed built development. The Environmental

Statement indicates that the landscape and green infrastructure proposals comprise the two key areas, namely a National Forest Community Woodland Area and perimeter greenways and landscape corridors. Within these areas the Environmental Statement indicates that there are a number of key components comprising conserved hedgerows and trees, retained and extended public rights of way, new footpaths and cycleways, SuDs features and new National Forest planting and other open space / habitats. The Environmental Statement suggests net gains as a result of the landscaping proposals as follows:

Woodland, trees and structure planting:	+4.6 hectares	
Hedgerows / Hedgerow Trees:	+1,350 metres	
Grassland / Meadow:	+4.6 hectares	
Water Features / Wet Grassland:	+1.1 hectares	
Off road footways / cycleways (including public rights of way):		+1,400 metres

In terms of landscape impacts, the Environmental Statement considers that the effects of the completed development would lessen over time with the successful establishment and maturing of the planting and other habitat creation measures. In addition to the beneficial effects arising from the proposed landscape, the Environmental Statement suggests that the application of appropriate management and maintenance operations to the existing conserved trees and hedgerows would also deliver some minor localised and longer term benefits. It indicates that the main benefits in landscape terms would arise from the maturing of the National Forest Community Woodland area and perimeter landscape and planting proposals. The National Forest planting would, the Environmental Statement states, establish an appropriate wooded setting and buffer between the settlement edge and the built development and the other perimeter proposals would assist in forming a robust landscape setting to the scheme.

Insofar as visual effects of the development are concerned (and including the effects of the above mitigation), the Environmental Statement considers the impacts on 16 principal viewpoints. In terms of these impacts, their predicted impacts are as follows:

*Construction Phase:*

Low Negative to Medium / High Negative 1, Low / Medium Negative 2, Low Negative 2, No Discernible Change / Neutral to Low Negative 9, No Discernible Change 2

*Year 0 (following construction) (winter):*

Medium / High Negative 2, Low Negative to High Negative 1, Low / Medium Negative 2, Low Negative 1, No Discernible Change / Neutral to Low Negative 8, No Discernible Change 2

*Year 10 (summer):*

No Discernible Change / Neutral to Low Negative 10, No Discernible Change 6

Of particular significance in this case are considered to be the views from Ellistown to the west of the site, and from public rights of way. The Environmental Statement suggests that the successful establishment and maturing of the planting and habitat creation proposals would provide some valuable improvements to a number of the receptors and including views from properties within the recently completed David Wilson Homes development off Battleflat Drive. From these locations, the Environmental Statement states, the maturing of the woodland, tree and hedgerow planting would greatly assist in screening and filtering any available views to the very highest parts of the buildings. It would also, it argues, provide an increasingly mature and attractive mosaic of habitats that will be appreciated from these existing settlement edge houses and from the existing and new footpaths in the west of the site. The Environmental Statement also suggests that the maturing of the landscape strategy proposals would provide some localised visual improvements from the public right of way and Beveridge Lane.

Insofar as National Forest planting is concerned, the National Forest Company advises that, in order to meet the relevant 30% National Forest Planting Guidelines standard, 10.8 hectares would be required; the application indicates that 11 hectares of green infrastructure would be provided and, therefore, the proposals are considered to accord with the relevant standards in respect of this requirement. The National Forest Company raises no objections to the proposals subject to the securing of various matters through conditions and Section 106 obligations, including a landscape management plan, landscape mitigation, and provision of pedestrian and cycle links.

Whilst there would clearly be some adverse impacts both during and immediately following construction of the development, the greatest impacts would be relatively limited in their extent and severity, particularly in the longer term as mitigation planting matures. In this sense, the extent of harm would be expected to reduce over time, such that, whilst there would inevitably be *changes* to the character of the area in this regard (and particularly in respect of the site itself), the adverse impacts would be limited to a degree whereby unacceptable harm would not be considered to result, particularly in view of the nature of the existing landscape quality.

The Environmental Statement also includes an assessment of the visual effects at night, having regard to, amongst others, existing night time lighting levels in the area, and the number of receptors with views to the proposals. In this respect, the Environmental Statement suggests that, by virtue of adjoining employment areas and other nearby major roads and urban uses, existing light sources occur in all directions of the site. Whilst new light sources would be introduced as part of the proposals (with the most sensitive receptors being existing residential development on the eastern side of Ellistown), the Environmental Statement states that no significant adverse night time visual effects would be expected; in terms of the most sensitive properties in the east of Ellistown, the Environmental Statement indicates that the proposed lighting columns and any wall mounted lamps within the built development area would be likely to be screened / hidden beyond the perimeter mounding and landscape proposals.

Overall in terms of visual impacts, therefore, whilst the development would be likely to be of a significant scale, by virtue of the proposed alterations to topography, the adverse impacts would be relatively limited. When taking this into account, together with the existing context of the site and other proposed mitigation, it is considered that the landscape and visual effects of the proposed development would be acceptable.

## **Ecology**

The submitted Environmental Statement includes a detailed assessment of the ecological implications of the proposed development on various receptors of ecological value. In addition to the anticipated impacts, mitigation measures are also proposed.

The Environmental Statement provides that the closest statutorily designated site of nature conservation interest to the application site is approximately 1.6km from the site (being the Bardon Hill Quarry Site of Special Scientific Interest (SSSI)); no other statutory sites are located within 2km. There are also no designated Local Wildlife Sites within 1km of the site, although several of the hedges in the local area (including a number of hedges within and bordering the site) are of Parish level nature conservation value. There are four potential Local Wildlife Sites within 1km of the site. In terms of the various ecological features / habitat identified, these include arable, species poor semi-improved grassland, hedgerows, mature trees and waterbodies.

The effects of the development are assessed within the Environmental Statement in terms of both the construction and post-construction (operational) impacts.

Insofar as the construction effects are concerned, the Environmental Statement indicates that there would be some habitat loss, including loss of hedgerows, trees and two ponds which would have a moderate adverse effect at a local level. Insofar as the effects upon wildlife are concerned, the following conclusions are reached within the Environmental Statement:

**Birds:** Given the loss of habitat, adverse impacts are anticipated in respect of skylarks, yellowhammer and linnet, although in view of the proposed structural landscaping, the overall impacts on birds are considered to be minor adverse at a local level. In terms of disturbance to birds, the Environmental Statement indicates that, whilst there is some potential for breeding success to be reduced, habitat loss from hedgerow removal is considered to have a greater effect and the construction-related disturbance effects are not expected to affect the local conservation status of any bird using the site for breeding; the disturbance effects on birds are only expected to be short-term and temporary, and of a minor adverse effect at a site level.

**Reptiles:** Grass snake has been recorded close to the eastern boundary of the site (albeit in small numbers with no more than one snake observed on any survey occasion). The Environmental Statement therefore concludes that the effects on grass snake would be limited to a small number of individuals during vegetation clearance of habitats in the east of the site only. Due to the limited risk in terms of numbers of animals and area of suitable habitats to be lost and the availability of other habitats surrounding the site, the effects are assessed as being of a minor adverse effect at a site level (as are the construction disturbance effects).

**Bats:** Whilst the Environmental Statement suggests that the proposed development would result in a loss of habitat (removal of trees and hedgerows), it considers that the effects would be limited to minor adverse at a site level by virtue of the low level of bat activity of a limited number of common species of bat recorded using the site to commute and forage. As the bat habitat is essentially that used for commuting and foraging (and there were no roosts identified within the site), construction disturbance effects would be expected to be negligible, and would not be expected to affect the conservation status of the local bat population.

No other protected species are considered likely to be present, having regard to the findings of the Environmental Statement.

In terms of mitigation, the Environmental Statement indicates that the western part of the site would be enhanced with new grassland, wetland and woodland habitats and works to enhance the retained hedges. It suggests that the woodland planting would compensate for hedgerow removal and contribute to the Green Infrastructure proposals of the wider landscape. Insofar as biodiversity measures are concerned, the Environmental Statement provides that the proposals would include:

- Retention of perimeter and some internal existing trees and hedgerows;
- Creation of balancing facilities in the west of the site as part of a SUDs system across the site, which, the Environmental Statement suggests, would compensate for the loss of the two existing ponds;
- Creation of an area of green space and retained habitats in the west of the site; and
- Existing perimeter habitats reinforced with new native tree planting

Natural England and the County Ecologist have been consulted in respect of the application and raise no objections subject to conditions. Notwithstanding the content of the Environmental



Statement, Natural England comments that the proposal is likely to affect bats, but that it is satisfied that the avoidance / mitigation measures proposed would be sufficient to maintain the favourable conservation status of the species.

Under Regulation 53 of the Habitat Regulations 2010, activities which would otherwise contravene the strict protection regime offered to European Protected Species under Regulation 41 can only be permitted where it has been shown that the following three tests have been met:

- The activity must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative; and
- The favourable conservation status of the species in question must be maintained.

Whilst these tests would need to be applied by Natural England at the appropriate time in respect of any required licence submission, it is nevertheless considered appropriate to also have regard to them at this stage in respect of the planning process. In this case, it is considered that the tests would be met as (i) for the reasons set out under Principle of Development above, it is considered that the site needs to be released for the proper operation of the planning system in the public interest; (ii) the works affecting the protected species would be necessary to enable the development to proceed in a logical / efficient manner; and (iii) the proposed mitigation measures would satisfactorily maintain the relevant species' status.

Insofar as the County Ecologist's advice is concerned, she considers that the ecology chapter and appendices of the Environmental Statement are satisfactory but advises that it may be necessary to undertake updated badger and bat surveys depending on when development commences (so as to ensure they remain up-to-date). The County Ecologist notes that much of the land is arable and of little wildlife value, but the proposed development will cause the loss of hedgerows and trees; however, the County Ecologist is of the view that, having regard to the retention of the species-rich hedges around the perimeter of the site and the proposed woodland planting to the west of the site, the loss of other hedges and trees within the site would be adequately compensated for.

However, concern is raised by the County Ecologist over the loss of two substantial ponds close to the farm; whilst the supporting documents indicate that one of these ponds is affected by slurry, it supports a number of species, and the County Ecologist therefore considers that it cannot be without local value. The larger pond is also considered to be of local value, supporting reed bunting, tufted duck and a population of toads. As such, the County Ecologist advises that compensation for the loss of these two ponds through habitat creation of two ponds of equivalent or greater size would be appropriate; the applicants have confirmed that they would be agreeable to providing this.

Subject to the imposition of suitably-worded conditions, therefore, the submitted scheme is considered acceptable in ecological terms, and would provide suitable mitigation for the habitat affected, as well as appropriate measures for biodiversity enhancement.

### **Geology, Geotechnical Issues and Land Contamination**

The applicants have undertaken a Phase 1 Geo-Environmental Assessment, and which has been used to inform the Environmental Statement's findings in respect of these issues. The Environmental Statement concludes that the proposals are expected to have a low to moderate adverse environmental effect with respect to geology and ground conditions. The District Council's Environmental Protection team raises no objection to the application in this regard

subject to conditions.

In terms of coal-related issues, the Environmental Statement provides that the site is in an area affected by underground coal mining, although movements are expected to have now ceased; the site lies within an area subject to the Coal Authority's standing advice. Furthermore, the Environmental Statement indicates that the shallow geology is not considered viable for mineral extraction; the County Planning Authority has no objections insofar as the potential for sterilisation of resources is concerned.

The proposals are therefore considered acceptable in terms of these issues.

### **Water Resources, Drainage and Flood Risk**

The Environmental Statement includes assessment of the proposed development's impacts on water resources, drainage and flood risk, informed by a Flood Risk Assessment (FRA), setting out how the site is proposed to be drained, and assessing the existing flood risk to the site along with any resulting flood risk associated with the proposed development.

Insofar as river flooding is concerned, the majority of the application site lies within Flood Zone 1 (i.e. low probability - less than 1 in 1,000 year annual probability of flooding). Other potential sources of flood risk identified in the FRA include pluvial run-off, surface water and sewer flooding. The FRA indicates that there is no evidence of pluvial flooding within the area. Insofar as sewer flooding is concerned, the FRA notes that, whilst much of the sewerage system of North West Leicestershire is based on Victorian sewers, as the site is greenfield, the risk of sewer flooding impacting upon the proposed site is unlikely, and therefore not considered a significant risk. In terms of potential effects of the proposed development on the wider catchment, given that the existing site is greenfield (and therefore any form of development will increase the volume of hardstanding on site), the development has the potential to increase surface water flows from the development and impact upon the wider catchment.

The NPPF and the DCLG's Planning Practice Guidance set out the relevant requirements in respect of the Sequential Test, and indicate that the Local Planning Authority's Strategic Flood Risk Assessment will provide the basis for applying this test. Having regard to the site's location within Flood Zone 1, it is considered that the proposed development passes the Sequential Test.

In terms of mitigating the impacts of other potential sources of flooding, the FRA recommends the setting of proposed finished floor levels no lower than the existing site levels, arrangement of external ground levels so as to direct any overland flows away from buildings, use of SuDS, disposal of surface water discharge via a pumped outfall or by infiltration, and provision of between 15,000 and 30,000 cubic metres of surface water attenuation. This, the FRA and Environmental Statement suggest, would limit the potential for increased flooding elsewhere as a result of the development. Whilst objections have been raised by nearby residents regarding the potential for increased flood risk to their properties in the event that the development takes place (and photographic evidence provided of previous flooding to properties nearby), there is no evidence to suggest that increased risk to nearby properties would result from the proposals, particularly given the requirement to mimic greenfield run-off rates, and the proposals to for surface water attenuation storage so as to accommodate the 1 in 100 year (+20% for climate change) storm event.

Whilst, at this outline stage, detailed drainage proposals have not been devised, the application

documents indicate that an attenuation / infiltration basin would be proposed within the landscaped area towards the western end of the site. Infiltration drainage could, the FRA suggests, be maximised in this part of the site, having regard to the presence of a sandstone outcrop in this location. However, this would need to be addressed in more detail at a later stage (i.e. in respect of the discharge of drainage conditions and the proposed layout as shown in any reserved matters application).

Insofar as foul drainage is concerned, the Environmental Statement indicates that connection to local sewers would be required, although, at this stage, no further details are set out, pending the formulation of the detailed design of the proposed development. The Environmental Statement suggests that, on the basis that the system was designed and constructed in line with current sewer adoption standards (which would be required for connection), there would be little residual risk associated with the potential effect on the foul drainage system.

From the point of view of statutory consultees, neither the Environment Agency nor Severn Trent Water raise objections to the application, subject to the imposition of conditions, and the development is considered acceptable in this regard.

### **Agricultural Land Quality**

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the employment land requirements issue as set out above, it would seem inevitable that land outside Limits to Development (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification. The submitted Environmental Statement contains an assessment of agricultural land quality suggesting the following distribution of land quality:

Grade 3b:	32ha (approx.) (91%)
Non-Agricultural:	3ha (approx.) (9%)

As such 32 hectares would be lost from agricultural use, along with a further 2 hectares within a field to the south of the site which, the Environmental Statement suggests, would become isolated as a result of the development. However, on the basis that none of the land within the site would be BMV, it is accepted that the harm that would result from the loss of this land to non-agricultural uses would not be significant.

### **Air Quality**

The Environmental Statement assesses the impacts on nitrogen dioxide and particles associated with the development, including impacts arising from the construction works and the additional traffic associated with the development once it is in use. Following the submission of an addendum to the Environmental Statement, it now includes consideration of the potential impacts on the Coalville Air Quality Management Area (AQMA), which is located in the vicinity of the junction between the A511 Stephenson Way and Broom Leys Road. The Environmental Statement has been assessed by the District Council's Environmental Protection team.

In terms of National policy, Paragraph 124 of the NPPF sets out the Government's approach to air quality and AQMAs. However, this also needs to be read in the context of the wider approach to sustainable development as set out in the NPPF, and its economic, social and

environmental roles.

The Environmental Statement considers likely air quality effects in two principal categories: impacts during the demolition, earthworks and construction phase (principally dust emissions), and impacts from road traffic during the operational phase (nitrogen dioxide and particulates).

In terms of the construction phase, the Environmental Statement indicates that, given that scale of the development, and the proximity to sensitive receptors, the development would, if unmitigated, be of a high risk in terms of dust soiling and particulates. The Environmental Statement suggests however that, subject to the implementation of appropriate mitigation measures as set out within the Environmental Statement, the impacts would be negligible.

Insofar as the operational phase is concerned, the Environmental Statement concludes that, save for the nitrogen dioxide levels at a receptor location at Shaw Lane, all predicted concentrations for both nitrogen dioxide and particulates would be below the annual mean Air Quality Limit Value (AQLV) of 40 micrograms per cubic metre ( $\mu\text{g}/\text{m}^3$ ). All locations would, however, be predicted to experience an increase as a result of the proposed development (albeit with differing degrees of increase). In terms of the significance of these changes, however, save for the Shaw Lane receptor and a receptor location on Beveridge Lane (insofar as nitrogen dioxide is concerned), impacts at all receptors (and including all particulate predictions) would be identified as negligible (with the Shaw Lane and Beveridge Lane nitrogen dioxide impacts being "slight" and "moderate" respectively). Overall, and having regard to proposed mitigation, the significance of the air quality impacts would be, the Environmental Statement suggests, slight adverse and, on this basis (and having regard to the requirements of the NPPF), the proposals are considered acceptable in this regard.

At the time the application was previously reported to the Planning Committee, however, two principal concerns with respect to the assessment of the impacts on air quality were highlighted within the officer report.

Firstly, the County Highway Authority's concerns regarding the robustness of the transportation evidence were material to assessment of the air quality impacts in that, until such time as the extent of any additional traffic likely to pass through the AQMA (and the ability of any traffic control measures to mitigate the impacts of any such changes in traffic etc) had been established, it was not considered possible to come to a final view on the likely air quality impacts (i.e. if the Local Planning Authority was unable to be satisfied that the applicants' predicted traffic impacts were correct, it was considered similarly difficult to come to a firm conclusion that there would be no unacceptably adverse air quality impacts on the basis of predictions based on assumptions set out within the applicants' transport evidence). Following the resolution of the County Highway Authority's concerns in this regard, it is accepted that this issue has also now been resolved.

Secondly, it was noted within the report to the 6 May 2014 Planning Committee that the receptor identified within the submitted Environmental Statement for the purposes of assessing impacts within the Coalville AQMA was located on Bardon Road (in the vicinity of its junctions with Waterworks Road and Bardon Close), but that this area is no longer within the Coalville AQMA, the extent of the AQMA having been amended in 2011. In order to address this matter, and to provide a specific assessment of the impacts upon the AQMA, an addendum to the Environmental Statement has subsequently been provided.

Insofar as this additional AQMA assessment work is concerned, the Environmental Statement addendum has assessed the impacts at a total of 16 receptors within and around the AQMA.

The addendum indicates that all but two of these receptors would experience a predicted increase in annual mean nitrogen dioxide concentrations (when compared with the "no development" scenario), with the magnitude of the change varying between 0.01 and 0.48 µg/m<sup>3</sup>. For the two receptors with the 0.48 µg/m<sup>3</sup> increase, the addendum indicates that the magnitude of this change would be "small", but would be "negligible" in terms of significance of impact. For the other 14 receptors, the magnitude and significance of the impacts are found to be "imperceptible" and "negligible" respectfully.

No objections are raised in respect of air quality issues by the District Council's Environmental Protection team. In terms of the findings of the addendum addressing the impacts on the Coalville AQMA, the District Council's Environmental Protection team highlights some concerns with the assessment in that the calculated correction factor used by the applicants (based on only three data points) does not bring modelled values in line with the measured results and, as a result, the with and without development modelling at receptors makes it appear that nitrogen dioxide levels would meet the air quality objectives by the time the development was implemented with no actions being taken which, the Environmental Protection team suggests, is unlikely to be the case. However, the Environmental Protection team acknowledges that a change in the correction factor is unlikely to change significantly the degree or significance of the impact the development has on the AQMA, and the impact would still be likely to remain insignificant or small and, as such, the development is considered acceptable in terms of its air quality impacts. For its part, the County Highway Authority confirms that the traffic data used within the Environmental Statement addendum to make the relevant predictions of impacts on the AQMA is reasonable.

The proposed development is therefore considered acceptable in terms of its air quality implications, both generally, and within the Coalville AQMA.

### **Neighbours' Amenities**

In terms of amenity issues, the impacts of the proposed development need to be considered both in terms of the effects on nearby residents arising from the undertaking of the construction of the proposed development (including, in particular, construction noise), as well on the future living conditions of residents following construction, having regard to the noise and other amenity impacts of the proposed development. These are considered in turn below. Insofar as vibration issues are concerned, the Environmental Statement indicates that, by virtue of the distance between the proposed development and the nearest residential properties, this would not be an issue.

#### *Construction Noise*

The submitted Environmental Statement suggests that noise during construction would have a "moderate" (temporary) effect; a number of mitigation measures during this construction phase are recommended.

#### *Post Construction / Operational Impacts*

In terms of the noise impacts arising from operation of the proposed development itself, given the outline nature of the proposals, the Environmental Statement assesses different scenarios of the final scheme's format, and the likely noise impacts on neighbouring properties arising therefrom, during both the night and daytime.

As set out in the report to the 6 May 2014 Planning Committee, the scenarios set out within the originally submitted Environmental Statement included options whereby the principal road

through the site was routed via different areas of the site. Insofar as the scenario whereby the principal road was located adjacent to the southern boundary of the site was concerned, the predicted noise impacts would have, at night, and based on 3 HGV movements per hour along this road, just fallen below the 45dBLAeq (night) level at all nearby residential property (the highest being 44.9dBLAeq (night), located on St Christopher's Park). Under an alternative night time noise scenario whereby the principal road was located adjacent to the northern boundary of the site, the predicted impacts would have been such that the impacts on St Christopher's Park would have been reduced, although would have been higher elsewhere, including on the existing residential development to the west of the application site; this scenario was based on 60 HGVs per hour using the road. A third scenario was also prepared, assuming use of noisy plant located in the north eastern corner of the site; again, no unacceptable impacts were predicted.

In terms of daytime impacts, and based on 30 HGV movements per hour, the Environmental Statement indicates that these could have been accommodated without exceeding the 55dBA criterion but, as set out in the report to the 6 May 2014 Planning Committee, the submitted Transport Assessment suggests a total number of 108 peak hour HGV movements so it was not considered by officers to be entirely clear as to how this sat with the assumptions used in the originally submitted noise assessment.

To address this issue, an updated noise chapter to the Environmental Statement has been submitted, revisiting the previously assessed scenarios, and assuming HGV movements to accord with those predicted within the submitted Transport Assessment. In terms of night time vehicular noise, the revised assessment assumes the use of a central estate road similar in alignment to that shown on the illustrative masterplan. This indicates that all receptors considered would experience night time traffic noise below the 40dBA (night) level. To also take into account the additional impacts of on-site noise emissions such that the cumulative noise level would remain below this level, the updated noise chapter indicates that fixed plant in the middle of the site would need to be limited to a sound power level (SWL) of no more than 106dBA or, alternatively, any uniform noise emissions across the whole of the site should not exceed 50dBA SWL per square metre (with the site then totalling 104dBA SWL).

In terms of daytime noise impacts, the updated noise chapter indicates that the noise limit level for the nearest affected receptor would be 50dBA and that, for the required traffic movements plus the mid-site concentrated point source, up to 48dBA would occur in the nearby residential area, thus within the 50dBA limit, and that a point source sound power level of up to 120dBA could be employed.

Insofar as mitigation is concerned, the Environmental Statement considers the impacts of the proposed earthworks bund to the south and west of the site (proposed essentially for visual impact mitigation reasons), and assuming a height of 10 metres. The Environmental Statement suggests that the bund would provide a degree of mitigation in some locations, and depending on bund height. A range of other mitigation measures are also set out within the Environmental Statement insofar as addressing construction phase noise is concerned.

On balance, therefore, and whilst a number of assumptions need to be taken in order to assess potential noise at this outline stage, it would appear that, a form of development which prevents unacceptable noise disturbance to nearby occupiers could in principle be provided on the site, and particularly when having regard to the potential for on-site mitigation. No objections on noise or vibration grounds have been raised in respect of the proposed development by the District Council's Environmental Protection team.

*Other Residential Amenity Impacts*

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, whilst an illustrative masterplan has been submitted, all matters except part access are reserved for subsequent approval. The illustrative submissions and Design and Access Statement indicate that the proposed buildings would be of maximum heights of between 6 and 18 metres, and that the proposed built development would be located away from the western section of the site (which would be an area of woodland / National Forest planting). On the basis of the illustrative masterplan, the closest properties in residential use (i.e. caravans on the St Christopher's Park site) would be somewhere in the order of 60 metres (approx.) from proposed buildings on the development, with those buildings being indicated to be "small units"; a bund would also be proposed to be constructed to in the intervening land. Notwithstanding the anticipated maximum heights of the proposed units, it is considered that, in principle, a form of development could be provided within the site which would not lead to any undue loss of amenity by virtue of loss of light, overdominance or other residential amenity impacts. Clearly, careful consideration would need to be given to any detailed proposals for these and other areas of the site submitted at the reserved matters stage(s) so as to ensure that an appropriate relationship between proposed units and existing dwellings were provided. However, as set out above, there is no reason to suggest that the eventual form of development proposed at the reserved matters stage(s) would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, considered acceptable in this regard.

**Means of Access, Highways and Transportation Issues**

As set out in the introduction above, the application is in outline with all matters reserved save for the proposed vehicular access into the site from Beveridge Lane. Since the application was last included on the Planning Committee agenda for its meeting in May 2014, amended plans in respect of the proposed site access have been received showing a ghost island access. Separate details have also been provided to the Local Planning Authority and Local Highway Authority indicating how, if required in the future in association of the development of land to the north of Beveridge Lane, a roundabout junction could also be provided in this location.

In terms of the addressing of the proposals' impacts on the wider highway network, the applicants propose, amongst others, making a contribution of £1,980,000 (as part of the District and County Councils' emerging Transportation Infrastructure contributions strategy for accommodating growth in and around Coalville).

*Local Highway Issues*

As referred to in the report originally included on the agenda for the Planning Committee meeting of 6 May 2014, the County Highway Authority has raised a number of issues in respect of the submitted Transport Assessment and other supporting information on various occasions during the course of the application's submission, with its most recent formal observations prior to the 6 May 2014 Planning Committee meeting being provided in November 2013 (although the County Highway Authority had been engaged in direct dialogue with the applicants' transport consultant on an ongoing basis prior to and since that time).

As set out in the report included on the agenda for the Planning Committee meeting of 6 May 2014, there was, at that time, a significant amount of outstanding work required for the County Highway Authority to be able to provide its finalised comments. This included:

- Internal design checking for the proposed site access (and, depending on the outcome

of that checking, potentially submission of amendments to the access design and re-checking of those amendments);

- Testing of the applicants' distribution assumptions (using the County Council's LLITM model); and
- Assessment of junction capacity modelling

Since the time that the application was included on the agenda for the 6 May 2014 Planning Committee meeting, the County Highway Authority has continued to engage with the applicants' transportation consultants and, it is understood, the County Highway Authority is now content that sufficiently robust evidence to demonstrate the likely impacts of the development on the local highway network has been submitted (albeit details of the applicants' proposed mitigation of the potential impacts on the Ellistown crossroads (i.e. the existing double mini roundabout junction) were awaited). As such, at the time of preparing this report, the final formal observations of the County Highway Authority were awaited; it is anticipated that these will be available prior to the application's consideration at the Planning Committee meeting of 8 July 2014, and will be reported on the Update Sheet. It is also understood that the County Highway Authority is likely to raise no objections subject to Section 106 obligations and the imposition of conditions. The recommendation below is made on this basis.

#### *Strategic Highway Issues*

At the present time, the Highways Agency (on behalf of the Secretary of State for Transport) has issued a TR110 Direction preventing the Local Planning Authority from permitting the application pending the resolution of unresolved issues in respect of the impacts on Junctions 13 and 22 of the A42 and M1 motorway respectively. It is understood from the Agency that it is of the view that, in principle, an appropriate solution is achievable (and likely to be by way of the formulation of an appropriate contribution under the District and County Councils' emerging Transportation Infrastructure contributions strategy) but, until such time as that is resolved, its Direction must remain in place. On this basis, whilst a solution to this issue seems achievable and there would seem to be potential for the Highways Agency's Direction to be removed, the Local Planning Authority would, at this time, be unable to issue any planning permission. Nevertheless, there appears to be no overriding reason why, in respect of this particular issue, the Planning Committee could not resolve to grant permission subject to the matter being concluded to the Highways Agency's satisfaction (and the TR110 Direction hence being removed and any additional conditions required by the Agency imposed). Alternatively, however, if Members were minded to refuse the application, reference to this issue in the reason(s) for refusal would be considered appropriate.

#### *Public Rights of Way*

The site is affected by a number of public rights of way. Two principal rights of way (Footpath N50 and Restricted Byway N51 / Bridleway N52) cross the site. In addition, Footpath N47 abuts the southern boundary of the site, linking Whitehill Road with the southern part of the Interlink business park at Bardon. N50 connects with N47; N50 and N51/N52 both connect in the north to Beveridge Lane. Both N47 and N50 cross the Leicester to Burton railway by way of pedestrian level crossings.

Concerns had been raised by Leicestershire County Council's Rights of Way team with respect to the impacts on the existing routes of rights of way passing through the site which, based on illustrative layouts submitted with the application, would be affected, and that suitable alternatives had not been demonstrated. Further to these concerns, the applicants have amended their supporting information accordingly, with the illustrative details now indicating the deletion of that part of N50 between Beveridge Lane and its intersection with N47 (to the southern side of the Interlink business park), as well as that part of N51/N52 connecting to the



existing farm buildings on the site. New links are shown along the eastern site boundary (connecting N52 and N47), to the northern boundary (parallel to Beveridge Lane), through the proposed planting area at the western end of the site (linking Beveridge Lane, the Rushby Road roundabout and N47 to the north of St Christopher's Park), and adjacent to the southern boundary (i.e. in the vicinity of the proposed landscaped bund, and parallel to retained right of way N47 which lies just outside the application site). In response to these latest amendments, the County Council's Rights of Way team has raised no objections per se, although has suggested further amendments which, at the time of preparing this report, the applicants were seeking to accommodate. In principle, however, there appears no reason why the development could not provide for appropriate alternative rights of way if, as appears likely at this outline stage, the reserved matters proposals would necessitate the extinguishment / diversion of existing rights of way crossing the site. Should this be the case, any application to stop up / divert the affected rights of way would be likely to be dealt with by the District Council's Cultural Services Officer, who advises that an application to divert would need to be made. As set out in DEFRA Circular 1/09 relating to rights of way, most outline planning applications do not contain sufficient information to enable the effect on any right of way to be assessed (and are not required to do so) and, as such, these issues are usually dealt with at the reserved matters stage. Nevertheless, and as set out above, there appears no reason in principle why a suitable solution could not be found at that time.

#### *Rail Issues*

As noted under Public Rights of Way above, the proposed changes to the local rights of way network include the deletion of N50 between Beveridge Lane and its intersection with N47 and a new route alongside the eastern boundary. These proposed changes are intended to address the concerns of Network Rail with respect to impacts on use of pedestrian level crossings, and in accordance with Network Rail's policy to secure a significant reduction in risk at level crossings. Whilst Network Rail accepts that there would not be a very significant increase in usage of the crossing, it considers that there would, nonetheless, be an increase as a result of the development and, as such, considers that it would be appropriate to seek the removal of one of the two crossings affected by the development, and suggests the one serving N50 as it has the higher risk (and with the provision of the new pedestrian route enabling users on the western side of the railway to access the retained (N47) crossing).

Insofar as other railway issues are concerned, the illustrative details indicate a "future rail sidings zone" and, depending on the levels and layout of the proposals as set out at the reserved matters stage, the scheme would appear capable in principle of being served (in part, at least) by rail. The Environmental Statement and Design and Access Statement also indicate that the eastern boundary would not include any new landscape proposals so as to maintain the potential for future rail connectivity to the site. The application as submitted does not propose a rail connection per se, but recognises that the site has the potential in the future to be accessed in this way. In order to ensure that the development of the site does not preclude its future use in this way, it is recommended that any approval require the submission of details with the reserved matters proposals to demonstrate that those proposals would not prejudice this aspiration in the future, should circumstances ever allow.

For its part, Network Rail raises no objections to the development subject to the above measures, and subject to the imposition of other conditions required to ensure the safety, operational needs and integrity of the railway. It also confirms that it has no objections relating to the increased use of the existing road bridge over the railway on Beveridge Lane (and including the types of vehicle likely to be using it).

#### *Access, Highways and Transportation Conclusions*

In summary, in respect of the access and transportation issues, it is understood that the previously unresolved issues in respect of the local highway network have now been addressed to the satisfaction of the County Highway Authority; confirmation of the County Highway Authority's final position will be provided on the Update Sheet, however.

Insofar as the strategic highway network is concerned, it is noted that the Highways Agency has issued a Direction preventing issuing of a planning permission at this present time. Until such time as the Highways Agency can be satisfied that there would be no unacceptable (and unmitigated) impacts on the safe and efficient functioning of the strategic highway network (and, in particular, at the affected junctions of the A42 and M1), it would be inappropriate to release the site for development and, indeed, the Direction prevents the Local Planning Authority from so doing. Nevertheless, should members be minded to permit, it is considered that any such resolution could be framed in a manner as to allow the development to proceed should the Highways Agency's concerns be resolved (e.g. by the use of an appropriate mechanism ensuring the making of appropriate contributions to the Highways Agency in order to mitigate the impacts of this and other development in the wider Coalville area on the affected strategic highway network junctions). The Highways Agency is content with this approach in principle, and has indicated that it would be agreeable to removing its Direction once there has been an appropriate resolution to ensuring the funding from the District Council's transportation contribution strategy is secured for the strategic highway network.

Subject to the entering into of appropriate Section 106 obligations, and the attachment of conditions as recommended / directed by the relevant highway authorities, therefore, the proposed development is now considered acceptable in respect of access and transportation issues.

### **Historic Environment**

There are no listed buildings, Conservation Areas or scheduled monuments within the vicinity of the application site. It is also considered that there are no features which would be likely to be viewed as non-designated heritage assets of significance.

Insofar as archaeology is concerned, the application is supported by a range of documents, including an archaeological desk based assessment, a geophysical survey report and an archaeological trial trench evaluation. These indicate that the site has a low potential for significant remains of all periods and that any yet to be any undiscovered assets are, based on the archaeological background of the area, only likely to be of local interest and significance.

On this basis, and subject to the implementation of the relevant recording / mitigation measures, it is accepted that no unacceptable impacts on heritage features would result; the County Archaeologist advises that, on the basis of the desk-based assessment, geophysical survey and trial trenching undertaken, there does not appear to be a reasonable potential for the survival of significant archaeological remains within the site, and raises no objections.

### **Design**

The proposed scheme is outline only, with all matters other than part access reserved for later consideration; the application is supported by a Design and Access Statement.

The proposal has been assessed by the District Council's Urban Designer, who has raised,

amongst others, the following issues regarding the scheme:

- The scheme needs to take account of the Council's aspirations for National Forest inspired buildings and spaces and associated integration of landscaping and SuDS
- Concerns regarding the extent of trees and hedgerows proposed (on the illustrative plans) to be removed or across the developed parts of the site;
- The Design and Access Statement should establish more specific principles for architectural design, and including in respect of the environmental performance of buildings;
- Green infrastructure and pedestrian / cycle connectivity should thread through the site - whilst the green infrastructure is largely indicated as being concentrated to the west (the logic for which is clear), the central spine road could be developed as a much stronger feature, integrating SuDS, a greenway and existing hedgerows, thus creating a more subtle contrast between the undeveloped and developed parts of the site in this National Forest location; and
- A pedestrian / cycle route should run west to east across the site, providing two links across the open space, the first running in a west / east alignment directly across from the "green" located within the recently built Poppyfields (David Wilson Homes) development, the second running from the south east corner of Poppyfields, heading in a north easterly direction to connect with the other route

In response to these issues, the applicants have provided amended illustrative layouts in order to demonstrate how existing hedges could potentially be retained within the scheme and to indicate the potential integration of green infrastructure into the site. Further to these amended details, and given the outline nature of the application, the District Council's Urban Designer raises no objections but suggests that his other comments be flagged up by way of a Note to Applicant so as to ensure that these matters are appropriately addressed at the reserved matters stage(s). Given the scale of the development, however, and the potential for different plots to be designed and built out by different developers / occupiers, it is also considered that there is the potential for the site to be developed in a range of different styles / approaches, which could result in an ad hoc approach to design, to the detriment of the overall quality of the scheme. As such, it is considered that the implementation of a Design Code would be appropriate, and would serve to ensure that a consistent approach is taken.

Overall, therefore, subject to the imposition of a condition requiring a Design Code, together with the reserved matters schemes encompassing other issues of importance as identified by the District Council's Urban Designer, it is considered that the development has the potential to provide for an appropriate form of design at the reserved matters stage, and compliance with the relevant design-related policies could be achieved.

## **Other Matters**

### **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.

In addition to the Transport Infrastructure contribution (and any separate County Highway Authority contribution requirements) which would be likely to be required in respect of the proposed development pending resolution of the transportation issues, the only other developer contributions required in this case would be in respect of the provision / maintenance of the proposed green infrastructure. As set out above, the landscape management plan would also require inclusion as an obligation within any associated Section 106 agreement.

## Conclusions

As set out above, the site is considered suitable in principle for the proposed development. It is considered that the supporting information indicates that the development is acceptable in technical terms, and the conclusions as set out in the applicants' Environmental Statement are for the most part accepted (and, where not fully concurred with, officers are content that no unacceptably adverse impacts would arise in any event). Whilst the site is outside Limits to Development and, therefore, would be contrary to existing National and Development Plan policies designed to protect the countryside from unnecessary development, regard also needs to be had to other material considerations and including the District's employment land requirements as well as the NPPF's stated aim of supporting economic growth through the planning system. The need for and the benefits of the development in terms of stimulating economic growth are in this case considered to outweigh any conflict with the Development Plan.

In terms of technical issues affecting the proposed development, and as set out in the applicants' Environmental Statement, it is considered that the proposals are, overall, acceptable. It is also likely that appropriate contributions to infrastructure would be secured in order to accommodate the development, and the proposals would make a significant contribution to local employment opportunities. However, these benefits need to be considered in the context of the other environmental effects. Following the submission of additional information to demonstrate the impacts of the development to the satisfaction of the relevant statutory consultees, it is considered that these impacts would be acceptable environmentally and, when assessed in the wider context of sustainable development as set out in the NPPF, the proposed development would benefit from the presumption in favour of sustainable development, and approval is recommended.

**RECOMMENDATION- PERMIT, subject to the withdrawal of the Secretary of State for Transport's TR110 Direction dated 7 May 2014, subject to Section 106 Obligations, subject to the following conditions, and subject to any additional conditions as recommended or directed by the County Highway Authority and the Secretary of State for Transport**

- 1 Save for the details of vehicular access into the site from Beveridge Lane, 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.

*Reason - This permission is in outline only.*

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access (save for the details of vehicular access into the site from Beveridge Lane),

## PLANNING APPLICATIONS- SECTION A

appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

*Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).*

- 3 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 92 of the Town and Country Planning Act 1990 (as amended).*

- 4 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
- Site location plan (ES Figure 3 Rev A) deposited with the Local Planning Authority on 15 April 2013
  - Development Framework parameters plan (ES Figure 4 Rev C) deposited with the Local Planning Authority on 15 April 2013
  - Site vehicular access (Figure 1A Rev N) deposited with the Local Planning Authority on 9 June 2014

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

- 5 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, landscaping / National Forest planting, density parameters and scale, as well as details of any proposed phasing of development. The masterplan shall accord with the principles of the submitted Design and Access Statement. All subsequent reserved matters applications shall be in 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.*

- 6 A total floorspace of no more than 120,773 square metres (gross) shall be erected.

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

- 7 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as precise details of all means of mitigation measures as set out in the Environmental Statement (including addenda), and including timetables for their provision, have been submitted to and agreed in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with the approved details and timetables unless in accordance with any variation first agreed in writing by the Local Planning Authority.

*Reason - To ensure the development and associated impacts take the form envisaged in*

*the Environmental Statement.*

- 8 No development shall commence on the site until such time as a Design Code for the entirety of the site (based upon, and according with, the general principles set out in the Design and Access Statement) has been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details, or in accordance with any amendment to the Design Code subsequently agreed in writing by the Local Planning Authority.

*Reason - To ensure an appropriate form of design, and to comply with Policy E4 of the North West Leicestershire Local Plan.*

- 9 No external lighting shall be installed on site (and including during the construction phase) unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

*Reason - In the interests of the amenities of the area, in the interests of nature conservation, in the interests of rail safety and to comply with Policy E4 of the North West Leicestershire Local Plan.*

- 10 The development permitted by this planning permission shall not be carried out other than in strict accordance with the submitted Flood Risk Assessment (FRA) (NTW/2012/FRA Rev B, dated 29 November 2012) undertaken by BWB Consulting and the following mitigation measures detailed within the FRA:

- Limiting the surface water run-off generated on site so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site (Sections 4.6 to 4.18 and 6.2); and
- Finished floor levels are set above proposed external finished ground levels in accordance with best building practice (Sections 4.2 and 6.2)

Unless any alternative programme is first agreed in writing by the Local Planning Authority, none of the development hereby permitted shall be brought into use until such time as the mitigation measures have been fully implemented.

*Reason - To prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site, and to reduce the risk of flooding to the proposed development and future occupants.*

- 11 Notwithstanding the submitted details, nor Condition 7 above, no work shall commence on site until such time as a scheme for the disposal of foul and surface water drainage from the site, together with a timetable for its implementation, and based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include:

- Surface water drainage system(s) designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
- Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 20% (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;
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate(s) and all rainfall events up to the 100 year plus

- 20% (for climate change) critical rain storm;
  - Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
  - Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.
- No development shall be carried out, nor any part of the development brought into use at any time unless in accordance with the agreed scheme and timetable.

*Reason - To ensure that the development is provided with a satisfactory means of drainage, to prevent the increased risk of flooding, to improve and protect water quality, to improve habitat and amenity and in the interests of ensuring the safety, operational needs and integrity of the railway.*

- 12 Notwithstanding the submitted details, nor Condition 7 above, no development shall commence on the site until such time as a timetable for the undertaking of updated surveys in respect of protected species in relation to commencement of site works on the relevant phase (and including the specification of maximum periods between undertaking of surveys and commencement of work on the relevant phase) has been submitted to and agreed in writing by the Local Planning Authority. No development shall thereafter be undertaken at any time unless the relevant surveys have been undertaken and the results (including mitigation measures and a timetable for such mitigation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority, and the development shall thereafter be undertaken strictly in accordance with the agreed mitigation measures and timetable.

*Reason - In the interests of nature conservation.*

- 13 Notwithstanding the submitted details, nor Condition 7 above, no development shall commence on the site until such time as a detailed mitigation and monitoring strategy in respect of bats (together with a timetable for the strategy's implementation) has been submitted to and agreed in writing by the Local Planning Authority. No development shall thereafter be undertaken at any time unless in accordance with the agreed strategy and timetable.

*Reason - In the interests of nature conservation.*

- 14 Notwithstanding the submitted details, nor Condition 7 above, no development shall take place until such time as a scheme for the provision and management of compensatory habitat creation (and including measures in respect of replacement pond provision, and bat and bird boxes, together with a timetable for the scheme's implementation) has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall thereafter be implemented strictly in accordance with the agreed scheme and timetable.

*Reason - In the interests of mitigating and / or compensating for the loss of existing habitat on the site, and to secure opportunities for the enhancement of the nature conservation value of the site.*

- 15 Notwithstanding the submitted details, nor Condition 7 above, no development shall take place until such time as a scheme of measures designed to minimise great crested newt access to the site during construction works, together with a timetable for its

implementation, has been submitted to and agreed in writing by the Local Planning Authority. No development shall be undertaken at any time other than in accordance with the agreed scheme and timetable.

*Reason - In the interests of nature conservation.*

- 16 Notwithstanding the submitted details, nor Condition 7 above, the first reserved matters application in respect of the development (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall be accompanied by full details of all measures proposed in respect of the enhancement of the biodiversity of the area, including proposals in respect of future maintenance and a timetable for the implementation of the relevant measures. The development shall thereafter be undertaken and occupied in accordance with the agreed measures and timetable unless otherwise agreed in writing with the Local Planning Authority.

*Reason - To ensure the development contributes to the meeting of BAP and LBAP priorities.*

- 17 Notwithstanding Conditions 1, 2, 3 and 5 above, the first reserved matters application shall include a strategy to demonstrate how the development of the site will allow for future rail access for goods to and from the site. The submitted strategy shall include indicative details of all works / facilities likely to be required to allow for the site to be served by rail, and demonstrate how the scheme for the site's development as set out in the masterplan prepared pursuant to Condition 5 above would not prejudice the future provision of the works / facilities as set out in the rail access strategy.

*Reason - To ensure that the potential for serving the site by rail is protected.*

- 18 No works shall be undertaken within 20 metres of the adjacent railway unless in accordance with a method statement for the works first submitted to and agreed in writing by the Local Planning Authority in consultation with Network Rail.

*Reason - In the interests of ensuring the safety, operational needs and integrity of the railway.*

- 19 No work shall commence on site until such time as precise details of all measures designed to prevent unauthorised and / or accidental vehicular or pedestrian access onto the adjacent railway (together with a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and timetable, and the agreed measures shall thereafter be so maintained.

*Reason - In the interests of ensuring the safety, operational needs and integrity of the railway.*

- 20 No part of the development hereby permitted shall be brought into use until such time as the pedestrian level crossing serving Footpath N50 has been permanently closed.

*Reason - In the interests of ensuring the safety of the railway.*

- 21 Notwithstanding the submitted details, nor Condition 7 above, no development shall commence on the site (or, in the case of phased development, in respect of the relevant



phase) until such time as a Risk Based Land Contamination Assessment (and as set out in the Environmental Statement) 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:

- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
- BS8485:2007 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 (Environment Agency 2004)

*Reason - To ensure that the land is fit for purpose, to ensure protection of controlled waters and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.*

- 22 If, pursuant to Condition 21 above, any unacceptable risks are identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be 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 (Environment Agency 2004), and 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 (Environment Agency 2010) and CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004). If, during the course of development, previously unidentified contamination is discovered, development shall cease on the affected part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be undertaken in accordance with the approved details and thereafter be so maintained.

*Reason - To ensure that the land is fit for purpose, to ensure protection of controlled waters and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.*

- 23 None of the development hereby permitted shall be brought into use until such time as a Verification Investigation for the relevant part of the site 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. No part of the development (or, in the case of phased development, no part of the relevant phase) shall be brought into use until such time as a report showing the findings of the Verification Investigation has been submitted to and approved in writing by the Local Planning Authority. The Verification Investigation 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, to ensure protection of controlled waters and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.*

- 24 All reserved matters applications shall include full details of the proposed buildings' anticipated level of achievement in respect of criteria / sub-categories contained within the Building Research Establishment's Environmental Assessment Method (BREEAM). No building shall be brought into use until such time as an assessment of the building has been carried out by a registered BREEAM assessor and a BREEAM Certificate has been issued for the relevant building certifying that the relevant BREEAM Level has been achieved.

*Reason - To ensure the environmental integrity of the scheme is secured.*

### Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 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)

- 3 Your attention is drawn to the attached report of Severn Trent Water Limited.
- 4 Your attention is drawn to the attached report of the Environment Agency.
- 5 Your attention is drawn to the attached report of the Highways Agency.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highways and transportation matters.
- 7 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer.
- 8 Your attention is drawn to the attached report of North West Leicestershire District Council's Cultural Services Officer regarding Rights of Way. Appropriate consent for all stopping up or diversion of rights of way required to implement the planning permission will need to be sought (and including any consents required in order to comply with Condition 20 above).
- 9 Your attention is drawn to the attached report of the National Forest Company.
- 10 Your attention is drawn to the attached report of Natural England.
- 11 Your attention is drawn to the attached report of the District Council's Urban Designer. The Local Planning Authority would expect the issues raised to be addressed at the reserved matters stage(s), and would encourage early engagement with the Local Planning Authority prior to submission in order to ensure that a suitable design solution is achieved.
- 12 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)
- 13 For the avoidance of doubt, all references within phases of development within the conditions above should be construed as being those phases of development to be set out and agreed pursuant to Condition 5.

**PLANNING APPLICATIONS- SECTION A**

- 14 The applicants are advised that, for the purposes of complying with Condition 7 above, the submitted details should include for measures to restrict noise emanating from the site in accordance with the limitations set out in the updated Chapter 11 of the Environmental Statement dated May 2014.
- 15 This decision is in accordance with the resolution of the Planning Committee of 8 July 2014 and is subject to a Section 106 Obligation.

PLANNING APPLICATIONS- SECTION A

**Use of land for the operational use of military and civilian "off Road Vehicles" (Including tanks, Armoured fighting vehicles, Heavy duty vehicles and off-road 4x4's) along with provision of 3.0 metre high straw bunds (Revised Scheme)**

**Report Item No  
A2**

**Measham Lodge Farm Gallows Lane Measham Swadlincote**

**Application Reference  
14/00309/FULM**

**Applicant:  
Tank Mania Limited**

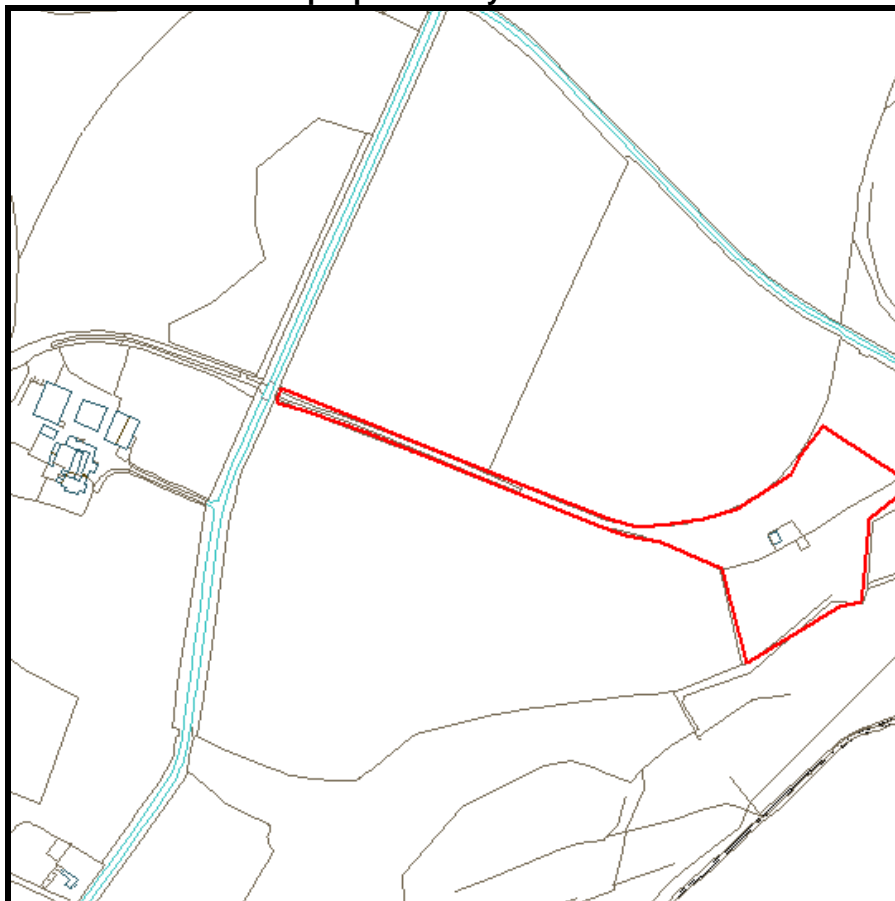
**Date Registered  
4 April 2014**

**Case Officer:  
Adam Mellor**

**Target Decision Date  
4 July 2014**

**Recommendation:  
Permit Subject to Section 106**

**Site Location - Plan for indicative purposes only**



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## EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

### Call In

This application has been brought to Planning Committee as it is considered necessary for the committee to assess the potential economic benefits of the development against the potential noise implications for nearby residential properties.

### Proposal

The application proposes that an area of 2.2 hectares would be used for the operational use of military and civilian "off road vehicles" which would include tanks, armoured fighting vehicles and off-road 4 x 4's. The original use of the site commenced in 2008 with two enforcement investigations being carried out in relation to the unauthorised use of the land which are referenced 08/00218/UD, which was closed on the 12th April 2011, as well as 11/00272/UD, which resulted in an enforcement notice being issued on the 1st August 2012. The main difference between this application and the application previously considered, referenced 13/00290/FULM, is that straw bale bunds would be provided and the operations on the site would be carried out in accordance with a management plan.

### Consultation

A collective representation to the application has been received from the occupants of Nos. 1 - 4 Bosworth Grange and Valley Farmhouse, as well as individual responses from the occupants of Nos. 1 and 3 Bosworth Grange objecting to the application along with an objection from Snarestone Parish Council. Measham Parish Council has no objections, subject to the public footpath being maintained, and all other statutory consultees have no objections.

### Planning Policy

It is considered that the development would accord with all relevant policies of the North West Leicestershire Local Plan, the general principles of the National Planning Policy Framework (NPPF) as well as Circular 06/05 and relevant supplementary planning guidance.

### Conclusion

The site is located within the countryside and the use would be considered one which would fall within the leisure and recreational sector of Policy S3, as such the principle of the development would be accepted. Although the site is detached from Measham it is considered that the guidance contained within Paragraph 28 of the NPPF would offer support to the development proposal which would be one which could not be located within an urban environment due to the operations undertaken. It is also considered that the development would not conflict with the principles of Policies L2 and L3 of the Local Plan, given the amount of land which would be required to undertake the use as well as the placement of built structures in close proximity to mature vegetation on the site which borders the public footpath to reduce their visual impact.

In the circumstances that the Councils Environmental Protection team are satisfied with the operational noise assessments submitted in support of the application, as well as the management plan, and that these would satisfactorily mitigate the overall noise impacts on neighbouring properties it is considered that subject to appropriate conditions on any consent the proposal would not have a significantly detrimental noise impact on neighbours and as such would accord with the principles of Paragraph 123 of the NPPF and Policy E3 of the Local Plan.

Given the fact that the operations undertaken on the site have altered the appearance of the landscape in this particular area, coupled with the fact that the Minorca Opencast and Hansons Brickworks also exist within the surrounding area, it is considered that the proposal would not

have an adverse impact on the visual appearance of the landscape or character of the rural environment. The buildings on site are also situated in close proximity to mature vegetation in order to reduce their visual impact and the straw bales provided to mitigate the level of noise generated from the site would also not appear 'out of place' in a rural environment. In these circumstances the development would accord with the principles of Paragraphs 61 and 75 of the NPPF as well as Policies E4 and F1 of the Local Plan.

The County Council Highways Authority and County Council Footpaths Officer consider that the development would not have an adverse impact on the safe usage of both the highway and rights of way, subject to the imposition of relevant conditions to improve the existing access, and as such it is considered that the development would not cause significant conflict with Paragraphs 32 and 75 of the NPPF as well as Policies T3 and T8 of the Local Plan.

In the circumstances that the County Council Ecologist and Natural England raise no objections to the proposed use, following the receipt of the revised great crested newts survey, it is considered that the proposal would not cause significant conflict with Paragraph 118 of the NPPF and Circular 06/05. 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 features of the River Mease SAC, or any other features of special scientific interest of the River Mease SSSI which would ensure compliance with Paragraph 118 of the NPPF; the 2010 Habitats Regulations and Circular 06/05.

Existing landscaping would be retained on the site which would ensure compliance with Policies E2, E7, F1, F2 and F3 of the Local Plan. The provision of notices along the transport corridor advising that military vehicles utilise the route will also not prejudice the safe movement of pedestrians, cyclists or horse riders and as such the development would not conflict with Policy T14 of the Local Plan. It is also considered that the level of noise generated would not result in a significant impact on the 'tranquillity' of the Ashby Canal, given the other noisy uses the canal would bypass, as well as the fact that the use of the site would not prejudice the re-opening of this waterway. In these circumstances the development would not conflict with Policy T16 of the Local Plan. It is therefore recommended that the application be permitted.

**RECOMMENDATION - PERMIT, subject to receipt of no contrary observations from the County Council Ecologist and Natural England, 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.**

## MAIN REPORT

### 1. Background and Proposal

Planning permission is sought for the operational use of military and civilian "off-road vehicles" (including tanks, armoured fighting vehicles, heavy duty vehicles and off-road 4x4s) along with provision of 3.0 metre high straw bunds (revised scheme) at Measham Lodge Farm, Gallows Lane, Measham. The site in question is situated on the south-eastern side of Gallows Lane on the opposite side of the road to Measham Lodge Farm and has a vehicular access direct from Gallows Lane. The site lies outside the defined limits to development in the North West Leicestershire Local Plan with the surrounding area being predominately rural although residential properties do exist within the vicinity of the site. Public footpath P85 also runs through the application site.

Members may recall that a previous application for the retention of the use, referenced 13/00290/FULM, was refused at the Planning Committee meeting of the 12th November 2013 as it was considered contrary to Paragraph 123 of the NPPF and Policy E3 of the Local Plan, due the noise impacts on neighbours, as well as Paragraph 118 of the NPPF and Circular 06/05, due to insufficient ecological information being provided to assess the impacts on Great Crested Newts.

The application proposes that an area of 2.2 hectares would be used for the operational use of military and civilian "off road vehicles" which would include tanks, armoured fighting vehicles and off-road 4 x 4's. It is indicated in the supporting information that the experience offered is *"a realistic soldier experience riding/driving military vehicles with instructions on military driving for groups, parties, individuals and youngsters using 'mini-tanks;' combat fatigues and helmets provided, camouflage cream applied; detailed briefing including Health & Safety followed by syndicate grouping with army training on a variety of vehicles, mess tins and army style food and tea provided."* The original use of the site commenced in 2008 with two enforcement investigations being carried out in relation to the unauthorised use of the land which are referenced 08/00218/UD, which was closed on the 12th April 2011, as well as 11/00272/UD, which resulted in an enforcement notice being issued on the 1st August 2012.

Four portable buildings which have dimensions of 10.0 metres by 3.0 metres, one of which contains the toilet block, are also situated on the land and would be used in connection with the continuation of the use.

In order to address the refusal of the previous application the application now proposes that 3.0 metre high straw bunds would be provided on a 126.0 metre section of the south-eastern boundary as well as a 52.0 metre section of the eastern boundary. A management plan is also provided specifying the hours of operation as well as various works which would be undertaken on the site to reduce the noise output (i.e. one vehicle in operation on the site at any one time, exhausts being repositioned and through checks being undertaken on the vehicles).

A design and access statement, phase 1 habitat survey, operational noise assessment and statement assessing the impacts of the development on the integrity of the River Mease Special Area of Conservation (SAC) have also been submitted in support of the application.

Following the receipt of the comments of the County Council Ecologist, Natural England and the Council's Environmental Protection Team an additional Great Crested Newts survey and revised management plan have been received with revised consultation being undertaken with the interested bodies.



A previous application for planning permission 95/0507/P for the re-excavation and watering of canal was approved on the 23rd August 1995.

## 2. Publicity

Neighbours have been notified (Date of last notification 11 June 2014)

Site Notice displayed 1 May 2014

Press Notice published 16 April 2014

## 3. Consultations

Measham Parish Council consulted 9 April 2014

County Highway Authority consulted 11 April 2014

Environment Agency consulted 11 April 2014

Severn Trent Water Limited consulted 11 April 2014

Head of Environmental Protection consulted 11 April 2014

Natural England consulted 11 April 2014

Abby Archer Clerk To Snarestone Parish Council consulted 9 June 2014

County Archaeologist consulted 11 April 2014

LCC ecology consulted 11 April 2014

LCC/Footpaths consulted 11 April 2014

LCC/Footpaths consulted 11 April 2014

LCC ecology consulted 29 May 2014

Natural England consulted 29 May 2014

Head of Environmental Protection consulted 29 May 2014

Head of Environmental Protection consulted 1 May 2014

## 4. Summary of Representations Received

The following summary of representations is provided. Members will note that full copies of correspondence received are available on the planning file.

**Ashby Canal Association** no representation received to date. Any comments received to be reported on the Committee Update Sheet.

**Environment Agency** has no objections subject to relevant notes to the applicant being attached to any decision granted.

**Leicestershire County Council - Ashby Canal** no representation received to date. Any comments received to be reported on the Committee Update Sheet.

**Leicestershire County Council - Ecology** object to the application as the phase 1 habitat survey submitted is the same as that previously considered under application reference 13/00290/FULM. Following reconsultation the County Council Ecologist has no objections, due to the historic use of the site, subject to the imposition of a condition on any consent to mitigate against any potential impacts on Great Crested Newts.

**Leicestershire County Council - Highways** outlines that the Local Authority should consider their response to application reference 13/00290/FULM where no objections were raised subject to appropriate conditions being imposed on any consent granted.

**Leicestershire County Council - Rights of Way** has no objections due to works being undertaken to ensure the safety of pedestrians utilising the public footpath (P85).

**Measham Parish Council** has no objections subject to the development not impacting negatively on public footpath P85 as well as the operation of the business being conducted in strict accordance with the management plan.

**Natural England** in the circumstances that the phase 1 habitat survey submitted is the same as that previously considered under application reference 13/00290/FULM, Natural England object to the application on the basis that the impacts on Great Crested Newts has not been satisfactorily addressed. Following reconsultation Natural England has no objections, due to the historical use of the site, subject to relevant conditions being imposed on any consent granted to deal with pollution to the River Mease SAC and SSSI as well as the mitigation of potential impacts on Great Crested Newts.

**NWLDC - Environmental Protection** initially identified that the management plan supplied needed to amend the hours of operation as well as provide information on how the straw bunds would be maintained. Following a discussion with the applicant, and receipt of a revised management plan, the Council's Environmental Protection team have no objections subject to relevant conditions to restrict the hours of operation as well as to ensure that the business operates in accordance with the management plan provided. Should a statutory noise nuisance be established by the business whilst operating in compliance with the management plan then Environmental Protection will be able to take action in accordance with their own legislation.

**NWLDC - Cultural Services Officer** has no objections subject to the public footpath (P85) being unaffected by the operation of the site as well as the placement of the straw bunds.

**Severn Trent Water** has no objections subject to the imposition of a drainage condition on any consent granted.

**Snarestone Parish Council** objects to the application on the basis of noise pollution to the area.

### **Third Party Representations**

A collective representation to the application has been received from the occupants of Nos. 1 - 4 Bosworth Grange and Valley Farmhouse, as well as individual responses from the occupants of Nos. 1 and 3 Bosworth Grange, objecting to the application on the following grounds: -

- *The straw wall/bunds will make no difference to the level of noise emitted from the site in view of the topography of the land which slopes towards the properties at Bosworth Grange;*
- *The noise assessments undertaken were totally unrepresentative as they did not run the vehicles in the same manner as when paid customers utilise the vehicles or the audible noise caused by customers;*
- *The business will not be viable unless it operates on a Saturday and Sunday and as such this will have a greater impact on the amenities of neighbours;*
- *Bunds will be ineffective due to the topography of the site as well as the presence of a gap along the eastern boundary;*
- *Cumulative noise from the operations of Minorca, Tank Mania and the works on the Ashby Canal will result in significant detriment to the amenities of the occupants of Bosworth Grange;*
- *Change in the direction of the exhaust pipe will result in more noise being emitted from*

- the vehicles;*
- *Use of windsock would not be sufficient in controlling where operations would be undertaken on the site given that the wind direction can change all the time which would restrict operations at certain points during their progress;*
- *A Supreme Court Judgement regarding a motor racing development (Fenland Tigers Coventry v Lawrence) outlined that noise nuisance should be defined by the increase over background levels rather than noise readings (LAeq1hr) where an intermittent noise is spread out over a long period thereby diluting its effect and Bosworth Grange would be considered an area of natural tranquillity given the levels of background noise;*
- *The ecological survey provided is inadequate and does not address the concerns previously raised;*
- *Operation of Tankmania will result in impacts on the Public Footpath (P85) and it will not be safe for relevant users of the right of way;*
- *The business would not be considered 'unique' given that other experiences are available throughout the country and another one is based in Leicestershire;*
- *The business would not be sustainable given the poor ratings outlined on the 'Tripadvisor' website;*
- *The prepared report does not specify the correct route of the Ashby Canal and as such does not consider the impacts on the canal properly;*
- *Development will impact negatively on the rural environment and streetscape;*
- *Bird nests are evident on the site and the relevant habitat survey submitted is incorrect in specifying that no nests are present;*
- *Noise report was carried out as an academic exercise and as such cannot be relied upon in the assessment of the application;*
- *Incorrect information is stated on when Tankmania became established;*

A petition of 554 signatories in support of the application has also been received.

## 5. Relevant Planning Policy

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

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;

Paragraph 7 indicates that the planning system needs to perform a number of roles which include, amongst others, an economic role which means contributing to building a strong,

## PLANNING APPLICATIONS- SECTION A

responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

Paragraph 17 indicates that in decision making planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings as well as take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;

Paragraph 18 indicates that the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths;

Paragraph 19 outlines that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system;

Paragraph 28 outlines that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should, amongst other things:

- Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;
- Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres;

Paragraph 32 outlines that 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;

Paragraph 61 outlines 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, 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;

Paragraph 75 outlines that planning policies should protect and enhance public rights of way

and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails;

Paragraph 118 outlines that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying particular principles;

Paragraph 123 indicates that planning policies and decisions should aim to, amongst other things:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established;
- Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason;

Paragraph 187 identifies that Local Planning Authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area;

Paragraph 203 indicates that 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;

Paragraph 206 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable precise and reasonable in all other respects;

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

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 requires new development to respect the character of its surroundings;

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 F3 seeks to secure implementation of agreed landscaping and planting schemes for new development by the imposition of planning conditions and/or the negotiation of a planning agreement;

Policy T3 requires development to make adequate provision for vehicular access, 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 T14 presumes against development which would be likely to impair the continuity of disused railway lines, which have potential for re-use as transport corridors, including pedestrian footpaths, bridleways and cycle routes and informal recreation corridors;

Policy T16 presumes against development which would prejudice the re-opening of Ashby Canal. It also provides that, in the event of the canal being reopened, development outside Limits to Development will only be permitted where it is strictly ancillary to the use of the canal as a navigable waterway;

Policy L2 provides that in cases where it can be demonstrated that a rural location is necessary, and subject to Policy L3 below, planning permission will be granted for informal recreation facilities, and land extensive recreational uses whether formal or informal, on the fringes of built up areas and elsewhere outside the defined Limits to Development;

Policy L3 sets out the criteria for determining applications for development on recreational sites outside Limits to Development;

### **Submission Version Core Strategy**

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

### **Other Guidance**

#### **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;

**National Planning Practice Guidance**

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The Guidance does not change national policy but offers practical guidance as to how such policy is to be applied.

**6. Assessment**

**Principle of Development**

The site is located within the countryside and, as such, permission for new development would not normally be granted unless it is for certain uses as set out in Policy S3 of the adopted North West Leicestershire Local Plan. The proposed use of the land for the 'operational use of military and civilian off-road vehicles' would be considered to be a form of leisure or recreational development and as such would accord with the criteria of acceptable development under Policy S3.

The site lies 1440 metres to the south-east of the settlement of Measham and there are no bus stops close to the site, although a frequent bus service would be available in Measham, and no public footways along Gallows Lane. As a result those travelling to and working at the site are likely to be heavy reliant on the private car.

However Paragraph 28 of the NPPF advocates the importance of supporting *"sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors,"* particularly where these needs are *"not met by existing facilities in rural service centres."* The continued use of the site for the proposed purposes would not be an appropriate fit within a built environment, given the amount of land required for the use as well as potential relationships with residential properties, and in the circumstances that the development would provide local employment, diversify the rural recreational and leisure economy and users/employees of the business could still access services in Measham it is considered that it would constitute a sustainable form of development which would not conflict with the core principles of the NPPF. Furthermore, regardless of its location, people are still likely to visit the site predominately by car given the fact that the land use would be best suited to a rural location.

In terms of Policies L2 and L3 of the Local Plan it is considered that a rural location would be necessary for the pursuit of this type of recreation/leisure use given the amount of land which would be required to carry out the functions of the business as well as the fact that the use would not be easily adapted into a built environment. It is also considered that the retention of portable buildings on the site would be ancillary to the recreational/leisure use carried out. In terms of criteria (b) and (c) of Policy L3 it is considered that the portable buildings are located next to an area of dense vegetation with borders public footpath P85 and whilst they are presently white two have been painted green and black, camouflage colours, in order to assist in 'assimilating' the development into a rural environment. It is considered that a planning condition could secure the painting of the remaining two portable buildings and in the circumstances that the site is bordered by dense mature vegetation it is considered that the

retention of these structures would not have a sufficiently adverse impact on the rural environment. Public footpath P85 also runs through a dense vegetation corridor adjacent to these structures and although some views would be established it is considered that no substantial views beyond or within the site would be impacted on due to the present boundary treatments and the overall scale of these structures. As such the proposals would not substantially conflict with the principles of Policies L2 and L3 of the Local Plan.

### Residential Amenity

The nearest residential properties to the site, bar Measham Lodge Farm where the military and civilian off-road vehicles are stored, are those at Bosworth Grange which lie 225 metres to the south-east of the site and Coronet House, Gallows Lane which lies 610 metres to the south-west of the site.

Given the nature of the proposal, and the scale of the retained portable buildings, there would be no adverse overbearing, overshadowing or overlooking impacts on the amenities of neighbours with the main concerns relating to noise. It is considered that the retention of the use would provide economic benefits to the District and would promote the leisure and recreational uses advertised by the National Forest. The activity offered would also be unusual, given that only 10 other experiences of its type exist within the country (with one being based at Lutterworth, Leicestershire called Armouredgeddon), and is subject to substantial interest from television companies and as such this economic benefit would need to be weighed against the harm caused by the noise generated when the activity is operational.

In reviewing the findings of the operational noise assessment submitted in support of previous application reference 13/00290/FULM the Council's Environmental Protection team outlined that *"a modelling assessment to show the barrier calculations for all areas of the site so as to achieve a level of 50dBA 16hour LAeq in the rear gardens of Bosworth Grange."* Should be provided and that *"this assessment must not include background noise associated with Minorca or the Sunday Market."* The hours of operation of the use were to be restricted on the basis of the operations of Minorca and only one tank would be operational on the site at one time. The findings of the revised assessment concluded that *"the potential 3m bund/barrier located to the south of the eastern turning loop would reduce noise levels from armoured vehicles movements by up to 0.8 dB in garden areas of properties at Bosworth Grange. The potential bund/barrier located along the southern boundary of the site would reduce noise levels by up to 0.7 dB. If both bunds/barriers were installed, noise levels could be reduced by up to 1.6 dB."* These revised findings were considered to accord with World Health Organisation Guidelines on Community Noise and were therefore deemed acceptable subject to the other matters raised being addressed. Given the changes that were required to the application, i.e. to provide bunds, a decision to refuse application reference 13/00290/FULM was made.

The objections raised to the current application have critically evaluated the operational noise assessment provided, which is the same as that originally provided (dated July 2013), which have raised concerns over the findings, as a result of this the Council's Environmental Protection team were consulted to provide advice on the suitability of the development. As part of the application, the applicant has also submitted a management plan which identifies that the hours of operation would be 10:00 - 19:00 Monday to Friday, 10:00 - 17:00 Saturday and 10:00 - 16:00 Sunday (no operations would be carried out on Bank Holidays), a wind sock would be provided on the site to obtain wind direction and should this wind be towards Bosworth Grange then only part of the 'lower' course can be used, only one tank would be utilised on the site and the exhausts would be repositioned so it points downwards.



In commenting on the submitted management plan the Council's Environmental Protection team raised concerns that it had not taken into account the current Minorca planning application, and its associated hours of operation, as well as the fact that it did not include information on how the straw bund would be maintained. It was also concluded that any planning permission granted would not preclude the use causing a statutory noise nuisance under the Environmental Protection Act 1990 to neighbouring properties and should this occur the only option would be for the use to cease.

Following a meeting with the applicant and the Council's Environmental Protection team, a revised management plan has been received which specifies that the hours of operation would now be 10:00 - 18:00 Monday to Friday, 10:00 - 16:00 Saturday and 10:00 - 16:00 Sunday (no operations would be carried out on Bank Holidays), with the straw bund being checked on a monthly basis, every two weeks in adverse weather, and any defects being repaired expediently to ensure that its mitigation properties are not diminished. The Council's Environmental Protection team have no objections to this revised management plan subject to a relevant condition being imposed on any consent to ensure the development operates in accordance with the management plan. It is again, however, concluded that any planning permission granted would not preclude the use causing a statutory noise nuisance under the Environmental Protection Act 1990 to neighbouring properties and should this occur the only option would be for the use to cease.

Although acknowledging that the use would operate on hours and days outside of those of the Minorca development, as well as those associated with the construction of the Ashby Canal, the Council's Environmental Protection team is satisfied that the mitigation measures proposed and hours of operation specified would not result in a significantly detrimental impact on the amenities of neighbouring properties to justify a refusal of the application, taken individually and cumulatively. Should the use also be conducted in accordance with the recommendations of the management plan then it is believed that it would not constitute a statutory noise nuisance. Should the site not operate in accordance with the management plan, and it is ascertained that it constitutes a statutory noise nuisance, then relevant action can be taken under the Environmental Protection Act 1990 with the likely conclusion being that the operations cease as all other mitigation measures have been exhausted.

It is considered that the hours of operation could be conditioned accordingly and the management plan would also be conditioned as the precise measures which the Environmental Protection team wished to be controlled, i.e. one tank operating at a time and maintenance of the straw bund, are considered enforceable. Although not necessary to ensure the suitability of the development the Council's Environmental Protection team have considered that the provision of an additional bund between the existing cabins and the north-eastern boundary of the site, to the north-west boundary of the public footpath, would further reduce the noise emitted towards Bosworth Grange and as such a condition would be imposed on any consent to ensure that this bund is provided and which would further placate the concerns of the residents of Bosworth Grange.

With regards to the area around Bosworth Grange being an area of 'tranquillity' it is considered that the NPPF indicates that decisions should *"aim to protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason."* It is considered that the area around Bosworth Grange and the south-eastern edge of Measham have been subjected to noise by virtue of the operations of the Minorca opencast mining operation and presence of the Hansons brickworks, with the commencement of development on the Ashby Canal also generating noise. Although the noises associated with

the construction of the Ashby Canal and Minorca may be temporary, albeit still likely to be occurring in five to seven years time, it is difficult to argue that that the area has remained 'relatively undisturbed by noise.' given that the brickworks would continue to operate after the cessation of the other two operations. Although the site also falls within the National Forest it is considered that the area in which the use would be situated would not be considered 'prized for its recreational and amenity value' in the same way that National Parks within the United Kingdom are designated given that the Tranquillity Map for Leicestershire, produced by the Campaign for Rural England (CPRE) in 2007, would suggest that the areas of the National Forest within Leicestershire are not particularly tranquil places. It is also noted that the area around Bosworth Grange is not recognised as an Area of Particular Attractive Countryside (as defined by Policy E22 on the North West Leicestershire Proposals Map) which are areas of the District which might exhibit the qualities considered to contribute to the 'tranquillity' of a place with the Tranquillity Map of Leicestershire by CPRE also suggesting that the area to the south-east of Measham, where Bosworth Grange would be situated, would be scaled as mid-to-least tranquil with the most tranquil areas lying to the south of Newton Burgoland and to the north of Sweptstone. In these circumstances it is considered that the area would not be considered an area of natural tranquillity and as such a refusal of the application on this basis could not be justified in this particular instance.

Overall, therefore, whilst officers are sympathetic to the concerns raised by the residents of Bosworth Grange in respect of noise it is considered that the mitigation measures undertaken have resulted in the noise impacts being reduced to a level which would not impact adversely on the occupants amenities to an extent which would justify a refusal. In these circumstances support is given to a use which would be economically beneficial to the District as a whole as it would not cause significant conflict with Paragraph 123 of the NPPF and Policy E3 of the Local Plan.

### **Impact on the Rural Environment and Streetscape**

The unauthorised use has been conducted from the site since at least 2008 and as a result the landscape has been altered by the continued activity of tanks driving around a set course. Although the landscape has been impacted upon by this activity, it is considered that its general condition would not be to the overall detriment of the rural character of the surrounding area given the operations undertaken on land within the vicinity of the site such as the Minorca Open Cast Mining site, to the north, and the Hansons brickworks to the south-west. The mature vegetation which exists to the boundaries of the site would also assist in screening the land from the streetscape and as such it would not be substantially prominent from this domain. Although public footpath P85 runs through the site it is noted that it is bordered by mature vegetation, on both sides, which would negate substantial views of the landform by users. In any case the landform would not restrict views out of the site to prominent landforms or features and as such the enjoyment of the footpath by its users would not be compromised significantly to justify a reason for refusal of the application.

As considered within the 'Principle of Development' section of the report the retention of the portable buildings on the site would not have a sufficiently detrimental impact on the character and appearance of the wider landscape or streetscape particularly in the circumstances that a planning condition could be attached to any consent ensuring that the buildings are painted green and black in order to assimilate the buildings into the rural environment. Any views established from public footpath P85 would also not be adversely impacted on by virtue of them not restricting views beyond the site given the structure's scales. The provision of the straw bunds would also not have a significantly adverse visual impact on the rural environment given that it would not be uncommon to see straw bails on agricultural land and there would be less

visual harm from this method of noise attenuation than others (i.e. acoustic fencing).

On this basis the development would not conflict with Paragraphs 61 and 75 of the NPPF or Policies E4 and F1 of the Local Plan.

### **Highway and Rights of Way Safety**

The County Council Highways Authority and County Rights of Way Officer have no objections to the development.

The applicant has indicated to the County Highways Authority that any vehicles utilising the public highway are road legal, drivers have good visibility, road crossings are done under supervision, mud is swept on a daily basis and the vehicles are fitted with rubber tracks to avoid damage to the road. On the basis of this information the County Highways Authority are satisfied that the proposal could be made safe by virtue of improvements to the vehicular accesses and as such these works are to be conditioned accordingly to improve highway safety. In the circumstances that Paragraph 32 of the NPPF outlines that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe;*" it is considered that the improvements to the vehicular accesses would ensure that the safety of road users was preserved in accordance with Policy T3 of the Local Plan.

It has also been requested, by the County Highways Authority, that a condition requiring a surfaced car park for 15 vehicles is provided to prevent on-street parking issues and the imposition of this condition would ensure that the development accords with Policy T8 of the Local Plan.

The County Council Rights of Way Officer indicated, in the consideration of previous application reference 13/00290/FULM, that various works needed to be undertaken to ensure the safe usage of public footpath P85 and following a site meeting with the applicants on the 23rd May 2013 these works have been undertaken and subsequently maintained. In the circumstances that these works have been carried out it is considered that the public footpath can be safely used which would ensure compliance with Paragraph 75 of the NPPF.

### **Ecology**

The County Council Ecologist and Natural England originally maintained an objection to the application on the basis that the Phase 1 Habitat Survey submitted does not adequately address the impacts on Great Crested Newts. A Great Crested Newts survey report has been submitted in support of the application and this has concluded that this protected species is absent from the site with the habitat suitability index for ponds being relatively low which indicates a poor potential for the presence of Great Crested Newts.

The County Council Ecologist and Natural England have raised no objections to the revised report received, subject to the mitigation measures suggested in the report being conditioned accordingly, and as such the proposal would not cause significant conflict with Paragraph 118 of the NPPF or Circular 06/05. Although the original phase 1 habitat survey submitted outlined that no avian nests were present on the site, which has subsequently been disputed by objectors, it is considered that the County Council Ecologist and Natural England have raised no objections in this particular regard, and who would have knowledge of the site, and as such the scheme would still accord with the aforementioned Policies.

**Impact on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (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 Paragraph 118 of 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 sewerage 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 Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water in the river are met by potential developers. The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

The application indicates that foul drainage would be dealt with via a sealed tank beneath the toilet block which would be emptied approximately once a month, although the applicant has identified that this tank has only been emptied once in the last three years. A sealed tank would hold all the effluent from the toilet block and would not discharge into the ground. The sealed tank would need to be emptied regularly, although this would be dependent on the amount of overall usage of the site, with the effluent being taken to a sewerage treatment works. Severn Trent Water has confirmed that none of the Severn Trent Water treatment works in the SAC accept waste from licensed waste collectors and this arrangement will continue in perpetuity. The management of the non-mains drainage would also be dealt with by the Environment Agency as the 'competent authority' under the Environmental Permit system although any failures of the system would not result in detriment to the integrity of the River Mease SAC given that it is more than 100 metres from the river and as such any effluent would be sufficiently diluted by this time.

Surface water run-off from the site would continue as existing and given the distance to the River Mease SAC (200 metres) it is considered that surface water run-off would have no adverse impacts on its integrity although notes to the applicant would be attached to any consent to make them aware of the requirements of the Environment Agency and the condition suggested by Natural England to control pollutants from the vehicles would also be imposed to limit the implications of this type of run-off contaminating the surface water run-off. Whilst an environmental permit would be required for the storage of fully depolluted and un-depolluted vehicles on the site there is nothing to suggest that a permit would not be issued and the Environment Agency would be responsible, as part of the issuing of the permit, to ensure that the integrity of the River Mease SAC would be preserved.

Overall it can be ascertained that the continuation of the use on the site 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 site is situated within the National Forest and in the circumstances that the existing mature landscaping on the site would be maintained as part of the development proposals it is considered that the retention of the use would not conflict with the principles of Policies E2, E7, F1, F2 or F3 of the Local Plan. Additional landscaping on the site could be conditioned on any consent should it be deemed necessary.

It is noted that the access track into the site runs along a route which has the potential to be re-used as a transport corridor, including pedestrian footpaths, bridleways and cycle routes and informal recreation corridors, however it is considered that the retention of the activity would not prejudice the potential use of the track by pedestrians, cyclists or horse riders in the circumstances that suitable notices have been installed along the route to make people aware of the movement of military vehicles along the route. As such the development would not substantially conflict with Policy T14 of the Local Plan.

The route of Ashby Canal, bypassing the Tank Mania site, will run relatively parallel with Bosworth Road and as such the route will not be impacted on by the siting of Tank Mania, on the basis of the red line site location plan submitted in support of the application. In these circumstances the proposal would not prejudice the re-opening of the Ashby Canal. In terms of the noise of the use impacting on the 'tranquillity' of the canal it is considered that the measures undertaken to reduce noise, as outlined in the submitted management plan, would not result in sufficiently detrimental impacts on the canal as a whole due to the extent of the canal which passes the Tank Mania site and the noise emitted by other uses that the canal would bypass (i.e. the Hansons brickworks). In these circumstances there would not be a significant conflict with Policy T16 of the Local Plan.

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

The site is located within the countryside and the use would be considered one which would fall within the leisure and recreational sector of Policy S3, as such the principle of the development would be accepted. Although the site is detached from Measham it is considered that the guidance contained within Paragraph 28 of the NPPF would offer support to the development proposal which would be one which could not be located within an urban environment due to the operations undertaken. It is also considered that the development would not conflict with the principles of Policies L2 and L3 of the Local Plan, given the amount of land which would be required to undertake the use as well as the placement of built structures in close proximity to mature vegetation on the site which borders the public footpath which would reduce their visual impact.

In the circumstances that the Councils Environmental Protection team are satisfied with the operational noise assessments submitted in support of the application, as well as the management plan, and that these would satisfactorily mitigate the overall noise impacts on neighbouring properties it is considered that subject to appropriate conditions on any consent the proposal would not have a significantly detrimental noise impact on neighbours and as such would accord with the principles of Paragraph 123 of the NPPF and Policy E3 of the Local Plan.

Given the fact that the operations undertaken on the site have altered the appearance of the landscape in this particular area, coupled with the fact that the Minorca Opencast and Hansons

Brickworks also exist within the surrounding area, it is considered that the proposal would not have an adverse impact on the visual appearance of the landscape or character of the rural environment. The buildings on site are also situated in close proximity to mature vegetation in order to reduce their visual impact and the straw bales provided to mitigate the level of noise generated from the site would also not appear 'out of place' in a rural environment. In these circumstances the development would accord with the principles of Paragraphs 61 and 75 of the NPPF as well as Policies E4 and F1 of the Local Plan.

The County Council Highways Authority and County Council Footpaths Officer consider that the development would not have an adverse impact on the safe usage of both the highway and rights of way, subject to the imposition of relevant conditions to improve the existing access, and as such it is considered that the development would not cause significant conflict with Paragraphs 32 and 75 of the NPPF as well as Policies T3 and T8 of the Local Plan.

In the circumstances that the County Council Ecologist and Natural England raise no objections to the proposed use, following the receipt of the revised great crested newts survey, it is considered that the proposal would not cause significant conflict with Paragraph 118 of the NPPF and Circular 06/05. 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 features of the River Mease SAC, or any other features of special scientific interest of the River Mease SSSI which would ensure compliance with Paragraph 118 of the NPPF; the 2010 Habitats Regulations and Circular 06/05.

Existing landscaping would be retained on the site which would ensure compliance with Policies E2, E7, F1, F2 and F3 of the Local Plan. The provision of notices along the transport corridor advising that military vehicles utilise the route will also not prejudice the safe movement of pedestrians, cyclists or horse riders and as such the development would not conflict with Policy T14 of the Local Plan. It is also considered that the level of noise generated would not result in a significant impact on the 'tranquillity' of the Ashby Canal, given the other noisy uses the canal would bypass, as well as the fact that the use of the site would not prejudice the re-opening of this waterway. In these circumstances the development would not conflict with Policy T16 of the Local Plan. It is therefore recommended that the application be permitted.

**RECOMMENDATION - PERMIT, subject to 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 development shall be carried out in strict accordance with the Site/Location Plan (1:2500), received by the Local Authority on the 4th April 2014, unless otherwise required by another condition of this permission.

*Reason - for the avoidance of doubt and to determine the scope of the permission.*

- 3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order) the land identified on the Site/Location Plan (1:2500), received by the Local Authority on the 4th April 2014, shall only be used for the operation of military and civilian "off road vehicles" (including tanks,

PLANNING APPLICATIONS- SECTION A

armoured fighting vehicles and off-road 4x4's) in connection with the leisure function operated from the site and for no other purpose whatsoever.

*Reason - other uses would be harmful to the amenities of the area.*

- 4 The use, hereby permitted, shall only operate between the hours of 10:00 - 18:00 Monday to Friday, 10:00 - 16:00 on Saturday and 10:00 - 16:00 on Sunday with no operations on Bank Holidays.

*Reason - in the interests of preserving the amenities of neighbouring residential properties.*

- 5 The use of the site shall be carried out in strict accordance with the specifications outlined in the Tank Mania Management Plan of 2014 (and revised on 15th May 2014), received by the Local Authority on the 15th May 2014, unless an alternative Management Plan is first submitted to and agreed in writing by the Local Planning Authority. Should an alternative Management Plan be agreed then the use of the site shall be carried out in strict accordance with its specifications.

*Reasons - in the interests of preserving the amenities of neighbouring residential properties.*

- 6 Unless within three months of the date of this decision the three cabins and toilet block on the site, as identified on the Site/Location plan (1:2500), received by the Local Authority on the 4th April 2014, have been painted in 'camouflage' colours (dark green and black) the use of the site for the operation of military and civilian "off-road vehicles" (including tanks, armoured fighting vehicles and off-road 4x4's) shall cease until such time as the cabins are painted.

*Reasons - to reduce the impacts of the development on the visual amenities of the surrounding environment.*

- 7 The development hereby approved shall only use a sealed tank within the toilet block as identified on the Site/Location plan (1:2500), received by the Local Authority on the 4th April 2014, for its foul drainage discharge.

*Reason - any other means of dealing with foul discharge could have an adverse impact on the River Mease Special Area of Conservation.*

- 8 The means of drainage for surface water run-off from the structures shall be provided in strict accordance with that detailed within the 'River Mease Impact Statement,' received by the Local Authority on the 4th April 2014, which shall provide for a non-mains scheme. The development shall be undertaken in accordance with the approved scheme and once provided the drainage scheme shall be retained at all times as per the approved scheme unless otherwise agreed in writing by the District Council.

*Reason - to ensure that the development, either alone or in combination, would not have a significant effect on the internationally important interest features of the River Mease Special Area of Conservation, or any of the features of special scientific interest of the River Mease Site of Special Scientific Interest.*

- 9 Prior to being discharged into the ground, surface water or soakaway system, all surface water run-off from the parking areas and routes taken by the military vehicles shall be passed through an oil/petrol interceptor and silt trap designed and constructed to have a capacity and details compatible with the areas of the site being drained.

*Reason - to prevent pollution of the water environment.*

- 10 Unless within five months of the date of this decision a scheme of access improvements to the access on the east side of Gallows Lane have been implemented comprising of the following works: -
- Widening to a minimum of 4.25 metres wide for at least the first 15.0 metres behind the highway boundary;
  - 6.0 metre kerb radii on both sides;
  - Surfacing with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 15.0 metres behind the highway boundary;
  - Removal of the existing gates, any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be set back a minimum distance of 15.0 metres behind the highway boundary and shall be hung so as to open inwards only; with the access once provided, thereafter being permanently maintained, the use of the site for the operation of military and civilian "off road vehicles" (including tanks, armoured fighting vehicles and off-road 4x4's) shall cease until such time as the scheme of access improvements is provided.

*Reason - to ensure that the use does not compromise highway safety or result in damage to the Public Highway.*

- 11 Unless within five months of the date of this decision a scheme of access improvements to the access on the west side of Gallows Lane have been implemented comprising of the following works: -
- Widening to a minimum of 4.25 metres wide for at least the first 15.0 metres behind the highway boundary;
  - Surfacing with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 15.0 metres behind the highway boundary;
  - Removal of the existing gates, any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be hung so as to open inwards only; with the access once provided, thereafter being permanently maintained, the use of the site for the operation of military and civilian "off road vehicles" (including tanks, armoured fighting vehicles and off-road 4x4's) shall cease until such time as the scheme of access improvements is provided.

*Reason - to ensure that the use does not compromise highway safety or result in damage to the Public Highway.*

- 12 Unless within three months of the date of this decision a plan showing details of a surfaced car park to accommodate 15 vehicles is submitted in writing to the local planning authority for approval, and unless the approved scheme is provided within one month of the local planning authority's approval and thereafter retained for visitors to the development, the use of the site for the operation of military and civilian "off road vehicles" (including tanks, armoured fighting vehicles and off-road 4x4's) shall cease until such time as a scheme is approved and implemented.



## PLANNING APPLICATIONS- SECTION A

*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.*

- 13 No external lighting or floodlighting shall be installed without the prior written approval of the Local Planning Authority.

*Reason - in the interest of the visual amenities of the locality.*

- 14 The use, hereby permitted, shall not operate until details of advisory notes to be erected for the benefit of pedestrians and drivers of military vehicles on public footpath P85, where the military vehicles would cross the route, shall be submitted to and approved by the Local Authority, in conjunction with the County Highways Authority, in writing. Once agreed the signs shall be installed in accordance with the approved details and shall thereafter be so retained.

*Reason - in the interests of the safety of users of the public footpath network.*

- 15 The development shall be carried out in strict accordance with the recommendations indicated in the Great Crested Newts survey by Wildlife Consultants Limited of the 13th May 2014 (Ref: WCL/GCN/140402), received by the Local Authority on the 15th May 2014.

*Reason - to ensure the protection and preservation of Great Crested Newts which are a protected species.*

- 16 Unless within three months of the date of this decision a plan showing the provision of an additional 3.0 metre high straw bund between the north-eastern (side) elevation of the portable cabin and north eastern boundary of the operation site (as defined by the red line on the site location plan), which shall be placed to the north-western boundary of the public footpath (P85), is submitted in writing to the local planning authority for approval, and unless the approved scheme is provided within one month of the local planning authority's approval and thereafter retained, the use of the site for the operation of military and civilian "off road vehicles" (including tanks, armoured fighting vehicles and off-road 4x4's) shall cease until such time as a scheme is approved and implemented.

*Reason - in the interests of the further preservation of residential amenities.*

### Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 A public footpath/bridleway crosses the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.
- 3 C.B.R. Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work

- shall commence on site without prior notice being given to the Highways Manager.
- 4 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.
- 5 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).
- 6 The highway boundary is the hedge fronting the premises and not the edge of the carriageway/road.
- 7 The applicant company will continue to be responsible for ensuring that free access can be exercised safely along footpath P85 at all times and that no disturbance to the surface occurs without the consent of the Highway Authority having been obtained. If it is necessary for any works to take place within the confines of the public right of way, the applicant should notify the Rights of Way Inspector for the area, Mr.S.Daniels, who can be contacted either by telephoning 0116 305 0001 or emailing [highwayscustomerservices@leics.gov.uk](mailto:highwayscustomerservices@leics.gov.uk). Any damage that may be caused to the surface of the footpath as a direct result of the activities associated with the proposed use of the land, would be the responsibility of the applicant company to repair at its own expense to the satisfaction of the Highway Authority.
- 8 The applicant company will not be entitled to erect any additional structures either of a temporary or permanent nature across the route of footpath P85 without the written consent of the Highway Authority having been obtained. Unless a structure has been authorised by the Council, it constitutes an unlawful obstruction of the right of way and the County Council would be obliged to require its immediate removal.
- 9 The Environment Agency advises that all precautions must be taken to avoid discharges and spills to the ground. For advice on pollution prevention measures, the Applicant should refer to the guidance found on the following government website <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>. Sufficient measures should be put in place to ensure any surface water on site which could contain high levels of suspended solids is prevented from entering any nearby ditches and watercourses.
- The driving activities of heavy vehicles over the land in all conditions will cause ponding and wash from standing water and mobilisation of sediment. This type of water and sediment is highly polluting to the ecology of watercourses if it reaches them. Of most concern is the River Mease SAC, which is only approximately 200m away. Although we accept that the recommendation in the ecological report by Wildlife Consultants (15 June 2013) of securely fencing the southern area of the site with a robust fence should mitigate for this issue, we suggest 'restricted area' signage being used as well. We note the 'River Mease Impact Statement' submission in respect to no direct discharges to the River Mease SAC. Although our mapping does not indicate any surface water drains from the site to the River Mease SAC, an awareness of this potential negative impact should be taken into account in the operation and surface water management of the site, which will either 'pond-up' or 'run-off' depending on topography (although no topography or surface water management/flow direction has been provided) of the site.
- It should be ensured that wide vegetated margins next to the 'tank track' routes or outer boundaries (such as fencing off the southern boundary) are maintained to filter water washed from them by vehicles or after heavy rainfall when too much water has accumulated on the tracks that needs a run-off or soakaway route. Appropriate

- vegetated buffer strips or swale/catch ditches should be dug adjacent to the tracks, allowing sediments to settle out so water infiltrates to ground. Ditches, either existing or new, that move water from the site, but are not shown on any mapping, should not be used to drain any poor quality/sediment loaded surface water towards the River Mease SAC.
- 10 The Environment Agency advises that if end of life (ELV's, scrap) vehicles are brought onto the site an Environmental Permit, issued by the Environment Agency will be required. This permit, along with associated legislation, requires that certain issues must be addressed. These would include such matters as an impermeable surface for all dismantling activities, bunded storage for waste liquids, hardstandings for the storage of all depolluted ELV's and appropriate storage for lead acid batteries. All vehicles must be de-polluted as soon as practicable after they arrive on site (1 - 2 days max). Further details of the requirements can be obtained by contacting the Environment Agency. There is an application fee for the permit and an annual subsidence charge. The site must be overseen by a technical competent manager (TCM) who is required to obtain a relevant qualification (EPOC) within 4 weeks of the permit being issued. This would then allow the TCM up to 12 months to obtain a full qualification. There is a fee for this. If after the permit has been issued it is no longer required then it would have to be formally surrendered. There is also a fee to surrender a permit. The site would also be required to register as a hazardous waste producer and if the applicant collects the end of life vehicles themselves they would have to be registered as a waste carrier. You can register both these at the Environment Agency. Please note there is a fee for this. The delivery and removal of ELV's would require consignment/transfer notes to be completed.
- 11 The Environment Agency advises that we note the additional ecological survey report and its recommendations and agree that due to the current and previous activities carried out at the site, any ecological interest there, if activities continue, will be low, although the un-disturbed grassland boundary margins, hedges and trees may provide some interest for birds, invertebrates and small mammals, as identified in the survey on the eastern side of the site, which should be maintained as a restricted/refuge area.
- 12 The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk). Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires 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. Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

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If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk).

- 13 As of April 6th April 2008 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.

PLANNING APPLICATIONS- SECTION A

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**Erection of two no. 250 KW Wind Turbines and associated infrastructure, including access track (Resubmission of Planning Application 13/00266/FUL)**

**Report Item No  
A3**

**Land Off Farm Town Lane Farm Town Coleorton**

**Application Reference  
14/00133/FUL**

**Applicant:  
Hallmark Power Ltd**

**Date Registered  
12 February 2014**

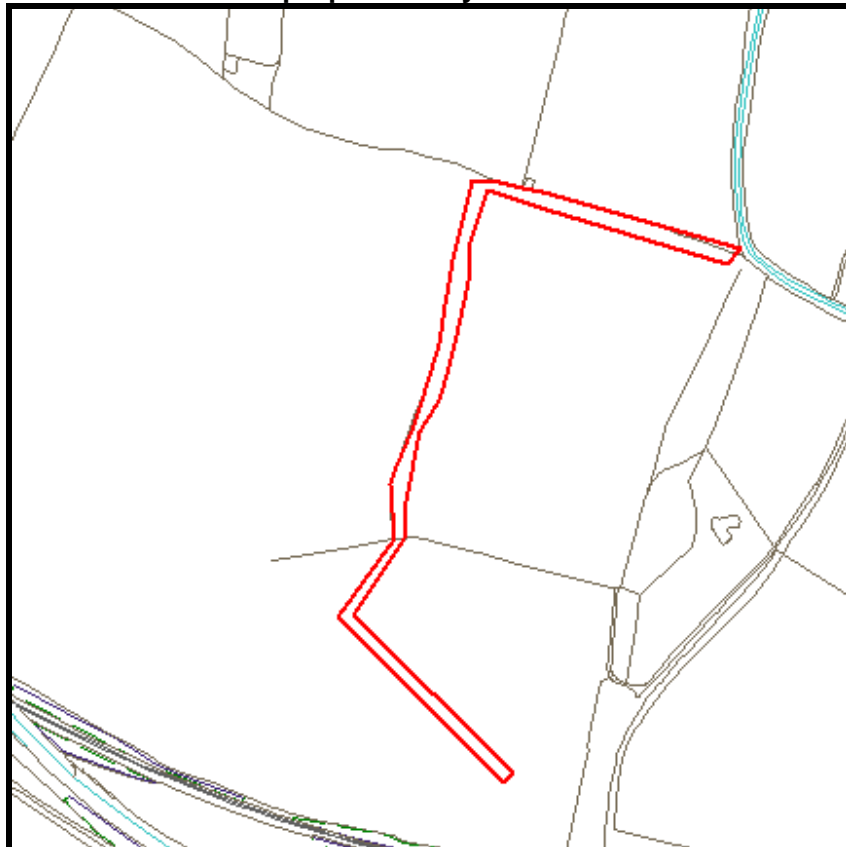
**Case Officer:  
Hannah Exley**

**Target Decision Date  
9 April 2014**

**Recommendation:  
Permit**

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**Site Location - Plan for indicative purposes only**



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

### **Call In**

This application is reported to Members on the basis that a similar proposal was previously considered by Members at the 03 December 2013 meeting of the Planning Committee.

### **Proposal**

The application proposes two no. 250kw wind turbines. The turbines are 3-blade models with a hub height of 30m and a blade diameter of 30m, giving a total maximum height of 45m. The turbine construction will require square concrete foundations, having dimensions of 8.7m to a depth of 1.5m.

An access track of permanent construction is also proposed to allow access for maintenance over a 20 year period. The track would begin at the highway (Farm Town Lane) utilising the existing gated access and upgrading an access track. Where the existing track ends, a new track would be created up to the turbines and would require the removal of a short section of existing hedgerow. The newly created access/upgraded track would be constructed of limestone hardcore that will be imported onto the site.

The two turbines would be located within a field which abuts a railway line which is routed alongside the A511. The nearest part of the field is approximately 70-80m to the south west of Farm Town.

### **Consultation**

Sixteen representations from third parties have been received objecting to the application and objections have also been received from Coloerton Parish Council and Ashby de la Zouch Town Council. All other statutory consultees have no objections.

### **Planning Policy**

The development would comply with all relevant policies of the Local Plan as well as Paragraphs 17, 98, 118, 119, 123, 131, 132, 134, 188, 189 and 215 of the NPPF; and the Habitats Regulations, Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System), River Mease Water Quality Management Plan - August 2011 and Planning for Renewable Energy: A Companion Guide to PPS 22.

### **Conclusion**

In the circumstances that the proposal would accord with the aims of Policy S3 of the Local Plan, as well as the fact that the NPPF does not explicitly prevent renewable energy proposals from being located within the countryside, it is considered that the principle of the development would be acceptable. It is considered that the landscape could accommodate two turbines without its overall character being significantly harmed. Although there would be some impact on, and change to, the landscape, the turbines would not significantly undermine or change its character or that of the National Forest and therefore on balance this impact is not so significantly detrimental to the landscape or its visual amenities to justify a reason for refusal. As such, the development would not conflict with Policy E4 of the Local Plan. In Addition, there would not be a significant effect in terms of cumulative impact due to the heights and locations of turbines, which already exist or are proposed within the surrounding area, as well as the intervening landforms and vegetation. It is also considered that the significance of the setting of the surrounding heritage assets would be preserved given the position of the turbines in relation to the heritage assets as well as the presence of built forms of development, infrastructure,

vegetation and an undulating landform.

There would also be some public benefit to the provision of the turbines by virtue of their being a renewable energy form, and the reduced farming costs to the landowner, and as such the development accords with Paragraphs 131, 132 and 134 of the NPPF. The development would not have an adverse impact on the amenities of neighbouring properties in terms of noise, vibration, shadow flicker or outlook which would ensure compliance with Paragraphs 98 and 123 of the NPPF and Policy E3 of the Local Plan. There would be no adverse impacts on pedestrian or highway safety, or aviation (subject to a Grampian condition), which would ensure compliance with Policy T3 of the Local Plan.

It is considered that the proposal will not have an adverse impact on bats, birds or other protected species or their habitats, subject to appropriate conditions, and as such the proposal would accord with Paragraphs 118 and 119 of the NPPF, the Habitats Regulations and Circular 06/05. 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 features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, due to there being no foul drainage connection and provision being made to discharge surface water run-off to permeable or porous areas within the site and as such the development would accord with Paragraph 118 of the NPPF, the 2010 Habitats Regulations and Circular 06/05.

It is considered that the wider public interest of tackling climate change by reducing carbon emissions should be taken into account and the proposal would not raise any significant concerns in relation to other material considerations, and other matters raised by third parties would not provide sufficient justification to refuse the application. It is therefore recommended that the application be permitted.

**RECOMMENDATION - APPROVE 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.**

## MAIN REPORT

### 1. Background and Proposals

This application is reported to Members on the basis that a similar proposal was previously considered by Members at the 03 December 2013 meeting of the Planning Committee under application 13/00266/FUL.

Approval is sought for two no. 250kw wind turbines and associated access track. The turbines are 3-blade models with a hub height of 30m and a blade diameter of 30m, giving a total maximum height of 45m. The turbine construction will require square concrete foundations, having dimensions of 8.7m to a depth of 1.5m.

The access track will be a permanent construction to allow access for maintenance over a 20 year period. The track would begin at the highway (Farm Town Lane) utilising the existing gated access and upgrading an access track. Where the existing track ends, a new track would be created up to the turbines and would require the removal of a short section of existing hedgerow. The newly created access/upgraded track would be constructed of limestone hardcore that will be imported onto the site.

The two turbines would be located within a field which abuts a railway line which is routed alongside the A511. The nearest part of the field is approximately 70-80m to the south west of Farm Town.

During the construction phase, the supporting information details that a temporary crane construction/equipment storage area will be required (approximately 60m by 60m) but this will be returned to agricultural use after the construction phase is complete.

The built form proposed as part of the current application is identical to that previously considered and refused by Members (under application 13/00266/FUL) for the following reasons:

*'The proposed turbines by reason of their scale, height and massing and prominent location in the landscape would have a detrimental impact on the character and appearance of the wider landscape, and as such to permit the proposal would be contrary to the aims of Paragraph 98 of the National Planning Policy Framework and Policy E4 (Design) of the North West Leicestershire Local Plan.'*

The key difference between the current and previously considered applications is that the applicant is now offering to return some of the financial profit from the development to the local community to help mitigate the impact on local residents. The application submission details that pre-application consultation was undertaken with the local community and that on the basis of the one suggestion made by the Parish Council as a result of that process, that the applicant is willing to make a financial contribution towards the repair of the boundary wall at St. Johns Chapel through a legal agreement.

As with the previous submission, the application submission was accompanied by a number of supporting documents:

- Ecological Appraisal by Avianecology (dated 13 March 2013);
- Landscape and Visual Impact Assessment by AAH Planning Consultants (dated March 2013);
- Attenuation Noise Specifications by Wind Technik Nord;
- Planning Statement including Design and Access Statement by Hallmark Power Ltd;



- Electromagnetic Interference Statement by Hallmark Power Ltd.

## 2. Publicity

Neighbours have been notified (Date of last notification 20 February 2014)

Site Notice displayed 5 March 2014

Press Notice published 26 February 2014

## 3. Consultations

Coleorton Parish Council consulted 20 February 2014  
Ashby de la Zouch Town Council consulted 11 March 2014  
Sue McGlynn Coleorton Parish Council consulted 25 February 2014  
County Highway Authority consulted 25 February 2014  
Head of Environmental Protection consulted 25 February 2014  
Natural England consulted 25 February 2014  
LCC ecology consulted 25 February 2014  
Airport Safeguarding consulted 25 February 2014  
NWLDC Conservation Officer consulted 25 February 2014  
English Heritage- major dev in CA consulted 25 February 2014  
Highways Agency- Article 15 development consulted 25 February 2014  
Ramblers' Association consulted 25 February 2014  
MOD Safeguarding consulted 25 February 2014  
National Forest Company consulted 25 February 2014  
Leicester & Rutland Wildlife Trust consulted 25 February 2014  
National Air Traffic Services consulted 25 February 2014

## 4. Summary of Representations Received

**Ashby Town Council** raises objection on the ground that the visual impact on the surrounding area is unacceptable.

**Coleorton Parish Council** raises objection on the following grounds:

Coleorton Parish Council would like to object to the above application on the following grounds:

- There is no economic argument for these wind turbines, either in relation to benefits to the local community or their overall viability without considerable publicly-funded subsidies.
- The proposed site is part of the National Forest and as such has been extensively planted recently. It is an area that attracts visitors and walkers who are unlikely to continue to use it if it contains large, unattractive wind turbines. This will be to the detriment of the local economy.
- Local wildlife has had an improved habitat with the National Forest planting, but is likely to be adversely affected by this development. The wildlife survey included with this application is the same one as presented for the earlier application and highlights its limitations in paragraph 2.3. It therefore seems impossible to quantify the effects on local habitats which should be considered in such an application.
- The access roads are narrow, winding and poorly maintained. They are not suitable for the movement of heavy machinery as would be required for this development. Local residents do not want to see roads upgraded as this would detract from the rural location.
- Noise levels will adversely affect residents in Farm Town. Research shows that there can be ill effects from turbines sited within 1.5km of dwellings. Farm Town is considerably closer to the

site than this.

- The landscape itself will be despoiled by these structures. The site is within the rural divide between Ashby and Coalville. NWLDC's plans seem to wish to maintain these green areas so it does not seem appropriate to put industrial-scale structures into this rural landscape.
- There has been no effective consultation with the developers. Neither the Parish Council nor affected residents have been able to build a two-way communication and they are left with the impression that the developers contacted them purely because legislation said they had to, not through any desire to discuss options or mitigating actions. The offer to contribute to the rebuilding of the wall at St John's Chapel smacked of trying to buy approval.

Coleorton Parish Council is aware of and supports the efforts being made by the residents of Farm Town to gather objections to this application and asks the District Planning Committee to once again refuse permission for these wind turbines. It seems inappropriate that the Committee even has to discuss this application when the previous one is still under appeal, but we understand NWLDC has no control over that.

**County Highways Authority** has no objections subject to a condition.

**Environmental Protection Officer** has no environmental observations.

**Natural England** raises no objections but raises a number of issues suitable for a note to applicant.

**County Ecologist** has no objections subject to conditions.

**Highways Agency** advises that the proposed development is not expected to have a material impact on the closest strategic route, the A42 and therefore, has no objection to the proposal.

**National Air Traffic Services** has no safeguarding objection to the proposal.

**English Heritage** advise that the application should be determined in accordance with national and local policy guidance and on the basis of local specialist conservation advice.

**East Midlands Airport** no comments received but the following comments were received with respect to application 13/00266/FUL:  
'as safeguarding authority has no objections subject to a condition'.

**County Archaeologist** No comments.

**MOD Safeguarding** No comments have been received .

**National Forest Company** No comments have been received.

**Ramblers Association** No comments have been received.

**Leicester and Rutland Wildlife Trust** No comments have been received.

#### **Third Party Representations:**

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

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

- the proposal would make it difficult to renovate a nearby barn;
- the turbines are not necessary in the public interest;
- the proposals are unchanged and the developer has not listened to local concerns;
- the proposal would have a negative impact on the local and wider landscape around Farm Town (the National Forest) and appear out of keeping;
- destruction of views;
- the area is full of wildlife with woodland and water bodies nearby and concern has been raised about bird/bat strikes;
- concern about the suitability of local (narrow and winding) roads for the large vehicles that would need to access the site;
- any benefits of the turbines would be greatly outweighed by the negative impacts on the countryside;
- concern that the proposals would distract motorists due to the close proximity of the site to the A511;
- despite requests for a face to face meeting, the developer has not entered into local consultation other than sending letters to residents,
- the local MP indicated in a press release that wind turbines are inefficient, do not provide any benefit to the local community and rely heavily on Government subsidies;
- the application has been refused once and should be again;
- a proposed Parliamentary Bill sets out minimum distances to residential premises and the proposal would not comply with this;
- comments made about the rigidity of the planning regulations for other types of development within the historic environment of Farm Town compared to those applied to the current proposal which would be located close to the existing settlement;
- noise pollution from the development in addition to existing road noise associated with the traffic using the A511;
- loss of property value;
- too close to local properties when considering distances set out in the proposed Bill to Parliament (1000m) and that set out in a report concerning wind turbine noise; sleep and health which was submitted in response to Northumberland County Council Core Issues and Options Report Consultations (600m);
- this is an area used by local people, cyclists and ramblers who enjoy the peace and quiet of the location, along with parents walking children to/from school;
- the proposed turbines would have no benefit for or regard for the residents of Farm Town;
- support is given to the objections of Colberton Parish Council;
- rebuilding the church wall is not a real community benefit that could outweigh the harm caused by the proposal;
- despite tree cover, the proposal would be visible from Alton House which is a Grade II listed building;
- concern that the development would set a precedent;
- previous objection still apply.

For the avoidance of doubt, Members are reminded that residents previously raised the following concerns:

- concern about noise from the turbines adversely affecting the health of residents;
- concern about the cumulative noise impacts of the turbines, the A42/A511 and the HS2 rail link when it arrives;

- concern about the visual impact of the turbines which would spoil the landscape;
- the wind turbines would be visible from properties within Farm Town and existing views across the rural landscape will be affected for many residents and impacts will be at least moderate, if not potentially high and therefore, further photomontages should be requested for these properties to ensure actual impacts can be assessed;
- impact on the Farm Town Conservation Area;
- the site is within the National Forest where lots of planting attracts walkers and wildlife but the turbines would attract neither;
- concern about wildlife, in particular bats and owls;
- disruption to adjacent woodland and flora/fauna;
- concern about the adequacy of the ecological appraisal submitted and the time that surveys were undertaken;
- concern about the suitability of the local highway network for the vehicles that will be required during the construction phase;
- noise and disruption to local residents during the construction phase;
- approval of the proposal would not make sense in the context of tight planning controls that have been imposed on residents in Farm Town over the years;
- concern about the proposal setting a precedent for further wind turbine developments;
- another 90m turbine is already proposed nearby;
- there are other sites within the District that would be more suitable and would have less impact on local communities;
- loss of property values;
- the energy benefits arising from the turbine would not outweigh the harm and inconvenience to local residents;
- the electricity generated by the proposed turbines would exceed domestic requirements;
- the application should be determined at a planning committee so that local residents can be represented;
- concern that wind turbines are sometimes less effective than envisaged, which leads to them being decommissioned within a few years and therefore, the turbines should be properly researched.

#### **Pre-application consultation by the Developer:**

The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2013 came into force on 17 December 2013. The Order specifies that the requirement to carry out pre-application consultation under Section 61W of the Town and Country Planning Act 1990 shall now apply to all onshore wind development of more than two turbines or where the hub height of any turbine exceeds 15 metres.

The pre-application consultation requirements introduced by the 2013 Order are set out under Section 61W of the 1990 Act, which specifies that applicants must:

- consult all persons specified in a development order or of a description specified in a development order, about the proposed application;
- publicise the proposed application in such a manner as they reasonably consider is likely to bring it to the attention of a majority of the persons who live at, or otherwise occupy, premises in the vicinity of the land;
- publicise how persons wishing to comment on the proposed development may contact them and give such information about the proposed timetable for the consultation as is sufficient to ensure persons wishing to comment may do so in good time.

The 2013 Order also inserts a new Article 3B into both the Town and Country Planning (Development Management Procedure) (England ) Order 2010 and the Town and Country

Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013. Article 3B requires applicants to provide particulars of the pre-application consultation they have undertaken when submitting their application for planning permission. Particulars must include details of:

- how the applicant complied with the duty to carry out PAC under section 61W(1) of the 1990 Act;
- any responses to the consultation that were received by the applicant; and
- the account taken of those responses.

In terms of involvement with the community, the planning statement accompanying the application details that letters were sent out to all those who were consulted on or who objected to the previous planning application, to Coloerton Parish Council and to the local Ward Members. The letter advised local residents of the developer's intention to submit a further planning application and sought comments on the proposal, along with views on community benefits that could be generated as a result of the proposal. As a result of this process, four representations were received and the content of these is detailed within the submission, along with how these have been considered by the applicant. The submission also details the comments that were raised at the previous Planning Committee meeting and how these have been dealt with.

Although comments have been raised by local residents about the lack of a face to face meeting with the developer, it is considered that the applicant has taken reasonable steps to consult the local community. Interested parties have been notified of the relevant information and have been offered a reasonable time period for the making of comments. The developer has shown how these comments have been taken into account and therefore, is considered to have complied with the requirements of the Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2013.

## **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.

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

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- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, 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, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;

Paragraph 98 indicates that when determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application (unless material considerations indicate otherwise) if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas;

Paragraph 118 outlines that 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;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;

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 123 indicates that planning policies and decisions should aim to:

- avoid noise from giving rise to the significant adverse impacts on health and

- quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put them on because of changes in nearby land uses since they were established;

Paragraph 131 outlines that in determining planning applications, local planning authorities should take account of, amongst other things, the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional; Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional;

Paragraph 134 indicates that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use;

Paragraph 188 outlines that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community;

Paragraph 189 states that local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they do offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community before submitting their applications.

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:

#### **Adopted 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;

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 and requires new development to respect the character of its surroundings;

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 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 F2 states that the Council will have regard to the existing landscape character of the site and the type of development when seeking new planting;

Policy F3 seeks to secure implementation of agreed landscaping and planting schemes for new development by the imposition of planning conditions and/or the negotiation of a planning agreement;

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

Policy T20 seeks to prevent development that would adversely affect the operational integrity or safety of East Midlands Airport;

### **Submission Version Core Strategy**

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

### **Other Guidance**

#### *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 Practice Guidance for Renewable and Low Carbon Energy (DCLG) dated 2013.*

This guidance provides advice on the planning issues associated with the development of renewable energy. It should be read alongside other planning practice guidance and the National Planning Policy Framework and can be a material consideration in planning decisions and should generally be followed unless there are clear reasons not to.

*Footnote 17 on Page 22 of the National Planning Policy Framework:*

In assessing the likely impacts of potential wind energy development when identifying suitable areas, and in determining planning applications for such development, planning authorities should follow the approach set out in the National Policy Statement for Renewable Energy Infrastructure (read with the relevant sections of the Overarching National Policy Statement for Energy Infrastructure, including that on aviation impacts). Where plans identify areas as suitable for renewable and low carbon energy development, they should make clear what criteria have determined their selection, including for what size of development the areas are considered suitable.

## **6. Assessment**

The main considerations in the determination of this application relate to the principle and sustainability of the development and its impact on landscape character and visual amenities, the historic environment, residential amenities, protected species, aviation, highway safety 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 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 by reducing farming costs for the landowner. As such it can be considered to be a farm diversification scheme and would fall within category (b) of Policy S3. It is also considered that the proposal would fall within criteria (c) (is a public service or utility which cannot, for operational reasons, be accommodated within the defined Limits) of Policy S3 and as such would constitute an acceptable form of development in this location. This view is further supported by the appeal decision for application reference 12/00343/FUL (Wind Monitoring Mast at Stretton en le Field) (Appeal Ref: APP/G2435/A/12/2185513) where the planning inspector stated: "the mast is however a utility, as it relates to the provision of electricity, and it would be unlikely to be able to be accommodated within the LP defined Limits of Development."

Paragraph 97 of the NPPF outlines 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 also 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."

In the circumstances that the NPPF supports proposals which provide energy from renewable

energy, as well as the fact that Policy S3 of the Local Plan would support renewable energy projects in the countryside, it is considered that the overall principle of the provision of two wind turbines would be acceptable.

### **Landscape and Visual Impact**

It is identified, in Paragraph 17 of the NPPF, that planning should "recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it," and Paragraph 109 states that the planning system should protect and enhance valued landscapes. Paragraph 98 of the NPPF also states that when determining wind turbine planning applications, local planning authorities should "approve the application if its impacts are (or can be made) acceptable."

A Landscape and Visual Impact Assessment has been provided within the application submission and evaluates the effect of the proposed turbine on landscape character and visual amenity. The effect of the development depends on its scale, as well as the sensitivity of its surroundings and the capacity of those surroundings to absorb the impact of the turbine given its physical characteristics, the topography, consistency and content of the landscape, and the cumulative effects of other development.

The LVIA follows the Guidelines for Landscape and Visual Impact Assessment, Second Edition (Landscape Institute and IMEA 2002). This assessment includes the potential effects on local landscape character and landscape designations, as well as the potential effects on views experienced by people from nearby residential properties on the surrounding roads, as well as those people cycling and walking in the local area along public footpaths and road users.

Photomontages from twelve viewpoints have been provided which range from 694m to 2.5km from the turbines. Although these were not agreed with the Local Authority, it is identified that the viewpoints tie in with the 'zone of theoretical visibility' (ZTV) which shows widespread fragmented visibility to central, north-eastern, southern and south-western areas across the study area, albeit, in reality, pockets of vegetation and built form will restrict views from some of these areas. It is considered that the viewpoints selected offer a useful range of study, which illustrates the typical extent of view experienced by the viewer, at close to middle distances. The level of study is considered to be proportionate to this scale of scheme and there are no local, national or international landscape designations affected. The ZTV indicate that the turbines could be theoretically visible from much of the nearby countryside within 3-5km of the site, with theoretical visibility generally extending further to the south than the north. However, it should be noted that topography will affect how visible the turbines will be in these views and that the ZTV does not take into account any screening from vegetation or buildings.

### **Impact on the Character of the Landscape**

The turbines will be located within a field to the south of Farm Town and to the north of the A511. The site is characterised by a varying topography as land levels rise in a northerly direction across the site. The turbines will be sited within the southern part of the field where land levels are lower.

In terms of the conditions of the landscape surrounding the turbines, the existing conditions are typically defined arable fields with vegetated boundaries. Adjoining the application site along its northern, western and eastern boundaries is open and flat farm land, which extends across the surrounding landscape in all directions, with generally well established field boundaries. The southern site boundary is demarcated by a railway line and beyond that the A511, separating

the site from further farmland beyond. The track proposed to access the turbines would link up with Corkscrew Lane which is located approximately 400m to the north of the proposed turbines.

With regard to the wider landscape it is considered that this is predominately characterised by undulating and gently rolling open agricultural farmland (arable/pasture fields). The largest nearby settlements are Ashby De La Zouch to the west and Coalville to the east and there are other settlements such as Farm Town, Swannington, Ravenstone, Packington, Coleorton, Griffydam, Newbold, Sinope and Lount within 5km of the application site as well as dispersed residential and non-residential farmsteads within the wider landscape. Several sizeable plantation woodlands also exist within the wider surrounding landscape as well as the 'heart' of the National Forest. The surrounding land topography would also be described as 'varied' with the areas to the north being more generally elevated than those to the south and steep sided embankments along the railway line.

Although there is a lack of formal landscape designation, it is accepted that character of the area is likely to be 'valued' by its residents. Paragraph 17 of the NPPF also recognises that the "intrinsic character and beauty of the countryside" is a material planning consideration.

In terms of Local Landscape Designations within 15km, there are no Areas of Great Landscape Value (AGLV) but there are nine registered parks and gardens (RPG's) which are Swarkestone Old Hall (11km to the north); Garendon (11km to the east); Melbourne Hall (8km to the north); Whatton House (13km to the north-east); Coleorton Hall (1km to the north-east); Calke Abbey (5km to the north); Bretby Hall (8km to the north-west); Staunton Harold Hall (4km to the north); Stapenhill Cemetery (13km to the north-west).

The site lies within Natural England's Landscape Character Area of the Leicestershire and South Derbyshire Coalfield (National Character Area (NCA) 71) and some of its key characteristics include mixed and arable pasture, gently undulating landform of shallow valleys and ridges and localised areas of small fields and dense hedgerows. NCA71 provides the overriding landscape features and characteristics of the site within a wider landscape context, a more localised assessment of character can be found within the National Forest Landscape Character Assessment (LCA) of 2004, as well as Leicester, Leicestershire and Rutland Landscape and Woodland Strategy of 2001 by Leicestershire County Council

The site would lie within the Coalfield Character Area identified in the Leicester, Leicestershire and Rutland Landscape and Woodland Strategy and within the 'Enclosed Farmlands' Character Area identified in the National Forest Strategy. Whilst it is recognised that there is a distinctive landscape character found to the very north east of 'The Coalfield' area towards Coleorton, Newbold and Griffydam (which was a medieval coal mining area dating back to the 13th century) most of the area is characterised by a gently undulating landform. In the north east of 'The Coalfield' area the settlement pattern is generally smaller in scale and contains small irregular fields, with small linear settlements and scattered individual cottages and network of footpaths. Whilst the application site is found towards this area, the LVIA identifies that it remains somewhat separate due to the undulating topography, combined with some individual strong woodland blocks (and recently planted broadleaved woodlands) and mature tree lines aligning road and rail corridors to the south, which shield views and limit inter-visibility between areas. The LVIA concludes that "the immediate landscape is considered less sensitive and more ordinary than the medieval landscape to the north east".

In terms of the County-wide Landscape and Woodland Strategy, the turbines would also be visible in longer views from the Mease/Sence Lowlands Landscape Character Area that covers

the southern part of the District and the Langley Lowlands Landscape Character Area covering a north-eastern part of the District as well as parts of Charnwood Borough Council's Administrative Area. These areas are mainly characterised by an undulating landscape with frequent small valleys and mixed arable and pasture farmland (Mease/Sence Lowlands) and a rolling landform with a well wooded appearance influenced by woodland within and beyond the character area (Langley Lowlands).

The Zone of Theoretical Visibility within the Coalfield Character Area shows that views of the turbines would be fragmented and that even closer distance views will be intermittent due to the undulating landform and the established roadside/field boundary vegetation screening assisting in absorbing the turbines into the surrounding context. In terms of the Mease/Sence Lowlands Character Area, it is considered that this areas greater distance from the application site, as well as the fragmented ZTV, undulating landform and presence of wooded areas/hedgerow trees, will lead to any prominent views of the turbine being highly unlikely. With regards to the Langley Lowlands Character Area it is again considered that there would be a fragmented ZTV, due to the rolling landform and well wooded landscape, and in the circumstances that the turbines are visible they would appear as an insignificant element on the horizon line in the background landscape. Any 'significance of change' to the landscape character would be slight/moderate for the Coalfield and slight/negligible for the Mease/Sence Lowlands and Langley Lowlands. In the circumstances that the main features of the landscape character would not be altered as a result of the proposed turbines, it is considered that the development would not sufficiently detract from any of the existing landscape elements.

It is also considered that 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. In any case, the application site does not have a particularly high scenic quality but does contribute to the rural landscape in the immediate vicinity of the site which would undoubtedly be altered by the presence of the proposed turbines. Given their stature, most local residents, visitors and passers-by would probably regard the turbines, initially at least, as an alien feature and the majority of the people would be likely to perceive the development as detracting from the character of the landscape.

The LVIA concludes that "the introduction of the turbines would have a limited impact on the main features of interest within the landscape area which contribute more significantly to the character, such as the gently undulating landform (and increasing level of land cover through the National Forest) and settlement pattern would remain unaffected. Similarly, the field patterns, land use activity and vegetation would remain largely unaffected."

Although the proposal would result in a noticeable difference to the landscape, given that the landscape displays characteristics which are relatively common within rural areas of England, and it is not within any formal designations or sensitive areas, along with the minimal impact on those features which contribute to the character of the landscape, it is considered that the landscape could accommodate two turbines of the scale proposed without its overall character being significantly harmed.

### **Impact on Visual Amenities**

The Visual Impact Assessment (VIA) considers the most sensitive locations within 3-5km of the turbine site as the proposals would theoretically have the greatest visual influence within this area and would also see the greatest level of impact due to the reduced distance. The location of the viewpoints has been informed by the ZTV maps and takes into account residential properties, road users and recreational routes/places. Beyond 5km the VIA concludes that the

level of visibility would begin to dissipate due to the undulating topography, the increasing level of land cover and, in some areas, the relatively dense settlement pattern.

It is concluded that the proposed turbines can be accommodated without adding significant adverse visual effects to important receptors in the local or wider area, though there would inevitably be some slight and moderate adverse effects from some closer range viewpoints or where open and uninterrupted views are afforded towards the site, such as from Alton Hill to the south and Corkscrew Lane to the west. These are discussed in more detail below.

In terms of recreational receptors, the report provides that the proposed turbines would have a reasonably low level of impact on the network of public rights of way in the surrounding area, partly due to the scarcity of footpaths in the area and partly due to the distances from which the turbines would be visible. In the immediate landscape, nearly all footpaths or rights of way lie behind areas of significant tree cover and so would not permit views of the turbines, including those situated within or just beyond West Farm Wood to the north east of the site. The report acknowledges that there would be increased visibility of the turbines from the south but these would be viewed in the context of mature and maturing woodland and the road and former railway line to the south. When having regard to the context, the distance from the site and the modest scale of the proposals, the report provides that these factors would ensure that the turbines would not appear as highly prominent features in the landscape. The point is also made that many of such views would appear in the periphery of the walkers' vision, rather than centrally within the view due to the direction of travel. When considering the sensitivity of the receptors and the magnitude of the impact, the VIA concludes that the significance of the impact on recreational areas/routes would be no more than slightly adverse.

With regard to residential receptors, the closest neighbouring residential properties are all located approximately 600m from the proposed turbines, including Gameskeepers Cottage to the north west, Breach Farm to the south west and Little Alton Farm to the south east. The former two properties are unlikely to be affected by the proposals due to the presence of mature/maturing trees found either surrounding the property or lying in between the property and the site. With regard to Little Alton Farm, although there is no such landscaping, the agricultural buildings which are located to the north of the dwelling would screen views of the turbines from the property. As such, the VIA concludes that the significance of the impact on residential properties would be low.

In terms of potential views from other residential properties or settlements within the surrounding landscape, it is commented that a combination of distance, land cover and topography would limit the effects of the proposals. The report acknowledges that there may be some potential for views from individual properties within Farm Town to the north of the site but the ZTV maps indicate that much of this area would not have theoretical views of the turbines due to the position of the settlement beyond a small ridgeline that would likely shield the development from view. When combined with the screening effect of the hedgerows and occasional mature trees to the curtilages or maturing tree lines to field boundaries, the VIA considers that it is highly unlikely that the settlement of Farm Town would suffer harm. The report goes on to acknowledge that the turbines could be visible from the edges of Packington and Ravenstone and from roadside properties to the south of Coleorton Moor but from these areas the turbines would have reduced visibility and degree of prominence within the vista, and where visible would not appear out of scale with the surrounding landscape features. Overall, the VIA concludes that the impact on residential receptors in the area would be generally negligible or low, with some occasionally moderate effects.

The greatest level of impact that will be experienced in relation to the proposed development

would be road based receptors due to the proximity of the site to major roads but also due to the undulating landscape which would permit views of the turbines from a small number of local roads. The public highways from which the turbines would be most visible are identified as the A511 to the south of the site, Corkscrew Lane to west and Alton Hill to the south. However, the VIA considers that the effects of these views would be transient and temporary and will vary depending on the direction of travel. The report concludes that whilst the impact could reach medium due to the proximity, the effects are generally localised to the more immediate highway network, and as such, the overall impact would be less than significant.

It is clearly impossible to fully mitigate the visual impacts of the wind turbines given the scale of the development and the fact that such impacts would extend beyond the land ownership of the applicant. However, the LVIA advises that the model of turbine, along with the siting of the structures (which were carefully considered to minimise visual impacts on key receptors), and the delivery of the turbines/on-site access arrangements have sought to avoid impacts on road users. It is also noted that the decommissioning of the turbines would remove all structures from the landscape and the ground would be reinstated.

It is considered that the LVIA is a reflective assessment of the sensitivity of the landscape which identifies that the receptors would be within the low-medium magnitude of change to the landscape as a result of the turbines. The views in which the impact would be moderately adverse would appear to be an accurate reflection, due to their proximity to the site, and although the turbine would be in close proximity, and as a result quite prominent, they would be screened by existing mature vegetation and there would predominately only be intermittent views along public routes. Although there will be an impact on the landscape, in particular the turbines being visually prominent from closer views, vegetation and topography will help to screen the turbines and there are also a limited number of direct open views at close proximity. The level of visual prominence will reduce further away from the turbines, with distance, topography, and existing vegetation and buildings reducing its overall prominence. The external finish of the tower and blades can also be controlled to reduce the turbines' visibility in longer views. Also, as noted above, the area is not considered to be of significant scenic quality and it is not within any nationally or locally statutory landscape designation. Whilst there will be some impact on and change to the landscape, given the above circumstances the turbines would not significantly undermine or change its character or that of the National Forest and therefore, on balance, it is considered that the impact would not be so significantly detrimental to the landscape and its visual amenities to justify a reason for refusal. As such the proposal would not conflict with the principles of Policy E4 of the Local Plan.

### **Cumulative Impact**

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 21 metre high turbines at Mount St Bernard Abbey, Oaks Road, Whitwick approximately 7km to the east of the site and a 40 metre turbine which has recently been erected at Hill Farm, Willesley Woodside which is 4km to the south-west of the site.

Planning permission was granted in October 2011 for a 24.8 metre turbine at Hall Farm, Swepstone Road, Heather (11/00430/FUL) approximately 6km to the south of the site and two applications for wind turbines were also considered by the Planning Committee last year. The first being an application for a 74m high turbine at Cattows Farm, Normanton Lane, Heather (13/00165/FUL) 5km to the south of the site, which was approved and the second being an application for a 90m turbine at part of the Lounge Disposal Point to the north of the A511 and east of the A42 and A512 on Ashby Road, Coleorton (13/00265/FUL) 1.6km to the north-west

which was refused on the ground of visual impact and has recently been allowed at appeal.

The conclusions made by the Planning Inspector in considering the appeal with respect to application 13/00265/FUL were as follows:

*The National Planning Policy Framework is generally supportive of renewable energy and states, at paragraph 98, that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and that local planning authorities should approve planning applications if impacts are (or can be made) acceptable.*

*The effects of the proposed wind turbine on the character of the landscape and on visual amenity would not be unacceptably significant and the proposal would not be contrary to Policy E4 (Design) of the North West Leicestershire Local Plan or the National Planning Policy Framework in this respect.*

The LVIA does not include the above proposals outside the District boundary or the turbines at Mount St Bernard Abbey or the refused scheme at Lounge Disposal Point in its assessment but has taken into account one commercial wind farm site as follows: -

- One turbine at Combs Farm, Nottinghamshire in excess of 10km away from the site.

The LVIA considers simultaneous cumulative visual effects, successive cumulative visual effects and sequential cumulative visual effects.

Simultaneous effects include viewing a number of schemes from a single fixed viewpoint without moving. It is considered unlikely that the proposal would be seen within the same view as the above-mentioned existing/approved turbine development within the locality due to the distances involved, theoretical visibility and intervening features (buildings, vegetation, topography etc) which would likely prevent views of both turbine developments from a single viewpoint. It should be noted that the submitted report also refers to a development of five turbines at former Bilsthorpe Colliery, Nottinghamshire being 9km to south-east of the site which is clearly incorrect and the agent has confirmed that this is the case and the reference should not be considered.

There may be some simultaneous views with the wind turbine at Lounge Disposal Point (recently allowed at appeal) from the A511 and other local roads due to the proximity of the single turbine to the application site. However, it is considered that in viewpoints where the proposed turbines are in close proximity, the other site will be in the distance at a different height and given the undulating landform, mature vegetation and the fact that the turbines at Lounge Disposal Point are much greater in height, it is considered that the cumulative impacts of the proposals would not have a substantially negative impact on the visual appearance of the landscape.

There may also be some scope for successive cumulative visual effects from the bridleway along Spring Lane to the south of the site, from which the proposed turbines would be visible and then the single turbine at Cattows Farm would also be partially visible when the viewer turns to face south. However, when having regard to the distances involved, it is considered that each development would be viewed as relatively modest in scale within the wider landscape and would not appear out of scale or character within the wider environs.

Possible sequential cumulative visual impacts are most likely to occur when travelling along the highway network, when road users see one development after another along their journey. The

proposal would introduce two small-scale turbines and although the site is located close to the A511, their visual impact would be transient and localised. When having regard to the distance between the site and other turbine developments across the wider landscape and the number of approved schemes, it is considered that the proposals are unlikely to contribute to an overall impression of a landscape with wind farms. Therefore, the overall impact in terms of sequential cumulative effects would be less than significant.

### **Historic Environment**

Consideration of heritage assets is provided in the LVIA submitted in support of the application which assesses the impact of the turbines on the setting of nearby heritage receptors.

The nearest scheduled monument would be the coal mining remains at The Coney, 500m south of Coleorton Hall, the nearest Grade I and II star listed building would be Coleorton Hall, the nearest Grade II listed building would be Alton House and Alton Grange, off Alton Hill to the south of the A511 and nearest conservation areas would be at Coleorton Hall, Packington and Ravenstone. These would therefore be designated heritage assets, as defined in the NPPF, which form an important part of the history of the area and are considered to be of some significance which have value for this and future generations.

Following consultation with the County Archaeologist, it is concluded that there would be an unlikely impact on any features of archaeological interest, and limited impacts on buried remains potentially present, particularly given the small area of land that would be disturbed by the development proposals. The County Archaeologist is satisfied with the proposals and concludes that further archaeological work could not be justified.

In terms of the scheduled monuments it is concluded that the proposal would lie beyond the setting of the monuments and as such there would be no inter-visibility between the turbine and monuments which would ensure there would be no impact on the setting or significance of these heritage assets.

With regards to the Grade I and II star listed buildings, it is considered that views of the turbines from these will be blocked by mature vegetation and the intervening topography and as such there would be no change to the setting or significance of these listed buildings. There would also be no impact on the setting or significance of the identified Grade II listed buildings due to the distances involved, the presence of mature vegetation and the intervening A511.

In terms of the Conservation Areas there would be no impacts on the Staunton Harold, Packington or Ravenstone Conservation Areas, due to the intervening built development and road infrastructure, mature vegetation, intervening countryside woodland and topography.

English Heritage were consulted on the application are satisfied for the application to be determined in accordance with local and national policies and on the basis of specialist conservation advice. The Conservation Officer has been consulted on the application and is satisfied that the proposals would have no impact on the setting of nearby heritage assets, and therefore, has no objection to the proposals. In the circumstances that neither English Heritage nor the Council's Conservation Officer objects to the conclusions of the submitted heritage assessment, it is considered that its findings can be supported and are an accurate assessment of the potential effects.

The proposed turbines would not result in substantial harm to the significance of the heritage assets and as such are to be determined in accordance with the aims of Paragraph 134 of the



NPPF which concludes that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal."

It is considered that the provision of the turbines would provide some public benefits given that the proposal would generate energy from a renewable source equivalent to that required to provide 258 homes per year with electricity and assist the wider public interest of tackling climate change by reducing carbon emissions. Furthermore, the proposal would represent farm diversification and help reduce the farming costs for the landowner. Overall, taking all the above matters into account, it is considered that the proposal would not conflict with the principles of Paragraphs 131, 132 and 134 of the NPPF.

### **Residential Amenities**

A Bill was put to Parliament in May 2012 to make provision for a minimum distance between wind turbines and residential properties according to size of the wind turbine but at the time of writing this Bill had not been passed. Therefore, it should not be considered in the determination of this planning application. Furthermore, documentation submitted as part of the consultation process for another planning authority as highlighted in letters of representation is not an appropriate tool for assessing the current application submission.

As set out on the Department of Energy and Climate Change's (DECC) website, at the current time government advice is that the ETSU report is the relevant guidance against which turbines should be assessed in terms of noise impact. A Noise Impact Assessment has not been submitted with the application but the supporting statement accompanying the application considers the issues of noise and its impact on neighbouring residential amenities. The Attenuation Noise Specifications for the model of turbine proposed are also included and referred to in the supporting information.

The Attenuation Noise Specifications for the model of turbine proposed shows that noise levels are reduced to an acceptable level of 35 db(A) at a distance of 420m from the turbine. The nearest residential properties are identified as Little Alton Farm (505m to the south east), Gamekeepers Cottage (off Corkscrew Lane 650m north west) and Breach Farm (680m south west) and therefore, the proposal would comply with ETSU-R-97 limits. Furthermore, the supporting information identifies that the background noise levels in the locality are significantly more than would be expected in rural areas, with traffic noise from the A42 and the A511. The supporting statement concludes that it is not considered that there should be any unacceptable noise nuisance from the proposed turbines affecting residential amenities.

On the basis of information submitted, the Council's Environmental Protection team has no objections and as such it is considered that the turbine would not generate a level of noise which would be sufficiently detrimental to the amenities of neighbouring properties.

In terms of vibration, the DECC'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 of 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 dwellings are Little Alton Farm (505m to the south east) and Gameskeepers Cottage (640 metres to the north-west) from the site of the nearest turbine which is well outside the distance that shadow flicker can affect a property. 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.

Overall the proposal would not conflict with the principles of Paragraphs 98 and 123 of the NPPF and Policy E3 of the Local Plan.

### **Protected Species and Ecology**

An Ecological Assessment including Extended Phase I Habitat Survey has been submitted in support of the application and comprises both a desk top study and a field survey. In terms of statutory designated sites, the desk top study identified three Local Nature Reserves (LNR), a Special Area of Conservation (SAC) and three Sites of Special Scientific Interest within 5km of the site. The LNR's were New Lount (2.5km north), Snibston Grange (4.5km east), Nature Alive (4.5km east), the SAC was the River Mease and the SSSI's were River Mease (5km south west), Grace Dieu and High Sharley (4.5km north east) and Lount Meadows (2.5km north). The report advises that the turbine locations do not form part of any statutory designated sites for nature conservation. All statutory sites identified were of habitat interest only and therefore, no direct or indirect impacts on the habitats of designated sites are anticipated due to the separation distances involved.

With regard to non-statutory designated sites, the desk top survey revealed five County sites, 28 District Sites and 122 Parish sites within 3km of the site. Five of the Parish sites were located within 1km of the site, comprising woodland and grassland (approx 160m north), plantation woodland (approx 290m south), woodland stand (approx 240m east), a pond (approx 640m north) and broadleaved woodland (approx 500m north). The report considers that no non-statutory designated sites will be directly affected by the proposals and indirect impacts are unlikely.

The field survey which incorporated all land within the applicant's ownership and 500m beyond, identified the survey area as being dominated by lowland farmland predominantly consisting of arable land but with large sections of plantation woodland of various age and structure. The field boundaries within the survey area varied from species poor defunct hedgerows to species rich hedges and trees. Four ponds (some of which were semi-permanent) were also identified as points of interest or of nature conservation value. The proposed turbines will be located on arable land which is considered to be of limited biodiversity value and field boundaries are not anticipated to be affected by the proposal, although it is recommended that measures should be

introduced to ensure that these are protected during the construction phase.

The survey area and adjacent land were identified as being potentially suitable for a range of protected species and the wider area offers some possible foraging and roosting habitat for bats and birds. Evidence of badgers was also found within the survey area but no evidence was found of Otter, Water vole or Reptiles, although areas of suitable habitat were found for Dormouse and Amphibians.

With regard to birds, the potential impacts include collision (bird strike) and displacement. The ornithological value of the site is identified as low but it is considered likely that the site supports farmland birds. The majority of bird species likely to be present are not generally considered to be vulnerable to wind turbine developments. Although no statutory designated sites for ornithological interest were identified in the desk top study but records of red kites, hobby, curlew and golden plover were found within 5km of the proposals. These species are only likely to visit the site on an occasional basis and therefore, it is concluded that it is highly unlikely that any impacts will occur as a result of the proposal. Any potential disturbance to vegetation within the nesting season could disturb nesting birds and therefore, this should be controlled by an appropriately worded condition.

In terms of bats, these are European Protected Species and as such receive protection under the Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended). The report advises that no bat roosts will be directly affected by the proposed works and no removal of hedgerow or other bat habitat features is planned and therefore, indirect effects on commuting or foraging routes is considered unlikely to occur. The main potential impacts from the proposed development include ultrasound emission by the turbines and death/injury through collision or the effects of rapid changes in air pressure, although research shows that some species of bat are more vulnerable than others to the effects of wind turbines.

The report concludes that the survey area is considered to fall within a medium risk location for bats due to low to medium potential for foraging/commuting for bats within the hedgerows and other surrounding habitats. Furthermore, although a pipistrelle (a low risk species) was identified within a farm complex 480m to the south of the site and seven bat species were noted within the wider area, limited roosting potential was identified within 250m of the turbines. It is also noted that the turbines would be located in excess of 60m away from any bat feature and exceeds recommended guidance for the siting of turbines. Overall, the consulting ecologist notes that whilst minor negative impacts on bats cannot be precluded, impacts on bat populations at the local level are considered unlikely.

In terms of other species, evidence of badgers was found within 500m of the proposed turbines but no setts were found within 50m of the site. The report recommends a pre-construction survey to ensure that no new setts are constructed within the interim period. As for water voles and otters, the development would not result in any direct impacts upon any ditches and drains and therefore, the report concludes that no impacts upon these species are anticipated as a result of the proposal. With regard to reptiles and amphibians, records of great crested newt were identified in the desk study and two ponds were considered to offer suitable aquatic habitat. However, as the proposal would comprise the removal of a small area of arable land of low value to amphibian species, the effects of the development are noted as being minimal. Although as a pre-caution, a series of Reasonable Avoidance Measures are recommended during the construction phase of the development.

Concern has been raised by local residents and the Parish Council about the impact on local wildlife and the adequacy of the ecological information submitted. Natural England has been consulted on the application and raises no objections. The County Ecologist has been consulted on the application and is satisfied with the conclusions and recommendations reached within the report. Subject to the imposition of conditions concerning the pre-cautionary recommendations for badgers and great crested newts, the County Ecologist raises no objections to the proposal. Overall, it is considered that the proposal would accord with the aims of Paragraphs 118 and 119 of the NPPF, the Habitats Regulations and Circular 06/05.

### **Aviation**

East Midlands Airport is located 12km to the north of the site and consultation was carried out with the airport prior to the application submission and the airport advised by letter dated the 11th April 2012, that: "we have concluded that in isolation this development could be accommodated without materially impacting upon the continued safe operation of aircraft at East Midlands airport; the risk that would result from your proposed development is tolerable and we would therefore not be minded to object should you seek planning consent." The Airport has not commented on the current application but it is noted that the Airport raised no objection to the previously considered proposal (13/00266/FUL) subject to the imposition of a planning condition requiring the airport to be notified within one month of the turbines commencing operation.

The National Air Traffic Service (NATS) find the proposal acceptable from a safeguarding viewpoint. The Ministry of Defence (MoD) have also been consulted on the application but have not provided a response to date, although it is noted that the site is not located within a low flying military area and is a significant distance from the closest military aviation site.

### **Highway Safety**

Paragraph 54 within the companion guide to PPS22 states that drivers are faced with a number of varied and competing distractions during any normal journey, including advertising hoardings, which are deliberately designed to attract attentions and that at all time drivers are required to take reasonable care to ensure their own and other's safety. The guide therefore states that wind turbines should not be treated any differently from other distractions a driver must face and should not be considered particularly hazardous.

The County Highway Authority and the Highways Agency have no objections in relation to highway safety. The proposed turbines would be delivered to the site using standard HGV's (abnormal load vehicles will not be required). The supporting statement provides that the site is accessible for such vehicles using the surrounding highway network, with delivery via the A42, A511 and Corkscrew Lane and entering the site via the existing field gateway. The new access track across the field will allow access to the temporary crane construction area and plant/equipment storage area and the supporting information details that construction traffic will be managed around the site to ensure that there is no conflict with existing traffic during the most intensive stages of construction.

The County Highways Authority has referred the Authority to its comments with respect to application 13/00266/FUL, with respect to which it advised that Corkscrew Lane is unsuitable in terms of its construction and geometry to accommodate abnormal loads and heavy construction traffic. Therefore, the County Highways Authority advises that the developer would need to mitigate against the impact of the proposed development on the public highway. To this end, it is advised that a method statement will need to be required by condition which should include

details of temporary mitigation measures, including the removal of street furniture if appropriate, tracking of the route from the A511, traffic management details and a full survey of Corkscrew Lane from its junction with The Moorlands to the site access together with proposals to rectify any damage caused during the construction phase.

The safe fall-over distance expected is the height of the turbine plus 10% (in this case 49.5m), and this is achieved in respect of the A511 and Corkscrew Lane, as well as nearby public rights of way and the railway line to the south of the site.

Subject to the imposition of a highways condition, the proposal is considered acceptable from a highway safety viewpoint and therefore, would comply with the provisions of Policy T3 of the Local Plan and the NPPF.

### **Impact on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005 and the site lies approximately 5km from the River Mease. 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 paragraph 118 of 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 sewerage 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 lies 3km from the River Mease and the proposal would not generate any foul drainage discharge and given the nature of the turbine there would be no increases in surface water run-off from the site. Although the access track and crane pad will be permanent, a condition can be imposed requiring it to be constructed from a permeable material, in order to limit surface run-off, or provision made for the direction of surface water to a soak-away. A condition could also be imposed which would request the submission of a method statement for construction, which should adhere to the guidance contained within the Environment Agency Pollution Prevention Guidelines PPG5, in order to prevent contamination of the stream which eventually discharges into the River Mease SAC.

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.

### **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 application submission includes the offering of a financial contribution towards the repair of the wall at St John's Chapel in Farm Town. For the reasons set out in the assessment above, the proposed development is considered acceptable and in accordance with relevant planning policies and therefore, it is not considered that the proposed obligation is necessary to make the development acceptable. Furthermore, the purpose for which the secured monies would be used would not be directly related to the proposed development. Overall, it is not considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent an inappropriate contribution.

### **Other Matters**

With respect to matters raised by local residents that have not been addressed in the above text, noise and disruption during the construction phase of the development would be covered by separate legislation. Similarly, loss of property values is not a planning matter that can be considered in the determination of this application.

With respect to comparisons between the planning controls for other types of development within Farm Town, difficulties renovating a nearby barn and concerns about the proposal setting a precedent, it is a fundamental tenet of planning legislation that each application should be assessed on its own merits. It is also suggested that there are other more suitable sites within the District for the development proposed but for the reasons set out above, the proposal as submitted complies with relevant planning policies and is considered to be acceptable.

Concern has been raised about the turbines being ineffective, which would lead to the turbines being commissioned. It is considered that it would be prudent to impose a condition to cover this eventuality to ensure that the site is properly restored to its former state.

### **Conclusions**

In the circumstances that the proposal would accord with the aims of Policy S3 of the Local Plan, as well as the fact that the NPPF does not explicitly prevent renewable energy proposals from being located within the countryside, it is considered that the principle of the development would be acceptable. It is considered that the landscape could accommodate two turbines without its overall character being significantly harmed. Although there would be some impact on and change to the landscape, the turbines would not significantly undermine or change its character or that of the National Forest and therefore on balance this impact is not so significantly detrimental to the landscape or its visual amenities to justify a reason for refusal, as such the development would not conflict with Policy E4 of the Local Plan. There would also not be a significant effect in terms of cumulative impacts due to the heights and locations of the turbines, which already exist or are proposed within the surrounding area, as well as the intervening landforms and vegetation. It is also considered that the significance of the setting of the surrounding heritage assets would be preserved given the position of the turbines in relation to the heritage assets as well as the presence of built forms of development, infrastructure, vegetation and an undulating landform.

There would also be some public benefit to the provision of the turbines by virtue of their being a renewable energy form, and the reduced farming costs to the landowner and as such the development accords with Paragraphs 131, 132 and 134 of the NPPF. The development would not have an adverse impact on the amenities of neighbouring properties in terms of noise, vibration, shadow flicker or outlook which would ensure compliance with Paragraphs 98 and 123

of the NPPF and Policy E3 of the Local Plan. There would be no adverse impacts on pedestrian or highway safety, or aviation (subject to a Grampian conditions), which would ensure compliance with Policy T3 of the Local Plan.

It is considered that the proposal will not have an adverse impact on bats, birds or other protected species or their habitats, subject to appropriate conditions, and as such the proposal would accord with Paragraphs 118 and 119 of the NPPF, the Habitats Regulations and Circular 06/05. . 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, due to there being no foul drainage connection and provision being made to discharge surface water run-off to permeable or porous areas within the site and as such the development would accord with Paragraph 118 of the NPPF, the 2010 Habitats Regulations and Circular 06/05.

It is considered that the wider public interest of tackling climate change by reducing carbon emissions should be taken into account and the proposal would not raise any significant concerns in relation to other material considerations and other matters raised by third parties would not provide sufficient justification to refuse the application. 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 schedule of plans, unless otherwise required by a condition of this permission:

- Site Location Plan (scale 1:5000), drawing number 250-00-1500 (Elevations for WTN 250 Tubular Tower 30m) and drawing number 329-50-000 (Foundation for WTN 329) which were deposited with the Local Planning Authority on 12 February 2014.

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

- 3 The overall height of the turbines shall not exceed 45 metres to the tip of the blades or 30 metres to the hub height, when the turbine is in the vertical position, as measured from the natural ground level immediately adjacent to the turbine base. The blades of the turbines shall not exceed 30 metres in length and there shall be no more than three blades.

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

- 4 No development shall commence until a scheme for the detailed external appearance of the turbines including materials and colour finish have been submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details which shall thereafter be so retained.

*Reason - In the absence of precise details and in the interests of the visual amenity of the area.*

- 5 The permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported from the wind turbine to the electricity grid network (the 'First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority and East Midlands Airport no later than 28 days after the event.

*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, as the cumulative impact of wind turbine generation developments, which are in relatively close proximity, could compromise the safe control of aircraft in this area.*

- 6 Not later than 12 months before the end of this permission, a scheme for the decommissioning of the turbine and restoration of the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include a method statement and timetable for the dismantling and removal of the wind turbine, access track and associated above ground works and foundations, details of the route and any highway works to transport turbine for the site, site restoration measures and mitigation measures to be undertaken during the decommissioning period to protect wildlife and habitats. Decommissioning and site restoration shall be completed in accordance with the approved details within 12 months of the expiry of this permission.

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

- 7 If the wind turbines hereby permitted fail to operate for a continuous period of six months, a scheme for the repair or removal of the turbine shall be submitted to and agreed in writing by the Local Planning Authority within three months of the end of that six month period, or any extended period agreed in writing by the Local Planning Authority. The scheme shall include, as relevant, a programme of remedial works where repair is required; or a method statement and timetable for the dismantling and removal of the wind turbine, access track and associated above ground works and foundations details of the route and any highway works to transport the turbine from the site, site restoration measures and mitigation measures to be undertaken during the decommissioning period to protect wildlife and habitats. The agreed scheme shall be completed within 12 months of the date of its approval by the Local Planning Authority.

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

- 8 The access track shall only be constructed of a permeable material.

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

- 9 No development shall commence on site until such time as a detailed method statement for construction of the turbine and access track has been submitted to and agreed in writing by the Local Planning Authority. The method statement should set out methodologies to remove any risk of fuel, soils, building materials and waste water



## PLANNING APPLICATIONS- SECTION A

entering the stream during construction, including how and where materials, fuel and plant will be stored and contained, containment of waste water on the construction site, use of site spill kits and briefing to construction staff. Construction works relating to the development hereby approved shall be carried out in accordance with the agreed method statement.

*Reason - To prevent an adverse impact on the River Mease Special Area of Conservation.*

- 10 The development hereby permitted shall not commence until such time as a Highway Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of construction traffic, tracking of the route for the largest vehicles, traffic management proposals, mitigation measures to prevent damage to the Public Highway, a survey of Corkscrew Lane and details of how any damage to the Public Highway will be rectified. The development shall be carried out strictly in accordance with the approved Highway Method Statement unless otherwise agreed in writing by the Local Planning Authority.

*Reason - In the interests of maintaining a safe and efficient highway network and in accordance with chapter 4 the National Planning Policy Framework 2012.*

- 11 The development shall be carried out in accordance with the recommendations set out in paragraphs 4.5.1 - 4.56 in the Ecological Appraisal by avianecology (dated 13 March 2013). The development shall not commence until the findings of the pre-condition badger survey have been submitted to and agreed in writing by the Local Planning Authority. With respect to the requirements of paragraph 4.5.1, a pre-condition update of the badger survey will only be required if the construction of the turbines is delayed beyond 14 February 2014.

*Reason - To ensure the protection of protected species in particular badgers and great crested newts.*

- 12 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to August inclusive unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

*Reason - To reduce the impact of the proposal on nesting birds, which are a protected species.*

- 13 No work shall commence on site until the existing hedgerows alongside the proposed access track have been protected in accordance with a scheme that has been submitted to and agreed in writing by the Local Planning Authority. The agreed protection measures shall be retained until work on the construction of the development is completed.

*Reason- To ensure the existing hedgerows are adequately protected during construction in the interests of the protected species.*

- 14 The development shall be carried out in accordance with the Proposed Scheme for the Investigation and Alleviation of Electromagnetic Interference by Hallmark Power Ltd (dated 09 January 2014) which accompanied the application submission.

*Reason - To address any issues relating to television interference.*

**Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The applicant's attention is drawn to the attached report of Natural England dated 02 May 2013 received with respect to planning application 13/00266/FUL.
- 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.

PLANNING APPLICATIONS- SECTION A

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**Variation of condition 5 of planning permission 2009/0624/07  
in order to allow for amended operating times**

**Report Item No  
A4**

**Newbridge High School Forest Road Coalville Leicestershire**

**Application Reference  
14/00311/VC1**

**Applicant:  
Mr Maxine Adams**

**Date Registered  
4 April 2014**

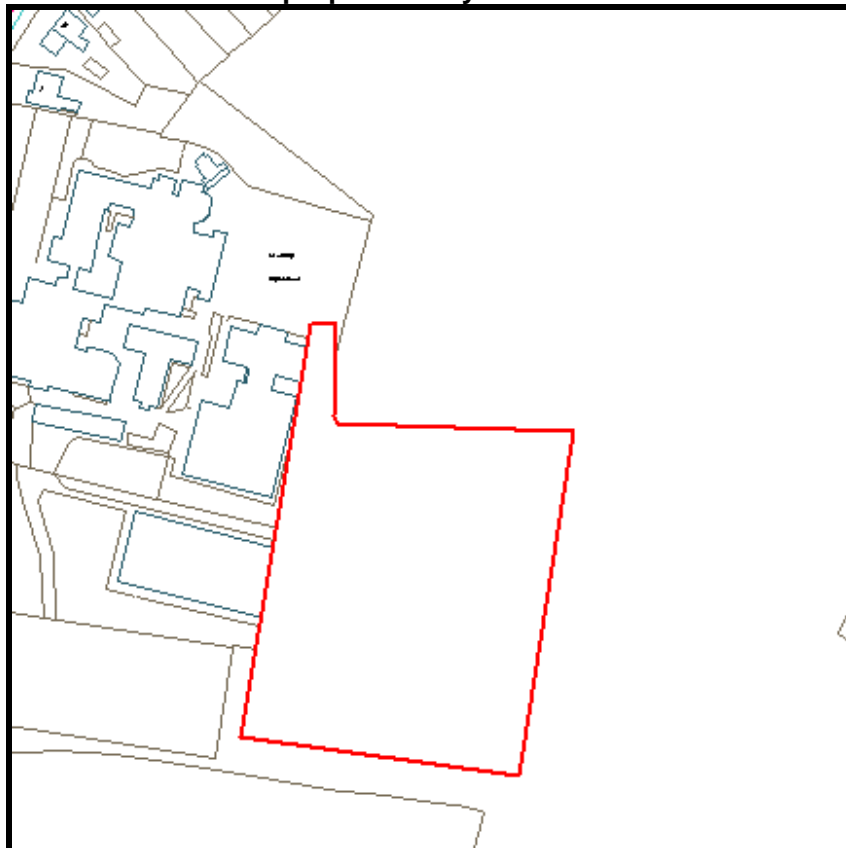
**Case Officer:  
James Mattley**

**Target Decision Date  
30 May 2014**

**Recommendation:  
Permit Subject to Section 106**

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**Site Location - Plan for indicative purposes only**



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## EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

### Call In

The application is to be determined by the Planning Committee as it has been called in by Councillor Johnson.

### Proposal

Planning permission is sought for the variation of condition 5 of planning permission 2009/0624/07 in order to allow for amended operating times in association with the sports hall. It was originally intended that the sports hall be available to be used everyday between the hours of 08:00 to 22:00 and so that it could be used by other groups (not just Newbridge High School). However, the following operating hours are now proposed:

#### *Sports hall:*

8.00am to 9.00pm Monday to Friday

8.00am to 7.00pm Saturdays

9.00am to 4.00pm Sundays & Bank Holiday (unchanged)

With the exception of one day in the year during Monday to Friday in July when the sports hall will be open for Presentation Evening.

#### *Changing rooms and office building area:*

8.00am to 10.00pm

The existing planning permission only allows the sports hall to open until 20:00.

### Consultations

Members will see from the report below that seven letters of representation have been received from members of the public.

### Planning Policy

The development is considered to comply with the relevant policies of the North West Leicestershire Local Plan as well as guidance contained within the National Planning Policy Framework.

### Conclusion

The report below indicates that the scheme is considered to be acceptable in principle. The proposal would not adversely affect the character and appearance of the surrounding area, be significantly detrimental to highway safety or impact upon the amenities of nearby residents. On this basis it would accord with the development plan and all other material considerations. It is therefore recommended that the application be permitted.

### RECOMMENDATION - PERMIT, 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 conditions, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

In September 2009 Leicestershire County Council granted planning permission for a new sports hall and fitness suite with ancillary changing and storage facilities at Newbridge High School. Condition 5 of that planning permission states:

*The use of the sports hall shall only take place during the following hours:*

- i. Mondays and Fridays 08:00 to 20:00;*
- ii Saturdays 09:00 to 18:00;*
- iii Sundays, Public and Bank Holidays 09:00 to 16:00.*

*The use of the sports hall shall be limited to purposes associated with Newbridge High School only, e.g. staff and competition with other visiting schools, until 17:00 hours on any school day. All lights within the sports hall shall be turned off no later than 30 minutes after the approved hours of use on any day, and at any other time that the sports hall is in use.*

The application originally proposed that the sports hall be available to be used everyday between the hours of 08:00 to 22:00 and so that it could be used by other groups (not just Newbridge High School). However, the following operating hours are now proposed:

#### *Sports hall:*

8.00am to 9.00pm Monday to Friday

8.00am to 7.00pm Saturdays

9.00am to 4.00pm Sundays & Bank Holiday (unchanged)

With the exception of one day in the year during Monday to Friday in July when the sports hall will be open for Presentation Evening.

#### *Changing rooms and office building area:*

8.00am to 10.00pm

The planning application now falls to be determined by North West Leicestershire District Council and not Leicestershire County Council as Newbridge High School has academy status.

The planning history of the site is as follows: -

- 76/0506/C - Chemical store and preparation room in single storey extension to school - Approved 13th May 1979;
- 79/0715/C - The standing of temporary Elliots single mobile classroom - Approved 9th August 1979;
- 80/0213/C - Standing of temporary mobile double and single classrooms - Approved 10th April 1980;
- 82/0887/C - Retention of temporary mobile double and single classrooms - Approved 19th December 1982;
- 84/0223/C - Standing of five no. temporary mobile double classrooms and one no. single mobile classroom - Approved 19th April 1984;
- 84/0510/C - Retention of temporary mobile double and single classrooms without toilets - Approved 1st August 1984;
- 86/0305/C - Retention of temporary mobile double and single classrooms - Approved 2nd May 1986;

## PLANNING APPLICATIONS- SECTION A

- 87/0034/C - Retention of temporary mobile double and single classrooms - Approved 17th March 1987;
- 87/0176/C - Retention of four temporary mobile double classrooms and one mobile single classroom - Approved 21st May 1987;
- 89/0583/C - Retention of temporary mobile double and single classrooms - Approved 12th May 1989;
- 98/00674/COM - Erection of 2.4 metre and 3.0 metre high security fence and gates (Leicestershire County Council Regulation 3 Application) - Approved 17th September 1998;
- 04/00018/COM - Installation of solar thermal collector panels (Leicestershire County Council Regulation 3 Application) - No Objection 26th January 2004;
- 04/00868/COM - Insertion of replacement roofing (Leicestershire County Council Regulation 3 Application) - No Objection 11th June 2004;
- 04/01330/COM - Replacement multi-use games area with 3 metre high fencing and construction of new path (Leicestershire County Council Regulation 3 Application) - No Objection 6th September 2004;
- 09/00624/COM - Proposed new sports hall and changing rooms (Leicestershire County Council Regulation 3 Application) - No Objection 17th July 2009;
- 10/00199/COM - Application for non-material amendment to planning application 2009/0624/07 which permitted a new sports hall and changing rooms (Leicestershire County Council Regulation 3 Application Identity Number 2010/L207/07) - No Objection 26th March 2010;
- 12/00628/FUL - Creation of additional 33 no. parking spaces - Withdrawn 24th September 2012;
- 12/01059/FUL - The installation of a new artificial grass sports pitch with associated perimeter fencing and floodlights as well as the formation of car parking area and pedestrian access paths with associated lighting - Permitted 18 February 2013.

### 2. Publicity

Neighbours have been notified (Date of last notification 24 June 2014)

Site Notice displayed 10 April 2014

### 3. Consultations

Hugglescote & Donington Le Heath consulted 9 April 2014

County Planning Authority consulted 9 April 2014

Head of Environmental Protection consulted 9 April 2014

County Highway Authority consulted 9 April 2014

Hugglescote And Donington Le Heath Parish Council consulted 21 May 2014

### 4. Summary of Representations Received

**North West Leicestershire Environmental Protection Officer** has no objections to the proposal.

**Leicestershire County Council Planning Authority** has no objections to the proposal but it is noted that there have been issues of noise from the sports hall impacting upon local residents, particularly from users of the facility leaving doors and windows open whilst it is in use. Therefore, should the LPA be minded to grant planning permission it may wish to consider

imposing further controls on the facility requiring external doors/windows to be kept closed at all times the facility is in use, save, of course, for emergency situations.

**Leicestershire County Highway Authority** has provided standing advice for car parking and cycle parking to be considered.

A total of six representations have been received objecting to the application on the following grounds:

- \_ further noise disturbance during the evenings;
- \_ there are other sports halls in the locality which could be used;
- \_ noise would effect rear gardens and reduce quality of life;
- \_ there have already been breaches of the planning conditions;
- \_ residents in the area should not be exposed to noise generated from users from outside of the area;
- \_ the current hours are perfectly clear and there should be no restrictions;
- \_ residents were promised supervision but this is non-existent;
- \_ the school have listed the benefits of extending the opening hours but what about the benefits to the local community\_;
- \_ already anti-social behaviour in the area;
- \_ the site is a school not a leisure centre;
- \_ proposal would reduce the use of council leisure services;
- \_ the school have broken previous promises.

One letter of support has been received.

## 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.

Paragraph 73 outlines that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments

should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required;

Paragraph 74 outlines that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location, or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss;

Paragraph 123 indicates that planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often cause some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and prized for their recreational and amenity value for this reason.

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

## **6. Assessment**

### **Principle**

The principle of the development has already been established by the previous planning permission 2009/0624/07 which was granted on 24.09.2009. There have been some changes to local plan policies and national policies between the previous approval and the present date. However, these alterations would not significantly alter the conclusions reached in the previous application. As such it is considered appropriate to consider the amended scheme in the context of the changes between the two schemes.

Condition 5 of the original approval stated that:

*The use of the sports hall shall only take place during the following hours:*

- i. Mondays and Fridays 08:00 to 20:00;*
- ii Saturdays 09:00 to 18:00;*
- iii Sundays, Public and Bank Holidays 09:00 to 16:00.*



*The use of the sports hall shall be limited to purposes associated with Newbridge High School only, e.g. staff and competition with other visiting schools, until 17:00 hours on any school day. All lights within the sports hall shall be turned off no later than 30 minutes after the approved hours of use on any day, and at any other time that the sports hall is in use.*

The school are now applying to vary this condition so as to allow the sports hall and changing rooms/office building area to be used for extended periods and to remove the restriction so that it could be used by other groups and not solely restricted to Newbridge High School users. It is considered that the main issue with the determination of this application is the impact that this would have on surrounding residential amenity.

### **Residential Amenity**

A number of objections have been received from surrounding neighbours relating to concerns of noise and disturbance from the sports hall, users of the site and the adjacent car park. The residents of properties that are most affected are 106 - 114 (even numbers only) along Forest Road. There is a distance of around 45 metres between the sports hall building and the boundary with the rear gardens of these properties although the car park for the sports hall is located in closer proximity.

The Council's Environmental Protection team has been consulted on the application given the letters of representation that have been received in respect of noise and the following response has been received:

*I confirm that Environmental Protection have no objections to the granting of the above planning permission, based on all the information provided and the times that have been supplied in the e-mail below. I also believe that the only potential issue with the sports hall being open for a longer period of time would be that of potential extra traffic movements. However I would see this as negligible and any issues arising could be effectively dealt with through appropriate management.*

*As regards to extra noise from the sports hall itself, this should not be a problem as the hall is correctly sound proofed and the 3G pitch to the rear is already open during these new proposed times and any noise associated with activity on site will be limited to the 3G pitch. Furthermore I confirm that noise monitoring over a 2 week period of the site has been undertaken from a neighbouring property along Forest Road and whilst the school is audible it is not causing a statutory nuisance. The monitoring was undertaken after a complaint was made about noise from the new 3G pitch and I confirm that this complaint is now closed with no action to be taken. This is to date the only complaint that has been received.*

*Having regard to the above comments I would like to see a condition attached to the sports hall which prevents any windows or doors being opened during the use of the facility.*

When having regard to the existing operating times of the open air 3G pitch, which are between 08:00 and 22:00, and taking into account the comments of the Council's Environmental Protection team, it is not considered that any significant additional noise and disturbance would arise to surrounding occupiers. The condition recommended by the Council's Environmental Protection team can be included should planning permission be granted but would not be able to be applied to the hours that have already been consented by planning permission 2009/0624/07. Therefore, the scheme is considered to comply with Policy E3 of the Local Plan.

## Other

It is necessary to re-attach all the relevant planning conditions from the previous planning permission on the site although some conditions are no longer relevant given that the building has been constructed.

## Conclusion

Subject to suitable conditions the proposal would not adversely affect the character and appearance of the surrounding area, be significantly detrimental to highway safety or impact upon the amenities of nearby residents. 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 development plan and all other material considerations. It is therefore recommended that the application be permitted.

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

- 1 Unless otherwise required by the conditions attached to this permission, no development shall be carried out other than in strict accordance with the details set out in the submitted application, supporting statement and plans submitted under planning application reference 2009/0624/07 as amended by the details contained within planning application reference 14/00311/VCI.

*Reason - To ensure the permission is implemented in all respects in accordance with the submitted details and the use of the development remains compatible with existing development in the locality (Policy E4 of the North West Leicestershire Local Plan).*

- 2 Notwithstanding Condition 1 above, the building hereby approved shall be constructed strictly in accordance with the details set out on drawing no. GA1602 - 01 Revision D dated March 2009 and revised Design and Access Statement Revision A dated August 2009.

*Reason - To ensure the permission is implemented in all respects in accordance with the submitted details and the use of the development remains compatible with existing development in the locality (Policy E4 of the North West Leicestershire Local Plan).*

- 3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order) the premises shall be used only for the purposes specified in this application and for no other purposes whatsoever.

*Reason - Other uses may be harmful to the amenities of the area.*

- 4 The use of the sports hall shall only take place during the following hours:

Sports Hall request:  
8.00am to 9.00pm Monday to Friday  
8.00am to 7.00pm Saturdays  
9.00am to 4.00pm Sundays & Bank Holiday

The use of the changing rooms and office building area:  
8.00am to 10.00pm

All lights within the sports hall shall be turned off no later than 30 minutes after the approved hours of use on any day, and at any other time that the sports hall is in use.

*Reason - To safeguard the amenities of nearby residents and reduce the impact on local amenity (Policy E3 of the North West Leicestershire Local Plan).*

- 5 Unless otherwise agreed in writing, all deliveries and movement of materials and machinery to and from the site in connection with the development hereby approved shall only take place between the hours of 09:00-15:00 and 16:00-17:30 Mondays to Fridays during term time and 08:00-13:00 Saturdays. No such activities shall take place on Sundays, Public or Bank Holidays.

*Reason - To safeguard the amenities of nearby residents and reduce the impact on local amenity (Policy E3 of the North West Leicestershire Local Plan).*

- 6 There shall be no playing of any amplified music within the sports hall.

*Reason - To safeguard the amenities of nearby residents and reduce the impact on local amenity (Policy E3 of the North West Leicestershire Local Plan).*

- 7 Details of the siting, design, luminance and direction of light distribution and the shielding of all means of external lighting shall be submitted to and approved in writing by the Local Planning Authority before any such provision is made on the site.

*Reason - To safeguard the amenities of nearby residents and reduce the impact on local amenity (Policy E3 of the North West Leicestershire Local Plan).*

- 8 Details of the siting and design of all means of CCTV equipment shall be submitted to and approved in writing by the Local Planning Authority before any such provision is made on the site.

*Reason - To safeguard the amenities of nearby residents and reduce the impact on local amenity (Policy E3 of the North West Leicestershire Local Plan).*

- 9 None of the existing trees on site shall be lopped, topped, felled or uprooted.

*Reason - To ensure proper steps are taken to safeguard existing vegetation.*

- 10 Notwithstanding Condition 5 above, the use of the sports hall may be used for alternative times in association with the schools presentation evening one day in the year during Monday to Friday in July but only when the alternative times have first been submitted to and agreed in writing by the Local Planning Authority.

*Reason - To safeguard the amenities of nearby residents and reduce the impact on local amenity (Policy E3 of the North West Leicestershire Local Plan).*

- 11 External doors and windows shall be kept closed during the following times (unless in the case of an emergency):

8.00pm to 9.00pm Monday to Friday  
8.00am to 9.00am and 6.00pm to 7.00pm Saturdays

*Reason - To safeguard the amenities of nearby residents and reduce the impact on local amenity (Policy E3 of the North West Leicestershire Local Plan).*

**Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

PLANNING APPLICATIONS- SECTION A

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**Erection of nine residential dwellings**

**Report Item No  
A5**

**Land At Chapel Street Oakthorpe Swadlincote Derby**

**Application Reference  
14/00405/FUL**

**Applicant:  
Mrs B Cotton**

**Date Registered  
20 May 2014**

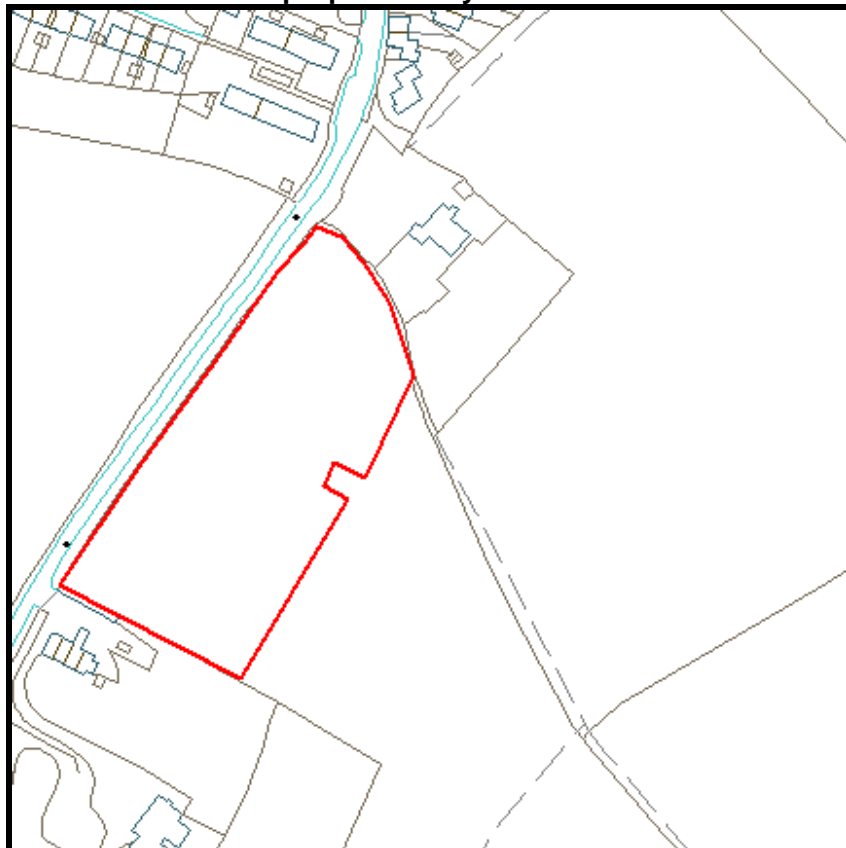
**Case Officer:  
Ebony Mattley**

**Target Decision Date  
15 July 2014**

**Recommendation:  
Refuse**

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**Site Location - Plan for indicative purposes only**



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

### **Call In**

The application is reported to the Planning Committee as it is an application of public interest and raises matters which should be referred to the Planning Committee for consideration.

### **Proposal**

This application seeks full planning permission for nine dwellings, comprising seven open market dwellings and two affordable dwellings. Access to the site would be from Chapel Street. The application site measures some 0.09 hectares and is located outside the Limits to Development.

### **Consultations**

Members will see from the main report below that there are a number of supportive residents, with one objector.

### **Planning Policy**

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

### **Conclusion**

Whilst it is accepted that Oakthorpe has a reasonable range of services and facilities, the site is poorly related to these services and facilities by virtue of its position and physical detachment from the settlement boundary of Oakthorpe.

The site is located outside Limits to Development to the south of the village and within an important entrance and approach into the village. It is considered that a scheme of 9 dwellings would appear significantly out of character with this location, contrary to the environmental strand enshrined within the NPPF and paragraphs 17 and 109 of the NPPF.

Overall the development of this Greenfield site would be detrimental to the character of this rural locality as it would encroach and project significantly into the open countryside and would not be well-related to nearby development, as it would project beyond Oakthorpe's established settlement boundary.

In addition, it is considered that the scheme fails to take regard to this countryside setting by virtue of the design of the dwellings. As such on the basis of the submitted plans at the time of writing, it is considered that the scheme creates an un-acceptable and adverse impact upon the character of the area, contrary to the requirements of Saved Policy E4 of the North West Leicestershire Local Plan and paragraph 64 within the NPPF.

The proposed development would be acceptable in terms of impacts upon the occupiers of existing and future occupiers, highway safety, ecology, archaeology, protected trees, flood risk, drainage, the River Mease SAC/SSSI and is not considered to prejudice the re-opening of the

## PLANNING APPLICATIONS- SECTION A

Ashby Canal. Appropriate contributions towards affordable housing, the River Mease and tree planting could also be made so as to mitigate the associated impacts of the proposal.

On balance, it is not considered that the proposal would represent a sustainable form of development for the purposes of the NPPF, and therefore, the principle of development is not considered acceptable. It is considered that any potential benefits of the scheme as proposed would be insufficient to outweigh the conflict with the development plan and the NPPF resulting from the harm as identified in the main body of the report.

## MAIN REPORT

### 1. Proposal and background

Full planning permission is sought for the erection of nine dwellings. The scheme proposes the erection of four two-storey detached dwellings sited to the south of the site and five single storey and 1.5 detached dwellings sited the north of the site. There are two affordable houses proposed and seven open market dwellings.

There is a large area of open space, centrally located at the sites frontage, with smaller grassed areas along the remainder of the frontage. Access will be provided via amendments to an existing access and creation of a new access, both from Chapel Street. Proposed highways works include the widening of Chapel Street and the provision of a 2 metre wide footpath along the site frontage and within the scheme. The scheme also proposes an access to the east of the site to allow access to the agricultural fields to the rear.

An ash tree located on the site's boundary with Chapel Street is protected by a Tree Preservation Order (T194) and would be removed as a result of the development. Public Footpath P77 runs parallel to the northern site boundary and is consistent with the proposed route of Ashby Canal, as identified in the North West Leicestershire Local Plan 2002.

The site is in agricultural use, with an area of hardstanding to the south east of the site and is located outside Limits to Development, as identified in the North West Leicestershire Local Plan 2002.

The application is accompanied with a Biodiversity Report, Design and Access Statement, Coal Mining Risk Assessment and a Tree Survey and Arboricultural Assessment.

At the time of writing amended plans have been received which show the retention of the ash tree, removal of one access point and amount of hardstanding and alterations to surfacing and boundary treatments. Further negotiation is ongoing in respect of final layout and design amendments.

#### Relevant Planning History:-

04/00714/FUL - Erection of stables and change of use of land for the keeping of horses was approved in February 2004.

92/0239 - Use of land as site for mobile homes was refused in May 1992.

### 2. Publicity

Neighbours have been notified (Date of last notification 28 May 2014)

Site Notice displayed 29 May 2014

Press Notice published 4 June 2014



### 3. Consultations

Oakthorpe & Donisthorpe Parish Council consulted 28 May 2014  
County Highway Authority consulted 28 May 2014  
Severn Trent Water Limited consulted 28 May 2014  
Head of Environmental Protection consulted 28 May 2014  
Natural England consulted 28 May 2014  
NWLDC Tree Officer consulted 28 May 2014  
County Archaeologist consulted 28 May 2014  
LCC ecology consulted 28 May 2014  
National Forest Company consulted 28 May 2014  
Development Plans consulted 28 May 2014  
Manager Of Housing North West Leicestershire District Council consulted 28 May 2014  
LCC/Footpaths consulted 28 May 2014  
Ashby Canal consulted 28 May 2014  
Coal Authority consulted 28 May 2014  
Head Of Street Management North West Leicestershire District consulted 28 May 2014  
NWLDC Footpaths Officer consulted 28 May 2014

### 4. Summary of Representations Received

**Oakthorpe Parish Council** considers that the highway is very narrow, road access is limited and there is an Ash tree covered by a TPO. In addition, Oakthorpe Parish Council believe that the recent ecological surveys carried out at an adjacent development have confirmed the existence of great crested newts and an inspection should be undertaken on this basis.

**Natural England** has confirmed that the proposal is not likely to have a significant effect on the River Mease Special Area of Conservation and therefore raises no objection. Natural England has also confirmed that the scheme will not impact upon the River Mease Site of Special Scientific Interest (SSSI) and therefore raises no objection subject to the imposition of a condition.

**National Forest Company** advises that 20 percent of the site area should be woodland planting and landscaping unless an off-site developer contribution is agreed and secured through the S106 agreement.

**The County Highway Authority** raises no objection subject to the imposition of planning conditions and the inclusion of a routeing agreement within the S106 agreement.

**The County Footpaths Officer** advises that the Public Footpath P77 to the north of the site should be surfaced.

**The County Archaeologist** considers that the site has low archaeological potential and consequently no further archaeological requirements have been recommended.

**The County Ecologist** raises no objection subject to conditions for mitigation.

**NWLDC Affordable Housing Enabler** is satisfied with the provision of two affordable, two bed bungalows on site.

**NWLDC Environmental Protection** has no environmental observations.

**NWLDC Footpaths Officer** considers that no footpath diversion considerations are necessary for this application.

At the time of writing the report representations had not been received from:-

Severn Trent Water  
The Council's Tree Officer

**Third Party Representations:**

A petition containing 41 signatures has been received, in support of the development.  
2 letters of support has been received stating that the site is an ideal location not being crammed into the village, provides bungalows which there is a shortage of and is within walking distance of Oakthrope, is located in a desirable location, proposes parking, large gardens and detached dwellings.

1 letter of objection has been received stating that the site would expand the main part of the village whilst there is room to infill within the village, the narrow width of Chapel Street and the use as a cut through, and the Ashby Canal and HS2 rail line is due to come through this field. The site also has a tree covered by a TPO, the sewers are blocked and the school is full.

**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 (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.

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

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- 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;
- encourage effective use of land by reusing land that is previously developed;
- conserve heritage assets in a manner appropriate to their significance;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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 and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that this means:

- 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. ...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."

"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."

"54. ... Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs."

"55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities."

"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."

"64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

"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."

"112. Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

"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;

- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest; ...

- ...- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"119. 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."

"123. Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of the available evidence and any necessary expertise."

"131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

"173. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

"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."

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

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development plan. The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

Policy S1 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.

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 other things, public transport and services.

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 a number of issues including housing mix, accessibility to centres and design.

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

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.

Policy E4 seeks to achieve good design in new development.

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

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

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the River Mease.

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 F2 states that the Council will have regard to the existing landscape character of the site and the type of development when seeking new planting.

Policy F3 seeks to secure implementation of agreed landscaping and planting schemes for new development by the imposition of planning conditions and/or the negotiation of a planning agreement.

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. In relation to car parking standards for dwellings, an average of 1.5 spaces off-street car parking spaces per dwelling will be sought.

Policy T16 states that development will not be permitted which would prejudice the re-opening of Ashby Canal and associated canalside facilities.

### **Other Guidance**

*Submission Core Strategy* - At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

*The Conservation (Natural Habitats &c.) Regulations 2010* (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs).

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

*The River Mease Developer Contributions Scheme (DCS) - November 2012* is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

*The Community Infrastructure Levy Regulations 2010* provides a legislative requirement that an obligation must meet the following tests:

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

*The Technical Guidance to the National Planning Policy Framework - March 2012* provides additional guidance relating to flooding.

*National Planning Practice Guidance - March 2014* supplements the policies in the NPPF. The Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

*NWLDC SPD for Affordable Housing - January 2011* Key Principle AH3 provides that affordable housing will be sought on all sites of 15 or more dwellings in 'all other settlements'.

## **6. Assessment**

The main considerations with regards to this application are the principle of development and five year housing land supply, siting, impact upon the countryside, density, layout and design, impact upon residential amenity, highway considerations, protected species/ecology, archaeology, drainage and flood risk, the impact upon the River Mease Special Area of Conservation/SSSI, impact upon Ashby Canal and footpath, impact upon trees and the provision of affordable housing and developer contributions.

### **Principle of Development and Five Year Housing Land Supply**

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

The application site lies outside the Limits to Development of Oakthorpe, as defined proposals map of the adopted Local Plan. The overarching principle of the NPPF is to protect the countryside but to allow sustainable development where appropriate. Schemes outside Limits to Development fall to be considered against Saved Policy S3 of the Local Plan.

The development proposed would not meet the criteria for development in the countryside and the scheme would therefore be contrary to the provisions of S3.

As explained further below, however, as a consequence of the Council currently being unable to demonstrate a five-year supply of housing land, Policy S3 can no longer be considered an up-to-date policy in the context of paragraph 49 of the NPPF as it is a general policy that constrains the supply of housing.

Notwithstanding the countryside location, and whilst the proposal would be contrary to the adopted Development Plan, therefore, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and national policies.

In terms of the Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
- the latest urban capacity information;
- the need to maintain an appropriate supply of available housing land;
- lead times before houses will be expected to be completed and build rates thereafter; and,
- other material considerations.

As with Policy S3, however, Policy H4/1 being a policy for the supply of housing, can no longer be considered up-to-date due to the inability of the Council to demonstrate a five-year supply of housing land, as discussed below.

### ***Housing Land Supply***

The NPPF requires that the Council should be able to identify a five year supply of housing land and include an additional buffer of 5% or 20% depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the "Sedgefield" approach should be used and that a buffer of 20% should be allowed for (an approach to assessing land availability also suggested as appropriate within the recently published National Planning Practice Guidance).

On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.7 years which represents a significant shortfall vis-à-vis the requirements of the NPPF. The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "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".

Therefore the Council would not, in these circumstances, be able to rely on either Policy S3 or Policy H4/1 as they are "relevant policies" for the purposes of NPPF paragraph 49. Whilst members have previously been advised, on the basis of the Stephenson's Green High Court decision that Policy S3 should not be considered to be a relevant policy for the supply of housing and that accordingly the policy should not be considered to be out of date, a recent judgement from the most senior Judge in the Administrative Court (who is also a specialist Planning Judge) has qualified the position taken by the Judge in the Stephenson's Green case as a result of which it is no longer appropriate to rely on the latter decision.

In *South Northamptonshire Council -v-Secretary of State for Communities and Local Government* (10 March 2014) Mr Justice Ouseley, considering the meaning in paragraph 49 of the NPPF of policies "for the supply of housing", said this:

*"46. That phraseology is either very narrow and specific, confining itself simply to policies which deal with the numbers and distribution of housing, ignoring any other policies dealing generally with the location of development or areas of environmental restriction, or alternatively it requires*



*a broader approach which examines the degree to which a particular policy generally affects housing numbers, distribution and location in a significant manner.*

*47. It is my judgement that the language of the policy cannot sensibly be given a very narrow meaning. This would mean that policies for the provision of housing which were regarded as out of date, nonetheless would be given weight, indirectly but effectively through the operation of their counterpart provisions restrictive of where development should go. Such policies are the obvious counterparts to policies designed to provide for an appropriate distribution and location of development. They may be generally applicable to all or most common forms of development, as with EV2, stating that they would not be permitted in open countryside, which as here could be very broadly defined. Such very general policies contrast with policies designed to protect specific areas or features, such as gaps between settlements, the particular character of villages or a specific landscape designation, all of which could sensibly exist regardless of the distribution and location of housing or other development".*

Thus, whilst e.g. Green Wedge or Gap policies may not be caught by Paragraph 49, policies such as S3 and H4/1 that generally restrict development outside of settlement boundaries in open countryside clearly are. In these circumstances Members must be advised to consider both S3 and H4/1 as not being up-to-date policies. In any event, as the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements up until the end of the Plan Period (i.e. to 2006) less weight could have been attributed to any conflict with Policy S3 in the overall planning balance.

In addition, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

### ***Sustainable Development***

In March 2012 the National Planning Policy Framework (NPPF) was published and introduces the presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved without delay and where relevant policies are out of date planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

**Economic** - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.

**Social** - in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future

generations; and by creating a high quality built environment. The scheme proposes bungalows and two storey dwellings, including the provision of affordable housing, appealing to a wider spectrum with the local market, thus increasing local market choice and appealing to groups whom may have otherwise been excluded from the locality.

Environmental - to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change.

The development would result in the loss of greenfield land which is identified in the adopted Local Plan as being countryside and for the reasons discussed later in this report is not considered to protect or enhance the natural environment.

In summary, based on the above discussion, the development proposed is not considered to comply with the environmental strand within the NPPF, and thus in principle, the development is not considered to be acceptable.

### ***Sustainability Credentials of Oakthorpe***

The site is located to the south west of Oakthorpe. The site does not adjoin the settlement boundary and is located some distance from the services and facilities within Oakthorpe.

In terms of sustainability, Oakthorpe has a reasonable range of services and facilities for a settlement of its size.

Oakthorpe itself has a primary school, public house, general store, community leisure centre and children's play area. In terms of public transport the nearest bus stops are at located along Main Street (Bon Croft Gardens) there is an hourly 6 day a week (Monday to Saturday) service to Ashby, although it should be noted that 2 services per day terminate at Measham.

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 approximate distances from the centre of the site to local facilities and services via the existing footway network:

Methodist Church 185  
Public House - 285 metres  
Bus Stop - 330 metres  
Primary School - 730 metres  
Leisure/Community - 900 metres  
Shop and Takeaway - 1,060 metres

Accordingly only the Methodist Church would be within the 'desirable' walking distance, with the Public House and Bus Stop being within the 'acceptable' walking distance. The Primary School would fall within the 'maximum' walking distance with the leisure/community facility, shop and takeaway falling outside of the 'maximum' walking distance.

It is considered that whilst Oakthorpe is a sustainable location, the site is located outside the defined Limits to Development and result in an inappropriate form of development disconnected

from the main built up area of Oakthorpe, and would not, therefore represent a sustainable form of development.

### **Siting**

The settlement boundary of Oakthorpe runs along the rear gardens of Stretton View, which are residential properties located to the western side of Chapel Street. The boundary line then continues north east, incorporating the road and residential curtilage of No. 35 Chapel Street, located to the east of Chapel Street. Neighbouring 'Springfield' which adjoins the application site to the north is not included within the settlement boundary. Accordingly the site does not adjoin or abut the settlement boundary at any point.

With the exception of No's 43 to 49 Chapel Street, a row of two storey terraces located to the south of the site, a single storey outbuilding and garage, the area is agricultural and un-developed in nature. No's 43 to 49 are very much an exception to the pattern and un-developed nature of this area. Whilst the site itself is immediately adjoined to the north and south by this above mentioned residential development, both are outside of the settlement boundary and therefore also fall outside limits to development.

It is considered that the most natural, sustainable expansion of Oakthorpe would be development which abuts, adjoins the settlement boundary or has a physical and visual relationship with the settlement itself.

### **Impact upon the Character and Appearance of the Countryside**

As discussed earlier in this report the application site in policy terms lies outside of the defined development limits for Oakthorpe and within the countryside. Paragraph 17 of the NPPF also states that planning should recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it, and paragraph 109 states that the planning system should protect and enhance valued landscapes.

The site occupies a prominent position and important viewpoint when travelling into the south of the settlement of Oakthorpe from Chapel Street. Land levels gently rise from the centre of the site towards the northern periphery with 'Springfield'.

To the north of the site is a mature hedgerow and public footpath which is considered to provide both a visual and a physical separation from the settlement with the countryside beyond. The site itself is characterised by mature hedgerows with scattered trees to the north and west, with a clear open view to the east of the site.

It is considered that this site represents a 'typical' rural countryside location and provides an important element of the setting and approach to the village. It is considered that the introduction of nine residential dwellings and associated infrastructure would bring a change and an impact upon the visual character of the area, given the sites un-developed agricultural nature.

The submitted details show the removal of a large expanse of hedgerow across the sites frontage, to largely facilitate the proposed footpath and visibility splays. Resultant of the loss of the mature hedgerow to the sites frontage, this would open up views into the site, thus making the development more prominent in immediate views from Chapel Street.

The applicant has confirmed that a replacement hedgerow could be planted behind the footpath,

which has been reflected in part with the latest submitted plans, which would help soften the impact of the development, however there would be an un-acceptable visual impact until such a time that the hedgerow was able to establish itself.

Public Footpath P77 extends along the north eastern boundary of the application site before turning south and extending along to meet Measham Road. The route of the Public Footpath to the northern part of the site has mature hedgerow planting and it is considered that there is only likely to be glimpses of the development during the winter months.

The views from Public Footpath P77 to the east of the site would be most prominent given the open nature of the adjoining field to the east. Accordingly the view from the east would be of the rear of plots 3,4 and 6-9 and the 1.8 metre close boarded wooden fencing which is proposed to the rear boundaries which is not considered to be a typical boundary treatment within this setting. Following discussions with the applicant an alternative post and rail fence with hedgerow planting has been submitted which would soften this edge.

In terms of views from within the settlement boundary of Oakthorpe itself, it is acknowledged that as the single storey dwellings would be proposed on the highest part of the site, and the two storey on the lowest part and furthest away from the settlement and therefore the scheme is unlikely to be visually prominent from the north.

Accordingly whilst the site would not be particularly prominent from the north of the site due to screening by existing boundary hedgerows and topography, the scheme would be visually prominent from immediate views from Chapel Street and from the public footpath network to the east of the site.

Whilst there would be a set back of built development from the road frontage and replacement hedgerow planting, given the removal of the mature hedgerow and introduction of residential development in this previously un-developed site, it would be difficult for even a semi-rural character to remain intact.

In summary, Chapel Street is bound by mature hedgerow on both elevations which create a strong sense of enclosure and forms an important part of this rural character and approach to the village. The character of the area is essentially rural, with a strong sense of being within the countryside by virtue of natural features which contribute to its rural ambience. Given the lack of existing urban features, with the exception of No's 43-49 Chapel Street (which as discussed above are considered to be an exception to the grain of development), it is considered that a scheme of nine dwellings would appear significantly out of character with its surroundings.

It is therefore considered that the introduction of a residential housing scheme would represent an un-acceptable adverse impact upon the character and appearance of the countryside contrary to Paragraph 17 of the NPPF.

## **Density, Layout and Design**

### ***Density***

The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances.

The application proposes 9 dwellings on a 0.9 hectare site equating to a net density of 10

dwelling per hectare (dph) which is well below that sought under Policy H6 of the Local Plan (a minimum of 30 dwellings per hectare). This density is considered appropriate having regard to the location of the site on the edge of a village and the rural character of the area. Accordingly it is not considered that a higher density of development could be achieved on the site, without having greater adverse impacts than the current proposal. Therefore, the scheme is considered to be acceptable in relation to the advice contained in the NPPF and Policy H6 of the Local Plan.

### ***Layout and Design***

Paragraph 64 of the NPPF states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The eastern side of Chapel Street is characterised by a row of two storey terraces (to the south of the application site) and a mix of detached and semi detached two storey dwellings to the north of the application site. In the wider vicinity to the west of Chapel Street are terraces and semi detached dwellings.

Overall it is considered that there are a range of property types and designs within the vicinity of the site, although as previously discussed with the exception of No's 43-49 Chapel Street and Springfield Farm the residential properties are located within Limits to Development and as such the layout and design of properties are expected to be different in nature.

The proposal provides a mix of four, two storey detached dwellings and three, single storey open market bungalows and a pair of 1.5 storey (with accommodation in the roofspace) affordable dwellings. The site is split into two distinct areas, with the two storey dwellings to the south of the site and single storey to the north. Whilst the scale should typically reduce from the settlement towards the countryside, to give a lessening of urban influence, given the presence of two storey dwellings to the south of the site and given that land levels rise to the north, the re-location of two storey dwellings to the north of the site would result in an additional adverse impact upon this countryside setting. On this basis the division between the two storey and single storey dwellings is considered acceptable in principle.

The Council's Urban Design Officer was of the opinion that the layout and design of the buildings on this edge of settlement location is out of character and has requested that cottage style or agricultural barn style/courtyard style arrangements to be considered. In addition, concerns have been expressed over the expanse of hard standing, the heavily engineered access route, the provision of two access points and the removal of the Ash tree and hedgerow to the sites frontage.

At the time of writing amended plans have been submitted which shows an improved layout of the dwellings, removal of one access point and footpaths within the scheme, the removal of large expanses of hard standing and retention of the ash tree, at the Tree Officers approval. Accordingly the layout and treatment of spaces between and around the dwellings has been improved it is still considered, however that further alterations to improve the overall visual appearance of the scheme can be sought and the specific design details of the properties enhanced.

As such at present the design of the units does not have full regard to this countryside setting and thus create an un-acceptable and adverse impact upon the character of the area, contrary to the requirements of Saved Policy E4 and paragraph 64 within the NPPF.

Accordingly at the time of writing the report, whilst the layout of the scheme has been improved, the final detailed design is un-acceptable and as such a reason for refusal is recommended on this basis. The applicant is working with the Authority to overcome these concerns and further amendments are expected. As such the final revised layout and design will be explored in detail, on submission of the amendments and be reported to Members via the update sheet.

### **Impact upon Residential Amenity**

The residential dwellings most immediately impacted upon as a result of the proposal would be No.'s 43-49 Chapel Street located to the south of the application site and 'Springfield', Chapel Street located to the north of the application site.

There is a distance of approximately 14.1 metres between the rear elevation of the garage of plot 9, and approximately 19.5 metres between the side elevation of plot 9, to the closest point to the terrace row of 43-49 Chapel Street, respectively. This is considered to be a sufficient distance away to ensure no adverse impacts, and there is an existing single storey outbuilding along the site's southern boundary which would screen an element of the development.

There is a distance of 16 metres between 'Springfield' and the application site boundary and a further distance of 14.8 metres from the boundary to the closest point of plot 2. This is considered to be a sufficient distance between the two properties, and given the changes in levels, plot 2 sits considerably lower than that of the neighbouring dwelling ensuring no adverse impacts.

It is considered that if distances alter on the receipt of final amended plans then the revised distances will be provided via the update sheet.

All other existing neighbouring dwellings are located at sufficient distances away not to be significantly impacted upon as a result of the proposal.

In respect of impacts upon the future occupiers between the plots themselves, there is sufficient distance between the dwellings to ensure that there are no any significant overlooking, overshadowing, or overbearing impacts. There is a direct relationship between plots 4 and 5, however there is a distance of a minimum of 20 metres between the habitable windows in both single properties which is in excess of the recommended separation distances.

Windows serving bathrooms and en-suites are to be fitted with obscure glass, secured by the imposition of a planning condition.

In summary, the proposal is considered to have minimal impacts upon amenity of existing neighbouring or future neighbouring residents. As such the scheme is considered to be in accordance with Saved Policy E3 of the Local Plan.

### **Highway Considerations**

Access will be provided via amendments to an existing access and creation of a new access, both from Chapel Street. Proposed highways works include the widening of Chapel Street and the provision of a 2 metre wide footpath along the site frontage. There is a mixture of integral and detached garaging, with all plots providing a minimum of 2 no. car parking spaces.

The County Highway Authority (CHA) has been consulted and does not raise any objections,

subject to conditions and details for the routing of construction traffic to be included in a S106 legal agreement.

In summary, subject to the imposition of conditions it is considered that the scheme is acceptable in relation to Saved Policies T3 and T8 of the Local Plan.

### **Protected Species/Ecology**

The application has been accompanied by an ecological appraisal, incorporating a protected species survey which has been considered by the County Ecologist.

Initially the County Ecologist raised no objections to this development, however following consideration of a secondary survey relating to a pending application at Home Farm, Oakthorpe (ref: 14/00244/OUTM) has subsequently revised their observations.

This secondary survey undertaken by independent ecologists, EMEC undertook a survey of the same pond and assessed the pond as 'high' risk of Great Crested Newts being present and this was subsequently confirmed beyond doubt when a population was located.

Accordingly the County Ecologist had raised a holding objection pending further investigation of the pond and the provision of satisfactory mitigation statement. The applicant has subsequently submitted a great crested new mitigation plan to complement the previous submitted ecological appraisal.

This mitigation plan has been considered by the County Ecologist who now raises no objection, subject to conditions which enshrine the recommendations within the mitigation plan.

The site lies within the catchment of the River Mease Special Area of Conservation (SAC) and consideration of the potential impacts of the development on this designated site will be covered later in this report.

### **Archaeology**

The application has been considered by the County Archaeologist who has confirmed that the development lies in an area of uncertain archaeological potential to the south of the former line of the Ashby to Nuneaton canal (Leics. & Rutland Historic Environment Record (HER): ref: MLE8916); the latter dates from the turn of the 18th-19th century.

The County Archaeologist states that the scheme stands off the recorded line of the canal, which itself is located immediately outside the development area to the north, consequently it appears unlikely that buried remains associated with the canal will be disturbed by the scheme.

Overall it is considered that the site has a low archaeological potential and consequently no further archaeological requirements have been recommended.

### **Drainage and Flood Risk**

The site lies within Flood Zone 1 as defined by the Environment Agency as having a low probability of flooding. As the site does not exceed 1 hectare in size, there is no formal requirement to provide a Flood Risk Assessment (FRA) or formal consultation undertaken with the Environment Agency.

Severn Trent Water has been consulted on the application but no comments have been received at time of writing. A chasing request has been made and should any comments be received, they will be reported to Members via the update sheet.

The submitted details confirmation that surface water would be disposed of via a soakaway and whilst no formal details have been submitted a suitably worded condition could be imposed should Members be minded to approve the application.

Consideration of the capacity of STW's treatment works is set out below in the section relating to impact on the River Mease SAC.

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

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. A tributary of the River Mease runs alongside the western boundary of the site and the River Mease itself is within 200m of the site. 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 flows from the new dwellings will need to be taken into account against the existing headroom at Measham Treatment Works, which serves the village. At March 2014 capacity was available for 188 dwellings but this is reduced by the number of dwellings that have consent and/or are under construction (none) whilst also considering those which are pending consideration (128 dwellings). Taking these into account, assuming all would be approved there would still be capacity for at worst case scenario, 60 dwellings. Accordingly a scheme for 9 falls well within the existing capacity levels.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water in the river are met by potential developers. The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

When having regard to the existing agricultural use of the site, the proposal for 9 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS which has been calculated as a maximum of £2,650.00

Natural England has no objections in relation to impact on the SAC/SSSI subject to a condition. Therefore based on the above it can be ascertained that the proposal site would 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.

### **Impact upon Ashby Canal and Public Footpath**

Saved Policy T16 (Ashby Canal) states that development will not be permitted which would prejudice the re-opening of Ashby Canal and associated canalside facilities. There is at least a 6 metre buffer/separation shown to the north of the site, with a distance of 14.8 and 20 metres between the rear walls of units 1 and 2, respectively. Given the layout and distances it is not considered that this development would prejudice the re-opening of this stretch of the canal.

The County Footpath Officer considers that the route of the Public Footpath P77 will extend inside the north eastern boundary of the application site. This Public Footpath is situated parallel to the north site boundary, to the north of the existing hedgerow and therefore the route of the footpath is not impacted upon as a result of the proposal. The scheme is proposing the provision of a footpath to the sites frontage and there is no evidence to suggest that the development would directly impact upon the route of Public Footpath P77 and it is considered that the re-surfacing is considered onerous and not necessary in this case.

### **Impact upon Trees**

An ash tree located on the site's boundary with Chapel Street is protected by a Tree Preservation Order (T194) and the original scheme proposed the removal of this tree. Following discussions with the applicant, amended plans have been received showing the retention of three and consideration by Council's Tree Officer will be reported to Members via the update sheet

### **Coalfield Issues**

The northern part of the site falls within the Coal Authority Referral Zone. The scheme has been considered by The Coal Authority who have confirmed that there is a potential risk to the development from shallow coal seams beneath the site and intrusive site investigations should be carried out in order to establish the exact situation in respect of coal mining legacy issues. Accordingly it is suggested a planning condition should be imposed requiring that site investigation works are undertaken prior to the commencement of development.

### **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.

### ***Affordable Housing***

The proposal seeks to provide 9 properties in total so triggers the policy requirement for 30% affordable housing equating to 3 properties. The applicant is proposing that 2 of the dwellings

be affordable, which would just fall short of the requirements of the SPD.

The housing register for Oakthorpe and Donisthorpe in 2011 indicated a need of 9 properties, of which 4 properties were identified specifically from households currently living or working in Oakthorpe. The results of this survey are still valid and the following property types were identified as 1 x 1 bed flat; 1 x 2 bed house and 2 x 2 bed bungalows.

The Council's Strategic Housing Team have been consulted on the application and have advised that they are satisfied with the reduced provision in this case, on the basis that the affordable housing provision includes the two bungalows (two-bed), there are no age restrictions attached to these properties and they are provided as affordable rented properties.

Should Members be minded to approve this application, this would be subject to the signing of a legal agreement to secure the provision of the two affordable rented bungalows.

### ***River Mease DCS***

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage, as the code levels of the dwellings has not been finalised. The contribution would be based on the provision of 2 x 2 bed, 2 x 3 bed and 5 x 4 bed, accordingly the maximum with code level 1/2 amount would be £2,650.00

A Section 106 agreement would be worded as such to allow flexibility based on the construction code levels.

### ***National Forest Company***

The application site extends to 0.9 ha and the National Forest Planting Guidelines require 20% of the site area to be for woodland planting and landscaping. This would equate to an area of 0.18 ha either on-site, off-site or by way of a financial contribution equating to £3,600.

### ***Summary***

For the avoidance of doubt given that the scheme is for 9 dwellings there is no requirement under the provisions of the policy to request either on site play space or a financial contribution in lieu for off site provision.

Overall, it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development.

The applicant has confirmed that they would be willing to enter into an agreement to secure the above mentioned contributions, should there be a resolution to grant planning permission.

### **Conclusion**

In conclusion, the development would not give rise to any significant material impacts upon the occupiers of existing and future occupiers, highway safety, ecology, archaeology, protected trees, flood risk, drainage, the River Mease SAC/SSSI or prejudice the re-opening of the Ashby Canal. Appropriate contributions to infrastructure could also be made so as to mitigate the

impacts of the proposals on local facilities/services.

As set out in the main report above, however whilst Oakthorpe itself is a sustainable location for residential development, the scheme would be sited outside the defined Limits to Development and result in an inappropriate form of development disconnected from the main built up area of Oakthorpe, and would not, therefore represent a sustainable form of development.

The site is located outside Limits to Development to the south of the village and within an important entrance and approach to the village. The character of the area is essentially rural, with a strong sense of being within the countryside by virtue of natural features which contribute to its rural ambience. It is considered that a scheme of 9 dwellings would appear significantly out of character with this location contrary to the environmental strand enshrined within the NPPF and paragraphs 17 and 109 within the NPPF.

At the time of writing the report, whilst the main layout of the scheme has been improved, the final detailed layout and design is un-acceptable and as such a reason for refusal is recommended on this basis. The applicant is working with the Authority to overcome these concerns and further amendments are expected. As such the final revised layout and design will be explored in detail, on submission of the amendments and be reported to Members via the update sheet. Accordingly it is considered by virtue of the design of the scheme, it fails to respect the character and appearance of this countryside setting, contrary to the requirements of Saved Policy E4 and paragraph 64 within the NPPF.

It is considered that any potential benefits of the scheme as proposed would be insufficient to outweigh the conflict with the development plan and the Framework resulting from the harm as identified in the main body of the report.

**RECOMMENDATION: REFUSE for the following reasons:-**

- 1 Paragraph 17 of the NPPF states that planning should recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it, and paragraph 109 states that the planning system should protect and enhance valued landscapes. The 'Environmental' strand at the heart of sustainable development states that development should protect and enhance the natural, built and historic environment.

The introduction of this residential development on this un-developed Greenfield site would be detrimental to the character of this rural locality as it would encroach and project significantly into the open countryside, would not be well-related to nearby development, as it would project beyond Oakthorpe's established settlement boundary. The scheme would therefore represent an un-acceptable adverse impact upon the character and appearance of the countryside contrary to the environmental strand enshrined within the NPPF and paragraphs 17 and 109 of the NPPF.

- 2 Policy E4 of the North West Leicestershire Local Plan requires new development to respect the character of its surroundings. Paragraph 64 within the NPPF stated that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The proposed scheme by reason of its design would not be sympathetic to the character and appearance of this countryside setting. The proposal is therefore contrary to Policy

E4 of the North West Leicestershire Local Plan and paragraph 64 within the NPPF.

**Notes to applicant**

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Local Planning Authority acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The applicant was invited to withdraw the application to seek pre-application advice prior to any re-submission but did not agree to this. The Local Planning Authority has therefore acted pro-actively in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

PLANNING APPLICATIONS- SECTION A

**Erection of a detached dwelling (Amended Scheme)**

**Report Item No  
A6**

**Land To The Rear 31 The Green Thringstone Coalville  
Leicestershire**

**Application Reference  
14/00320/FUL**

**Applicant:  
Mr Colin Draycott**

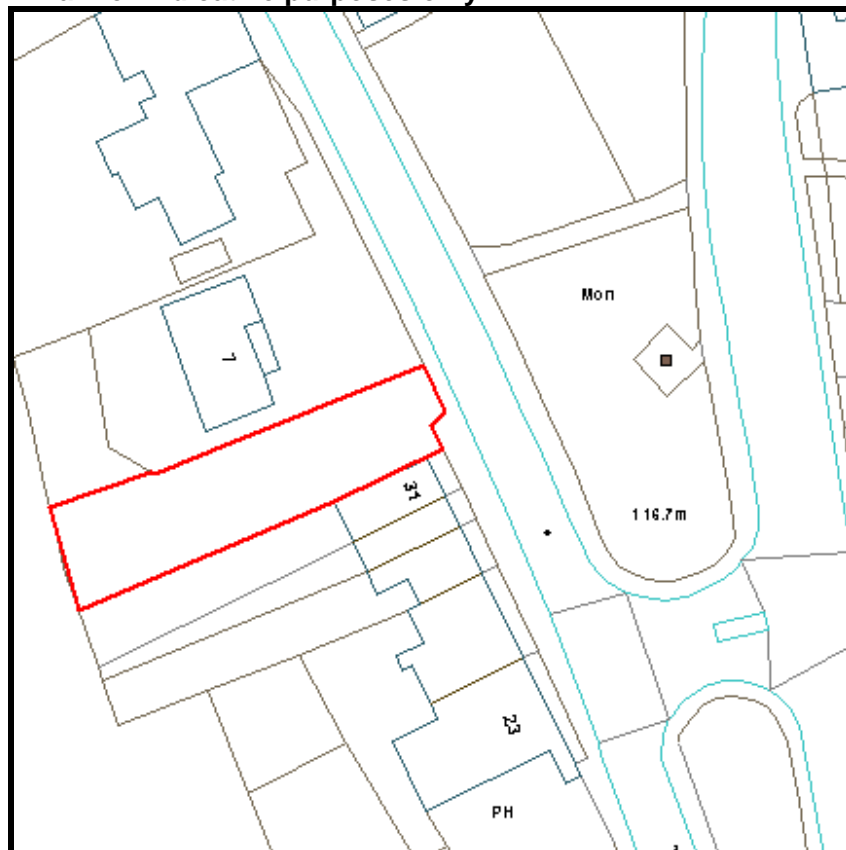
**Date Registered  
28 April 2014**

**Case Officer:  
James Mattley**

**Target Decision Date  
23 June 2014**

**Recommendation:  
Refuse**

**Site Location - Plan for indicative purposes only**



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

### **Call In**

The application falls to be determined by the Planning Committee as the application has been called in by Councillor Spence as part of the DEL1 process.

### **Proposal**

Planning permission is sought for the erection of a detached dwelling on land to the rear of 31 The Green, Thringstone. The application site is located to the west of The Green behind the existing line of dwellings which front onto the road. The site is located outside of the limits to development as defined by the Local Plan.

### **Consultations**

A total of 4 letters of representation have been received; 2 in support of the application and 2 against the application. No other objections have been received from any other statutory consultees.

### **Planning Policy**

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application and the weight that can be attached to these policies is the supply of housing in the context of the National Planning Policy Framework (NPPF).

### **Conclusion**

The proposal is no longer considered to adversely affect and diminish the present open and undeveloped character of this part of the Green Wedge and, therefore, the scheme would be acceptable in relation to Policy E20 of the Local Plan. Previous concerns relating to the access have been satisfactorily addressed such that the County Highway Authority no longer object to the application and the scheme is considered acceptable with regard to Policy T3 and T8. However, the proposed dwelling would not be in keeping with the character and appearance of the surrounding area and is considered to be contrary to the aims of Policy E4 and H7 and the advice in the NPPF. It is, therefore, recommended that planning permission be refused.

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

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of a detached dwelling on land to the rear of 31 The Green, Thringstone. The application site is located to the west of The Green behind the existing line of dwellings which front onto the road. Residential properties front onto The Green but the majority of the application site and the land further to the west is located within the countryside and some of the adjacent land is defined as Green Wedge in the North West Leicestershire Local Plan. Part of the application site is also located within a site of county or district ecological or geological interest.

In January 2014 planning permission was refused for a similar development although it was located in an amended location. The reasons for refusal stated:

- 1 The application site is situated within the Coalville-Whitwick-Swannington Green Wedge, as defined on the North West Leicestershire Proposals Map, 2002. The Green Wedge is provided to protect the structurally important areas of open land which influence the form and direction of urban development, prevent coalescence, maintain the physical identity of adjacent settlements and preserve links between the urban centres and the open countryside. Policy E20 (Green Wedge) of the Local Plan guards against development that 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 proposal would adversely affect and diminish the present open and undeveloped character of this part of the Green Wedge and the proposed built development would not be limited to minor structures and facilities that are ancillary to agriculture, forestry, minerals extraction and outdoor sports and recreation uses. The proposal is therefore contrary to Policy E20 (Green Wedge) of the Local Plan, 2002.
  
- 2 Policy E4 of the North West Leicestershire Local Plan states that in determining planning applications, regard has to be had to the wider setting of new buildings. New development should respect the character of its surroundings in terms of scale, design, density, height, massing, materials of construction, the spaces between and around buildings and the street scene generally. Policy H7 seeks good quality design in all new housing development. The proposed dwelling would not be in keeping with the street scene in the surrounding area and approval of such an application could also set a precedent for similar unacceptable and undesirable development in the surrounding area. On this basis, the proposal would be contrary to Policy E4 and H7 of the North West Leicestershire Local Plan and the advice in the NPPF.
  
- 3 Policy T3 of the North West Leicestershire Local Plan requires development to make adequate provision for vehicular access, circulation and servicing arrangements. The proposal, if permitted, would lead to an intensification in use of an access that is substandard in width and would be likely to lead to vehicles waiting within the highway in order to enter the site, which would be an additional source of danger for road users and would be detrimental to the free flow of traffic and not in the interests of highway safety. The Applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development and the proposal, if permitted, would consequently result in an unacceptable form of development and could lead to dangers for road users. On this basis the proposal would not be in accordance with Policy T3 of

the Local Plan.

The proposed dwelling would be accessed between No.31 The Green and No.7 Main Street, Thringstone. The plans indicate that the dwelling would be two storeys in height with the second floor accommodation provided within the roof. It would measure a maximum width of 17.75 metres, a maximum length of 10.7 metres and would have an eaves height of 2.9 metres in height to the eaves and a ridge height of 7.2 metres. There are significant land level differences across the site.

The application is accompanied by an ecological appraisal and a design and access statement.

Relevant Planning History:

13/00582/FUL - Erection of a detached dwelling - refused.

## **2. Publicity**

Neighbours have been notified (Date of last notification 29 April 2014)

Site Notice displayed 2 May 2014

Press Notice published 7 May 2014

## **3. Consultations**

County Highway Authority consulted on 30 April 2014

Severn Trent Water consulted on 30 April 2014

Natural England consulted on 30 April 2014

LCC Ecology consulted on 30 April 2014

## **4. Summary of Representations Received**

Natural England has no objection in relation to statutory nature conservation sites and has left standing advice in relation to other ecological matters

County Highway Authority has left standing advice comments for a range of highway matters to be considered.

County Ecologist considers that the ecology report is satisfactory and raises no objection subject to the imposition of relevant conditions.

Severn Trent Water has no objection subject to the inclusion of relevant notes to the applicant.

Two letters of representation has been received in support of the application as it would improve the outlook of The Green.

Two letters of representation has been received objecting to the application on the following grounds:

- Field is protected by Policy E26;
- The proposal does not accord with the development plan in the area;
- The proposal does not comply with the Highways and Fire Requirements;
- The application contains incorrect information;



- There have never been dwellings located on the site;
- Land has been used for grazing and is not disused scrubland;
- Would set an undesirable precedent;
- Access is narrow and would add to the congestion in the surrounding area;
- Flooding and drainage issues.

## 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:

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

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

Policy 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.

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

Policy E20 seeks to prevent development that would adversely affect or diminish the present open and undeveloped character of the Green Wedge.

Policy E26 states that development will not be permitted which could adversely affect sites of County and District ecological or geological interest, or Local Nature Reserves.

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.

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

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

### **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.

## **6. Assessment**

### **Principle of Development**

In relation to the previous application on the site the 'Principle of Development' section of the report indicated the following:

*The access drive and a small section of the dwelling are located within the limits to development. However, the majority of the application site is greenfield land located outside of limits to development and situated within the designated Coalville-Whitwick-Swannington Green Wedge, as defined on the North West Leicestershire Proposals Map, 2002.*

*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. Whilst it is acknowledged that the NPPF does not refer specifically to strategic land designations such as Green Wedge, there are a number of references within the NPPF that support the relevance of Policy E20 (Green Wedge). Paragraph 17 of the NPPF sets out the core planning principles of the Framework, which include that planning should take account of the different roles and character of different areas and should contribute to conserving and enhancing the natural environment. In addition, paragraph 109 of the NPPF states "the planning system should contribute to and enhance the natural environment by: protecting and enhancing valued landscapes". The locally designated Green Wedge is provided to protect the structurally important areas of open land which influence the form and direction of urban development, prevent coalescence, maintain the physical identity of adjacent settlements, preserve links between the urban centres and the open countryside, provide recreational facilities and promote positive management to ensure that they remain and are enhanced as attractive environmental features. The open land between Coalville, Whitwick and Swannington is a long established feature, designated as Green Wedge (albeit through previous policy processes) due to it having a particular landscape value worthy of protection. It is especially valued by the local communities and continues to receive public support for its retention. Paragraph 114 of the NPPF also states that "Local planning authorities should...plan positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure". The NPPF glossary defines Green Infrastructure as a network of multi-functional green space. The Green Wedge is a multi-functional Green Space as it provides opportunities for agricultural uses, prevents the merging of settlements and provides recreational benefits.*

*The proposal for one dwelling on the site would clearly not be in accordance with Policy E20 as it would adversely affect or diminish the present open and undeveloped character of this part of the Green Wedge and the proposed built development would not be limited to minor structures and facilities that are ancillary to agriculture, forestry, minerals extraction and outdoor sports and recreation uses. The proposed development is not therefore deemed to be appropriate in principle. Approval of such an application could also result in similar unacceptable developments within the Green Wedge area.*

However, the current application on the site proposes a new location that would result in the rear elevation of the proposed dwelling falling in close proximity to the edge of the Green Wedge designation. Although an extremely small part of the dwelling may encroach into this designated area and the amenity space of the dwelling would also likely be located within it, it is not considered that this would have a severe impact upon the Green Wedge in order to justify refusal of the application on this matter alone.

It is therefore necessary to consider impacts upon design, amenity, highway safety and any other material considerations.

## 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. 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.

The character of the application site is an undeveloped and open field with mature trees and hedges bordering it. Similar undeveloped land is located to the north, south and west of the application site. To the east are residential properties which are characterised predominantly by two storey dwellings which either front the road or are set back slightly from the road. This particular area is not characterised by back-land development and, therefore, the proposal would not be well related to the street scene in the surrounding area. Approval of such an application could also result in similar unacceptable developments in this area.

Overall, the design, appearance and scale of this proposal is not considered to be acceptable and would not be in accordance with the character and appearance of the surrounding area and is considered to conflict with Policy E4 and H7 of the Local Plan and advice in the NPPF.

## Highway Safety

The access to the dwelling would be positioned between No.31 The Green and No.7 Main Street, Thringstone. The site visit revealed that part of the access drive, located immediately off The Green, is used as off-street car parking in association with No.31 The Green. The County Highway Authority (CHA) has been consulted and does not raise any objections to the proposal under the standing advice procedure subject to the inclusion of relevant conditions and notes to applicant. These include matters relating to the access, car parking for existing and proposed dwellings, turning facilities, access surfacing, access drainage and ownership issues.

On this basis it is considered that the scheme is acceptable in relation to Policy T3 and T8 of the Local Plan.

## Other

Given the distances to surrounding residential properties and the 1.5 storey nature of the proposal, it is not considered that the scheme would result in any significant overbearing, overshadowing or overlooking impacts. On this basis the scheme is considered to be acceptable in relation to Policy E3 of the Local Plan.

The site is located in close proximity to an area designated as a site of County and District ecological or geological interest and is protected by Policy E26 of the Local Plan. This Policy states that where development is permitted on such sites, the developer will be required to minimise damage to and disturbance of the site, or, where material damage or disturbance is unavoidable, to provide suitable new habitats. The County Ecologist has been consulted on the proposed scheme and considers that the site had ecological value in the past as species-rich

grassland, but it is clear from the ecology survey that much of this value has been lost, through lack of management of the grassland. The ecologist also notes that the application is on part of the grassland only, and the least important part. Therefore, it is not considered that there is any conflict with Policy E26 of the Local Plan. It is also noted that Natural England raise no objections to the proposed scheme subject to the imposition of relevant conditions and notes to applicant.

The Design and Access Statement indicates that the application site previously contained two dwellings until these were demolished in or after 1991. However, letters of representation from a surrounding neighbour indicates that dwellings have never been positioned on the land and that the buildings shown on old maps were used for agriculture. Whilst the history of the site is not clear, any buildings have now been demolished and the application site has blended back into the landscape in the process of time. Therefore, the former presence of buildings on the site would not be sufficient reason to grant planning permission for an unacceptable development.

### **Conclusion**

The proposal is no longer considered to adversely affect and diminish the present open and undeveloped character of this part of the Green Wedge and, therefore, the scheme would be acceptable in relation to Policy E20 of the Local Plan. Previous concerns relating to the access have been satisfactorily addressed such that the County Highway Authority no longer object to the application and the scheme is considered acceptable with regard to Policy T3 and T8. However, the proposed dwelling would not be in keeping with the character and appearance of the surrounding area and is considered to be contrary to the aims of Policy E4 and H7 and the advice in the NPPF.

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

- 1 Policy E4 of the North West Leicestershire Local Plan states that in determining planning applications, regard has to be had to the wider setting of new buildings. New development should respect the character of its surroundings in terms of scale, design, density, height, massing, materials of construction, the spaces between and around buildings and the street scene generally. Policy H7 seeks good quality design in all new housing development. The proposed dwelling would not be in keeping with the street scene in the surrounding area and approval of such an application could also set a precedent for similar unacceptable and undesirable development in the surrounding area. On this basis, the proposal would be contrary to Policy E4 and H7 of the North West Leicestershire Local Plan and the advice in the NPPF.

### **Notes to applicant**

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. In the Local Planning Authority's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. The Local Planning Authority has therefore complied with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 Severn Trent Water advise that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as

**PLANNING APPLICATIONS- SECTION A**

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.

PLANNING APPLICATIONS- SECTION A

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**Erection of a new agricultural cattle building**

**Report Item No  
A7**

**Fields Farm Main Street Worthington Ashby De La Zouch**

**Application Reference  
14/00481/FUL**

**Applicant:  
Mr Richard Aldridge**

**Date Registered  
29 May 2014**

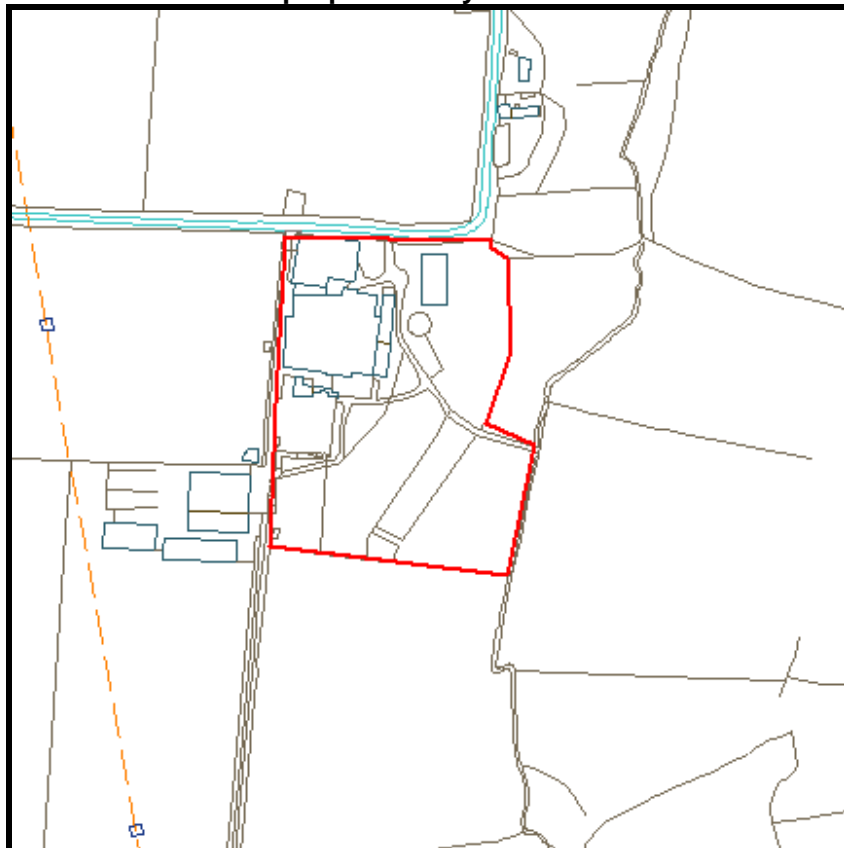
**Case Officer:  
Adam Mellor**

**Target Decision Date  
24 July 2014**

**Recommendation:  
Permit**

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**Site Location - Plan for indicative purposes only**



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

### **Call In**

The application is brought to the Planning Committee as the agent for the application is related to three serving councillors (Caroline Large, Charles Meynell and Richard Blunt).

### **Proposal**

Planning permission is sought for the erection of a new agricultural cattle building at Fields Farm, Main Street, Worthington. The proposed agricultural building would be situated 24.0 metres to the south of an existing cattle storage shed and would have dimensions of 48.8 metres in length by 16.8 metres in width and would utilise a pitched gable ended roof with an eaves height of 6.4 metres and overall height of 8.5 metres.

### **Consultations**

No letters of representation to the application have been received from third parties, to date, and no adverse comments have been received from statutory consultees. Any relevant comments received following the publication of the Planning Committee Agenda will be reported to members on the Committee Update Sheet.

### **Planning Policy**

It is considered that the development would accord with all relevant policies of the North West Leicestershire Local Plan, the general principles of the National Planning Policy Framework (NPPF) as well as relevant supplementary planning guidance.

### **Conclusion**

The site lies outside the defined limits to development where the principle of agricultural development is acceptable. It is considered that a need has been established for the additional cattle building, given the changes in welfare standards and the suitability of buildings on the site, as well as the fact that sustainable rural businesses should be supported and promoted. As such the development would accord with Paragraph 28 of the NPPF and Policy S3 of the Local Plan.

As the structure would be situated on an operational farm holding it is considered that it would not have a sufficiently detrimental impact on the amenities of neighbouring properties which would accord with Policy E3 of the Local Plan.

The building would be of a similar scale to the existing buildings on the site and would be no greater in height, as a result of this it is considered that the proposal would not have a sufficiently detrimental impact on the character and appearance of the wider landscape or openness of the countryside given its association with existing built forms. As such the proposal would accord with Paragraph 61 of the NPPF and Policy E4 of the Local Plan.

Sufficient space would remain within the site for vehicular manoeuvres and there would be no substantial increase in the use of the existing access by slow moving farm machinery, in these circumstances the development would not pose a risk to highway safety and would accord with Policies T3 and T8 of the Local Plan.

It is therefore recommended that the application be permitted.

## **RECOMMENDATION - APPROVE 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 conditions, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of a new agricultural cattle building at Fields Farm, Main Street, Worthington. Fields Farm is a two-storey detached dwelling situated on the southern side of Main Street which is served by a short access road off the main road. The site is situated outside the defined limits to development, as identified on the North West Leicestershire Proposals Map, and the surrounding area largely consists of open agricultural fields.

The proposed agricultural building would be situated 24.0 metres to the south of an existing cattle storage shed and would have dimensions of 48.8 metres in length by 16.8 metres in width and would utilise a pitched gable ended roof with an eaves height of 6.4 metres and overall height of 8.5 metres. It is proposed that the roof height of the building would drop with the land levels which become lower from west to east. It is proposed that the building would be used for the storage of cattle and would be constructed from a single span portal steel frame with the use of fibre cement profile sheeting on the roof and prefabricated concrete walls to 3.0 metres in height and timber spaced boarding for the remainder of the height.

A design and access statement and agricultural justification statement have been provided in support of the application.

The planning history of the site is as follows: -

- 99/1173/P - Erection of a lambing shed - Approved 1st February 2000;
- 01/00635/FUL - Erection of a Dutch barn - Approved 1st August 2001;
- 01/00925/FUL - Erection of a shed for agricultural implements and tools - Approved 5th September 2001;
- 01/01293/FUL - Erection of a barn (amended scheme) - Approved 11th December 2001;
- 04/01285/FUL - Erection of 20 metre high slimline lattice mast, three no. panel antennae, 2 no. dishes, radio equipment housing, fenced compound and ancillary development - Refused 8th October 2004, Allowed at Appeal 25th July 2005;
- 08/00676/FUL - Erection of a grain store - Approved 27th June 2008;
- 10/00409/FUL - Erection of a grain drying building - Approved 10th June 2010.

### 2. Publicity

Neighbours have been notified (Date of last notification 10 June 2014)

Site Notice displayed 12 June 2014

### 3. Consultations

Clerk To Worthington Parish Council consulted 10 June 2014  
 County Highway Authority consulted 11 June 2014  
 Head of Environmental Protection consulted 11 June 2014  
 LCC/Footpaths consulted 11 June 2014  
 LCC/Footpaths consulted 11 June 2014

#### 4. Summary of Representations Received

The following summary of representations is provided. Members will note that full copies of correspondence received are available on the planning file.

**Leicestershire County Council - Highways** has no objections subject to consideration being given to the imposition of conditions restricting the use of the building to agricultural purposes as well as preventing it from being leased or owned separately from the wider agricultural use of the site.

**Leicestershire County Council - Rights of Way** no representation received to date. Any comments to be reported on the Committee Update Sheet.

**NWLDC - Cultural Services Officer** has no objections as the footpath will not be diverted.

**NLWDC - Environmental Protection** no representation received to date. Any comments to be reported on the Committee Update Sheet.

#### Third Party Representations

No third party representations have been received to date with any comments received being reported on the Committee Update Sheet.

#### 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.

Paragraph 7 indicates that the planning system needs to perform a number of roles which include, amongst others, an economic role which means contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

Paragraph 28 outlines that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should, amongst other things:

- Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;
- Promote the development and diversification of agricultural and other land-based rural businesses;

Paragraph 61 outlines 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, 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;

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:

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

Policy S3 provides that development will not be permitted on land outside limits to development unless it, amongst other things:

- (a) can be shown to be essential for the efficient long-term operation of agriculture and forestry;
- (b) comprises acceptable farm diversification;

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 and requires new development to respect the character of its surroundings;

Policy T3 requires development to make adequate provision for vehicular access, 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;

#### **Submission Version Core Strategy**

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

#### **Other Guidance**

##### **National Planning Practice Guidance**

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The Guidance does not change national policy but offers practical guidance as to how such policy is to be applied.

## 6. Assessment

### Principle of the Development

Policy S3 outlines that development is permitted if it can be demonstrated that the building is essential for the efficient long term operation of agriculture with Paragraph 28 of the NPPF also indicating that the development of agricultural businesses should be promoted.

The agent for the application has submitted information that states the following: -

*"Fields Farm is the centre of all farming operations carried out by S & E Aldridge with all buildings being situated there;*

*S & E Aldridge farm 800 acres of land locally (all owner occupied), comprising; 500 acres of arable cropping and 300 acres of grass. A typical arable crop rotation, adopted by the farming business, is; two Winter Wheats followed by Forage maize (subject to occasional seasonal variation);*

*The beef unit at Fields Farm is a semi intensive operation with all cattle grazed outside between the months of April and November. Cattle are finished all year round, with approximately 500 head of cattle on site at any one time;*

*A schedule of cattle livestock buildings at Field Farm is detailed below: i) Cattle Shed 60' x 30'; ii) Cattle Yard 90' x 65'; iii) Lean to cattle yard 24' x 80'; iv) Beef Shed 135' x 90'; v) Beef Shed 45' x 135';*

*The current level and design of existing buildings at Fields Farm is not sufficient to meet the needs of the farming operation. Assessing the operation and available livestock buildings against the minimum welfare standards contained within DEFRA's Technical Appendix on Priorities for Animal Health and Welfare, shows that there is clear need for new livestock buildings on the holding. This view is supported by the applicants vet at Appendix One."*

With regards to the supporting information supplied by the applicant's vet this indicates, amongst other things, the following: -

*"Although Mr Aldridge's buildings are still acceptable as beef rearing units, the size of animals and particularly their final slaughter weights has increased over recent years. In addition to this the beef codes of welfare now recommend 5 sq metre minimum and 7 sq metre ideally per 600kg animals. If Mr Aldridge is to maintain the highest welfare standards without reducing his farm stock numbers then it will be necessary to provide further stock buildings;*

*Of paramount importance for any new stock buildings is ventilation and this is particularly so with larger beef animals where more heat and moisture is produced which needs to be rapidly dissipated if pneumonia outbreaks are to be avoided. With a single building an average wind speed of 1 metre per second will be adequate to provide natural forced ventilation if inlets and outlets meet government recommendations. As there is a natural wind speed of 1 metre per second on 90% of days in the UK most single buildings are adequately ventilated. However this natural ventilation efficiency falls off dramatically where buildings containing larger animals are built in proximity as air eddies form with the meeting of the warmer air stacks from neighbouring buildings. I therefore consider that the distance of 80ft between the old and new buildings is*

*absolutely necessary to allow adequate ventilation of the site;*

*I have no hesitation in supporting the above application which is supported by a clear agricultural need and will allow Mr Aldridge to keep farming with the highest welfare standards."*

It is considered that the information provided in support of the application has identified that the provision of the additional livestock building would allow the applicant to operate his beef unit in a more efficient manner, whilst also complying with current welfare standards, which would ensure that the proposal would be essential for the long term success of the agricultural unit and as such compliant with Policy S3 of the Local Plan. Given that Paragraph 28 of the NPPF also seeks to promote and support sustainable rural business it is considered that the proposal would accord with the aims of National Policy.

### **Residential Amenity**

The nearest residential property to the proposed building, bar Fields Farmhouse itself, would be No. 51 Main Street which is situated over 370.0 metres from the proposed siting of the cattle building. Given this distance and the fact that the site is an operational farm holding it is considered that the development would not have a sufficiently detrimental impact on the amenities of neighbouring properties. No representation has been received from the Council's Environmental Health team but given that the site is presently operational for agriculture it is considered that there would be no substantial noise or smell impacts. On this basis the development would accord with Policy E3.

### **Design**

The proposed cattle store would be situated 24.0 metres to the south of an existing agricultural cattle store which is necessary due to the need to ensure adequate ventilation between cattle storage buildings. It is proposed that the cattle shed would have an overall height of 8.5 metres, which would be similar to the existing cattle sheds, and would have split level heights due to the land levels rising in an east to west direction. It is considered that the building would be closely associated with the existing structures and would be no greater in height and as such it would not have a significantly detrimental impact on the streetscape given the screening provided by existing structures as well as the distance to the highway. In the circumstances that the land levels rise in a western direction, and substantial mature vegetation is provided to the eastern boundary of the field it is considered that the development would also not impact adversely on the character and appearance of the wider landscape particularly in the circumstances that the structure would be viewed in the context of its relationship with existing structures.

Public footpath M33 lies 65.0 metres to the west of the siting of the building and ultimately views of the building would be established from this footpath. Although views would be established the building would be viewed in the context of its relationship with existing built forms and would not impact on views established towards 'interest features' within the wider landscape. As such the development would not have a sufficiently detrimental impact on the openness of the countryside or people's enjoyment of the footpath.

The building would be of a steel frame construction with a wall construction of 3.00 metres of prefabricated concrete and then timber spaced boarding, along with fibre cement box profile sheeting coloured grey on the roof. It is considered that these materials would be consistent with agricultural buildings of a modern construction and would also not be too dissimilar to the existing structures on the site, as such there would not be a sufficiently detrimental visual impact on the character and appearance of the area.

Given that it has been concluded, in the principle section of this report, that a need for the building exists, it is considered that the most appropriate location on the site has been selected and as such the development would not have a significantly detrimental impact on the character and appearance of the rural environment which would accord with Paragraph 61 of the NPPF and Policy E4 of the Local Plan.

### **Highway Safety**

The County Council Highways Authority has no objections to the application subject to conditions being imposed to prevent the building being used for commercial purposes and to ensure that it is not sold or leased separately from the agricultural use of the wider site. It is considered that the site is an operational farm holding, and as such slow moving vehicles are already associated with utilising the access to ingress and egress the site, and in these circumstances it is considered that the provision of the building would not be to the further detriment of highway safety. The development would also not impinge on the facilities available for the manoeuvring of vehicles and as such any vehicle exiting the site would do so in a forward direction. This would ensure compliance with Policies T3 and T8 of the Local Plan.

With regards to the specific conditions suggested by the County Highways Authority it is considered that the condition preventing the building being used for commercial purposes would be unreasonable in the context of the fact that whilst the Town and Country Planning (General Permitted Development) Order 1995 (as amended) has introduced measures which allow agricultural buildings to be converted to alternative uses, subject to a prior notification process, these rights only apply if the building was built prior to the 3rd July 2012. If the building was constructed after this time then it would need to be used continuously for a period of 10 years before these rights would apply and in any case as part of the prior notification procedure highway safety impacts have to be taken into account. A condition preventing the sale or leasing of the building from the wider agricultural use of the site would also be considered unenforceable given that it would be difficult to demonstrate the difference between different agricultural operations undertaken by tenants, given that permission would not be required to change a livestock farm to an arable farm, as well as the fact that planning permission would be required to utilise the building for any other purpose than agriculture.

### **Summary**

The site lies outside the defined limits to development where the principle of agricultural development is acceptable. It is considered that a need has been established for the additional cattle building, given the changes in welfare standards and the suitability of buildings on the site, as well as the fact that sustainable rural businesses should be supported and promoted. As such the development would accord with Paragraph 28 of the NPPF and Policy S3 of the Local Plan.

As the structure would be situated on an operational farm holding it is considered that it would not have a sufficiently detrimental impact on the amenities of neighbouring properties which would accord with Policy E3 of the Local Plan.

The building would be of a similar scale to the existing buildings on the site and would be no greater in height, as a result of this it is considered that the proposal would not have a sufficiently detrimental impact on the character and appearance of the wider landscape or openness of the countryside given its association with existing built forms. As such the proposal would accord with Paragraph 61 of the NPPF and Policy E4 of the Local Plan.

Sufficient space would remain within the site for vehicular manoeuvres and there would be no substantial increase in the use of the existing access by slow moving farm machinery, in these circumstances the development would not pose a risk to highway safety and would accord with Policies T3 and T8 of the Local Plan.

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 development shall be carried out in strict accordance with the site location plan; site plan (1:1000); Proposed Cattle Shed Elevations (1:200) and Proposed Cattle Shed Roof Plan (1:200), received by the Local Authority on the 29th May 2014, unless otherwise required by another condition of this permission.

*Reason - for the avoidance of doubt and to determine the scope of the permission.*

- 3 The external materials and colour scheme to be implemented in the development shall be in strict accordance with those specified in the application unless alternative materials and colours are first agreed in writing with the Local Planning Authority.

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

**Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (Paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 As of the 22nd November 2012 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.



PLANNING APPLICATIONS- SECTION A

**Installation of solar PV panels on roof, installation of a bio mass boiler with metal flue and formation of thermal store**

**Report Item No  
A8**

**Ley Farm Callans Lane Heath End Ashby De La Zouch**

**Application Reference  
14/00355/FUL**

**Applicant:  
Mr Simon Stanion**

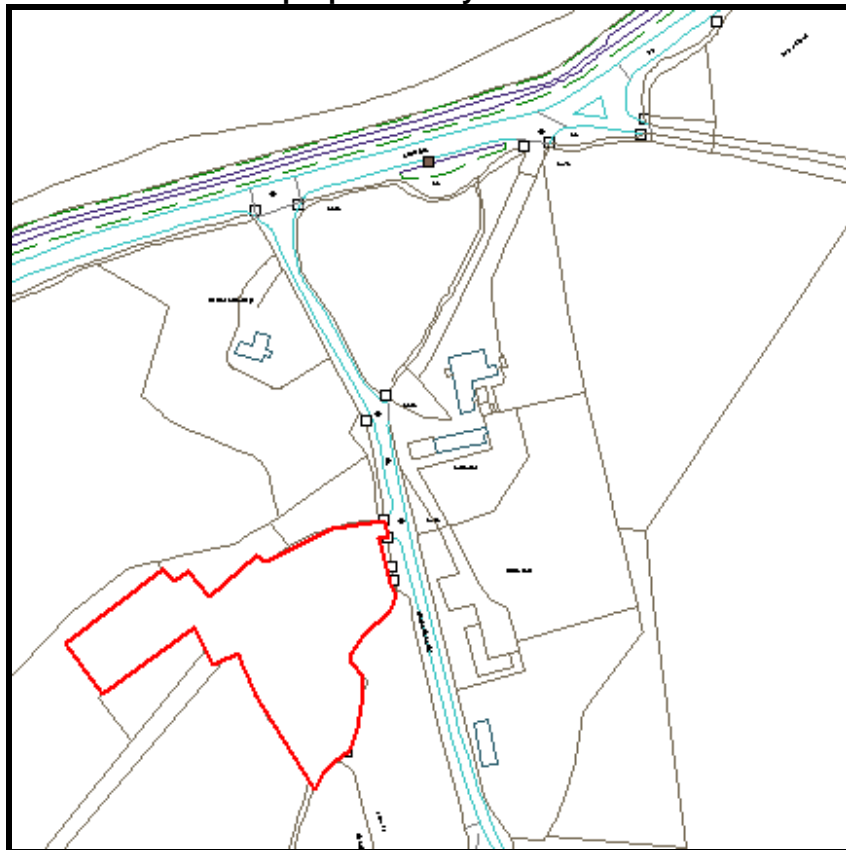
**Date Registered  
2 May 2014**

**Case Officer:  
Joe Mitson**

**Target Decision Date  
27 June 2014**

**Recommendation:  
Permit**

**Site Location - Plan for indicative purposes only**



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

### **Proposal**

The application seeks permission for the installation of solar pv panels on an outbuilding roof, the installation of a bio mass boiler with metal flue and the formation of a thermal store.

The application is reported to Planning Committee as the applicant works for the Council.

### **Consultations**

Members will see from the main report below that no objections have been received in respect of the proposals, the Parish Council supports the proposal and English Heritage raise no objection.

### **Planning Policy**

The site is in the countryside and within the conservation area. Ley Farm is a grade II\* listed building.

### **Conclusion**

The proposals would provide alternative energy sources for the property and would not adversely affect the fabric or setting of the listed dwelling or curtilage listed buildings and would preserve the character and appearance of the conservation area.

### **Recommendation:-**

#### **PERMIT 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 and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposal and Background

The application comprises the installation of PV solar panels on the rear elevation of the stable block and the installation of a biomass boiler with metal flue and formation of a thermal store in the adjacent outbuilding. The 40 panels, each measuring 1.6m by 0.9m, are to be installed on the rear elevation of the stables, the biomass boiler would be sited within the store area of the outbuilding with the flue in the rear of the south-east facing barn.

The site comprises a farmhouse (grade II\*) on the western side of Callans Lane within the Heath End Conservation Area. The dwelling dates from the 16th century and comprises a storey and a half building. Adjacent is the barn of brick and tile with the stable building forming the western part of the yard. The complex of buildings is set within a countryside location with limited dwellings within the locality.

There is a detailed history on the site. This includes 08/00715/LBC for external and internal alterations to the outbuilding to provide living accommodation, 08/00718/FUL comprised the associated planning application, 11/00459/EXT and 11/00460/EXT extended the time for the above applications, 13/00363/LBC related to a revised scheme to that above; all were approved.

Application 14/00356/LBC for the installation of solar PV panels on the roof, installation of bio mass boiler with metal flue and formation of thermal store, is also reported on this agenda.

### 2. Publicity

Neighbours have been notified.

Site Notice displayed.

Press Notice published 21 May 2014

### 3. Consultations

Ashby De La Zouch Town Council consulted 12 May 2014  
English Heritage- Grade I/II\* LB Works consulted 4 June 2014  
Ashby de la Zouch Town Council consulted 12 May 2014  
County Highway Authority consulted 13 May 2014  
NWLDC Conservation Officer consulted 13 May 2014

### 4. Summary of Representations Received.

**Ashby de la Zouch Town Council** support the application.

**English Heritage** no objection.

No comments have been received from neighbours.

## 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.

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

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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.

In relation to the Listed Building designation, as a heritage asset, Paragraph 131 requires that in determining planning applications, local planning authorities should take account of, amongst others, the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 132 goes on to say that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 133 indicates that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

### Adopted North West Leicestershire Local Plan

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

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 and requires new development to

respect the character of its surroundings.

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

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

## **6. Assessment**

### **Design, Visual Impact and Impact on Heritage Assets**

The proposed solar panels would be sited on the rear roofslope of the stable building. The panels would be arranged in two banks of 20 on the south-west elevation of the building which is not curtilage listed having been granted permission in 1998. The panels would be 150mm off the roof surface approximately 300mm from the ridge.

The panels would dominate the rear roofslope; however views of this rear elevation are limited to the neighbouring land and the landscaping prevents open views from the adjacent public footpath. The site is also within the conservation area; the proposal would be an ancillary element on the outer elevation of the outbuilding. Although not visually ideal the solar panels would only be visible from the rear of the building and not from the public realm. As such the rural character and appearance of the conservation area would not be unduly adversely affected.

The stable building is a more modern structure and is read as part of the group of buildings on the site. However, the relationship between the listed dwelling and the stable building is more from within the yard and the panels would not be visible from this position. It is not considered the panels would adversely affect the setting of the listed dwelling or outbuildings.

The biomass boiler would be a freestanding unit installed inside the barn on a concrete slab with the flue enamelled black. The boiler would be fuelled by wood pellets. The thermal store would be freestanding in the store/utility at the southern end of the barn and connected to the boiler by a copper pipe. The internal proposals would not affect the conservation area or setting of the listed building. Although the flue would be visible it would comprise a matt black metal flue and would clearly be a more recent addition to the building. The setting of the listed dwelling, and the character and appearance of the conservation area, would not be adversely affected.

No objection was raised by English Heritage.

### **Residential Amenity**

The area is characterised by occasional dwellings within a rural setting. There are no close properties that would be affected by the proposals.

### **Conclusions**

The proposals are considered to be visually acceptable and would not adversely affect the heritage assets or rural character of the site and surroundings. No neighbouring property would be unduly affected by the proposals.

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

- 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 development shall be built strictly in accordance with the approved plans as follows:

1:500 Site Plan  
Site Location Plan  
1344/02A  
1344/04C

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

- 3 The solar panels hereby approved shall be removed from the site and the roof made good once the panels are no longer operational.

*Reason- In the interests of visual amenity*

**Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

PLANNING APPLICATIONS- SECTION A

**Installation of solar PV panels on roof, installation of a biomass boiler with metal flue, and formation of thermal store**

**Report Item No  
A9**

**Ley Farm Callans Lane Heath End Ashby De La Zouch**

**Application Reference  
14/00356/LBC**

**Applicant:  
Mr Simon Stanion**

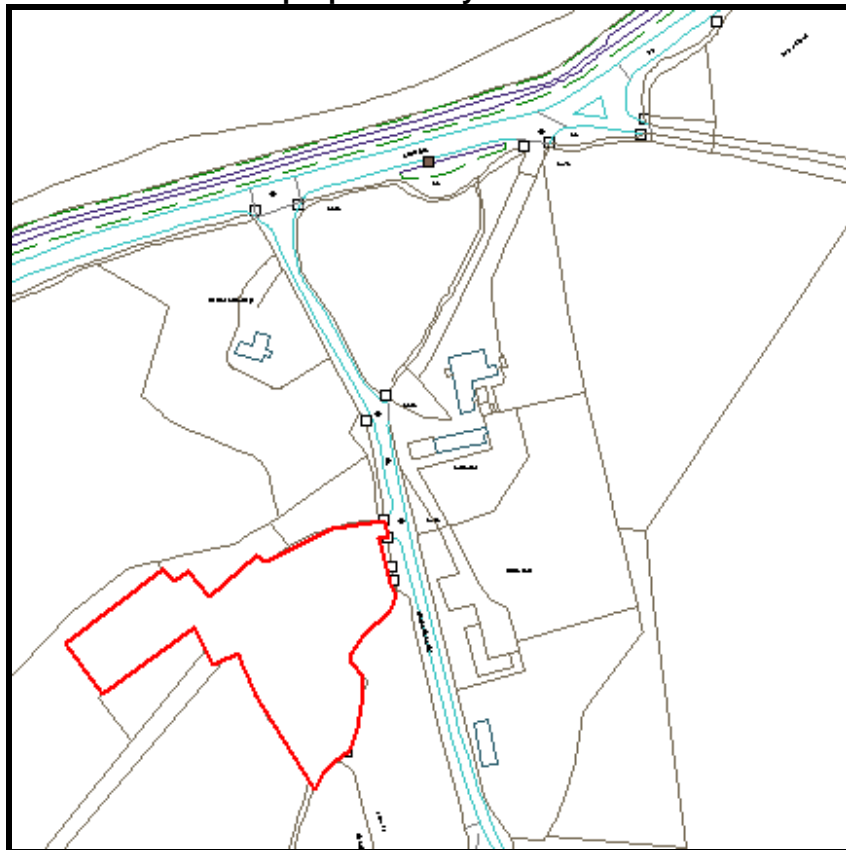
**Date Registered  
22 April 2014**

**Case Officer:  
Joe Mitson**

**Target Decision Date  
17 June 2014**

**Recommendation:  
Permit**

**Site Location - Plan for indicative purposes only**



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

### **Proposal**

The application seeks permission for the installation of solar pv panels on an outbuilding roof, the installation of a bio mass boiler with metal flue and the formation of a thermal store.

The application is reported to Planning Committee as the applicant works for the Council.

### **Consultations**

Members will see from the main report below that no objections have been received in respect of the proposals, the Parish Council supports the proposal and English Heritage raise no objection.

### **Planning Policy**

The site is in the countryside and within the conservation area. Ley Farm is a grade II\* listed building.

### **Conclusion**

The proposals would provide alternative energy sources for the property and would not adversely affect the fabric or setting of the listed dwelling or curtilage listed buildings.

### **Recommendation:-**

#### **PERMIT 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 and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**



## MAIN REPORT

### 1. Proposal and Background

The application comprises the installation of PV solar panels on the rear elevation of the stable block and the installation of a biomass boiler with metal flue and formation of a thermal store in the adjacent outbuilding. The 40 panels, each measuring 1.6m by 0.9m, are to be installed on the rear elevation of the stables, the biomass boiler would be sited within the store area of the outbuilding with the flue in the rear of the south-east facing barn.

The site comprises a farmhouse (grade II\*) on the western side of Callans Lane within the Heath End Conservation Area. The dwelling dates from the 16th century and comprises a storey and a half building. Adjacent is the barn of brick and tile with the stable building forming the western part of the yard. The complex of buildings is set within a countryside location with limited dwellings within the locality.

There is a detailed history on the site. This includes 08/00715/LBC for external and internal alterations to the outbuilding to provide living accommodation, 08/00718/FUL comprised the associated planning application, 11/00459/EXT and 11/00460/EXT extended the time for the above applications, 13/00363/LBC related to a revised scheme to that above; all were approved.

Application 14/00355/FUL for the installation of solar PV panels on roof, installation of bio mass boiler with metal flue and formation of thermal store is also reported on this agenda.

### 2. Publicity

Neighbours have been notified.

Site Notice displayed 30 April 2014

Press Notice published 30 April 2014

### 3. Consultations

Ashby de la Zouch Town Council consulted 24 April 2014

NWLDC Conservation Officer consulted 25 April 2014

### 4. Summary of Representations Received

**Ashby de la Zouch Town Council** support the application.

**English Heritage** no objection.

No comments have been received from neighbours.

## 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.

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

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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.

In relation to the Listed Building designation, as a heritage asset, Paragraph 131 requires that in determining planning applications, local planning authorities should take account of, amongst others, the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 132 goes on to say that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 133 indicates that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

### Adopted North West Leicestershire Local Plan

No relevant policies.

### Submission Core Strategy (April 2012)

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

## 6. Assessment

### Design, Visual Impact and Impact on Heritage Assets

The proposed solar panels would be sited on the rear roofslope of the stable building. The panels would be arranged in two banks of 20 on the southern elevation of the building which is not curtilage listed having been granted permission in 1998. The panels would be 150mm off the roof surface approximately 300mm from the ridge.

The biomass boiler would be a freestanding unit installed inside the barn on a concrete slab with the flue enamelled black. The boiler would be fuelled by wood pellets. The thermal store would be freestanding in the store/utility at the southern end of the barn and connected to the boiler by a copper pipe.

The solar panels would not affect any of the historic buildings on the site and no loss of historic fabric would ensue. The proposed biomass boiler and thermal store could be accommodated in the outbuilding without affecting the character of the building or impacting on historic fabric. The main impact would be the external flue; however, this would comprise a small matt black metal flue which would have a limited impact on the appearance of the building or on historic fabric. As such no objection is raised in terms of the heritage assets. Furthermore, English Heritage raise no objections.

### Conclusions

The proposals would have a limited impact on the heritage assets given the scale and nature of the proposals.

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

- 1 The works to which this consent relates shall begin not later than the expiration of five years from the date of this consent.

*Reason- To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.*

- 2 The development shall be built strictly in accordance with the approved plans as follows:

A4 Site Location Plan  
1344/02A  
1344/04C

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

- 3 The solar panels hereby approved shall be removed from the site and the roof made good once the panels are no longer operational.

*Reason: In the interests of visual amenity*

**Notes to applicant**

- 1 Listed building consent has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).