

Meeting	PLANNING COMMITTEE
Time/Day/Date	4.30 pm on Tuesday, 5 August 2014
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic 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
1. APOLOGIES FOR ABSENCE	
2. DECLARATION OF INTERESTS	
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.	
3. MINUTES	
To confirm and sign the minutes of the meeting held on 8 July 2014	3 - 12
4. PLANNING APPLICATIONS AND OTHER MATTERS	
Report of the Director of Services.	13 - 16



Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	14/00050/FULM - Erection of 79 dwellings and associated infrastructure Land North Of Greenhill Road And East Of Agar Nook Lane Coalville Leicestershire	REFUSE	17 - 44
A2	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	PERMIT Subject to a Section 106 Agreement	45 - 88
A3	13/00516/FULM - Erection of 20 no. dwellings with associated access, driveways and parking Land Off New Street Measham Swadlincote Derby	PERMIT Subject to a Section 106 Agreement	89 - 122
A4	13/00969/FUL - Demolition of existing buildings and erection of 7 new affordable dwellings, including access and parking arrangements and parking for No. 6 Queen's Street Land At 6 Queens Street Measham Swadlincote Derbys	PERMIT Subject to a Section 106 Agreement	123 - 154
A5	14/00509/FUL - Change of use of dwellinghouse to a mixed use as a dwellinghouse and for the keeping, for breeding and showing purposes, of up to 15 dogs together with the retention of kennel buildings, a storage shed and open and closed runs 27 School Lane Newbold Coalville Leicestershire	PERMIT	155 - 168
A6	14/00450/FUL - Proposed new clubhouse and changing room Coalville Town FC Owen Street Coalville Leicestershire	PERMIT	169 - 176

MINUTES of a meeting of the PLANNING COMMITTEE held in the Council Chamber, Council Offices, Coalville on TUESDAY, 8 JULY 2014

Present: Councillor D J Stevenson (Chairman)

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

In Attendance: Councillors J Geary, L Massey, T J Pendleton and L Spence

Officers: Mr S Bambrick, Mrs V Blane, Mr C Elston, Mrs H Exley, Mrs C Hammond, Mr J Knightley, Miss E Mattley and Mr J Mattley

11. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor J Bridges.

12. DECLARATION OF INTERESTS

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

Councillor M B Wyatt declared a Disclosable Pecuniary interest in item A1, application number 13/00249/OUTM as a family member owned the land and he would leave the meeting during the consideration of the item.

Councillor T Neilson declared that he had been lobbied without influence in respect of item A2, application number 14/00309/FULM.

Councillor R Johnson declared that he had been lobbied without influence in respect of items A2, application number 14/00309/FULM and A3, application number 14/00133/FUL, and also declared a Disclosable Non-Pecuniary interest in item A4, application number 14/00311/VCI as he had been significantly involved in the application. He stated that he would leave the meeting during the consideration of the item.

Councillor R Adams declared that he had been lobbied without influence in respect of items A2, application number 14/00309/FULM, A3, application number 14/00133/FUL and A4, application number 14/00311/VCI.

Councillor J Legrys declared that he had been lobbied without influence in respect of items A1, 13/00249/OUTM, A2, application number 14/00309/FULM, A3, application number 14/00133/FUL, A4, application number 14/00311/VCI and A5, application number 14/00405/FUL.

Councillor J Cotterill declared that he had been lobbied without influence in respect of items A1, 13/00249/OUTM, A2, application number 14/00309/FULM, A3, application number 14/00133/FUL and A4, application number 14/00311/VCI.

Councillor M Specht declared that he had been lobbied without influence in respect of items A1, 13/00249/OUTM and A2, application number 14/00309/FULM, and also declared a Disclosable Non-Pecuniary interest in item A3, application number 14/00133/FUL as a Member of Coleorton Parish Council.

Councillor J G Coxon declared that he had been lobbied without influence in respect of item A2, application number 14/00309/FULM and also declared a Disclosable Non-Pecuniary interest in item A3, application number 14/00133/FUL as a Member of Ashby Town Council.

Councillor J Hoult declared a Disclosable Non-Pecuniary interest in item A3, application number 14/00133/FUL as a Member of Ashby Town Council.

Councillor D J Stevenson declared that he had been lobbied without influence in respect of item A3, application number 14/00133/FUL.

13. MINUTES

Consideration was given to the minutes of the meeting held on 10 June 2014.

It was moved by Councillor G Jones, seconded by Councillor T Neilson and

RESOLVED THAT:

The minutes of the meeting held on 10 June 2014 be approved and signed as a correct record.

14. PLANNING APPLICATIONS AND OTHER MATTERS

Consideration was given to the report of the Director of Services, as amended by the update sheet circulated at the meeting.

The Chairman moved that item A6, application number 14/00320/FUL be deferred. It was seconded by Councillor J Legrys.

RESOLVED THAT:

Item A6, application number 14/00320/FUL be deferred to a later meeting.

Having declared a Disclosable Pecuniary interest in item A1, application number 13/00249/OUTM Councillor M B Wyatt left the meeting.

15. **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)**

The Principal Planning Officer presented the report to Members.

Mr J Smalley, objector, addressed the Committee. He informed Members that the development would significantly increase issues with both traffic and noise. He stated that to access the site, vehicles would need to travel over a bridge that had a blind summit, at which there had been numerous accidents over the years. He added that the site would increase the number of vehicle movements by 800 per day. He informed Members that the noise measurement was expected to be around 38.8dB which would leave a very small margin for error. He urged the Committee to refuse the application.

Mr J Holmes, agent, addressed the Committee. He advised Members that Highways had withdrawn their objection to the application as they had worked closely to put right the outstanding issues. He informed Members that the applicant would provide nearly £2 million contribution to the overall transport fund and that the site would generate between 1300 and 1500 jobs. He stated that there was a major client looking to move to one of the

units and they would ensure that the footpaths would be diverted. He urged the Committee to permit the application as the applicant was prepared to go as soon as possible.

Councillor R Johnson stated that he was sceptical of the application, as the Committee had approved a similar application across the road from the site back in January 2012 and were advised that the work would be carried out within 3 months and it still had not been developed.

Councillor J Legrys stated that he shared Councillor R Johnson's views and asked officers to outline to Members sites within a 2 mile radius that had been approved.

The Principal Planning Officer informed Members that the principal site in this part of the District with unimplemented permissions was the former South Leicester Disposal Point which was a site of 29 hectares and formed part of the current South East Coalville application site. The two permissions on the South Leicester Disposal Point were 07/01108/FUL (a full permission for 29,762 sqm of B8 floorspace) and 07/01112/OUT (an outline permission for 4,480 sqm of B2 floorspace and 17,920 sqm of B8 floorspace). The full permission expired in May 2015 and, in order to keep the outline planning permission extant, the reserved matters must be submitted by May 2015.

There was also a current (not yet determined) outline application (14/00069/OUTM) for B1, B2 and B8 development on a 6 hectare site at Beveridge Lane Bardon.

In terms of other vacant sites in this part of the District, there were two vacant plots on the Interlink industrial estate, a site of 2.3 hectares adjacent to the Volvo unit, and a site on Interlink Way South of 4.3 hectares (of which 1.9 hectares were in North West Leicestershire).

Councillor J Legrys thanked the officer for the information and stated that he felt the application was premature and that there were other sites in the area that would be better suited. He expressed concerns that there was no evidence that the applicant had got a client lined up and that the application would divert a valuable bus service from Broom Leys and Waterworks Roads. He stated that Parish Councillor Wakefield had done a lot of work and he was not convinced that the site would get developed.

Councillor G A Allman stated that the highways consultees had removed their objections and that the application would look at creating 1500 new jobs. He moved the officer's recommendation. This was seconded by Councillor G Jones.

Councillor G Jones added that with creating 1500 jobs the application ticked all the boxes.

Councillor M Specht stated that he had seen much development to this area over many years, but would see in the short term if the development would progress.

Councillor T Neilson stated that as there were no technical objections he would be supporting the application, as it was one site fit for use. He requested that should the application be permitted that as part of condition 9 it be requested that as much of the external lighting as possible be switched off at night.

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Director of Services.

Councillor M B Wyatt returned to the meeting.

16. 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)

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

Dr O Mulka, objector, addressed the Committee. He advised Members that he had been a GP in Measham for 30 years (now retired) and that he was not against the creation of local jobs, but he had concerns over the noise that would be generated from the site. He reminded Members that the authority had objected in the past to the Minorca site and that TankMania would rob the residents of their peace and quiet at weekends. He expressed concerns over the committee report and the management plan and advised that residents had commissioned a noise expert to review the management plan and noise assessment. He highlighted that the residents of Bosworth Grange were elderly and the noise would have an impact on their health.

Mr D Rogers, applicant, addressed the Committee. He advised Members that a petition had been handed in containing 500 signatures in support of the application, with a further 22 still to be handed in. He informed Members that the business currently employed 7 full time staff, 6 of which lived in the Measham area and 8 part time, who were ex-servicemen. He added that the business was able to assist the ex-servicemen, adjust to civilian life, whilst working in a familiar environment. He advised Members that the business would help with the growth of the local community as visitors to the centre would visit local cafes and pubs before and after their visits. He added that they had recently attended the D-Day celebrations and had received and were receiving a lot of media coverage.

The motion to permit the application was moved by Councillor J G Coxon and seconded by Councillor G Jones.

Councillor D Everitt stated that it was about countryside diversity and that he was not interested in the arguments about noise. He added that the world was much quieter than the one he was born into and that noise, such as farm machinery, bird scarers and animal noises were acceptable. He went on to say that it was not much asking people to accept the activity as it was not a highly populated area. He felt it was a great asset to North West Leicestershire and expressed his support for the application.

In response to a question from Councillor R Woodward, the Planning and Development Team Manager advised Members that the opening times applied for were 10am to 6pm Monday to Friday, 10am to 4pm Saturdays and 10am to 4pm Sundays. No opening on Bank Holidays.

Councillor R Woodward moved that the opening times on Sunday be amended to 10am to 2pm. This was seconded by Councillor J Legrys.

Councillor G Jones expressed his support for the application and stated that it would increase the range of activities available in the District and would provide a local team building experience for local companies.

Councillor M Specht stated that it was common sense to permit the application as the Parish Council had no objections subject to there being no impact on the footpath.

Councillor J Legrys stated that the noise issues would be dealt with, but he had issues with the straw bale bungs as they would deteriorate after a few weeks. He expressed his

upset that an application was being brought to the Committee to create jobs in an area where residents objected to the noise.

Councillor T Gillard stated that he was all in favour of supporting the application as it was a local business.

The motion to permit the application in accordance with the officer's recommendation and amendment to the opening hours on Sundays was put to the vote and it was

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Director of Services and the amendment to the opening times on Sundays to 10am to 2pm.

17. 14/00133/FUL: ERECTION OF TWO NO. 250 KW WIND TURBINES AND ASSOCIATED INFRASTRUCTURE, INCLUDING ACCESS TRACK (RESUBMISSION OF PLANNING APPLICATION 13/00266/FUL)

The Senior Planning Officer presented the report to Members.

The Planning and Development Team Manager read out a letter of objection that had been received from Andrew Bridgen MP.

Mr M Akroyd, objector, addressed the Committee. He advised Members that he was speaking on behalf of the Farm Town Residents Committee and that their feelings were the same as before. He stated that the scale and height of the turbines would have a detrimental impact on the area, and that the noise and vibration would have a detrimental impact on residents health. He expressed concerns that the applicant had not met with residents and that the applicant had total disregard for them. He added that the turbines would not be beneficial or sensitive to the area and that the residents, Parish Council and the MP were all against the application.

Mr D Wheeler, supporter addressed the Committee. He advised that the nearest neighbour to the site was 830 metres away from the proposed site and that through consultation it had been agreed to make a financial contribution towards the repair of the boundary wall at St. Johns Chapel. He informed the Committee that the demand for all energy had tripled since the 1950s and that onshore wind turbines were more sustainable than the offshore ones. He added that the turbines had always been part of electricity plans as the population continued to rise.

Councillor T Neilson stated that the application would make a welcome contribution to the country's energy supply and that the turbines would not have a significant impact on the landscape and that sometimes the turbines could add character to the landscape. He reminded Members that the Lounge site had been permitted at appeal. He moved the officer's recommendation.

Councillor D Everitt seconded the recommendation. He stated that he welcomed the production of any natural power and that the Committee could contribute towards future generations. He added that wind turbines could be short lived as technology was constantly changing.

Councillor J Legrys stated that he was supporting the application and that the wind turbines would not have that much of an impact on the landscape. He expressed that he shared his colleagues' views on alternative energy and that he preferred turbines over the prospect of fracking.

Councillor G Jones stated that he was mindful of what had been said, however there had been a turbine installed in his ward and he had not received any complaints from residents over the noise. He added that he was pleased to see the contribution to the church and that it would be a local company installing the turbine.

Councillor M Specht stated that turbines were more meritable than pylons, however the turbines would still have an impact on the visual integrity of the National Forest. He added that the need for renewable energy did not trump local concern. He added that a different inspector had turned down an application for a wind turbine in Appleby Parva and moved that the application be refused on the grounds of policy E3, E4 and E7. This was seconded by Councillor J Cotterill.

Councillor J G Coxon expressed his support of the views of the locals, Ashby Town Council and Andrew Bridgen MP. He felt that the turbines would be visually intrusive and that the residents should not have to put up with them.

Councillor D J Stevenson stated that he did not like wind turbines, however he could not see how the Committee could refuse the application.

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

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Director of Services.

Having declared a Disclosable Non-Pecuniary interest in the item, Councillor R Johnson left the meeting.

18. 14/00311/VCI: VARIATION OF CONDITION 5 OF PLANNING PERMISSION 2009/0624/07 IN ORDER TO ALLOW FOR AMENDED OPERATING TIMES

The Senior Planning Officer presented the report to Members.

Mr J Jordan, objector, addressed the Committee. He stated to Members that the school sports hall was not used by local residents and there had been many occasions when music was still being played at 8.30pm when the hall should close at 8pm. He advised Members that there was constant noise throughout the day as doors and windows were left open. He stated that the premises was a school not a leisure centre and there were plenty of leisure centres in the District that could be used. He raised concerns over the noise that would be generated if the times were extended every day of the week including Christmas Day. He urged the Committee to give the residents a respite at the weekend.

Ms M Adams, applicant, addressed the Committee. She advised Members that the school belonged to both the students and the community. She informed Members that it was non-profit organisation and relied on funding. She stated that the school aimed to increase the opportunities for fitness with the revised opening times and that other facilities within the school were open until 10pm. She advised Members that signs and CCTV had been installed to monitor the use of the site and that all users had to sign agreements to adhere to the terms of use and to be respectful of neighbours.

Councillor D J Stevenson asked Ms M Adams to confirm if the school or facilities opened on Christmas Day, she confirmed that it didn't.

Councillor D Everitt moved the officer's recommendations stating the facilities should be open to all. It was seconded by Councillor D Howe.

Councillor J Legrys expressed that he shared the concerns of the residents over the noise and that through good work bridges could be built to keep neighbours on board. He felt that certain conditions had not been carried out though. He stated that if the application was permitted, the school needed to be rest assured that the site would be monitored more regularly. He advised Members that residents had to listen to bad language from the football matches and hope the comments had fired a warning shot across the school.

Councillor G Jones stated that he had had the pleasure of opening the 3G pitch during his year as Chairman and had been to tour the facilities. He felt that it was all very impressive and supported the officer's recommendation.

Councillor D Howe stated that he was near to the leisure centre in Whitwick that was open between 6.30am till 11.30pm and was proud to live near to such a facility.

RESOLVED THAT:

The application be permitted in accordance with the recommendations of the Director of Services.

Councillor R Johnson returned to the meeting.

19. 14/00405/FUL: ERECTION OF NINE RESIDENTIAL DWELLINGS

The Planning Officer presented the report to Members.

Councillor L Massey, Ward Member, addressed the Committee. She advised Members that a petition containing 41 signatures had been submitted in support of the development along with 6 letters of support, one from a resident who had been looking for a residence in Oakthorpe. She advised Members that the plans had been amended five times and included provision for 5 bungalows, which had been approved by the council's Urban Designer. She stated that as the development was between a farm and a garage it was not outside the limits to development and urged the Committee to permit the application.

Mr A Statham, on behalf of the applicant, addressed the Committee. He advised Members that the applicant had submitted the original application and was advised that it would be refused and therefore submitted four further sets of plans. He informed the Committee that there were no bungalows in Oakthorpe and that there was a need for new builds in the village. He reminded Members that locals supported the development and urged them to permit the application.

Councillor J Legrys moved that the application be permitted on the grounds that the development included affordable housing and bungalows, that it would fall in the remit of sustainability and that a footway would be provided. This was seconded by Councillor T Gillard.

Councillor R Woodward expressed that he would have been minded to vote against the application, however with local knowledge and local request for the development would support it. He did express concerns over plans being changed once submitted.

Councillor D Everitt stated that he was impressed with the local democracy of residents wanting the development.

Councillor G Jones sought clarification from officers that the footpath would be widened. The Planning Officer advised the Committee that it would be a condition of the permission.

In response to a question from Councillor T Neilson, the Principal Planning Officer stated that if Members were minded to permit the application then an additional affordable unit could be requested.

Councillor D Howe advised that he had been minded to vote in favour of refusal, but having heard the speakers had changed his mind to support the application.

Councillor J G Coxon echoed Councillor D Howe's comments and sought clarification from officers that should they be minded to permit the application would this set a precedent in the future. The Director of Services advised Members that reasons for permitting the application would not necessarily relate to other applications.

Councillor D J Stevenson requested that a condition relating to the direction of any running water from the site be added. This was agreed by the mover and seconder.

RESOLVED THAT:

The application be permitted on the grounds that the development included affordable housing and bungalows, that it would fall in the remit of sustainability and that a footway would be provided, subject to a Section 106 Agreement and conditions required by the Director of Services.

20. 14/00320/FUL: ERECTION OF A DETACHED DWELLING (AMENDED SCHEME)

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

21. 14/00481/FUL: ERECTION OF A NEW AGRICULTURAL CATTLE BUILDING

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

Councillor J Legrys expressed concerns that the sheds would block the views of the landscape. He felt that the cladding should be camouflaged to blend in with the landscape therefore being more sympathetic to the countryside. He moved an amendment to the recommendation for this to be included. It was seconded by Councillor R Adams.

Councillor D J Stevenson stated that being the Ward Member for the application, he had not received any complaints from locals over the existing sheds being an eyesore.

Councillor D Everitt felt that altering the appearance of the shed would make no difference and that in the future nature would take its course and naturally alter the look of the sheds.

Councillor R Johnson felt that the Committee should support the application and support British farmers.

The motion to amend the recommendation to include that the design of the cladding was such that it blended in with the landscape of the countryside was put to the vote and was LOST.

The officer's recommendation was moved by Councillor T Gillard, seconded by Councillor G Jones and it was

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Director of Services.

22. 14/00355/FUL: INSTALLATION OF SOLAR PV PANELS ON ROOF, INSTALLATION OF A BIO MASS BOILER WITH METAL FLUE AND FORMATION OF THERMAL STORE

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

The officer's recommendation was moved by Councillor J Legrys, seconded by Councillor J Hoult and it was

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Director of Services.

23. 14/00356/LBC: INSTALLATION OF SOLAR PV PANELS ON ROOF, INSTALLATION OF A BIOMASS BOILER WITH METAL FLUE, AND FORMATION OF THERMAL STORE

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

The officer's recommendation was moved by Councillor J Legrys, seconded by Councillor J Hoult and it was

RESOLVED THAT:

The application be permitted in accordance with the recommendation of the Director of Services.

The meeting commenced at 4.30 pm

The Chairman closed the meeting at 6.40 pm

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APPENDIX B

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

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

5. Granting permission contrary to Officer Recommendation

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

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

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

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 Head of Regeneration and Planning.

8. Decisions on Items of the Director of Service's

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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Erection of 79 dwellings and associated infrastructure

Report Item No
A1

Land North Of Greenhill Road And East Of Agar Nook Lane
Coalville Leicestershire

Application Reference
14/00050/FULM

Applicant:
David Wilson Homes

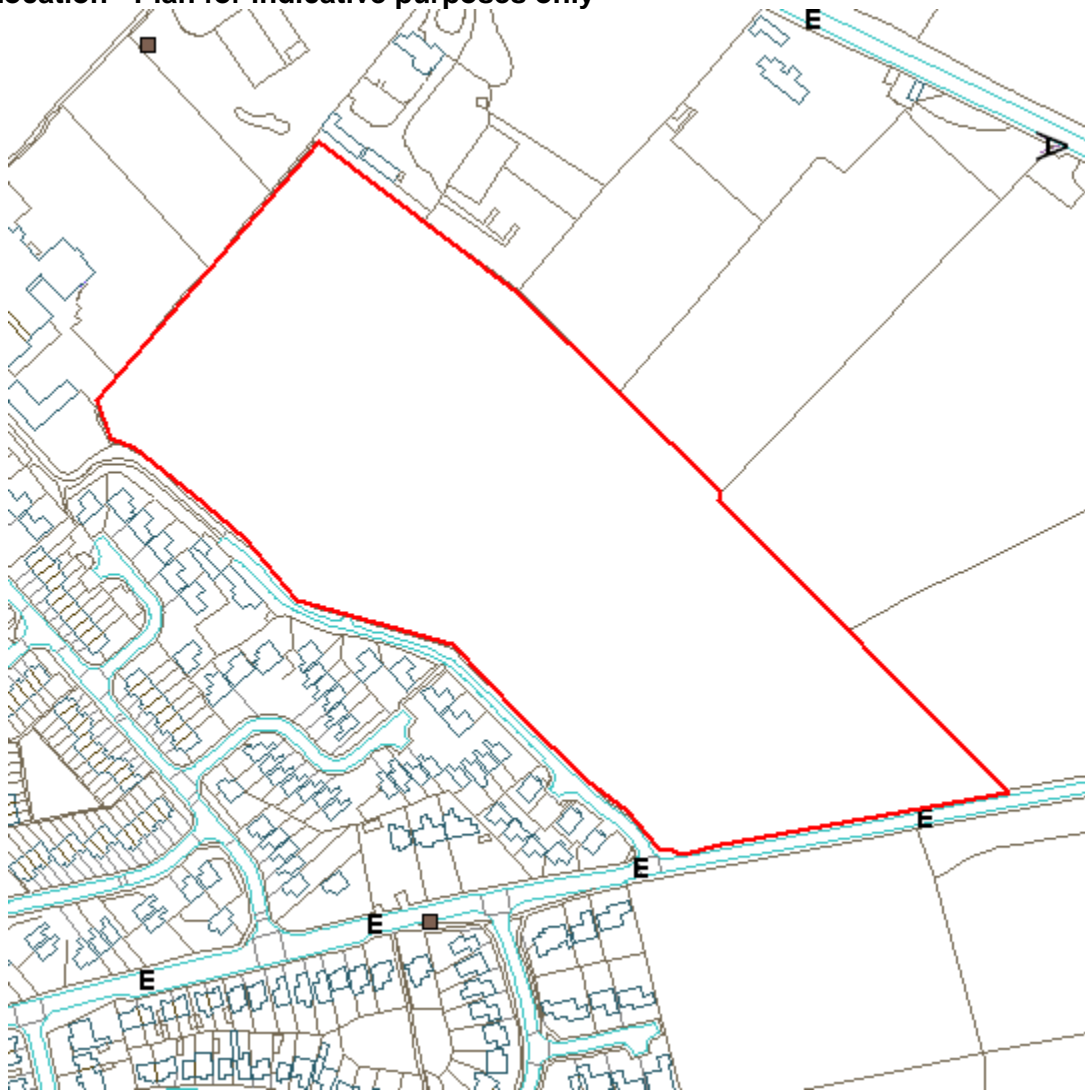
Date Registered
17 January 2014

Case Officer:
James Mattley

Target Decision Date
18 April 2014

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Reasons for Approval

Proposal

This application seeks full planning permission for residential development of 79 dwellings including associated infrastructure at Greenhill Road, Coalville.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals from surrounding neighbours and from Leicestershire and Rutland Wildlife Trust; no other objections are raised by statutory consultees.

Planning Policy

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

Conclusion

The report below indicates that, the site is a greenfield site outside Limits to Development and located within an Area of Particularly Attractive Countryside.

The proposed development would result in the development of land outside of the defined Limits to Development and the erection of 79 dwellings and associated built infrastructure would diminish the present open character of the Area of Particularly Attractive Countryside which would be contrary to Policy E22 of the Local Plan. The Council is currently able to demonstrate an adequate supply of housing and there are no other over-riding material planning considerations that outweigh the conflict with the Area of Particularly Attractive Countryside. Overall, it is considered that the proposed development of the site is unacceptable in principle and would not represent sustainable development.

RECOMMENDATION:- REFUSE PLANNING PERMISSION

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. Proposals and Background

This is a full planning application for residential development of 79 dwellings on a site of approximately 6.12 hectares to the north of Greenhill Road, Coalville. The application site comprises three field parcels of land that are currently used by dog walkers with a number of informal paths evident across the site. To the west of the application site are the residential estates off Agar Nook Lane, York Place and Lancaster Close, to the east are open fields, some of which have recently been designated as a Site of Special Scientific Interest (SSSI), to the south of the site is Greenhill Road and to the north are field parcels which abut Warren Hills Primary School and the grounds of Castle Rock School. The site is located outside of the limits to development and in an area designated as an Area of Particularly Attractive Countryside.

Vehicular access is proposed via a new access point onto Greenhill Road that would be sited centrally along the site frontage. A total of 79 dwellings are proposed and these would consist of 1 x 1 bed dwelling, 4 x 2 bed dwellings, 37 x 3 bed dwellings, 27 x 4 bed dwellings and 10 x 5 bed dwellings. The site also includes for informal public open space (0.44 hectares), a nature conservation site (2.61 hectares) and the retention of existing trees and hedgerows (1.49 hectares). The western-most field within the application site would not have any built development due to the grassland that is of ecological importance. Amended plans have been received during the course of the application in order to improve the design of the proposed scheme.

The application has been called in by Councillor Clarke due to significant local concern.

The application is accompanied by an ecological assessment, flood risk assessment, planning statement, design and access statement, travel plan, arboricultural impact assessment, archaeological desk based assessment, landscape review, affordable housing statement, transport assessment and statement of community involvement. A viability assessment has also been submitted with the application.

Pre-application advice has been carried out prior to the formal submission of this application.

2. Publicity

46 Neighbours have been notified (Date of last notification 23 January 2014)

Press Notice published 29 January 2014

Site Notice posted 29 January 2014

3. Consultations

Severn Trent Water Limited
 Head of Environmental Protection
 County Highway Authority
 Environment Agency
 Natural England
 NWLDC Tree Officer
 LCC County Archaeologist
 LCC ecology
 Airport Safeguarding
 NWLDC Urban Designer
 LCC Development Contributions

NHS Leicester, Leicestershire And Rutland Facilities Managme
NWLDC Development Plans
Head Of Leisure And Culture
Manager Of Housing North West Leicestershire District Council
Police Architectural Liaison Officer
LCC/Footpaths
Highways Agency- affecting trunk road
National Forest Company
Head Of Street Management North West Leicestershire District
DEFRA
LCC Fire and Rescue
Leicester & Rutland Wildlife Trust
NWLDC Urban Designer

4. Summary of Representations Received

East Midlands Airport has no safeguarding objection to the proposal.

Environment Agency has no objections to the proposal subject to the inclusion of suitable conditions.

Highways Agency has no objections to the proposed development.

National Forest Company raises no objections to the scheme subject to the inclusion of relevant conditions.

NHS England (Leicestershire and Lincolnshire Area) requests a financial contribution of £12,659.71.

North West Leicestershire Environmental Protection has no environmental observations and no concerns relating to land contamination.

Leicestershire and Rutland Wildlife Trust objects to the application on the following grounds:
The development represents an encroachment into the Charnwood Forest;
The site is located outside of the settlement boundary;
The application site has significant wildlife value and forms a corridor to other ecological sites;
Field F1 within the development meets the criteria for becoming a Local Wildlife Site;
The applicants proposal to maintain Field 3 as a wildlife area are flawed;
Field F2 has great potential for future habitat establishment and forms a buffer for the other habitats;
There should be no development within Field F3;
Lighting could have an adverse impact on the character of the area and on bat population;
There are no specifications for the proposed buffer strips next to the SSSI or management details;
Loss of a mature tree would be unacceptable.

Leicestershire County Council Civic Amenity Services requests a developer contribution of £5,615.

Leicestershire County Council Ecologist has no objections to the application providing that it is carried out in accordance with the submitted planning layout and in accordance with the recommendations contained within the ecology report.

Leicestershire County Council Education Services requests a developer contribution of £149,180.79 to be spent by improving, remodelling or enhancing existing facilities at Coalville Warren Hill Primary School.

Leicestershire County Council Highway Department has no objections subject to the inclusion of relevant planning conditions and legal obligations.

Leicestershire County Council Library Services requests a developer contribution of £4,940.

Natural England has no objections to the application providing that it is carried out in accordance with the submitted planning layout and subject to certain conditions.

Severn Trent Water has no objections subject to the inclusion of a relevant drainage condition.

Third Party representations

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

- o The accident statistics do not take account of near misses;
- o The increased traffic will increase the risk of accidents;
- o The proposed plans do not include highway mitigation;
- o The existing speed limits in the area are unacceptable;
- o Vehicles do not stick to the existing speed limits;
- o The volume of traffic leaving the access at peak times is unacceptable;
- o The existing road is very busy and the access arrangements are not satisfactory;
- o A dedicated right turn lane should be provided;
- o Unacceptable impact on surrounding junctions;
- o The road towards Charnwood Forest would be impassable during times of snowfall;
- o Publicly available data indicated that there have been accidents involving 9 vehicles since 2010;
- o According to the transport statement there has been just one accident at the Greenhill Road/Warren Hills Road junction which is misleading;
- o The off-site highway infrastructure payment would not be directly related to this site;
- o Scheme would be detrimental to the highway safety of school children and their parents and hospital users;
- o The bus service is inadequate in this area;
- o Number of vehicle movements would be higher than stated in the transport statement;
- o Traffic study is not up to date and was carried out prior to 'improvements' along Meadow Lane which has increased traffic along Greenhill Road;
- o The improvement works to Greenhill Road/Warren Hills Road are unlikely to have any impact upon congestion;
- o Greenhill Road/Warren Hills Road junction is difficult to negotiate particularly in the winter during periods of snow and ice;
- o The footpath link onto Agar Nook Lane may lead to issues regarding anti-social behaviour;
- o The construction of the dwellings would result in noise and disturbance;
- o The encroachment into the Charnwood Forest is unacceptable;
- o Charnwood Forest is one of the few places that offers tranquillity and a feeling of wilderness;
- o Would spoil the view of attractive countryside and represents urban sprawl;
- o Charnwood Forest is subject of a Leicestershire County Council plan in order to create a Regional Park

- o The extent of development in North West Leicestershire is unsustainable;
- o More pressure on existing services;
- o The application is outside of the settlement boundary;
- o This development does not feature in the Core Strategy;
- o Can the existing doctor's surgery and local schools accommodate the development?
- o The Local Plan identifies the area as being within an area of particularly attractive countryside;
- o There are plenty of other sites for housing;
- o Brownfield sites should be developed before Greenfield sites;
- o Application should not be considered before the Council has finalised its Development Framework;
- o If permission is granted it would set a precedent for further development in the Charnwood Forest;
- o The area is close to having a 5 year supply of housing and, therefore, lack of housing supply should not be the determining factor in granting this proposal;
- o The application site is not a sustainable location for new development with the town centre some 4km away;
- o Local employment opportunities are not close by;
- o Priority should be given to schemes that are located closer to the Town Centre or local employment opportunities;
- o The site is an important wildlife corridor;
- o The bat population in the area will be affected by light pollution and loss of hunting areas;
- o Two fields meet the Local Wildlife Site criteria;
- o The trees, grass and other vegetation on this site are vitally important and provide flood defences;
- o Charnwood Forest is a candidate for becoming a regional park;
- o Application poses a threat to the wildlife corridor linking Bardon Hill, Charnwood Lodge and Coalville Meadows;
- o The tree referred to as T1 should be retained;
- o The site contains important grassland habitat;
- o Impact of the proposal on adjacent SSSI's;
- o The National Forest Company identify the Charnwood Forest as a key area within the National Forest;
- o No indication as to how the wildlife mitigation measures will be funded and managed;
- o The applicants proposals to maintain one field as a wildlife area are flawed as flood defences would destroy a significant part of the site;
- o Questions regarding the validity of the ecological report;
- o Field F3 should not be developed as it meets the criteria for designation as a Local Wildlife Site;
- o More detail is required regarding the buffer strips next to the SSSI;
- o Concerns over the length of time of the building works;
- o At least half of the houses have four bedrooms or more;
- o There appears to be parking for less than two cars per house and would lead to on-street car parking;
- o This scheme should be assessed with other development proposed along Greenhill Road;
- o Adequate drainage is essential to avoid flooding;
- o The proposal does not include for social housing;
- o The new houses would be unsightly;
- o Some information contained in the Flood Risk Assessment is wrong as flooding occurred in the area around 10 years ago;

- o The benefits of this proposal do not outweigh the harm;
- o Would exacerbate existing drainage and flooding issues;
- o Grace Dieu Brook should be surveyed to analyse the existing drainage and flooding issues;
- o Serious reservations regarding the submitted Flood Risk Assessment;
- o Around 55% of the site would be hard surfaces which would result in drainage and flooding issues.

A petition containing 125 signatures has also been received objecting to the proposal on highway grounds.

The Friends of Charnwood Forest object to the application as it would have a devastating impact on important landscapes, important ecological sites and sensitive wildlife habitats.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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 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."

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

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and

- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

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

- "47 To boost significantly the supply of housing, local planning authorities should:
- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

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

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

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

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

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

"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."

"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)

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

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

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

Policy E22 seeks to prevent development which would adversely affect Areas of Particularly Attractive Countryside.

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

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

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

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

Other Policies

North West Leicestershire District Council Affordable Housing SPD

Key Principle AH2 provides that affordable housing will be sought on all sites of 15 or more dwellings in the Greater Coalville Area.

Key Principle AH3 requires a minimum of 20% of residential units to be available as affordable housing within the Greater Coalville area.

North West Leicestershire District Council Play Area Design Guidance SPG

The District Council's Play Area Design Guidance SPG sets out the relevant requirements in respect of children's play provision required in association with residential development.

Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville

On 11 June 2013, and following the completion of consultation on the draft policy, the District Council's Cabinet approved the revised policy document. The adopted policy states that "Where the Council is satisfied that a major residential development proposal in or around the Coalville area is proven to be unviable as a result of required developer financial contributions (e.g. off site highway works; education provision and affordable housing requirements), the Council will consider relaxing its normal affordable housing requirements proportionately so as to:

- (a) Give highway infrastructure investment the highest priority for funding
- (b) Ensure all other essential infrastructure is provided
- (c) Continue to contribute to affordable housing provision as far as possible whilst ensuring that the development scheme is viable.

For development proposals where the Council accepts no affordable housing or a lower proportion of affordable housing contribution (both on site provision and/or a financial contribution in lieu of provision) the Council will reduce the time period for any planning permission to be commenced to 2 years and shall include in the Section 106 agreement provision to enable the Council to periodically revisit the affordable housing contribution if the economic factors determining the level of affordable housing improves before the development is commenced."

In addition to agreeing the policy, Cabinet agreed that, for major developments in Coalville, the Planning Committee be asked to consider the policy through Section 106 agreements and recommended that Planning Committee, where appropriate, prioritises the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the policy.

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

Principle of Development

In terms of the principle of development, 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 other Development Plan policies and National policies.

In terms of the North West Leicestershire 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.

Whether or not this site would be considered "appropriate" is a matter of judgement; having regard to its location outside Limits to Development. This policy nevertheless sets out criteria relevant to release of land. In terms of the sustainability credentials of the site, the site is located the following (approximate) distances away from a range of services:

Local Store at Belgrave Close - 500 metres
Warren Hills Primary School - 650 metres
Forest Way School, Castle Rock High School and King Edward VII Collage - 1600 metres
Co-Op Mini Supermarket - 1450 metres
Bus Stop - 300 metres
Coalville Community Hospital - 1800 Metres

In terms of distance to amenities, the inspector in the Moira Road, Ashby appeal referred to DoT statistics which show that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1km, cycling about 4.5km and by bus about 8km. The site is adjacent to the built form edge of the Coalville Urban Area and is some distance (3.7km) from the Town Centre where the majority of facilities and services are located. However, the Town Centre is located within the average cycling distance of about 4.5km. The Bus Service Arriva 11 provides a service every 10 minutes to Coalville on Monday to Friday and every 10-15 minutes on Saturday. Bus stops for the service are located within approximately 300m of the application site.

Having regard to the location of the site it is considered that residents of the site would have access to some services and facilities by walking and easy access to all the facilities the town has to offer by cycling or using public transport. Taking all of the above into account, it is considered that the site is located within a sustainable location in terms of accessibility.

Housing Land Supply and Limits to Development

In terms of the contribution that this scheme would make towards the Council's five year housing land supply, the position is not entirely clear given the drainage situation on the site and this is discussed in more detail in the Drainage section below.

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, concluded that the Council's 5 year housing land supply calculation should be based on the "Sedgefield" approach (i.e. an approach requiring planning authorities to deal with any past under-supply within the first 5 years rather than to spread this over the whole plan period) an approach now expressly preferred in the recently published National Planning Practice Guidance, and thus even more likely to be favoured by appeal inspectors going forward. The Moira Road Inspector also applied a buffer of 20% for persistent under delivery. As such, officers have recently been advising Members of the Council's inability to demonstrate a five-year supply of deliverable housing sites. The consequence of this has been that the Council has not been able to rely on adopted policies S3 and H4/1 in determining housing applications as they are "relevant policies for the supply of housing" for the purposes of Paragraph 49 of the NPPF which, Members are aware "should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites".

As reported to Committee on 8th July 2014, however, a recently completed County-wide Strategic Housing Market Assessment (SHMA) has provided the Council with an up-to-date objectively assessed annual housing requirement, on which basis, the Council is now able to demonstrate a supply of 7.1 years (i.e. an excess of 2.1 years beyond the five year requirement, or an excess of 1.1 years beyond the five year plus 20% buffer requirement).

As a result of the above Policies S3 and H4/1 should no longer be considered 'out-of-date' in the context of Paragraph 49 of the NPPF - indeed these are Development Plan policies to which the Council should again now properly have regard in determining future planning applications. Whilst the weight to be applied to these policies against other material considerations is a matter entirely for members, officers would advise members, in applying weight to any conflict with Policy S3 in the overall planning balance, to bear in mind the fact that the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006).

However, it is accepted that 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. These are set out in more detail below:

Environmental

The site is located within an Area of Particularly Attractive Countryside (APAC) which the adopted Local Plan confirms is considered to represent the most significant and important rural landscape area locally. This designation is subject to saved Policy E22 which states the following:

Development will not be permitted which would adversely affect or diminish the present open character and attractive rural landscape and/or be detrimental to natural habitats and scientific interest of the following Areas of Particularly Attractive Countryside, identified on the Proposals Map:

- (a) *Land to the east of Greenhill, Thringstone, Whitwick and Worthington, including part of Charnwood Forest;*
- (b) *Land in the vicinity of Staunton Harold; and*
- (c) *Land at Gopsall's Wharf, Snareston.*

Built development will be permitted only where it is appropriate to the established character of the designated area in terms of scale, siting, detailed design and materials of construction.

In addition the District Council will seek to:

- (a) *Undertake or encourage measures to protect and enhance the landscape, wildlife, habitat, archaeological and scientific interest of the designated area, including planting, nature conservation measures and the provision of nature interpretation and appreciation facilities;*
- (b) *Secure the positive management of land within the designated areas to enhance and*

maintain its wildlife habitat and features of scientific and archaeological interest;

- (c) *Protect and conserve particular features which contribute to the special character of the designated areas, such as dry stone walls in the Charnwood Forest.*

The application is supported by a landscape review which sets out that the site and its setting are assessed in the Charnwood Forest Landscape and Settlement Character Assessment. The site is included in the Bardon Landscape Character Area (LCA) and the assessment sets out a number of recommendations for this area that include the following:

- _ Restore and create new publicly accessible woodlands and outdoor spaces where quarrying ceases;
- _ Create new woodland along roadsides and industry fringes to reduce their visual prominence within the landscape;
- _ Protect the few distinctive features within the area such as the tree-lined avenue to Bardon Hill and existing mature woodland;
- _ Protect the existing long distance views from Billa Barra Hill through appropriate management of woodland vegetation on the summit;
- _ Restore hedgerows where they have become fragmented and encourage farmers to use hedgerows rather than timber fencing to demarcate field boundaries;
- _ Restore quarried land adjoining Billa Barra Hill to create new public open spaces and new recreational footpaths, cycleways and bridleways linking to surrounding areas and the wider footpath network.

The landscape review notes that the site is close to the boundary of the Charley LCA and that even at a local level LCA's cover a broad area and often characteristics can bleed between them creating transitional zones. The site is located at the settlement edge and, therefore, shares a relationship with both the settlement and wider landscape. The Charnwood Forest character assessment includes specific settlement analysis, one of which covers the eastern settlement fringes of Agar Nook. A number of recommendations are also contained in this settlement character assessment and include the following:

- _ Create distinctive entrance gateways through sensitive new infill development or improvement to public realm to reinforce distinction between settlements;
- _ Protect existing mature trees along the roads and encourage more street tree planting;
- _ Preserve the wooded rural approach in to the settlement around Abbots Oak;
- _ Protect the sharp distinction and wooded south-eastern fringes of the settlement to retain a soft and well-screened urban edge to ensure that its prominence in the landscape does not increase;
- _ Provide new planting along the Western fringes of Hall Lane to soften the urban edge from the wider farmland beyond.

Taking these character assessments into account, the landscape review recommends the following landscape strategy for the site:

1. The retention and reinforcement of the vegetated boundaries of the site. Tree planting to be reinforced and extended across the site, and boundary hedgerow structure reinstated and managed;
2. Maintain the open frontage to Greenhill Road by securing an appropriate development set back to manage the transition between the wider countryside setting and settlement. Development has the potential to create an active frontage to the site that creates a positive

relationship with Greenhill Road defined by high quality new housing;

3. The reinforcement of the treed setting to the north-east corner of the site extending the exiting tree canopy across Greenhill Road to create a landscape gateway to the settlement. This in turn will also help to soften and filter views of the development from the boundary of the site;

4. The retention and reinforcement of the vegetated boundary and open ditch course to Agar Nook Lane. This boundary is to be brought back under management to secure a landscape boundary that combined with development create an attractive and active frontage to the highway;

5. The safeguarding of the candidate grassland in Field 3 and provisions made for its future management;

6. The reinforcement of structural boundary vegetation to safeguard the visual setting of the wider landscape to the north and east of the site; and

7. The creation of development links between Fields 1 and 2 towards the southern extent of the internal boundary hedgerow and trees to avoid severing the network of boundary vegetation linking to the northern boundary of the site and wider landscape setting beyond.

It is considered that the provision of 79 dwellings and associated built infrastructure within the APAC would diminish the present open character of the area and result in an urbanising impact and, therefore, would conflict with Policy E22 of the Local Plan. In terms of the built development which is being proposed, it would be set back around 40 metres away from the site frontage. Two areas of public open space are proposed either side of the centrally located access and this area would include for landscaping, a new stone wall and the retention of the existing stone wall on the site boundary. It is also noted, as detailed elsewhere in this report, that around a third of the site would be designated as a local wildlife site and conditions/obligations could be attached to the granting of any planning permission requiring this to be managed in the future.

It is accepted that the applicants have attempted to reduce the impact on the wider APAC through their landscape strategy (although not all of the recommendations have been achieved on the submitted planning layout) but the provision of 79 dwellings and associated built infrastructure would conflict with Policy E22 of the Local Plan as the scheme would diminish the present open character of the area and result in an urbanisation of this rural site. The impact upon the open character of the area would be particularly apparent from certain locations along Greenhill Road and along Agar Nook Lane.

The designation of part of the site as a local wildlife site would count in favour of the scheme although it is noted that Leicestershire and Rutland Wildlife Trust object to the application (this is discussed elsewhere in the report). The designation of a wildlife site has the potential to improve biodiversity which would be a positive in terms of the schemes environmental credentials. However, the provision of a wildlife site on the site is not considered to compensate for the harm that would be caused to this APAC.

Social

Coalville is the district's main settlement and provides the greatest range of services and facilities which not only helps meet the needs of local people, but also the needs of those in surrounding settlements. The new population could support and help sustain the local services

and facilities that meet local needs and contribute to the creation of sustainable communities.

A supply of housing that meets needs of present and future generations can contribute towards the building and supporting of vibrant communities. Therefore a mix of housing is supported and would contribute to meeting the housing needs of different groups in the community. However, the limited number of 2 bedroom properties could be considered to be to the detriment of the housing mix of the development.

Informal public open space is to be provided within the frontage part of the site and the field to the rear is to be safeguarded from development so as to protect the grassland. Financial contributions are proposed towards the provision of local services and facilities including health, education, libraries, civic amenity, transport and police (if found to be CIL compliant).

In terms of affordable housing, the scheme proposes an off-site contribution of £100,000 which would fall below the minimum 20% contribution the District Council's Affordable Housing SPD seeks to secure from new housing development in Coalville. This is discussed in more detail under Developer Contributions and Means of Access and Transportation below.

Economic

In the short term the construction of the development would provide opportunities for local employment. In the longer term new housing would also help to support and underpin demand for local businesses and services by providing opportunities for people to relocate to the area for employment purposes.

Conclusions in respect of the Principle of Development and Planning Policy

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material consideration and includes a presumption in favour of sustainable development.

The site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and, as such, the scheme would be in conflict with the relevant Development Plan and other policies designed to protect the countryside from inappropriate development, and including Local Plan Policy S3, a policy designed to protect the countryside for its own sake. The scheme would also conflict with Local Plan Policy E22 which seeks to restrict development that would adversely affect or diminish the present open character and attractive rural landscape in this area.

It is accepted that the contribution to the economic growth associated with the proposed development would ensure that the scheme would sit well in terms of the economic dimension. Whilst the role played by the proposed development in providing appropriate contributions to some local services as detailed below would be positive aspects in terms of the social dimension, these factors also need to have regard to the issues in respect of a reduction in affordable housing as considered in more detail under the relevant section of this report. Insofar as the environmental role is concerned, the proposed development would result in the development of land outside of the defined Limits to Development and the erection of 79 dwellings and associated built infrastructure would diminish the present open character of an APAC.

Having regard to the three dimensions of sustainable development detailed above, it is

considered overall that the proposed development of the site is unacceptable in principle and would not represent sustainable development in terms of the environmental role.

Means of Access and Transportation

In respect of the proposed access arrangements, a simple priority junction is proposed. The proposed junction works would be accompanied by a relocation of the change of speed limit and gateway to a position further east of the access. In addition, a speed table is proposed at the crossroads of Greenhill Road with Cropston Drive and Abbots Oak Drive. The proposal has been subjected to an independent Stage 1 Road Safety Audit. Two issues were identified which have been addressed/considered to the satisfaction of the Highway Authority and, on this basis, the County Highway Authority raises no highway safety objections to the proposed access arrangements.

The application is accompanied by a Transport Assessment (TA) as well as a Travel Plan. These documents conclude that the site is located in a sustainable location that is accessible by all modes of transport. The Highway Authority has reviewed the TA submitted in support of the application, which examined, amongst other things, the impact of the proposal upon the Warren Hills Road/Greenhill Road junction. The TA indicates that the junction operates at 98% capacity at the current time but would operate at 105% capacity when having regard to the additional traffic brought about by the proposed scheme. In order to mitigate the impacts of the proposal upon this junction the applicant proposes to widen the Greenhill Road arm of the junction to allow two vehicles waiting to turn left to stack next to vehicles waiting to turn right. The County Highway Authority conclude that as the development is acceptable subject to the mitigation works to the Warren Hills Road/Greenhill Road junction and subject to a range of other conditions and obligations.

Other mitigation proposals outlined in the TA and Travel Plan include various measures designed to encourage walking / use of public transport by residents. The relevant measures are included within the County Highway Authority's requested contribution / Section 106 requirements below:

- o Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- o 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £325.00 per pass - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).
- o Information display cases at nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display.
- o Bus shelters at nearest bus stops; to provide high quality and attractive public transport facilities to encourage modal shift. At £4,908.00 per shelter.

Any variation from the submitted information may result in a change in requirements.

- o A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council.

- o A Construction Environmental Management Plan (CEMP).

The request for a CEMP includes various measures such as the control of noise and vibration, waste materials and hours of operation. These matters are not considered to be matters that the County Highway Authority have control over and would appear to be matters which would be dealt with by separate environmental health legislation. Therefore, whilst a construction management plan can be conditioned to control wheel washing facilities and construction parking etc, it could not secure the full range of issues outlined by the CHA.

On 15 January 2013, the District Council's Cabinet considered a report relating to Delivering Growth and Prosperity in Coalville which set out proposals to prioritise highways infrastructure contributions in Coalville above affordable housing contributions given the need for significant transportation infrastructure to be provided so as to enable otherwise stalled development to be delivered. Cabinet resolved to (i) agree to the preparation and consultation of an interim Section 106 policy which establishes the approach towards prioritising highway infrastructure contributions in Coalville, which will be reported back to cabinet after the consultation exercise; (ii) agree that for major developments in Coalville, the Planning Committee be asked to consider the emerging policy through Section 106 agreements; and (iii) to recommend that Planning Committee, where appropriate, prioritise the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the emerging policy proposals. The District Council consulted on a draft policy between 22 February 2013 and 5 April 2013 and, following the conclusion of that consultation, reported back to Cabinet on 11 June 2013. At that meeting, Cabinet resolved to approve the policy.

The report to Cabinet of 15 January 2013 included an indicative list of potential transportation infrastructure measures to which the financial contributions made would be expected to contribute; based on the figures available at that time, the calculations provided to Cabinet suggested a potential contribution of between £4,419 and £4,884 per dwelling. As of the current position, discussions are ongoing with the County Highway Authority and Highways Agency to establish an appropriate mechanism for securing contributions but, as matters stand, having regard to Local Highway Authority and Local Planning Authority officers' assessment of factors such as infrastructure scheme priority in terms of the importance on the wider highway network, estimated date of site delivery, and proximity of the respective potential developments to the relevant junctions / infrastructure schemes. The intention is that this site would be likely to need to contribute towards the scheme at Broomleys junction, and an appropriate contribution of £426,000 has been calculated. The applicants are agreeable to paying this contribution.

As set out in more detail under Affordable Housing below, in order to accommodate this sum within the scheme whilst retaining its viability, and in accordance with the District Council's Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville policy, the applicants have undertaken a viability assessment so as to demonstrate the impact that payment of the transportation infrastructure contribution would have on the viability of the scheme. This indicates that the scheme is not viable (when providing for the transportation infrastructure contribution along with other developer contributions and with a full affordable housing contribution as per the District Council's Affordable Housing SPD), and the quantum of affordable housing would need to be reduced so as to render the scheme viable.

The sum proposed would, it is considered, represent a reasonable and essential contribution towards 'kick starting' those schemes identified as being necessary to enable development to proceed in the wider Coalville area. This scheme would be one of the first to contribute towards

prioritising highway infrastructure contributions in accordance with the cabinet resolution of June 2013. Separate contributions are also proposed in respect of other highways works which would be required to accommodate this development.

In terms of car parking on the site, the scheme would provide for a total of 182 spaces for the 79 dwellings. This figure does not include for any garages as they are not to be built in accordance with the internal dimensions stated in the County Council's 6C's document. Regardless of this issue, it is clear that the level of car parking is over and above the required level of 1.5 spaces per dwelling in the Local Plan. Whilst this level of car parking is over and above the level required by the Local Plan, it is noted the County Highway Authority raises no objections to the level of car parking and the Council's Urban Designer raises no objection to the design of the car parking spaces across the scheme. On this basis, the level of car parking is considered to be acceptable.

The Highway Agency has been consulted on the application and considers that the proposed development is not expected to have a material impact on the closest strategic route (M1 motorway). To reiterate, the County Highway Authority raise no highway safety objections to the proposed scheme subject to the inclusion of relevant conditions and obligations. Taking these matters into account, therefore (and including the applicants making an appropriate contribution towards transportation infrastructure), the proposed development is considered acceptable in terms of Means of Access and Transportation issues.

Ecology

The application submission is accompanied by an extended phase 1 ecological survey whereby the habitat types present are identified and mapped together with an assessment of the species composition of each habitat. In addition, further more detailed botanical survey and assessment work was undertaken of the grassland fields located on the site to establish the degree to which the grassland may represent an important habitat within the site.

The survey identifies that there are no statutory nature conservation designations within the site. However, Holly Rock Fields Site of Special Scientific Interest (SSSI) is situated immediately adjacent to the north-eastern site boundary. This was designated in March 2013 for the presence of lowland species-rich neutral grassland. Natural England were contacted during pre-application discussions and identified that the three main issues would be (i) potential for changes to the water table within the SSSI, (ii) egress onto the SSSI by visitors and (iii) disposal of garden waste and encroachment of new residential gardens adjacent to the SSSI. The site has been designed to ensure that these concerns are addressed and various mitigation measures are recommended in the ecology report. Charnwood Lodge SSSI is located approximately 200m north of the site and is separated by a number of agricultural fields and Warren Hills Road. At this distance, the report indicates that the proposals are unlikely to result in any significant direct adverse impacts.

In terms of the habitats contained within the site they include grassland, trees, hedgerows, scrub and young tree generation, drainage ditches and bramble. The grassland is considered to be the most important from an ecological perspective and there are three fields within the site that are labelled F1, F2 and F3 in the ecology report. Field F1 is the western most field and is dominated by semi-improved grassland, field F2 is located centrally and comprises an area of former allotments that have been long abandoned and field F3 forms the eastern part of the site and is dominated by coarse grasses. The grassland areas within each field have been subject to specific botanical survey and evaluated in relation to the criteria set out within *Guidelines for the selection of Local Wildlife Sites (previously known as Sites of Importance for Nature*

Conservation or SINCs) in Leicester, Leicestershire and Rutland (Revised 2011). The evaluation confirms that the grassland present within field F1 meets the qualifying criteria for Local Wildlife Site (LWS) designation under the current Leicestershire and Rutland guidance and, therefore, no built development is proposed within this area. Field F2 and F3 do not meet the qualifying criteria for LWS and the report concludes that these two fields are not considered to provide any particular ecological value in the local context and their loss would be of no particular ecological importance.

Leicestershire and Rutland Wildlife Trust object to the application due to a range of different issues which include that field F2 is an important ecological buffer and that, on the basis of recent survey work, field F3 does meet the qualifying secondary criteria for LWS designation. However, the County Ecologist states that the submitted ecological report is satisfactory and that all of the recommendations made at the pre-application advice stage have been fully taken on board. Most of the habitat in field F1 would be retained within the proposed layout, although a small amount would be lost to create a SUDS feature, linking footpath and pumping station. The County Ecologist confirms that these losses are relatively minor, and (as long as the grassland is not just retained, but actively conserved) has no objections to the losses. The grassland in field F3 is marginal in terms of LWS criteria and, on balance, the County Ecologist's view is that the opportunity to conserve the high quality grassland in field F1 and to ensure its long-term protection and management should be taken, even if this causes the loss of other habitats that are of less value.

Subject to the inclusion of various mitigation measures which include, amongst other things, protection of the adjacent SSSI and the management of the LWS, the County Ecologist has no objections to the scheme. No concerns have been raised from the County Ecologist in respect of the impact of the proposal upon protected species. For its part, Natural England raise no objections to the scheme subject to conditions relating to a revised drainage strategy and the implementation of new secure boundary fencing. Therefore, subject to the imposition of suitably-worded conditions the submitted scheme is considered acceptable in ecological terms.

Trees

The tree cover on the site is concentrated along the boundaries of all three fields and is predominantly comprised of Oak, Ash and Silver Birch. The edges to the central field contain the principal internal tree cover on the site and the frontage to Greenhill Road also contains tree cover. There is a group of trees along the western boundary that are protected by a group Tree Preservation Order (ref: TPO28) which originally related to 20 Oak trees although only 14 Oak trees now exist along this boundary. The submitted arboricultural report concludes that the proposals, with the exception of one tree (T36) are able to accommodate the retention and protection of all trees to be of good arboricultural quality, including all of those subject to a Tree Preservation Order.

The Council's Tree Officer raises some concerns over the loss of important mature trees, some of which have not been surveyed, loss of sizeable areas of young developing woodland and individual trees of high future value and recommends that if the application were to be approved then the access should be re-positioned further to the north in order to enable retention of an Oak tree which is in good condition.

Whilst the concerns of the tree officer are noted, the applicants are proposing to retain the majority of the trees on the site and it would appear that wherever the access into the site and between fields 2 and 3 would be positioned this would result in the loss of some trees. When having regard to the overall loss of trees on the site, the majority of which are not protected, and

that the applicants have given over a third of the site to a proposed wildlife site it is not considered that the impact of the proposal upon trees would be so severe as to warrant a refusal of the application.

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 requires new development to respect the character of its surroundings.

The scheme has been the subject to extensive discussions and negotiations with the District Council's Urban Designer during the course of the application. The main issues that have been identified during this process have been the connectivity of the scheme, ensuring adequate provision and size of car parking spaces, landscaping and character of the proposal in relation to the surrounding area. Amendments have been submitted by the applicant in order to address these concerns and include, amongst other things, a new footpath connection to York Place, the introduction of stone walls that would be visible from the site frontage, feature landscaping and amendments to the layout of dwellings to ensure an adequate number and size of car parking spaces.

The proposed scheme has now been assessed by the District Council's Urban Designer, and rated in accordance with CABI's new Building for Life criteria which scores on the basis of red/amber/green rather than a points based scoring system. The Council's Urban Designer considers that the application scores well against building for life criteria with 11 green indicators and one amber being secured. The amber is in relation to local housing given that the scheme is not providing for the full range of affordable housing on the site but this issue is covered elsewhere in the report. Conditions and notes to applicant are recommended to ensure that the scheme responds to the character of the area.

In terms of urban design, the District Council's Urban Designer considers that the previous concerns have been satisfactorily addressed. Therefore, subject to the satisfactory discharge of conditions, the proposed development would offer a good standard of design.

Residential Amenity

Consideration has been given to the impact of the development on surrounding residential properties.

The site is only bounded by residential property along the western boundary with existing properties off York Place and Agar Nook Lane located in closest proximity to the proposed dwellings. However, the existing and proposed dwellings would be separated by Agar Nook Lane (a single lane track) and from mature landscaping along this boundary. Taking these issues into account and the distances between the existing and proposed dwellings, it is not considered that any significant overlooking, overbearing or overshadowing issues would arise.

In terms of the objections raised over construction noise it is considered that this is an inevitable temporary, manifestation of any development project, which is not the concern of the planning system unless there would be exceptional amenity harm. The Council's Environmental

Protection service has not raised any objections to the scheme and, therefore, it is not considered to cause exceptional amenity harm and any statutory nuisances could be dealt with under separate legislation.

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

Flood Risk and Drainage

The application is accompanied by a Flood Risk Assessment (FRA). This provides that the site falls within Flood Zone 1 (i.e. outside the 1 in 1,000 year flood risk area) in terms of fluvial flood risk which is low risk. The FRA notes that in order to comply with the Environment Agency's requirements, it is recommended that the internal finished floor level of the proposed buildings are set at a specific level.

The Environment Agency has reviewed the submitted FRA and raises no objection to the proposed scheme subject to conditions relating to a surface water scheme, a foul drainage scheme and a scheme to treat and remove suspended solids from surface water run-off during construction works. The EA have provided information on the Water Framework Directive (WFD) as part of their response. Specifically this states the following:

The increased amount of waste water and sewage effluent produced by the new development will need to be dealt with to ensure that there is no deterioration in the quality of the water courses receiving the extra volume of treated effluent. As such there may be a requirement for the expansion and upgrading of current sewage treatment systems, if the volume of sewage requiring treatment within the district increases.

It is unclear whether there will be sufficient headroom at the relevant sewage treatment works, therefore the sewerage undertaker will need to confirm that the sewage treatment works have enough capacity in the consented dry weather flow to accept all the foul flow from further developments. If there is insufficient headroom then the consent to discharge for the sewage treatment works will have to be reviewed to accommodate the additional flow. If river modelling shows that the consent limits need to be tightened beyond Best Available Technology in order to comply with no deterioration in the watercourse under WFD then the volume of foul flow arriving at the sewage treatment works may be limited.

It should also be demonstrated by the appropriate sewage undertaker that the increase in foul waste water entering the sewerage system will not cause any deterioration in the operation of any combined sewer overflows on the system either upstream or downstream of the development. There must be no increase in the spill frequency or volume of the combined sewer overflows on the sewerage network and the additional flow must not create the need for any new combined sewer overflows. If the sewerage network does not have the capacity to accept the flows then development must be phased in with the upgrading of the network and foul flows can only enter the system once the upgrading work is complete.

If the sewerage network does not have the capacity to accept the flows then development must be phased in with the upgrading of the network (please refer to Severn Trent Water Limited's Coalville Sewerage Strategy) and foul flows can only enter the system once the upgrading work is complete.

For its part Severn Trent Water (STW) originally raised no objection subject to the inclusion of a

condition requiring drainage plans for the disposal of surface water and foul sewage. Following the information received from the EA regarding the WFD and capacity issues, and having regard to the number of objections from local residents to flooding and drainage, STW and the applicants were asked to provide further information on the drainage situation on site and in the surrounding area. STW state that there is a high risk of sewer flooding and a high risk from combined sewer overflow in the area of the application site. STW confirmed that sewer modelling is yet to be finalised (the results are expected in 5-6 weeks) and until such time they would not be able to ascertain precisely what the impact would be and what mitigation would be required. Once the results of the modelling have been completed a decision can be made on how many dwellings (if any) could be connected to the sewerage system without an impact and what onsite extra storage requirements would be necessary. STW advise that any mitigation works are usually carried out within 18-24 months but also advise that there is the option of temporary tankering of waste away from the initial phase of development if needed.

Advice on drainage matters can be found within the Government's Planning Practice Guidance which states at paragraph 20 the following: *If there are concerns arising from a planning application about the capacity of wastewater infrastructure, applicants will be asked to provide information about how the proposed development will be drained and wastewater dealt with. Applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment.*

When drawing up wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works (those provided and operated by the water and sewerage companies). This should be done in consultation with the sewerage company of the area.

The timescales for works to be carried out by the sewerage company do not always fit with development needs. In such cases, local planning authorities will want to consider how new development can be phased, for example so it is not occupied until any necessary improvements to public sewage treatment works have been carried out.

It appears from the responses received from Severn Trent Water that a technical solution is possible on the site and, therefore, in accordance with Paragraph 9 of the Planning Practice Guidance, it is considered that a Grampian planning condition could be attached to deal with this issue. However, it is noted that should planning permission be granted for the development this would include for conditions requiring the scheme to commence within 2 years (as set out above) and STW indicate that improvements to the drainage infrastructure could take up to 2 years to complete. Having regard to these issues it is not entirely clear as to the extent that this development would be able to contribute towards the Council's five year housing land supply position.

Developer Contributions

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

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

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

Regulations 2010.

The relevant developer contributions are listed below.

Affordable Housing

The Council's SPD on affordable housing indicates that for developments of this scale in Coalville 20% of the units should be provided as affordable housing (i.e. 16 units). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 70% affordable rented and 30% intermediate housing would be sought.

However, in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, this would now appear likely to be reduced, as the applicants would need to provide an off-site highway contribution. The developers have indicated that an off-site contribution of £100,000 is proposed. This has been independently assessed by the District Valuer (DV) who considers that there is a viability issue on the site and reduced affordable housing is, therefore, considered to be acceptable in this instance.

The District Council's Affordable Housing Supplementary Planning Document indicates that:

Key Principle AH7 - Developer Contributions: preferred approach

In seeking the provision of affordable housing the Council's preferred approach is for the agreed provision to be made on-site.

Key Principle AH8 - Off Site provision

Where a developer/landowner considers that there are exceptional circumstances which suggest that on site provision is not appropriate they should identify this to the District Council as soon as possible, preferably as part of any pre-application discussions or when an application is submitted. In all instances the developer/landowner will have to demonstrate to the Council's satisfaction that on site provision is not appropriate and the reasons for this.

Having regard to AH7 and AH8 of the Council's Affordable Housing SPD, the applicants have been asked to provide information as to why an off-site contribution is being offered rather than on-site provision. They have indicated that an off-site contribution is more viable on the whole for the development site but no assessment has been provided to the Local Planning Authority to demonstrate what level of contribution could be made on-site. Whilst this would not be ideal in terms of the Council's SPD it is noted that similar off-site contributions have been agreed in other sites within the Coalville Area.

An off-site contribution of £100,000 would fall below the minimum contribution the District Council's Affordable Housing SPD seeks to secure from new housing development in Coalville but, for the reasons as set out under Means of Access and Transportation above, it is accepted that some sites in the Coalville area are likely to result in reduced contributions of Affordable Housing provision. Having regard to the approach suggested in the Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville policy, and given the under-provision of affordable housing vis-à-vis the adopted Affordable Housing SPD, it would be considered appropriate to limit the implementation period of any planning permission granted accordingly and to also ensure that the Section 106 agreement include for a periodic review mechanism so as to ensure that, should economic conditions change over the build period such that some affordable housing

could be rendered viable, this would be secured.

Transportation Contributions

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

- _ One Travel Pack per dwelling; can be provided through LCC at a cost of £52.85 per pack/dwelling. If not supplied by LCC, a sample Travel Pack shall be submitted to and approved in writing by LCC;
- _ Two six-month bus passes per dwelling; can be provided through LCC at an average cost of £325.00 per pass;
- _ Information display cases at nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display;
- _ Bus shelters at nearest bus stops; to provide high quality and attractive public transport facilities to encourage modal shift. At £4,908.00 per shelter;
- _ A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council.

Education

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

Primary School Requirements:

The site falls within the catchment area of Warren Hills Primary School. The school has a net capacity of 210 and 241 pupils are projected on the roll should this development proceed; a deficit of 31 places (of which 12 are existing and 19 are created by this development).

There is one other primary school (Broom Leys Primary School) within a two mile walking distance and there is a surplus of 18 places at this school. The overall deficit including all schools within a two mile walking distance of the development is 13 places. The 19 deficit places created by this development can therefore only be partly accommodated at nearby schools and a claim for an education contribution of 13 pupil places in the primary sector is justified.

In order to provide the additional primary school places anticipated by the proposed development the County Council request a contribution of £149,180.79 which would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Coalville Warren Hills Primary School.

High School Requirements:

The site falls within the catchment area of Castle Rock High School. The school has a net capacity of 600 pupils and 516 pupils are projected on roll should this development proceed; a surplus of 81 places after taking into account the 8 pupils created by this development. Therefore, no education contribution is requested in respect of the High School sector.

Upper School Requirements:

The site falls within the joint catchment area of Coalville King Edward V11 Science and Sport College. The College has a net capacity of 1193 pupils and 1112 pupils are projected on roll should this development proceed; a surplus of 81 places after taking into account the 8 pupils created by this development. Therefore, no education contribution is requested in respect of the

Upper School sector.

Play and Public Open Space

The layout plan submitted shows that provision is proposed to be made for a total of 3.51ha of open space. However, this would be divided up with 0.44 hectares of informal public open space to the site frontage with the remaining open space consisting of a nature conservation site and the retention of existing trees and hedgerow areas. The management of these areas could be secured through a Section 106 agreement.

Under the District Council's Play Area Design Guidance Supplementary Planning Guidance (SPG), on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 79 dwellings are proposed, this would require a play area of not less than 1580 square metres. No on-site children's play area is proposed as part of this proposal and no off-site commuted sum is proposed. The Council's SPG regarding children's play areas specifies that the Council will not seek any additional provision where existing play areas, within 400 metres walking distance, satisfy the needs of the area, including the proposed development.

There would be a distance of less than 400 metres between most parts of the proposed site and the existing children's play area (using the proposed new pedestrian link to York Place) and, therefore, this would be considered a reasonable walking distance in accordance with the Council's SPG. The existing children's play area is considered to be of a sufficient size and accommodates a sufficient level of equipment. In coming to this conclusion it is noted that the Council's Leisure Services team has not requested any developer contributions. Therefore, it is not considered that an off-site commuted sum or on-site children's play equipment would be required in this instance.

National Forest Planting

The application site extends to 6.2ha and the National Forest Company's (NFC) Planting Guidelines, as set out in the Guide for Developers and Planners, would expect 20% of the site area to be for woodland planting and landscaping. This would equate to 1.24ha in this instance. The NFC welcomes the amendments to earlier proposals to retain and bring into management the northern-most field as grassland. They consider that whilst this is not additional tree planting within the Forest, it is considered an appropriate habitat for this location and will contribute to the overall range of habitats within The National Forest. Subject to the inclusion of relevant conditions which include, amongst other things, restricting public access to the adjacent SSSI and detailed landscaping plans the National Forest Company raise no objection to the proposed development.

Civic Amenity

The nearest civic amenity site is located at Coalville and residents of the proposed development are likely to use this site. Therefore, a civic amenity contribution of £5615 is requested.

Library Services

The proposed development on Greenhill Road is within 3.4km of Coalville Library and the proposal would impact on local library services in respect of additional pressures on the availability of local library facilities. Therefore, a library contribution of £4940 is requested.

Healthcare

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £12,659.71 based upon a contribution commensurate to the anticipated increased population arising from this development.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £33,096 in respect of policing as set out in the consultation response above. This money is requested in relation to staff, equipment, improving force communications and database capacity, CCTV, contribution towards vehicles and extension to premises in Enderby and Loughborough.

With regard to the acceptability of police contributions, the issue is not one of principle. The issue is, rather, whether Leicestershire Police can demonstrate that either on-site or off-site infrastructure is necessary and directly related to the impact of the development which is being granted consent, and that any contribution would in fact be used in order to pay for infrastructure which would actually be delivered. It is in this respect that officers remain to be persuaded that the requests in this case are CIL compliant.

Whilst officers acknowledge that such requests have been accepted by Inspectors and the Secretary of State as being CIL compliant in some recent appeal decisions in Leicestershire, and indeed the District (although Inspectors and the Secretary of State have also reached a contrary view on other occasions), and that consistency in decision making is desirable as a matter of policy, a decision as to whether an obligation is directly related to a particular development is one that can only be made on its individual merits.

The continuing controversy surrounding policing contributions is, however, itself undesirable as it creates uncertainty both for Leicestershire Police and developers / landowners as to whether a request for a contribution is likely to be supported in any given case. The Leicestershire Authorities have therefore agreed jointly to seek an independent legal Opinion as to the correct approach to be adopted by local planning authorities to such requests.

Pending the receipt of Counsel's Opinion, it is not possible to reach a conclusion on whether the proposed policing contribution would meet with the CIL tests at this particular time. Should Counsel advise that Leicestershire Police requests (such as this) are CIL compliant then the principle of requiring such contributions to be secured by way of S.106 planning obligations would be accepted by the Council and required to be paid, subject to any issues of viability being raised. Should the inclusion of policing contributions, when considered alongside other contributions, render a scheme unviable (or more unviable if already so), then the importance of these contributions would need to be considered alongside other material considerations (including, where applicable, relevant planning policies including those within the NPPF and other infrastructure requirements) and a view reached as to whether or not it would be appropriate to secure them by way of a planning obligation.

Insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in Circular 05/2005 and the CIL Regulations and are in accordance with paragraph 204 of the NPPF which states that planning obligations should only be sought where they are 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.

Other

In terms of other neighbour representations that have not already been addressed, there is no evidence to suggest that a proposed footpath link to York Place and Agar Nook Lane would result in anti-social behaviour.

Conclusion

The report above indicates that, the site is a greenfield site outside Limits to Development and located within an Area of Particularly Attractive Countryside.

The proposed development would result in the development of land outside of the defined Limits to Development and the erection of 79 dwellings and associated built infrastructure would diminish the present open character of the Area of Particularly Attractive Countryside which would be contrary to Policy E22 of the Local Plan. The Council is currently able to demonstrate an adequate supply of housing and there are no other over-riding material planning considerations that outweigh the conflict with the Area of Particularly Attractive Countryside. Overall, it is considered that the proposed development of the site is unacceptable in principle and would not represent sustainable development.

RECOMMENDATION - REFUSE, for the following reason(s):

- 1 The application site is on unallocated Greenfield land located outside the limits to development of Coalville as defined in the adopted North West Leicestershire Local Plan and with an Area of Particularly Attractive Countryside. Policy S3 of the adopted North West Leicestershire Local Plan provides a presumption against non-essential residential development in the countryside and Policy E22 of the adopted North West Leicestershire Local Plan states that development will not be permitted which would adversely affect or diminish the present open character and attractive rural landscape and/or be detrimental to natural habitats and scientific interest. Whilst the scheme is considered to be acceptable in terms of the social and economic strands of sustainable development the scheme would fail the environmental element as it would adversely affect and diminish the present open character and attractive rural landscape of this part of the Area of Particularly Countryside. Therefore, overall, the proposed scheme would not be sustainable development and would be contrary to the NPPF and Policy S3 and Policy E22 of the Local Plan.

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 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).

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)

Report Item No
A2

Land At Measham Waterside Burton Road Measham Derby

Application Reference
13/00141/OUTM

Applicant:
Measham Land Company Limited

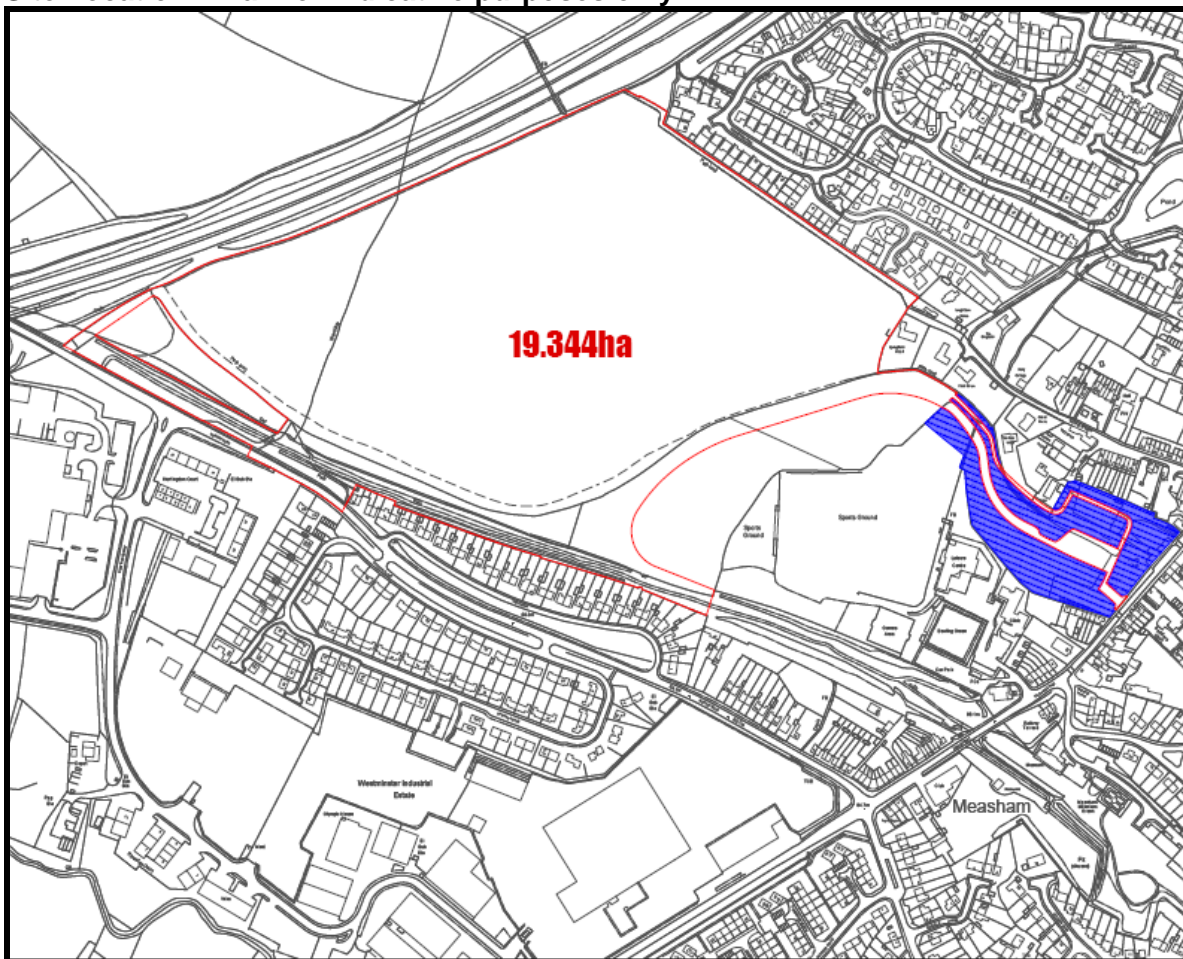
Date Registered
25 February 2013

Case Officer:
Sarah Worrall

Target Decision Date
27 May 2013

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Proposal

The development proposal is unchanged from the previous report to Planning Committee at its meetings of 1 October 2013 and 10 June 2014. However, following the Committee resolution in June to refuse the application, on the grounds that it was not policy compliant in terms of S106 contributions for infrastructure, the applicant and agent discussed the situation with the Head of Regeneration and Planning at that time. The applicant and agent requested further opportunity to revisit how the infrastructure could be provided, and an alternative S106 proposal has been submitted for consideration which is much more policy compliant than the previous options put forward for consideration.

The current S106 proposal would fully meet the financial contribution requests for health, education, libraries, highways, Police, leisure and management of the River Mease, and would partially meet the onsite affordable housing requirement with an option to review clause included as part of the S106. This would provide for trigger points for further viability assessments in the future to ascertain whether more affordable housing could be achieved as part of a viable scheme on site at that time.

The current S106 proposal would still provide for the route of the canal in that the access and bridge from Burton Road, which would cross the canal, would be provided and the remediation works to the land would be undertaken in relation to the canal implementation. However, in order to achieve the other infrastructure related to the proposed development the physical construction of the canal would not take place and would remain a Leicestershire County Council project.

As such, the following report is a further update for Planning Committee on the S106 negotiations and a copy of the original report to Committee and June update are attached as an addendum for information.

Members will recall that at the time the application was considered in 2013 the District Valuer found a policy compliant proposal to be viable, notwithstanding the applicant/agents position of a policy compliant scheme not being viable. Negotiations between parties since 1 October 2013 led to a further review of the policy compliant scheme and in May 2014 the District Valuer confirmed that a fully policy compliant scheme would **not** be viable, but a partially compliant scheme may be compliant.

Consultations

No further consultations have taken place following submission of the revised S106 contribution information by the applicant and agent on 15 July 2014.

Planning Policy

As reported in the update to Planning Committee's June meeting, there has been a change in policy since the application was considered on 1 October 2013 in that the Submission Core Strategy was withdrawn by Full Council on 29 October 2013. The Core Strategy indicated that land to the west of Measham village centre would be developed for residential use in addition to reinstatement of part of the Ashby Canal. In addition, since the June Committee meeting the District Council now has a 5 year housing land supply plus additional land over and above the extra 20% buffer when taking the Sedgefield approach to housing land supply numbers.

Conclusion

The 2013 recommendation to conditionally permit the proposed development should be

maintained, with the S106 to include financial contributions towards health, education, libraries, highways, Police (pending receipt of Counsel's opinion on CIL compliancy), leisure and management of the River Mease, and partial provision of the on site affordable housing with an option to review clause, and provision of the access and bridge, and remediation works on the canal route.

RECOMMENDATION:- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT TO CONDITIONS AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET AND, to include FULL contributions for the Burton Road access, roundabout and bridge provision, open space provision, remediation works on the canal route, health, education, libraries, highways, Police, leisure and management of the River Mease, and PARTIAL provision of the on site affordable housing with an option to review clause.

Members are advised that the above is a summary of the proposals and key issues contained in the main update report below. Members are advised that this summary should be read in conjunction with the update report below and the original report of October 2013 and the first update report of June 2014 which are attached.

MAIN REPORT

1. Proposals and Background

This is an outline application for the erection of up to 450 dwellings, reinstatement of 1.1km of associated canal, provision of public open space, footpath access, an emergency access off High Street, and a new access with roundabout off Burton Road. All matters, except access, are reserved for subsequent approval.

An indicative masterplan drawing has been submitted as part of the application which includes the current application site (Measham Waterside) as well as the adjacent site which the applicant calls the Measham Wharf site. Whilst the masterplan drawing indicates the applicant's vision for the site it is indicative only. For clarity, it should be noted there is no separate application for the Measham Wharf site at this time. This application is purely in relation to residential development and associated highways and aspirations for the provision of a section of the Ashby canal.

The site is some 19.4 hectares in size, and is predominantly agricultural land which slopes downwards from west to east and north to south. The application site also includes the former Picture House Youth Club site which fronts High Street, and the Meer Bridge off Burton Road which is a Grade II Listed structure. The site is bound at the western side by the A42, to the north by residential development off Rosebank View and Hart Drive, to the east by residential development on Chapel Street and the physical boundary of High Street, open space to the south east and residential development on Burton Road to the south.

Members will recall that at the time the application was considered in 2013 the District Valuer found a policy compliant proposal to be viable, notwithstanding the applicant/agents position of a policy compliant scheme not being viable. Negotiations between parties since 1 October 2013 led to a further review of the policy compliant scheme and in May 2014 the District Valuer confirmed that a fully policy compliant scheme would **not** be viable, but a partially compliant scheme may be compliant. As such the matter was reported to the Planning Committee with three options, and Committee resolved that the application should be refused on the basis it was not policy compliant in terms of the S106 provision.

2. Publicity

No further publicity has been required as the proposal has not changed and the matters for discussion relate to S106 contributions and the viability of the site in relation to these.

3. Consultations

No further consultation, other than with the District Valuer, has been required as the proposal has not changed and the matters for discussion relate to S106 contributions and the viability of the site in relation to these.

4. Summary of Representations Received

The District Valuer confirms that due to changes in Quarterly costs and additional information submitted by the agent a policy compliant scheme is not viable. However, the District Valuer indicates that a partially compliant scheme would be viable and suggests that sensitivity testing be undertaken to establish the viable position.

5. Planning Policy

The planning policy in relation to the NPPF and the Adopted Local Plan as set out in the original

report as attached is still relevant to this update. However, the Submission Core Strategy policies are not since the document was withdrawn on 29 October 2013. Notwithstanding this issue, the site is included within the 2014 Strategic Housing Land Availability Assessment (SHLAA).

In addition, the District Council can now meet its 5 year housing land supply including 20% buffer plus additional supply so Policy S3 and H4/1 can be considered up to date policies once again. These issues are set out in more detail in the following Assessment section.

6. Assessment

Principle of Development

In terms of the Adopted Local Plan, and as set out in the original report to Committee, the site lies outside the Limits to Development of Measham. Adopted Local Plan Policy S3 applies to countryside sites which lie outside Limits to Development, and sets out criteria for development in the countryside which does not include residential development. Notwithstanding the countryside location, whilst the proposal would be contrary to the adopted Development Plan regard must be had to other material considerations, including other policies, such as other Development Plan policies and national policies.

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, concluded that the Council's 5 year housing land supply calculation should be based on the "Sedgefield" approach (i.e. an approach requiring planning authorities to deal with any past under-supply within the first 5 years rather than to spread this over the whole plan period) an approach now expressly preferred in the recently published National Planning Practice Guidance, and thus even more likely to be favoured by appeal inspectors going forward. The Moira Road Inspector also applied a buffer of 20% for persistent under delivery. As such, Officers have recently been advising members of the Council's inability to demonstrate a five-year supply of deliverable housing sites. The consequence of this has been that the Council's has not been able to rely on adopted Policies S3 and H4/1 in determining housing applications as they are "relevant policies for the supply of housing" for the purposes of Paragraph 49 of the NPPF which, Members are aware "should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites".

As reported to Committee on 8th July, however, a recently completed County-wide Strategic Housing Market Assessment (SHMA) has provided the Council with an up-to-date objectively assessed annual housing requirement, on which basis, the Council is now able to demonstrate a supply of 7.1 years (i.e. an excess of 2.1 years beyond the five year requirement, or an excess of 1.1 years beyond the five year plus 20% buffer requirement).

As a result of the above Policies S3 and H4/1 should no longer be considered 'out-of-date' in the context of Paragraph 49 of the NPPF - indeed these are Development Plan policies to which the Council should again now properly have regard in determining future planning applications. Whilst the weight to be applied to these policies against other material considerations is a matter entirely for members, officers would advise members, in applying weight to any conflict with Policy S3 in the overall planning balance, to bear in mind the fact that the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006)".

In terms of the Local Plan, Policy H4/1 identifies a sequential approach to the release of appropriate land for housing to ensure sustainable development. Insofar as the site's location is concerned, it is situated immediately adjacent to the existing built up area of the village of Measham and would not result in isolated development in the countryside.

Furthermore, in terms of the sustainability of the site, the application site is well related to the existing wide range of services/facilities within the village of Measham. The distance to the nearest bus stop from the centre of the site is 800m and the distance to the nearest bus stop from the site access is 890m. The primary school is within walking distance of the site (some 770m), and the local shopping area including Post Office and Health Centre is some 540m from the site, so also within walking distance (preferred maximum walking distance is 800m). There would be open space on the application site and public footpaths would be maintained, diverted and/or introduced within the development to ensure connectivity between the site and the existing village.

In addition, permission for a section of the Ashby Canal is also sought as part of the application which would provide for future leisure and recreation opportunities in addition to economic regeneration and heritage opportunities.

Taking all of the above into account it is considered that, on balance, the site is in principle an appropriate and sustainable location for the level of development proposed, subject to other material considerations which have previously been considered by Planning Committee.

Other Issues

The matters of design, heritage, residential amenity, highways, River Mease, drainage, ecology and ground stability are addressed in the original report and remain unchanged.

High Speed 2 (HS2) is not a material planning consideration at this time.

S106 requirements

Members will recall that the scheme was presented to Planning Committee in October 2013 with a recommendation to permit subject to conditions, and subject to a S106 agreement in relation to library facilities, highways matters, leisure facilities, River Mease SAC Developer Contribution Scheme (DCS), affordable housing, implementation of the canal, and Open Space/National Forest Planting and Conservation Management Plans i.e. a policy compliant scheme.

The applicant/agent had submitted that the scheme was not viable with all contributions and a partially compliant scheme was put forward which included the canal provision and the River Mease SAC DCS contribution. However, the District Valuer, on behalf of the District Council, advised that a policy compliant scheme was viable and, as such, the recommendation was made as per the preceding paragraph.

Following the October Planning Committee further discussions took place between parties and the applicant/agent submitted additional information setting out their position in relation to the viability situation (February 2014) and, following discussions with the District Valuer, additional background information on costings was submitted (April 2014). The District Council instructed the District Valuer to advise on the position put forward by the applicant/agent and to advise in relation to the viability of the scheme.

On 21 May 2014 the District Valuer reported back to the District Council that a fully policy

compliant scheme was not viable at the site. Following further discussions between the District Council and the District Valuer after that date, the District Valuer indicated that a partially compliant scheme would be viable and suggested that sensitivity analysis and testing be undertaken to establish which combination of S106 requirements would be viable.

Further sensitivity testing was not agreed to by the agent or applicant to establish at what level of costings the scheme would become viable. However, it is evident from the District Valuer that a fully policy compliant scheme along with land remediation, Burton Road access, roundabout and bridge over the canal route and canal construction is not viable at the site.

It should be noted that the developer was agreeable to including a review clause within a S106 agreement in order to revisit other issues such as affordable housing, health and education at such a time as the scheme came forward.

Following the Committee resolution in June to refuse the application, on the grounds that it was not policy compliant in terms of S106 contributions for infrastructure, the applicant and agent discussed the situation with the Head of Regeneration and Planning at that time. The applicant and agent requested further opportunity to revisit how the infrastructure could be provided, and alternative S106 proposal has been submitted for consideration which is much more policy compliant than the previous options put forward for consideration.

As such, the applicant is agreeable to enter into a S106 agreement on the basis that a total amount of £3.4 million would be available to meet planning contribution requests. This is proposed on the basis that the scheme will not provide for the physical construction of the canal through the S106 as originally intended.

For clarification purposes, despite this change to the allocation of S106 funds, the planning application proposal remains unchanged since the outline permission seeks approval for the route of the canal, within the parameters set out in the 2005 Transport and Works Order, the Burton Road access, roundabout and canal bridge construction has been considered as a separately cost to the S106 contributions so would be undertaken. In addition, the remediation works to the land for implementation of construction of the canal have been considered as a separate cost to the S106 contributions, so would be undertaken. Members will recall these remediation works would be required since it became apparent during the pre-application process that the former canal bed had been landfilled with predominantly civic amenity waste. As such the aspirations for the implementation of the canal remain.

Following Members concerns in June 2014 in relation to there being no contributions towards health, education, affordable housing and other infrastructure the removal of the canal construction itself now provides £3.4m towards these associated costs.

During the original application process, Members will recall that educational boundaries changed. As a result, Leicestershire County Council revised its education contribution request from £1,306,693.00 to £2,096,190.30, an increase of £789,497.30 (£1,010,509.32 would be sought for Primary School Sector, in addition to requests for £309,257.74 in relation to the High School Sector and £776,423.27 for the Upper School Sector) as reported on the Update Sheet to the October 2013 meeting. The Update Sheet advised Members that this increase of some £800,000 would impact on viability.

As such, the applicant and agent have submitted the following options in relation to providing full contribution requests for highways (additional to the access, roundabout and bridge costs), Police (pending receipt of Counsel's opinion on CIL compliancy), education, libraries, leisure,

health and River Mease. The two options set out totals taking into account the two different education requests.

Contribution	Option 1	Option 2
<i>Highways</i>	£120,695.50	£120,695.50
<i>Police</i>	£152,480.00	£152,480.00
<i>Education</i>	£1,306,693.00	£2,096,190.30
<i>Libraries</i>	£26,870.00	£26,870.00
<i>Leisure</i>	£499,000.00	£499,000.00
<i>NHS PCT</i>	£179,000.00	£179,000.00
<i>River Mease</i>	£99,900.00	£99,900.00
TOTAL	£2,384,638.50	£3,174,135.80

From these totals it is evident that there would also be some opportunity for affordable housing, and the applicant and agent have also submitted the options in relation to providing a partially compliant affordable housing element as part of a legal agreement. The applicant and agent have also confirmed they are agreeable to an option to review clause as part of a S106 in relation to the affordable housing element so that it can be reviewed at various trigger points in the future.

As set out in the original report to Committee, development proposals in Measham attract a 30% requirement for onsite affordable housing unless it can be shown that the scheme is not viable. The District Valuer has confirmed that a fully policy compliant scheme is not viable, but that a partially compliant scheme may be. As such, proposed options depending on which option for full compliance as set out above is chosen, are as follows:

- Option 1: The first County Council Education requirement was for a lower amount and if this option is considered appropriate the level of remaining contribution towards affordable housing would be £1,015,361.50. This would deliver approximately 34 affordable units on site representing some 7.56% affordable housing provision; and,
- Option 2: The revised County Council Education requirement was for some £800,000 more than the first request and would result in a remaining contribution of £225,864.20 towards affordable housing. This would deliver approximately 8 units and represent a provision of 1.78%.

Whilst it is proposed that the tenure split of affordable housing would be determined through any reserved matters submission, should this current application be approved, it is proposed that the timings and trigger points for the provision of affordable units on site would be included as part of any S106 agreement as well as an option to review clause.

Whilst Option 2 would provide for the current full County Council education request, it would only provide for less than 2% affordable housing provision as part of the scheme, albeit with an option to review clause as well. As such, it is recommended that Members consider Option 1 for inclusion as part of a S106 agreement, which would include the original lower education request from County Council and would provide for some 7.5% of affordable housing provision with an option to review clause. However, should Members consider that the revised County education request needs to be met, then Option 2 could be included as an alternative should the application be approved.

Conclusion

The withdrawal of the Submission Core Strategy in 2013 and revised housing land supply situation of July 2014 has changed the planning policy situation but not in any significant way which would result in a change to the original recommendation to conditionally approve the application subject to a S106 agreement.

All other matters, other than the S106 issue, remain the same as previously considered in October 2013 and June 2014. Due to viability issues, which have been confirmed by the District Valuer, the applicant proposed a scheme which would not be policy compliant in relation to S106 contributions. The previous S106 proposed to address costs and actions involved with canal construction, the provision of the Burton Road access, roundabout and canal bridge, remediation of the infilled sections of former canal, and open space provision.

Following the Planning Committee resolution to refuse the scheme in June 2014, the applicant has reconsidered their position and now proposes to exclude the construction of the canal. As such, the application will continue to provide for the implementation of the canal at a future date, and the S106 would include the following:

- costs and actions involved with the provision of the Burton Road access, roundabout and canal bridge, remediation of the infilled sections of former canal, and open space provision;
- full contributions towards highways (additional to the access, roundabout and bridge costs), Police, education, libraries, leisure, health and River Mease; and,
- part contributions towards onsite affordable housing at this stage, with an option to review clause also.

RECOMMENDATION:- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT TO CONDITIONS AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET AND, to include FULL provision of the Burton Road access, roundabout and bridge provision, open space provision, and remediation works on the canal route, in addition to FULL provision of health, education, libraries, highways, Police (pending receipt of Counsel's opinion on CIL compliancy), leisure and management of the River Mease contributions (all as set out in Option 1 of the main report), and PARTIAL provision of the on site affordable housing with an option to review clause.

MAY UPDATE

Executive Summary of Proposals and Recommendation

Proposal

The development proposal is unchanged from the previous report to Planning Committee at its meeting of 1 October 2013. The following report is an update for Planning Committee on the S106 negotiations and a copy of the original report to Committee is attached as an addendum for information. At that time the District Valuer found a policy compliant proposal to be viable, notwithstanding the applicant/agents position of a policy compliant scheme not being viable.

Consultations

No further consultations have taken place other than with the District Valuer following

submission of additional confidential viability information by the applicant.

Planning Policy

There has been a change in policy since the application was considered on 1 October 2013 in that the Submission Core Strategy was withdrawn by Full Council on 29 October 2013. The Core Strategy indicated that land to the west of Measham village centre would be developed for residential use in addition to reinstatement of part of the Ashby Canal.

Conclusion

The recommendation of approval of the proposed development should be maintained, subject to further negotiations with the District Valuer and applicant/agent in relation to viability issues. Negotiations between parties since 1 October 2013 have led to a further review of the policy compliant scheme where all S106 contributions, as set out in the original report, have been considered along with revised and updated information from the agent. On 21 May 2014 the District Valuer confirmed that a fully policy compliant scheme would **not** be viable, but a partially compliant scheme may be compliant. It should be noted that the developer is agreeable to including a review clause within a S106 agreement in order to revisit other issues such as affordable housing, health and education at such a time as the scheme comes forward. As such, there are three options for Members to consider at this time which are set out below:

RECOMMENDATION A :- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT CONDITIONS AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET AND SUBJECT TO FURTHER NEGOTIATIONS IN RELATION TO S106 CONTRIBUTIONS and that Delegated powers be authorised in order for Officers to negotiate proportionate figures for contributions sought, other than the canal reinstatement, Burton Road roundabout provision and the River Mease SAC contribution which should be provided in full.

RECOMMENDATION B :- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT CONDITIONS AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET AND, to include contributions for the canal reinstatement, Burton Road roundabout provision, the River Mease SAC contribution, and the provision of open space.

RECOMMENDATION C :- 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.

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 and the original report which is attached.

MAIN REPORT

1. Proposals and Background

This is an outline application for the erection of up to 450 dwellings, reinstatement of 1.1km of associated canal, provision of public open space, footpath access, an emergency access off

High Street, and a new access with roundabout off Burton Road. All matters, except access, are reserved for subsequent approval.

An indicative masterplan drawing has been submitted as part of the application which includes the current application site (Measham Waterside) as well as the adjacent site which the applicant calls the Measham Wharf site. Whilst the masterplan drawing indicates the applicant's vision for the site it is indicative only. For clarity, it should be noted there is no separate application for the Measham Wharf site at this time. This application is purely in relation to residential development and associated highways and canal infrastructure works.

The site is some 19.4 hectares in size, and is predominantly agricultural land which slopes downwards from west to east and north to south. The application site also includes the former Picture House Youth Club site which fronts High Street, and the Meer Bridge off Burton Road which is a Grade II Listed structure. The site is bound at the western side by the A42, to the north by residential development off Rosebank View and Hart Drive, to the east by residential development on Chapel Street and the physical boundary of High Street, open space to the south east and residential development on Burton Road to the south.

Following various discussions between the applicant/agent, District Valuer and District Council, further viability information was submitted by the agent on 11 February 2014 which submits that the scheme would be viable on the basis of financial contributions for the canal reinstatement and the River Mease Developer Contribution Strategy. Further costing information was submitted on 28 April 2014 and various discussions have taken place between the District Valuer and the agents.

2. Publicity

No further publicity has been required as the proposal has not changed and the matters for discussion relate to S106 contributions and the viability of the site in relation to these.

3. Consultations

No further consultation, other than with the District Valuer, has been required as the proposal has not changed and the matters for discussion relate to S106 contributions and the viability of the site in relation to these.

4. Summary of Representations Received

The District Valuer confirms that due to changes in Quarterly costs and additional information submitted by the agent a policy compliant scheme is not viable. However, the District Valuer indicates that a partially compliant scheme would be viable and suggests that sensitivity testing be undertaken to establish the viable position.

5. Planning Policy

The planning policy in relation to the NPPF and the Adopted Local Plan as set out in the original report as attached is still relevant to this update. However, the Submission Core Strategy policies are not since the document was withdrawn on 29 October 2013. Notwithstanding this issue, the site is included within the 2014 Strategic Housing Land Availability Assessment (SHLAA).

In terms of the Adopted Local Plan, and as set out in the original report to Committee, the site lies outside the Limits to Development of Measham. Adopted Local Plan Policy S3 applies to countryside sites which lie outside Limits to Development, and sets out criteria for development in the countryside which does not include residential development. However, the current situation with the District Council's 5 year housing land supply has to be taken into

consideration. Since the District Council does not have a 5 year housing land supply (with 20% buffer) Policy S3 cannot be considered up to date in the context of Paragraph 49 of the NPPF in terms of it being a general policy that constrains the supply of housing. Furthermore, the development of the section of canal would, in principle, be acceptable development in the countryside since it would be for leisure and recreation use.

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.

Whether or not this site would be considered "appropriate" is a matter of judgement. Insofar as the site's location is concerned, it is located adjacent to the existing built up area of the settlement and would not result in isolated development in the countryside.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

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 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.

Sustainability

In terms of the sustainability of the site, the application site is well related to the existing wide range of services/facilities within the village of Measham. The distance to the nearest bus stop from the centre of the site is 800m and the distance to the nearest bus stop from the site access is 890m. The primary school is within walking distance of the site (some 770m), and the local shopping area including Post Office and Health Centre is some 540m from the site, so also within walking distance (preferred maximum walking distance is 800m). There would be open space on the application site and public footpaths would be maintained, diverted and/or introduced within the development to ensure connectivity between the site and the existing

village.

In addition, reinstatement of a section of the Ashby Canal is also proposed as part of the application which would provide for leisure and recreation opportunities in addition to economic regeneration and heritage opportunities. As such, it is considered that the site is a sustainable location for the level of development proposed.

Other Issues

The matters of design, heritage, residential amenity, highways, River Mease, drainage, ecology and ground stability are addressed in the original report and remain unchanged.

High Speed 2 (HS2) is not a material planning consideration at this time.

S106 requirements

The scheme was presented to Planning Committee in October 2013 with a recommendation to permit subject to conditions, and subject to a S106 agreement in relation to library facilities, highways matters, leisure facilities, River Mease SAC Developer Contribution Scheme (DCS), affordable housing, implementation of the canal, and Open Space/National Forest Planting and Conservation Management Plans i.e. a policy compliant scheme.

The applicant/agent had submitted that the scheme was not viable with all contributions and a partially compliant scheme was put forward which included the canal provision and the River Mease SAC DCS contribution. However, the District Valuer, on behalf of the District Council, advised that a policy compliant scheme was viable and, as such, the recommendation was made as per the preceding paragraph.

Following the October Planning Committee further discussions took place between parties and the applicant/agent submitted additional information setting out their position in relation to the viability situation (February 2014) and, following discussions with the District Valuer, additional background information on costings was submitted (April 2014). The District Council instructed the District Valuer to advise on the position put forward by the applicant/agent and to advise in relation to the viability of the scheme.

On 21 May 2014 the District Valuer reported back to the District Council that a fully policy compliant scheme was not viable at the site. Following further discussions between the District Council and the District Valuer after that date the District Valuer has indicated that a partially compliant scheme would be viable and has suggested that sensitivity analysis and testing be undertaken to establish which combination of S106 requirements would be viable.

It should be noted that the developer is agreeable to including a review clause within a S106 agreement in order to revisit other issues such as affordable housing, health and education at such a time as the scheme comes forward.

It should also be noted that further correspondence was received from the agent on 29 May 2014 in relation to the viability situation. The agent advises that their client (the applicant) is of the view that further negotiations with the District Valuer will not lead to an agreement between the parties as to the content of a S106 agreement and that the application should either be approved as a partially policy compliant scheme (with canal and River Mease contributions) or refused.

Conclusion

The withdrawal of the Submission Core Strategy has changed the planning policy situation but not in any significant way which would result in a change to the recommendation to approve the application. All other matters, other than the S106 issue, remain the same as previously considered in October 2013.

On 21 May 2014 the District Valuer confirmed that a fully policy compliant scheme would **not** be viable, but subsequently indicated that a partially compliant scheme may be compliant. The agent's comments of 29 May 2014 are noted. Notwithstanding those comments, there are three valid options for the proposal for Members to consider at this time and these are set out below:

RECOMMENDATION A :- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT TO CONDITIONS AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET, AND SUBJECT TO FURTHER NEGOTIATIONS IN RELATION TO S106 CONTRIBUTIONS and that Delegated powers be authorised in order for Officers to negotiate proportionate figures for contributions sought, other than the canal reinstatement, Burton Road roundabout provision and the River Mease SAC contribution which should be provided in full.

RECOMMENDATION B :- THAT PLANNING PERMISSION FOR A PARTIALLY POLICY COMPLIANT SCHEME BE APPROVED SUBJECT TO CONDITIONS AS PER THE OCTOBER COMMITTEE REPORT AND UPDATE SHEET, AND to include contributions for the canal reinstatement, Burton Road roundabout provision, the River Mease SAC contribution, and the provision of open space.

RECOMMENDATION C :- 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.

OCTOBER 2013 REPORT

Executive Summary

Call In

The application has not been called in but is brought before Planning Committee on the grounds of local concern.

Proposal

This is an outline application for the erection of up to 450 dwellings, reinstatement of 1.1km of associated canal, provision of public open space, footpath access, an emergency access off High Street, and a new access with roundabout off Burton Road. All matters, except access, are reserved for subsequent approval.

Consultations

Members will note that representations from local residents have been made. In terms of those issues raised, all statutory consultees are satisfied that there are no matters that have not been satisfactorily addressed or cannot otherwise be satisfied by way of condition with the exception of Natural England whose additional comments are outstanding at the time of writing this report. Any further advice will be reported on the Update Sheet.

Planning Policy

The site is a Greenfield site located outside the Limits to Development of the sustainable village of Measham, and is also situated within the River Mease SAC catchment area. The Submission Core Strategy identifies the site for residential and other development. Also relevant are the District's housing land requirements, and the need (as set out in the National Planning Policy Framework) to demonstrate a five year land supply particularly in light of the recent planning appeal decision for the site off Moira Road, Ashby.

Conclusion

The report below indicates that the site is a Greenfield site, and is outside Measham's defined Limits to Development as identified in the Adopted Local Plan and therefore development in the countryside. However, the Submission Core Strategy identifies the site as an area of growth to support Measham's role as a Rural Centre.

Appropriate contributions to infrastructure could also be made to enable local facilities to absorb the impact of the proposed development. A viability report has been submitted in relation to the proposed development as the applicant submits that the scheme is not viable if any additional costs over the new roundabout, emergency access, canal uplift funds and River Mease SAC Developer Contribution Scheme are required. However, the report and other background information has been assessed by the District Valuer which concludes that the scheme is viable with all financial contribution requests.

As such, whilst the proposed development would not comply with countryside policies of the Adopted Local Plan or Submission Core Strategy, the site is identified in the Submission Core Strategy as an area for growth. Benefits of the proposal including the reinstatement of 1.1km of canal and contributions to infrastructure also have to be considered. In this particular instance it is concluded that the benefits of the proposal outweigh the fact that the proposal would form development in the countryside outside Limits to Development of Measham and, on this basis, the application is recommended for approval subject to a legal agreement relating to all financial contributions and construction phasing. Should the applicant or agent subsequently advise they are not agreeable to entering into a legal agreement to secure all financial contributions due to viability issues, it is recommended that the right to defer the matter for reconsideration at a future Planning Committee meeting is reserved.

RECOMMENDATION: PERMIT SUBJECT TO CONDITIONS AND S106 AGREEMENT

Proposals and Background

This is an outline application for the erection of up to 450 dwellings, reinstatement of 1.1km of associated canal, provision of public open space, footpath access, an emergency access off High Street, and a new access with roundabout off Burton Road. All matters, except access, are reserved for subsequent approval.

An indicative masterplan drawing has been submitted as part of the application which includes the current application site (Measham Waterside) as well as the adjacent site which the applicant calls the Measham Wharf site. Whilst the masterplan drawing indicates the applicant's vision for the site it is indicative only. For clarity, it should be noted there is no separate application for the Measham Wharf site at this time. This application is purely in relation to residential development and associated highways and canal infrastructure works.

A number of documents have been submitted as part of the application including a Design and Access Statement, Heritage Statement, Statement of Community Involvement, Flood Risk

Assessment, Tree Survey, Landscape and Visual Assessment, Ecological Survey, Archaeological Desk Based Assessment, Noise Assessment, Preliminary Ground Investigation (Phase 1), Landfill Ground Investigation and Preliminary Remediation Strategy, Coal Mining Risk Assessment Report, Transport Assessment and a Travel Plan Framework.

A confidential Viability Report with no background information has also been submitted. Additional confidential information pertaining to this has been submitted during the application process at the request of the District Valuer which has undertaken an assessment of the viability information on behalf of the District Council.

Additional information was requested by Natural England which was received, but Natural England advised it still did not satisfy its concerns. At the time of writing this report Natural England is assessing further information submitted by the agent on 3 September 2013. Any further comments will be reported on the Update Sheet.

The site is some 19.4 hectares in size, and is predominantly agricultural land which slopes downwards from west to east and north to south. The application site also includes the former Picture House Youth Club site which fronts High Street, and the Meer Bridge off Burton Road which is a Grade II Listed structure. The site is bound at the western side by the A42, to the north by residential development off Rosebank View and Hart Drive, to the east by residential development on Chapel Street and the physical boundary of High Street, open space to the south east and residential development on Burton Road to the south.

History

There is no planning history for the application site as a whole. However, an outline application 99/0365 was submitted for residential development on a 1 hectare site just off High Street, but the file on this was closed in August 2000 as additional information which had been requested had not been submitted.

An application was submitted in relation to the former Picture House Youth Club site in relation to a satellite dish which was approved in 1990.

2. Publicity

218 neighbours have been notified. (Date of last notification 13 March 2014)

Site Notice displayed 13 March 2013

Press Notice published 13 March 2013

3. Consultations

Measham Parish Council consulted 6 March 2013

County Highway Authority consulted 12 March 2013

Environment Agency consulted 12 March 2013

Severn Trent Water Limited consulted 12 March 2013

Head of Environmental Protection consulted 12 March 2013

Natural England consulted 12 March 2013

NWLDC Tree Officer consulted 12 March 2013

County Archaeologist consulted 12 March 2013

LCC ecology consulted 12 March 2013

Airport Safeguarding consulted 12 March 2013

NWLDC Conservation Officer consulted 12 March 2013

NWLDC Urban Designer consulted 12 March 2013
County Planning Authority consulted 12 March 2013
LCC Development Contributions consulted 12 March 2013
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 12 March 2013
Building Control - NWLDC consulted 12 March 2013
Head Of Leisure And Culture consulted 12 March 2013
Manager Of Housing North West Leicestershire District Council consulted 12 March 2013
Police Architectural Liaison Officer consulted 12 March 2013
LCC/Footpaths consulted 12 March 2013
Highways Agency- Article 15 development consulted 12 March 2013
Coal Authority consulted 12 March 2013
English Heritage- Ancient Monument consulted 28 March 2013
National Forest Company consulted 3 April 2013

4. Summary of Representations Received

217 residents notified by letter

Site notices (x 6) posted on 25 March 2013 at various locations adjacent to the site boundaries and/or adjacent to Public Rights of Way.

Press Notice published 2013 in the Leicester Mercury

Summary of Representations Received

Measham Parish Council - no comments received on the proposal;

Leicestershire County Council Public Footpaths - no objection subject to the Public Rights Of Way being diverted within the site and alternative routes being made available during construction works;

Leicestershire County Council Highways Authority - no objection subject to conditions and planning obligations;

Leicestershire County Council Ecologist - no objection subject to conditions;

Leicestershire County Council Civic Amenity - no financial requirement is sought at this time as Lount CA has capacity for the size of the proposed development;

Leicestershire County Council Education - no financial requirement is sought as High and Upper School sectors for the locality are in surplus capacity (Ibstock Community College and Ashby School respectively). However, £1,306,693.08 is sought for the Primary School Sector Requirement since there is a net deficit of 108 pupils between Measham Church of England Primary School which is at deficit and Oakthorpe Primary School which is at capacity. The contribution would be used at Measham Church of England Primary School;

Leicestershire County Council Libraries - a financial contribution of £28,530 would be sought to mitigate the impact of the development on local library services;

Leicestershire County Council Planning - the potential to extract coal from within the site should be assessed prior to the determination of the planning application to ensure that any viable mineral resources are recovered where practicable and acceptable to do so.

English Heritage - no objection but attention is drawn to the ridge and furrow site and the County Archaeologist should be consulted.

National Forest - no objection subject to a legal agreement ensuring delivery of the canal in association with the proposed development, and subject to conditions relating to open space aspects including sustainable drainage schemes, habitat creation, submission of a waymarking strategy and a construction method statement to protect retained habitats from construction.

Natural England - No objection to connecting to the mains sewer system subject to River Mease SAC Water Quality Management Plan Developer Contribution Scheme. Objection to the impact of the canal (management and maintenance) on the River Mease SSSI and SAC. Any comments in relation to additional information will be reported on the Update Sheet;

Environment Agency - no objection subject to conditions;

Severn Trent Water - no objection subject to surface and foul water drainage condition;

The Coal Authority - No objection subject to condition;

NWLDC Environmental Protection (land contamination) - no comments received at the time of writing the report;

NWLDC Environmental Protection (noise pollution) - no objection subject to conditions relating to mitigation measures as per the SLR report;

NWLDC Tree Officer - no objection in principle, subject to conditions relating to a detailed landscaping scheme and survey, and the submission and implementation of a tree protection plan should the application be approved;

NWLDC Housing Enabling Officer - No objections subject to 95 affordable rented homes and 40 intermediate homes (varied bedroom numbers within each);

NWLDC Leisure Services - No objection subject to £495,000 towards the capital redevelopment of Measham Leisure Centre which would be used by the population generated by the proposed development;

Leicestershire Constabulary - objects to the planning application if there is no consideration of the necessary Policing contribution of £152480;

Leicester, Leicestershire and Rutland NHS - The cost of providing additional accommodation for 1080 patients in the form of an extension to Measham Medical Unit would be £178,711.92 and this is requested as a planning obligation;

21 representations have been received from local residents in relation to the proposal, 14 by individual submission and 7 through a feedback form. Full copies of comments are available for Members information on the application file. The comments can be summarised as follows:

Positive Representations

- Not against the development in principle as it will include the reinstatement of part of the Ashby Canal;

- The development will bring Measham back to life;

Representations expressing concerns

Impact on Measham and locality

- The character of Measham village will be destroyed, it is currently a quaint village;
- There is no need for development on countryside and agricultural land;
- Build homes where they are needed instead of in an area of natural beauty;
- Reduce the house numbers and increase the green space;
- It should be a smaller development around the canal basin and the fields should be left for nature conservation, wooded area and a nature trail for residents to enjoy;
- Would welcome a smaller development to include the canal wharf, local amenities and a smaller residential area around the wharf;
- Increasing the population by such a big volume may reduce the quality of life for many current residents since there is high unemployment in the area;
- The current economic climate doesn't warrant a development of this size in the village, and there is not much interest in other development in Measham - dwellings have been approved on Bosworth Road;
- The old Picture House should be incorporated into the scheme

Highways

- The development will cause too much traffic on already busy and badly surfaced roads;
- Chapel Street is a partly unadopted road and is too narrow to accept any traffic from the High Street to the development site;
- Chapel Street should not be used for an emergency access;
- An increase on traffic on Chapel Street could adversely impact on our drains, sewers and pipes on this section of the street;
- The location for the emergency access is directly adjacent to our boundary (Springfield Cottage, Chapel Street) and will cause disturbance and loss of privacy;
- Public rights of way would be diverted away from the hedgerows and wildlife;
- Public rights of way will be lost;

Other Infrastructure issues

- How will schools and Doctors cope with the added population?;
- What shops will be proposed?;
- New shops should not cause existing shops to go out of business;

Residential Amenity

- There will be increased disturbance from comings and goings;
- There will be overlooking of dwellings on Chapel Street and Rosebank View;
- Houses could be built close to the boundary of dwellings on Hart Drive and could cause overlooking;
- Development would be overbearing to the bungalows on Hart Drive;
- There will be an increase in noise, light, ground and air pollution in the National Forest area;

Canal, Flooding and River Mease SAC

- The site slopes and may cause drainage problems and increase flooding to properties

- on Chapel Street - we already get run-off from the field;
- A short stretch of canal will be of no use and no benefit;
- The canal should be linked;
- How will the canal be maintained?;

Ecology and Archaeology

- The site is bordered to the north by an old hawthorn hedge - this should be retained as it is the natural nesting place for wildlife and may have a preservation order on it;
- The site has a considerable range of wildlife - mammals, amphibians and insects;
- The canal route is planned through an ancient ridge and furrow site - the archaeological report doesn't mention this so is flawed;

Other

- Loss of view over the field;
- Devaluation of property;
- HS2 will go through the site so people won't buy the houses. It is unfair that houses built within 120m of the line can claim compensation;
- The rights of people who vote for MPs and Councillors should be considered.

5. Relevant Planning Policy

Relevant Planning Policy

The following planning policy is considered relevant to the determination of this planning application.

National Planning Policy Framework (NPPF)

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

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

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

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

Paragraph 14 sets out the presumption in favour of sustainable development 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."

Paragraph 17 states that within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should:

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up to date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;
- 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 the Framework;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- 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;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

"32 All developments that generate significant amounts of movement should be supported

by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

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

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

"47 To boost significantly the supply of housing, local planning authorities should:

- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

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

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

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

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

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

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

"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..."

"131 In determining planning applications, local planning authorities should take account of;

- the desirability of sustaining and enhancing the significant 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."

"132 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 designated heritage assets of the highest significance, notably scheduled monuments ... should be wholly exceptional."

"133 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, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use."

"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 following saved policies of the North East Leicestershire Local Plan are considered to be in compliance with the requirements of the National Planning policy Framework and are therefore afforded weight in the determination of this application.

Policy S3 advocates a presumption against new development in the countryside.

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 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 F1 states that new development within the boundaries of the National Forest should demonstrate a high quality of site layout, building design and choice of materials, in order to reflect local architecture and its Forest setting.

Policy F2 requires appropriate landscaping and planting schemes taking into account the existing landscape character of the site and its surroundings, the level of planting proposed, site constraints, scale type and the value of development.

Policy F3 requires that the implementation of agreed landscaping and planting schemes for new development will be secured through planning condition, the negotiation of a planning agreement, or a combination of both.

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

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

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas.

Submission Core Strategy (April 2012)

The District Council considered its response to the Pre-Submission Core Strategy consultation and suggested changes at its meeting of 26 March 2013. The Council resolved, amongst others, to agree the recommended significant changes, to note the delegated minor changes, to agree to a period of consultation on the significant changes, and to agree to submit the Core Strategy to the Secretary of State as soon as possible following consultation. The following Submission Core Strategy policies are considered relevant and, given the stage that the draft Strategy has reached, should be afforded some (but not full) weight in the determination of this application:

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

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

Policy CS8 provides for the protection of the countryside, and requires that appropriate development in the countryside should be of a scale and environmental impact that is compatible with the character of its rural location.

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

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

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

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

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

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

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

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

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

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

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

Policy CS33 requires the water quality of the River Mease SAC to be improved.

Policy CS34 requires that heritage assets, and their setting, will be protected and conserved.

Policy CS41 sets out the proposed development strategy to support Measham's role as a Rural Centre. This includes making provision for at least 440 more homes by 2031 to the north west of Measham and a Masterplan should set out the proposed uses and relationships, additional infrastructure provision requirements in respect of local services and facilities, measures to

reinstate the Ashby Canal, and consideration of the coalfield legacy and groundwater source protection.

6. Assessment

Principle of Development

The application site lies in the countryside, outside the Limits to Development of Measham so would be unacceptable under Adopted Local Plan Policy S3 which presumes against development in the countryside. In terms of housing policies, Adopted Local Plan Policy H4/1 seeks to direct housing development across the district in a sequential manner and small scale infill development within Limits to Development of Measham may, in principle, be acceptable but not large scale development outside Limits to Development.

In addition, four policies of the Submission Core Strategy are of relevance to the scheme:

- CS7: *Location of Development*
- CS8: *Countryside*
- CS15: *Distribution of Housing*
- CS41: *Measham*

The proposal would not be contrary to the countryside policy of the Submission Core Strategy since that document indicates the application site as being an area of growth to support the role of Measham as a Rural Centre under Policy CS41. Policy CS41 submits that at least 440 more homes should be provided to the north west of Measham by 2031.

Part B of CS7 notes that, after Coalville Urban Area, most of the remaining housing and employment development will be located within Rural Centres (of which Measham is one). Policies CS15 and CS42 complement one another on that issue. CS15 requires that '*at least 550 dwellings*' are to be provided during the Plan period at Measham. The Core Strategy figures are based on the residual method of calculation for housing land supply and but it should be noted that this has not been tested through Examination of the Core Strategy. Furthermore, it is a material consideration that a recent Planning Inspectorate decision for a housing development at land off Moira Road, Ashby concluded that the District Council could not demonstrate a 5 year housing land supply (5YHLS) and should calculate this using the Sedgfield approach and on top of that provide a 20% buffer for housing land supply.

On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.33 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". The Council would not, in these circumstances, be able to rely on adopted Local Plan Policy S3 (Limits to Development) as, being a policy constraining the supply of housing land, it would be considered to be out of date.

Notwithstanding the above, the positive aspects of the scheme also need to be considered. If approved, the scheme would provide a community facility and potential regeneration catalyst in the form of a stretch of reinstated canal, and other infrastructure. The delivery of the canal

segment and infrastructure would need to be ensured through a S.106 agreement.

Overall, whilst development of the site would be contrary to Adopted Local Plan countryside policy, that policy is currently out of date the site is an area identified for growth in the Submission Core Strategy and would include reinstatement of part of the canal and other infrastructure.

Design and Conservation Issues

The application is made in outline only with all matters, other than access, reserved for subsequent approval so there are no details of the proposed housing development. The indicative masterplan is for information only and illustrates the applicant's vision for the site.

In terms of conservation there are various designated heritage assets to consider. Firstly, the impact of the proposed access on the Grade II Listed Meer Bridge on Burton Road and, secondly, the impact of the emergency access route onto the High Street which is within the Measham Conservation Area and in the vicinity of Listed Buildings on the High Street.

The proposed roundabout access from Burton Road would be set to the south east of Meer Bridge and would not detract from the setting of that bridge which forms part of a Public Right of Way, and would continue to do so as part of this proposal.

The emergency access onto High Street would utilise the existing access at the former Picture House Youth Club site. Whilst LCC Highways would require the emergency access on to High Street to be implemented and available for use by the first occupation of the development, the Authority has confirmed, after much negotiation, that width for two way passing vehicles would be required only along parts of that access. As such, the access onto High Street could be kept as a single width access with adjacent footpath which would be in scale and character with existing accesses off High Street which are, historically, narrow due to modes of transport of those times and would have no adverse impact on the designated heritage asset. Substantive negotiations took place in relation to this matter since a two vehicle width access would appear incongruous in the streetscene and would not be appropriate in the conservation setting.

On this basis the proposed main and emergency accesses would have no adverse impact on the character or setting of designated heritage assets in accordance with the requirements of the NPPF, and Submission Coe Strategy CS34.

Residential Amenity Issues

As stated above, the application is made in outline only with all matters, other than access, reserved for subsequent approval so there are no details of the proposed housing development. It is apparent from representations made on the scheme that local residents who live close to the site are concerned about overlooking, overshadowing and overbearing impact as a result of the scheme due to the layout shown on the indicative masterplan. To clarify, the indicative masterplan is for information only and illustrates the applicant's vision for the site. Should this application be approved, details of siting, layout and appearance would be dealt with at a reserved matters application stage. However, there is no reason why a scheme could not be designed so that the amenities of existing residents were not adversely affected.

A noise assessment has been submitted as part of the application in relation to the impact of the noise from the A42 at the north west boundary on any proposed residential development.

Mitigation measures including a bund at this boundary are proposed in order to protect the amenities of any future occupiers of the site and it is recommended that appropriate conditions be attached to a decision notice should the application be approved.

Highways

Notwithstanding the comments of local residents, no emergency access is proposed between the site and Chapel Street. An existing footpath link would be maintained at that point.

Substantive pre-application, and during application, discussions have taken place between the agent and Leicestershire County Council Highways in relation to the accesses to the site. The proposed access arrangements are shown on WSP's drawing number RP-0001 Rev B. Full details of the Burton Road roundabout, which would form the main access to the site, have been submitted and proposals also include a link with a bridge and bus stop provision nearby. It would be a raised roundabout with a bridge over the proposed canal in order for boats to move underneath, and to allow adequate headroom under the bridge along the canal towpath. The emergency access, required at first occupation of the development, would be single width at the High Street and would utilise the existing access to the former youth club site as outlined in the Design and Conservation section above.

The Highway Authority has no objection subject to conditions and S106 contributions.

River Mease SAC, Drainage and Ecology

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 sets out how development proposals within an SAC should be considered. 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. It should be noted that the scale of the development is not one which warrants an Environmental Impact Assessment to be undertaken.

A long term Water Quality Management Plan (WQMP) for the River Mease SAC was finalised in June 2011 with a primary purpose *to reduce the levels of phosphate within the River Mease SAC, to enable the Conservation Objectives for the SAC to be met, and an adverse effect upon the SAC avoided*. The main objective of the WQMP is that *the combined actions will result in a reduction in phosphate in the River Mease to no more than 0.06mg/l*.

One of the actions of the WQMP was to establish a developer contribution framework in accordance with planning obligations best practice to be known as a Developer Contribution Scheme (DCS). The DCS was agreed in November 2012 and developer contributions will fund a programme of actions to restore and provide new benefits to the River Mease.

In terms of residential development, developers will have to contribute based on the exact size and sustainability of the dwellings since these factors determine the levels of Phosphate output per unit. As such, homes which are built to the new sustainable homes standards will pay a lower contribution.

The WQMP is entirely concerned with reducing levels of phosphate to enable the conservation objectives target to be met. It is therefore directly connected with and necessary to the

management of the River Mease SAC. As such, both the plan itself and the Developer Contribution Scheme are excluded from the assessment provisions of the Habitats Regulations.

The Environment Agency advises that it has no objection to the proposal subject to the Mease Developer Contribution Scheme being in place to allow a DCS payment to be made to mitigate for the increased foul effluent resulting from the development.

In addition, surface water issues are considered in the Flood Risk Assessment submitted as part of the application. The Environment Agency advises that the proposed development would meet the requirements of the NPPF if measures set out in the Flood Risk Assessment are implemented and secured by way of planning condition. Conditions are recommended by the Agency and it is recommended that these be attached to any permission should the application be approved.

The applicant has confirmed that it is agreeable to making a DCS contribution. As such, the proposal would comply with the National, Regional and Local planning policies and the Habitats Regulations.

In terms of ecology, it is noted that the County Ecologist is satisfied with the information submitted as part of the application but recommends conditions be attached to a decision should the application be approved. These would relate to reassessing for the presence of badgers if no development has taken place by then, and to the provision of wildlife corridors and habitat enhancement including bat boxes.

The indicative masterplan indicates green boundaries and soft and hard landscaping throughout the scheme. The proposals would maintain and establish green corridors within the site, and at its boundaries, to ensure that wildlife links between habitats would be maintained as advocated by Natural England, the County Ecologist and the National Forest Company. The proposed access would involve the removal of a prominent Black Poplar on Burton Road. The Black Poplar is one of Britain's rarest native timber trees and is identified as a priority species in the Leicestershire Local Biodiversity Action Plan. However, the access could not be situated at any other point on Burton Road and whilst the loss of the tree would be regrettable, it would not be of such significance to warrant the refusal of the scheme.

The site is within the National Forest and should be subject to National Forest planting guidelines which comprise 20% of the area to be woodland planting and landscaping for housing sites over 0.5 hectares. The National Forest Company is satisfied that this could be achieved on the site with the level of development proposed, since the indicative masterplan shows how the requirements could be met.

Archaeology

The Masterplan drawings indicate development over a wider area than that which forms part of this current planning application. In terms of the current application the canal route would be situated within the route area previously approved by Central Government under a Transport and Works Order which was sought by Leicestershire County Council. The current application site excludes an existing area of land where ridge and furrow is evident.

Ground stability

A coal risk assessment report and a Phase 1 site investigation report have been submitted as part of the application. The Coal Authority confirms it has no objection to the proposal subject to

condition.

The County Council has raised concerns about the protection of mineral resources. However, the area has already been subject to historic coal extraction and is bordered by residential development to the north, east and west and is unlikely that mineral extraction could take place at the site without significant adverse impacts on the residential amenities of occupiers of those dwellings. It is noted that the County Council did not object to the Core Strategy proposal for housing development at the site.

Viability of the scheme

The application includes a confidential viability report for consideration as the developer is of the view that the scheme is not viable with additional infrastructure costs over and above the canal, access and River Mease DCS costs. The District Valuer was instructed to act on behalf of the District Council and requested background information details not all of which have been forthcoming. On that basis the District Valuer has assessed the viability report making certain assumptions based on current market situations and has concluded that the scheme is viable with all costs.

Should the applicant not be agreeable to meeting the financial contribution requests, or alternatively, find themselves in dispute with the District Valuer in relation to the matter, the District Council would reserve the right to negotiate between the applicant/agent and officers and, should significant disagreements emerge, also reserve the right to report the matter back to Members for further consideration.

Developer contributions

Circular 05/2005 sets out the Government's policy in respect of planning obligations. In particular, it provides in Annex B Paragraph B5 that "A planning obligation must be:

- (i) relevant to planning;
- (ii) necessary to make the proposed development acceptable in planning terms;
- (iii) directly related to the proposed development;
- (iv) fairly and reasonably related in scale and kind to the proposed development; and
- (v) reasonable in all other respects.

In addition to the above policy tests, the Community Infrastructure Levy (CIL) Regulations 2010 provide a legislative requirement that an obligation must meet tests (ii), (iii) and (iv) above which is also advocated in the Draft 2012 CIL Regulations.

In terms of the respective contributions, the following conclusions are reached:

LCC Libraries - £28,530 would be sought towards facilities at Measham Library on Thorpe Road, Measham based on the following formula for library facilities contributions: 450 x 3/4/5 bed houses/apartments @ £63.41 per unit

LCC Highways - To comply with Government guidance in NPPF the following contributions would be required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use :

- Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack, index linked).
- 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and

funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at average £325.00 per pass (index linked) - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).

- New/Improvements to 2 nearest bus stops on Burton Road (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities. At £3263.00 per stop (index linked).
- 2 new bus shelter at nearest bus stop; to provide high quality and attractive public transport facilities to encourage modal shift. At £4,908.00 per shelter (index linked).
- 2 new flag and pole at cost of £145 per site (index linked).
- Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display (index linked).
- Contribution towards equipping the nearest suitable bus route with Real Time Information (RTI) system; to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice to encourage modal shift.
Total RTI contribution = £3900.00 (index linked)
- £300 per: ETM (Electronic Ticket Machine) upgrade cost, for nearest suitable bus service, X 12 buses (based on PVR data for Arriva 85 Bus service) = £3600.00
- £150 per: Information Point sign (non-electronic display), X 2 number of signs =£300

Justification of the proposed bus stop: Making improvements to the proposed bus stop location in relation to the site and create waiting environment and accessibility to bus service, to encourage modal shift.

The Travel Plan which is required to achieve the defined outcomes in the Travel Plan to ensure that the proposed development is satisfactorily assimilated into the transport network. This approach is considered to be consistent with Government guidance in the National Planning Policy Framework, the CIL Regulations 2011, and the County Council's Local Transport Plan 3;

A monitoring fee of £6000 (index linked) to enable Leicestershire County Council to provide support to the developers Travel Plan Co-ordinator; audit annual Travel Plan performance reports to ensure Travel Plan outcomes are being achieved and for it to take responsibility for any necessitated planning enforcement. Appointment of a Travel Plan Co-ordinator is required from first occupation and for a period to 5 years after completion of the development.

Justification: To ensure effective implementation and monitoring of the site Travel Pan submitted in support of the Planning Application.

LCC Education - This site falls within the catchment area of Measham Church of England Primary School. The School has a net capacity of 240 and 353 pupils are projected on roll should this development proceed; a deficit of 1113 pupil places (of which 5 are existing and 108 are created by this development). There is one other primary school within a two mile walking distance of the development. Oakthorpe Primary School has a projected surplus of 3 pupil places, giving an overall deficit in the primary sector of 1110 pupil places. There are therefore no primary places available for children from the development and a claim for an education contribution in this sector is justified.

In order to provide the additional primary school places anticipated by the proposed development, the County Council requests a contribution for the primary school sector of £1,306,693.08. Based on the table above, this is calculated the number of deficit places created by the development (108) multiplied by the DFE cost multiplier in the table above (£12,099.01) which equals £1,306,693.08.

This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Measham Church of England Primary School. The contribution would be spent within 5 years of receipt of final payment.

No contribution would be required for High School or Upper School facilities.

The County Council requests would help mitigate the impact of the development, and would meet the Circular policy tests and are CIL compliant. It should be noted that the developer requested a change to the notional housing mix being used in the viability assessment at the end of August 2013 and which was agreed with officers, including the Housing Enabling Officer, at the start of September. Leicestershire County Council has been reconsulted on the revised notional mix and confirms that the revision will alter the above library and education requests and that they will endeavour to report with revised conclusions as soon as possible. Any further details submitted will be reported on the Update Sheet.

Leicestershire Constabulary - A Policing contribution is requested, for the sum of £152480 with a breakdown as follows:

Start up equipment	£19106
Vehicles	£12699
Additional radio call capacity	£1147
PND additions	£585
Additional call handling	£1052
ANPR	£5426
Mobile CCTV	£1000
Additional premises	£110565
Hub equipment	£900
Total	£152480

NWLDC Head of Leisure and Culture - requests £1,100 per unit (450 x £1,100 = £495,00) towards the upgrade of existing leisure facilities. This request would help mitigate the impact of the development on existing leisure facilities.

River Mease WQMP DCS - cost per unit in relation to phosphate mitigation measures. This request would help mitigate the impact of the development on the River Mease, and would meet the Circular policy tests and is CIL compliant.

Clauses relating to affordable housing, a trigger point for the retail unit to ensure construction, and Open Space/National Forest Planting and Conservation Management Plans would also need to be included as part of any S106 legal agreement. These aspects are relevant to the proposal and would help mitigate the impact of the development, would meet the Circular policy tests and are CIL compliant.

Should the applicant or agent subsequently advise they are not agreeable to entering into a legal agreement to secure all financial contributions due to viability issues, it is recommended that the right to defer the matter for reconsideration at a future Planning Committee meeting is reserved.

Other Issues

Devaluation of property and loss of view are not material planning considerations. Whilst the preferred route for the High Speed 2 train route has been issued by Central Government for consultation, it is not yet a material planning consideration and cannot be considered as part of this application.

Conclusion

The application site lies in the countryside, outside the Limits to Development of Measham as defined on the Adopted Local Plan Proposals map. The proposed development would result in housing development contrary to the Local Plan but in accordance with the Submission Core Strategy as the application site is an area of growth for residential development in the latter document. A new access off Burton Road would be created to serve the development, and an emergency access would be linked to High Street at the existing former Youth Club site and would be in accordance with the requirements of Policies T3 and T8 of the Adopted Local Plan. The scheme would link to the main sewer and the applicant is agreeable to contribution to the River Mease SAC WQMP DCS. As such, there would be no adverse impact on the River Mease SAC. Ecological, Coalfield and ground instability issues have been addressed, subject to conditions.

As such, the proposed development would not comply with countryside policy of the Adopted Local Plan, but that policy is currently out of date as the Council cannot demonstrate a Sedgefield approach plus 20% buffer calculated 5 year housing land supply. Furthermore, the development would comply with the housing and Measham related Submission Core Strategy polices and national planning guidance. In addition, the benefits of the proposal, including the provision of part of the Ashby Canal and infrastructure, have to be considered in relation to the 5 year housing land supply shortfall issues. In this particular instance it is concluded that the benefits of the proposal along with current policy considerations, in light of the absence of a 5 year housing land supply, outweigh the issue that the proposal would form development in the countryside outside Limits to Development of Measham. On this basis, the application is recommended for approval.

As noted earlier in this report, should the applicant not be agreeable to meeting the financial contribution requests, or alternatively, find themselves in ongoing dispute with the District Valuer in relation to the matter, the District Council would reserve the right to negotiate between the applicant/agent and officers and, should significant disagreements emerge, also reserve the right to report the matter back to Members for further consideration.

RECOMMENDATION - PERMIT subject to the following condition(s) and subject to a S106 agreement in relation to library facilities, highways matters, leisure facilities, River Mease SAC WQMP DCS, affordable housing, implementation of the canal, Open Space/National Forest Planting and Conservation Management Plans and other items arising above - also subject to Natural England final comments which have not been received at the time of writing this report and to the developer being agreeable to the S106 financial contributions:

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

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

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

Reason- This permission is in outline with details of access only.

- 3 *Plans for approval to be listed on the Update Sheet as further information on the emergency access may be forthcoming at the time of writing this report.*

- 4 Notwithstanding the submitted details, no development shall commence on site until representative samples of the materials to be used in all external surfaces have been submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details and maintained as such.

Reason- To enable the Local Planning Authority to retain control over the external appearance.

- 5 Notwithstanding the details submitted on indicative Masterplan drawings or Landscaping plans no development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping, including details of landscaping for the bund at the western boundary. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a five year period from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason- To ensure the satisfactory overall appearance of the completed development, and to ensure an appropriate planting palette within the National Forest.

- 6 No work shall commence on the site until such time as a scheme for protecting the existing trees and hedgerows, identified as being retained, during the construction process has been submitted to and approved by the Local Planning Authority and implemented to its satisfaction. The scheme shall include measures to protect the working area within Root Protection Areas. Such protection as is agreed shall be maintained during the course of development.

Reason- To ensure satisfactory protection of the existing trees and hedgerow in question during the period when construction works take place on the site.

- 7 No work shall commence on the site until such time as a scheme for protecting the existing trees and hedgerows, identified as being retained, during the construction process has been submitted to and approved by the Local Planning Authority and implemented to its satisfaction. The scheme shall include a full tree schedule and appropriate tree retention categories and measures to protect the working area within Root Protection Areas. Such protection as is agreed shall be maintained during the

course of development.

Reason- To ensure satisfactory protection of the existing trees and hedgerow in question during the period when construction works take place on the site.

- 8 No works shall commence on site until such a time as a scheme indicating proposed finished floor levels of all buildings and the relationship of such to the existing dwellings surrounding the site, and the base and top levels of the canal, has been submitted to and approved by the Local Planning Authority and the development shall be constructed in accordance with the agreed levels.

Reason- To safeguard the privacy and amenities of the occupiers of adjoining properties and in the interest of visual amenities.

- 9 No development shall commence until a scheme for the insulation of the buildings(s)/erection of barriers against the transmission of noise and vibration from the A42 has been submitted to and agreed in writing with the Local Planning Authority. All works shall be fully implemented in accordance with the approved scheme before occupation, and shall be maintained as such in perpetuity.

Reason- In the interest of residential amenities.

- 10 No development shall commence on site until a full and detailed site investigation and assessment confirming the location and condition of any coal mine entries has been carried out, at the developer's expense, and submitted to the Local Planning Authority. In the event that the site investigations confirm the need for remedial works to treat the mine entries, and/or any other mitigation measures to ensure the safety and stability of the proposed development, no development shall commence on site until details of such works have been submitted to and agreed in writing by the Local Planning Authority and implemented at the site.

Reason- In the interests of safeguarding the proposed development and adjacent properties.

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

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

- 12 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 30th January 2013, Ref: 120616/R001/issue 2 and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 100 year plus 30% for residential, 20% for commercial (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. Section 4.0.

The mitigation measures shall be fully implemented prior to occupation and subsequently in

accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason- To prevent flooding by ensuring the satisfactory storage/disposal of surface water from the site.

- 13 No development approved by this planning permission shall take place until such time as a scheme to demonstrate the surface water drainage has been submitted to, and approved in writing by, the local planning authority.

The scheme shall include:

- o Surface water drainage system/s to be 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.
- o Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 30% for Residential 20% for Commercial (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.
- o 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 30% for Residential 20% for Commercial (for climate change) critical rain storm.
- o 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.
- o 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

Reason- To prevent the increased risk of flooding, both on and off site.

- 14 No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

all previous uses

potential contaminants associated with those uses

a conceptual model of the site indicating sources, pathways and receptors

potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason- To ensure that the proposed development does not cause pollution of controlled waters receptors.

15 No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reasons- To ensure protection of controlled waters receptors.

16 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons- To protect controlled waters receptors.

17 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reasons- To prevent pollution of controlled waters receptors.

18 No construction works, movement of construction traffic, and deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays.

Reason- To safeguard the privacy and amenities of the occupiers of adjoining properties during periods of construction.

19 Prior to the first occupation of any dwelling hereby permitted, the proposed development shall comply with the design standards of the Leicestershire County Council as contained in its current design standards document (6CsDG). Such details must include parking and turning facilities, access widths, gradients, surfacing, signing and lining

(including that for cycleway and shared use footway/cycle ways) and visibility splays and be submitted for approval by the local Planning Authority in consultation with the Highway Authority before development commences.

Note: Your attention is drawn to the requirement contained in the Highway Authority's current design guide to provide Traffic Calming measures within the new development.

Reason- To ensure a satisfactory form of development and in the interests of Highway safety.

- 20 Prior to the occupation of the development, an access off Burton Road, a roundabout junction and link (as generally shown on WSPs, drawing number RP-001 Rev. B) shall be completed to the satisfaction of the Highway Authority.

Reason- To ensure adequate form of access to cater for the traffic generated by the development joining Burton Bridge Road and in the interests of general highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 21 The emergency access road is required to withstand the weight of 12.5 Tons for a standard Fire Appliance and width for two way passing vehicles.
- a) Prior to the commencement of any part of the development hereby permitted, detailed design of the proposed emergency access link with access onto High Street shall be submitted to and approved in writing by the Local Planning Authority.
- b) Prior to first occupation of the development, the approved junction and emergency access link shall be provided in full and available for use.

Reason- To provide vehicular access to the site, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 22 The gradient of any private access drive shall not exceed 1:12 for the first 6 metres behind the Highway boundary.

Reason- To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety.

- 23 No walls, planting or fences shall be erected or allowed to grow on the Highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.

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

- 24 Before first occupation of any dwelling hereby permitted, 1.0 metre by 1.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway, in accordance with the current standards of the Highway Authority and shall be so maintained in perpetuity.

Reason- In the interests of pedestrian safety.

- 25 Before first occupation of any dwelling hereby permitted, its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the Highway boundary and shall be so maintained at all times.

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

- 26 The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided before the dwelling is occupied and shall thereafter permanently remain available for such use.

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.

- 27 Before the first occupation of any dwelling, car parking provision shall be made within the development site on the basis of 2 spaces for a dwelling with up to three bedrooms and 3 spaces for a dwelling with four or more bedrooms. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.

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.

- 28 Any shared private drives serving no more than a total of 5 dwellings shall be a minimum of 4.25 metres wide for at least the first 5 metres behind the Highway boundary and have 2 metres control radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

Reason- To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

- 29 Any shared private drive serving more than 5 but no more than 25 dwellings shall be a minimum of 4.8 metres wide for at least the first 5 metres behind the Highway boundary and have 6 metres kerbed radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

Reason- To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

- 30 Any garage doors shall be set back from the Highway boundary a minimum distance of 5 metres for sliding or roller/shutter doors, 5.6 metres for up-and-over doors or 6 metres for doors opening outwards and thereafter shall be so maintained.

Reason- To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway.

- 31 No part of the development, its supports or foundations shall be positioned in, on, over,

upon, or within any part of the public highway. The buildings are to be setback 0.5m from the highway to provide clearance from windows opening outwards and surface water drainage pipes from the roof within the curtilage of the property.

Reason- In the general interests of Highway safety.

- 32 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

Reason- To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users.

- 33 No development shall take place until a strategy of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved development shall be implemented in accordance with the approved strategy prior to the use of the building commencing.

Reason- To ensure that the principles of sustainable drainage are incorporated into this proposal.

- 34 Before the development commences, swept path analyses shall be submitted for refuse vehicle and approved by the Local Planning Authority (LPA) in consultation with the Highway Authority.

Reason- To ensure that large vehicles can manoeuvre within the carriageway without the overhang of vehicle being danger to pedestrians.

- 35 Before the development commences, details of the routing of construction traffic shall be submitted to and approved by the Local Planning Authority (LPA) in consultation with the Highway Authority. During the period of construction, all traffic to and from the site shall use the agreed route at all times unless otherwise agree in writing by the LPA.

Reason- To ensure that construction traffic associated with the development does not use unsatisfactory roads to and from the site.

- 36 No part of the development as approved shall be brought into use until details of a Residential Travel Plan has been submitted to and agreed in writing by the Local Planning Authority.

The Plan shall address the travel implications of the use of the whole site as if the development approved were to have been fully completed and occupied.

The Plan shall specify facilities and with measurable out put and outcome targets designed to:

- o Reduce single occupancy vehicle use, reduce vehicular travel at peak traffic times and reduce vehicle emissions for journeys made for all purposes to and from the developed site,
- o Increase the choice and use of alternative transport modes for any journeys likely to be made to and from the developed site and, in particular, to secure increases in the proportion of travel by car sharing, public transport use, cycling and walking modes and the use of IT substitutes for real travel,
- o Manage the demand by all users of the developed site for vehicle parking within and in

the vicinity of the developed site.

The Plan shall also specify:

- o The on-site Plan implementation and management responsibilities, including the identification of a Travel Plan Co-ordinator,
- o The arrangements for regular travel behaviour and impact monitoring surveys and Plan reviews covering a period extending to at least one year after the last unit of development is occupied or a minimum of 5 years from first occupation, whichever will be the longer.
- o The timescales or phasing programmes for delivery of the Plan's proposals and for the achievement of the specified output and outcome targets, and
- o Additional facilities and to be implemented if monitoring shows that the Plan's targets are not likely to be met, together with clear trigger dates, events or threshold levels for invoking these measures.

The Plan, once agreed, shall be implemented in accordance with the approved details, and thereafter, the implementation of the proposals and the achievement of targets of the Plan shall be subject to regular monitoring and review reports to the LPA and, if invoked, to the implementation of the specified additional measures.

Note: The plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, timescales, phasing programmes and on-site management responsibilities. It shall be implemented and subject to regular review in accordance with the above approved details.

Reason- To ensure that adequate steps are taken to achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices to and from the site in order to relieve traffic and parking congestion, promote safety, improve air quality or increase accessibility in accord with Section 4: 'Promoting Sustainable Transport' of the NPPF 2012.

37 The first reserved matters application submitted pursuant to this permission (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall include a detailed Archaeological Mitigation Strategy for the respective area(s). The Strategy shall be based upon the results of a programme of exploratory archaeological fieldwalking, geophysical survey and trial trenching undertaken within the relevant area(s) in accordance with a Written Scheme of Investigation (WSI) first submitted to and agreed in writing by the Local Planning Authority. Both the WSI and final Strategy shall include an assessment of significance and research questions, and:

- o The programme and methodology of site investigation, recording and post-investigation assessment (including the initial geophysical survey, fieldwalking and trial trenching, assessment of results and preparation of an appropriate mitigation scheme);
- o The programme for post-investigation assessment;
- o Provision to be made for analysis of the site investigation and recording;
- o Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- o Provision to be made for archive deposition of the analysis and records of the site investigation;
- o Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation; and
- o A detailed timetable for the implementation of all such works / measures

Unless any alternative measures are first agreed in writing by the Local Planning

Authority, no development shall take place at any time other than in accordance with the agreed Written Scheme of Investigation, Strategy and timetable.

Reason - To ensure satisfactory archaeological investigation and recording.

Notes to applicant

- 1 Planning permission/or approval of reserved matters (delete as appropriate) has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant at the pre-application stage 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 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 £85.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.
- 3 The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

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Erection of 20 no. dwellings with associated access,
driveways and parking

Report Item No
A3

Land Off New Street Measham Swadlincote Derby

Application Reference
13/00516/FULM

Applicant:

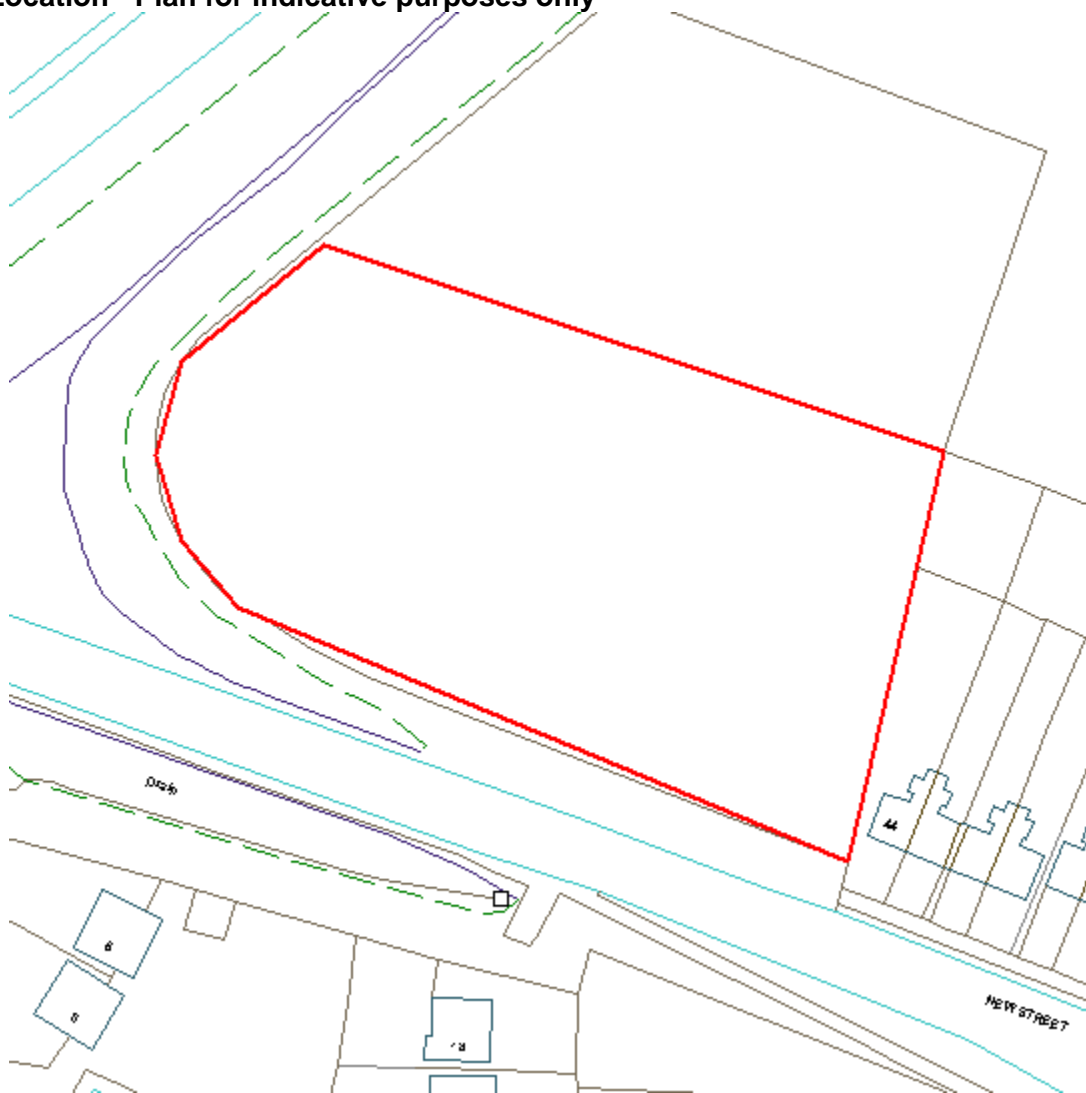
Date Registered
22 July 2013

Case Officer:
Jenny Davies

Target Decision Date
21 October 2013

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

Full planning permission is sought for the erection of 20 dwellings with associated access, driveways and parking at land adjacent to No. 44 New Street, Measham. The site is currently a grassed field, being 0.49 hectares in size and lies on the northern side of New Street. The site is adjoined by residential properties, another grassed field, National Forest planting, the A42 embankment and New Street itself. The proposed dwellings would be located across the whole site. Access would be located towards the eastern end of the site off New Street and two off-street parking spaces to serve No. 44 New Street are included within the site. The proposal includes off-site highway works to New Street.

Consultations

Members will see from the main report below that six letters of objection from members of the public have been received. The objections largely relate to highway safety. Measham Parish Council initially advised it could not support the proposal unless measures are put in place to reduce the speed of traffic on New Street. Following the submission of amended plans the Parish Council now has no objection. The County Highway Authority initially objected on two grounds in relation to the creation of a new vehicular access onto a classified road in a location where traffic speeds are generally high and a failure to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development. Following the submission of additional information the Highway Authority has withdrawn both of these reasons. There are no objections from any other statutory consultees.

Planning Policy

The application site lies within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also of relevance is the National Planning Policy Framework (NPPF).

Conclusion

The site lies within Limits to Development and is greenfield land. The proposal would contribute to maintaining a five year housing land supply and is in a sustainable location for new housing as it well related to a good range of services and facilities. Taking this into account it is considered that the principle of residential development on the site is acceptable.

The proposed development would be acceptable in terms of density, layout and design and impacts on the character of the area, residential amenities of existing residents, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI. A reason for refusal relating to impact on future residents from noise from the A42 can no longer be justified. It is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

A viability appraisal has been submitted by the applicants to demonstrate that the scheme would not be viable with affordable housing requirements. The submitted report indicates that the proposal would result in additional exceptional costs not taken into account in the base build rates, including works required to due to the site being part of former opencast mines and that the site is made up of opencast backfill, off-site highway works and the provision of acoustic glazing. This has been independently assessed by the District Valuer and they confirm that a scheme with no affordable housing provision and full developer contributions of £157,034 would be viable and the developer has agreed to pay the full amount of these contributions, which is considered appropriate in this case.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION:-

PERMIT, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and 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

The application has been called to Planning Committee by Councillor Sheahan due to concerns relating to highway safety and drainage.

Full planning permission is sought for the erection of 20 dwellings with associated access, driveways and parking at land adjacent to No. 44 New Street, Measham. The application was initially for 18 dwellings. The site is currently a grassed field and lies on the northern side of New Street. The site is adjoined by residential properties, another grassed field, National Forest planting, the A42 embankment and New Street itself. Land levels increase approximately by up to 2.5 metres from east to west but remain fairly level from north to south. The eastern end of the site is level with New Street but at its western end is 2-2.5 metres lower than the road, as the road climbs to the west to cross the A42.

The proposed dwellings would be located across the whole site and comprise 2 x two bed flats, 15 x three bed dwellings and 2 x four bed dwellings. A mixture of detached, semi-detached and flats are proposed. No affordable housing is proposed.

Access would be located towards the eastern end of the site off New Street and footways would be provided to both sides of the access, with the one on the eastern side linking into the existing footway along the northern side of New Street. Two off-street parking spaces to serve No. 44 New Street would be provided close to the existing field access, adjacent to No. 44's boundary. The proposal includes works to New Street including removal of the existing 'splitter island' and some road markings, formation of a ghost island and two sets of triple speed cushions and relocation of the 30mph speed limit further west along New Street with new road markings. The hedgerow and trees located on the site's eastern boundary are shown to be retained. The site lies within the catchment area of the River Mease Special Area of Conservation and within the National Forest and the Coal Authority's Development High Risk Area.

An outline application for nine dwellings was submitted in 2012 and was withdrawn in August 2013 (12/00542/OUT). An outline application for residential development (03/01025/OUT) was submitted in 2003 and an appeal against non-determination was dismissed in April 2005 on the grounds of the adverse impact of noise on living conditions of future residents and lack of a contribution towards a play area.

2. Publicity

19 Neighbours have been notified (Date of last notification 7 April 2014)

Press Notice published 30 July 2014

Site Notice posted 02 August 2013

3. Consultations

Measham Parish Council consulted 24 July 2013
 Head of Environmental Protection consulted 23 June 2014
 Environment Agency consulted 23 June 2014
 LCC ecology consulted 23 June 2014
 Coal Authority consulted 23 June 2014
 Severn Trent Water Limited consulted 23 June 2014
 LCC Development Contributions consulted 7 April 2014

County Highway Authority consulted 7 April 2014
National Forest Company consulted 7 April 2014
Manager Of Housing North West Leicestershire District Council consulted 7 April 2014
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 7 April 2014
Police Architectural Liaison Officer consulted 7 April 2014
Head of Environmental Protection consulted 7 April 2014
Head Of Leisure And Culture consulted 7 April 2014
NWLDC Urban Designer consulted 7 April 2014
NWLDC Tree Officer consulted 7 April 2014
Natural England consulted 25 July 2013
Development Plans consulted 25 July 2013
Head Of Leisure And Culture consulted 25 July 2013

4. Summary of Representations Received

Statutory Consultees

Measham Parish Council initially advised that it could not support the application unless measures are put in place to reduce the speed of traffic on New Street in particular the speed of traffic coming from Oakthorpe over the A42 bridge. Following the submission of amended plans to increase the proposal to 20 dwellings the Parish Council advises it has no objections.

The County Highway Authority initially recommended refusal on two grounds:

- The proposal, if permitted, would result in the creation of a new vehicular access onto a Class III road in a location where traffic speeds are generally high and the increase in turning traffic in such a location would not be in the best interests of highway safety.
- The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development in terms of the relocation of the 30/40 mph speed limit and the proposal, if permitted would consequently result in an unacceptable form of development and could lead to dangers for road users.

Following submission of additional information and revised plans including traffic calming measures and repositioning of the 30mph zone to New Street the County Highway Authority now has no objections subject to conditions.

The County Archaeologist advises that the proposal warrants no further archaeological action.

The Council's Urban Designer initially advised that the proposal would not meet local policies or Building for Life 12 and would recommend refusal on design grounds.

Severn Trent Water has no objection subject to a condition.

The Environment Agency advises that as the DCS is in place, the site is less than one hectare in Flood Zone 1, its use is as a paddock and that Standing Advice is in place, it would not present a high risk to the environment or offer significant environmental benefit and therefore the Agency does not wish to comment on the proposals.

Natural England has no objections in relation to the River Mease SAC/SSSI subject to conditions and impact on bats and great crested newts, refers to its Standing Advice relating to other protected species and advised that impacts on biodiversity, geodiversity and local landscape character should be considered.

The County Ecologist initially advised that the ecology reports are satisfactory and no further surveys are required prior to determination.

The Council's Tree Officer has no objections and suggests the imposition of conditions.

The National Forest advised that the site was just below the threshold for on-site National Forest planting and requested that the scheme incorporate landscaping appropriate to the site's setting in the National Forest.

The Environmental Protection team has no objections in relation to noise impact provided all mitigation measures detailed within the noise report are provided and recommends the imposition of conditions in relation to contaminated land.

The Coal Authority has no objection and recommends the imposition of a condition.

The Affordable Housing Enabling Officer initially advised that whilst six affordable homes should be provided on site (based on 18 dwellings) provision of five affordable homes is sought in this case. Subsequently six affordable homes on site were requested (based on 20 dwellings). As no affordable homes are proposed an independent assessment of site viability should be undertaken.

NHS England initially did not request a contribution towards healthcare services (based on 18 dwellings) and subsequently requested a contribution of £9,619.20 (based on 20 dwellings).

Leicestershire County Council - Highway Transportation & Waste Management Authority has not made a request for a contribution towards civic amenity sites.

Leicestershire County Council Library Services Development Manager has not made a request for a contribution towards library services.

Leicestershire County Council Local Education Authority initially requested a contribution of £33,039.29 (based on 18 dwellings) and subsequently requested an amended contribution of £117,484.12 (based on 20 dwellings).

No responses received from DEFRA, Leicestershire Police or the Council's Leisure team by the date of this report.

Third Party Representations

Six letters of representation have been received which object on the following grounds:

- no need for more houses in Measham;
- overdevelopment of a small site in a sensitive National Forest area;
- impact on the environment and wildlife;
- the site is flooded for the majority of the year and not clear where this water will go to;
- concerns relating to parking and the road layout on New Street;
- if bollards are moved there will no room to park outside existing properties on New Street;
- existing parked cars would present an obstruction to the new access which will result in parking restrictions being put in place, preventing existing residents from parking on the road;
- not clear if any parking or speed restrictions would be put in place;
- existing parked cars on New Street cause poor visibility and obstructions;
- 30mph speed limit on New Street often exceeded;
- New Street is already a busy road and additional traffic from the site will cause problems;
- New Street will become an accident blackspot due to speeding and traffic turning into and out

of the existing estate on the opposite side of the road and also into the proposed site;

- traffic will cause a mess, in particular due to flooding of the site;
- a solution to the traffic problem could be to drop the kerbs and a drive formed to the front of the property at the developer's expense;
- HS2 would pass through the site and would impact on the market value of the proposed dwellings.

An anonymous submission has been received which states that the route of HS2 passes through the site.

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

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;
- 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."

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

"47. To boost significantly the supply of housing, local planning authorities should:
...- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

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

"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."

"99. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaption measures, including through the planning of green infrastructure."

"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."

"120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.... Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner."

"121. Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;...
- ...adequate site investigation information, prepared by a competent person, is presented."

"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;
- mitigate and reduce to a minimum other adverse impacts arising from noise from new development, including through the use of conditions..."

"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."

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

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

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

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

Policy T8 sets out the criteria for the provision of parking associated with development. 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 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 L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

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 provide 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.

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 AH2 provides that affordable housing will be sought on all sites of 5 or more dwellings in Appleby Magna.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Appleby Magna.

NWLDC SPG - Play Area Design Guidance - July 2002 sets out the relevant requirements in respect of children's play provision required in association with residential development.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the proposal, design and visual impact and its impact on residential amenities, highway safety, drainage and flood risk, protected species/ecology and on the River Mease Special Area of Conservation, and the provision of affordable housing and developer contributions.

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 Local Plan, the site lies within the Limits to Development where the principle of residential development is normally considered to be acceptable. Notwithstanding the site's location within the Limits to Development, in determining the application regard must be had to other material considerations, including other Development Plan policies and whether the proposal constitutes sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Policy H4/1 of the Local Plan sets out the provisions for considering proposals for the development of land for housing.

Housing Land Supply

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.

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch,

concluded that the Council's 5 year housing land supply calculation should be based on the "Sedgefield" approach (i.e. an approach requiring planning authorities to deal with any past under-supply within the first 5 years rather than to spread this over the whole plan period) an approach now expressly preferred in the recently published National Planning Practice Guidance, and thus even more likely to be favoured by appeal inspectors going forward. The Moira Road Inspector also applied a buffer of 20% for persistent under delivery. As such, Officers have recently been advising members of the Council's inability to demonstrate a five-year supply of deliverable housing sites. The consequence of this has been that the Council's has not been able to rely on adopted Policy H4/1 in determining housing applications as they are "relevant policies for the supply of housing" for the purposes of Paragraph 49 of the NPPF which, Members are aware, "should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

As reported to Committee on 8th July, however, a recently completed County-wide Strategic Housing Market Assessment (SHMA) has provided the Council with an up-to-date objectively assessed annual housing requirement, on which basis, the Council is now able to demonstrate a supply of 7.1 years (i.e. an excess of 2.1 years beyond the five year requirement, or an excess of 1.1 years beyond the five year plus 20% buffer requirement).

As a result of the above Policy H4/1 should no longer be considered 'out-of-date' in the context of Paragraph 49 of the NPPF - indeed these are Development Plan policies to which the Council should again now properly have regard in determining future planning applications.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to maintain this supply. It is therefore considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

Sustainability

Policy H4/1 provides a sequential approach to the release of land for housing and this proposal would fall within criterion (e) other appropriate land within settlements which satisfy the criteria for designation as a Rural Centre. The second section of the policy goes on to outline a set of criteria relating to the sustainability of the location. Measham provides a very good range of day to day facilities, i.e. two primary schools, shops including a Post Office, churches, church hall, public houses, GP surgery, library, leisure centre, play area/recreation ground and some small-scale employment sites.

There is also a reasonable public transport service; the No. 7 service currently provides a service Monday to Saturday (approximately every 1.5-2 hours) from 8.17am to 5.41pm which serves Ashby de la Zouch, Atherstone and Nuneaton and the No. 19/19A bus service provides a service Monday to Saturday (approximately every hour) from 7.30am to 8.11pm which serves Ashby de la Zouch, Swadlincote and Burton on Trent. Public consultation was also undertaken at the end of 2013 to reduce the No. 7 service so it operates every four hours, with a total of six buses running per day. At the County Council's Cabinet meeting in May 2014 it was agreed that the existing No. 7 service would be replaced with a community bus partnership and the County Council expect a two hourly service to be operating between Measham and Atherstone from the end of March 2015.

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. The Inspector in the Moira Road appeal referred to the DoT statistics which detail that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1Km (0.62 miles), cycling about 4.5Km (2.8 miles) and by bus about 8Km (4.97 miles). Below are the approximate distances from the centre of the site to local facilities and services via the existing footway network:

Bus Stop - 550 metres
 Primary School - 1.1 km
 Shops/Post Office - 780 metres
 Play Area/Open Space - 340 metres
 Village Hall - 750 metres
 Public House - 700 metres

The application site is well related to most of the key services/facilities within the village, being within 800 metres (preferred maximum walking distance) of the majority of the services listed above, apart from the school. The library, leisure centre and doctor's surgery are all over 1.1km away although they are located close to the village centre. The level of services available is considered to be very good for a large rural village. The site is also located within 620 metres of a shop and takeaway in Oakthorpe which is accessible via the footway along New Street and there is also a school, leisure centre and two pubs in Oakthorpe. Given the scale of the development it is considered that the proposal would not result in unsustainable demands on local services and facilities, and contributions have been sought to provide additional capacity within schools and the doctor's surgery and to improve the nearby play area.

Loss of Agricultural Land

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. The site is currently grassland although it is not clear if it is in active agricultural use. The development of the site would result in an irreversible loss to non-agricultural use. DEFRA has been consulted on this issue, but no response has been received.

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 maintaining a five year housing land supply issue as set out above, it would seem inevitable that greenfield land (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 (ALC).

However, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively). The site is approximately 0.49 hectares in size. It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process, which in this case would be relatively small in scale.

Nevertheless it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, when considered in the context of the benefits of releasing a site in a sustainable location to assist in maintaining the five year housing land supply, it is considered that the agricultural land quality issue is not sufficient to suggest that planning

permission should be refused, particularly given the relatively limited extent of the loss.

Conclusions in respect of the Principle of Development and Planning Policy

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

The site is within the Limits to Development in the adopted Local Plan and is a greenfield site. The proposal would contribute to maintaining a five year housing land supply and is in a sustainable location for new housing as it well related to a good range of services and facilities.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in maintaining housing land supply, its proximity to services/facilities and the inclusion of appropriate contributions to local services would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment. Having regard to all of the above in the overall balance it is considered that the proposal would be a sustainable form of development and therefore the proposed development of the site is acceptable in principle.

Density

The proposal results in a density of 40 dwellings per hectare for the whole site, which is above that sought under Policy H6 of the Local Plan (a minimum of 30 dwellings per hectare) although a density of 40 dwellings per hectare is considered appropriate under Policy H6 for sites well served by public transport and accessible to services, which is the case in this instance. The NPPF also states that local planning authorities should set their own approach to housing density to reflect local circumstances.

Design and Visual Impact

It was considered that the original scheme for 18 dwellings failed to take advantage of key opportunities and reflect basic urban design principles, in particular as it did not face onto New Street, the layout appeared to heavily engineered and that the dwellings did not have any sense of local identity or character. As such the Urban Designer advised that there were robust reasons for refusal on design grounds. Subsequently, following discussions with the Urban Designer, amendments have been made to the proposal and the scheme for 20 dwellings largely addresses the original concerns outlined above.

The proposal provides a mix of housing with the majority being detached or terraced properties, ranging in size from two to four bedrooms. The dwellings are set back from the road frontage to reflect the building line along the side of New Street giving them small front gardens and alongside a proposed frontage hedgerow would provide a soft frontage to the site alongside the existing grass verge which is appropriate in this location close to the countryside. The two dwellings located on the opposite corners of the access road both front onto New Street and whilst they do not have a true dual aspect both have principal windows in their side elevations facing onto the new access road. Opportunities for surveillance are available with corner plots and elevations facing onto the access road and parking/turning areas. Plots 15 and 16 provide an end stop/vista when looking into the site from New Street as does Plot 7 within the site. The majority of parking would be provided within plot save for two shared parking areas, one of which forms part of a central courtyard overlooked by several of the dwellings with a small central landscaped area.

The surrounding area is characterised by older properties along New Street with more modern dwellings on the housing estate on the southern side of New Street although within this area there is a mix of housing size and design. The detailed designs show properties with generally traditional proportions and detailing which fit in with the character of older properties located within the historic core of the village. There would be a mix of designs, with variation in the design of the dwellings so that one style is not dominant.

The site can accommodate all of the necessary requirements (private gardens, parking/turning space, bin storage/collection areas) without being cramped. The layout plan shows a hedgerow to the site frontage with New Street and the retention of existing hedgerow and trees along the eastern boundary along with additional planting within the site and on its boundaries. Front and rear garden boundaries along the access drive would largely constitute hedgerows and walls, which reinforces and enhances street definition, and although some close boarded fencing is proposed it is largely not in prominent locations. Although land levels rise up gradually across the site from east to west, the streetscenes do not indicate a significant increase in land levels across the site, although this would be dealt with by condition.

Although there are elements of the scheme that could be improved, in particular the design of two of the dwellings, the use of gates to the rear access drives, the proposal is a considerable improvement on the scheme that was originally submitted. Most of the dwellings fit well with traditional house types within the village and its character would be further reinforced by landscape features and building details, such as materials and colour. Based on the above and subject to conditions, the scheme is considered to be acceptable in terms of its design and layout.

Character of the Area

In terms of the character of the site and locality, the site forms an open space and is part of the semi-rural feel to the approach into the village along New Street as well as forming part of the edge to the village's main built up area. The site is prominent in views from the western end of New Street as the road is at a higher land level to cross the A42 but is less prominent in eastern views and is not prominent from the housing development to the south or in longer views from the north, east or west due to screening by existing vegetation and the A42 cutting/embankments. Although most development is located to the south and east of the site, the site is adjoined by the A42 to the west, beyond which there is isolated development. Therefore the site is reasonably well related to the existing settlement and the new housing would be located close to existing development. The grass verge to the front of the site and the trees and vegetation along the A42 embankment are outside the site and would be retained, along with the hedgerow and trees on the eastern boundary.

Whilst the site contributes to the form and setting of the village and its semi-rural character in this location, in close and long range views the sensitivity of the site is limited, as it is effectively an open field with no particularly distinctive characteristics and it does not form part of a significant view into or out of the village. Development on the site would be viewed alongside existing development on both sides of New Street. The prominence of the development within the streetscene would be reduced to some extent by the dwellings being set back from the road in line with existing dwellings, with a new frontage hedgerow.

Therefore having regard to all of the above considerations, whilst there would be moderate and localised harm to the streetscene it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the character of this locality. The proposal is therefore considered to comply

with Policies E4 and H7 of the Local Plan and the provisions of the NPPF.

Residential Amenities

The access road would be at least 20 metres from existing properties and is therefore unlikely to result in significant levels of noise and disturbance. The larger parking court is well within the site away from existing dwellings and the other shared parking court would have a maximum of four spaces and be 4.5 metres from the end of No. 44 New Street's rear garden.

The new dwellings would be at least 34 metres from the dwellings on Lime Avenue. Plots 19 and 20 would be approximately 15 metres from No. 44 New Street which has one side window serving a landing. Plot 19 would not impinge on the 45-degree line from No. 44's rear windows. Plot 20 would in part be within 12 metres of No. 44's boundary but would largely face towards No. 44's side elevation rather than its private garden. Plot 19 would in part be 11 metres from No. 44's boundary and its first floor window serves a bathroom which could be secured by condition to have obscure glazing and top opening lights only. Although Plot 18 would be within 6.5 metres of No. 44's garden, this garden is large in size and No. 18's side window serves a bathroom. As such it is considered that the proposal would not result in significant detriment to the amenities of existing residents from loss of light, loss of privacy or creation of an oppressive environment.

The 2003 application for the site (03/01205/OUT) was dismissed on appeal in part on the grounds of the adverse impact of noise on living conditions of future residents, as it fell within Noise Exposure Category C of the then PPG24, where planning permission should not normally be granted, there was insufficient detail in relation to noise mitigation measures and at that time there was not considered to be a need to develop the site. A noise report was submitted with the application based on 18 dwellings and has subsequently been amended to reflect the increase in the number of dwellings to 20. This report concludes that the proposal would not have an adverse impact on health or quality of life when considered against paragraph 123 of the NPPF. The internal noise levels within the proposed dwellings would largely fall within the thresholds relating to a significant adverse effect (based on BS:8233 - Sound Insulation and Noise Reduction for Buildings and the World Health Organisation guidelines) and a glazing and ventilation strategy is proposed to ensure these noise levels with windows open or shut are largely not exceeded. This strategy relates to standard double glazing across most of the site with rooms oriented towards New Street and the A42 requiring enhanced glazing, along with alternative means of ventilation other than openable windows e.g. trickle vents to all living rooms and bedrooms across the site. Noise within eight of the private gardens would exceed the target noise level but the noise assessment states that the noise likely to be experienced would not be of such a level to prohibit the use of the gardens. In addition 1.8 metre high timber fencing/walls are proposed as the rear boundary to seven of these gardens with the remaining garden being linked to one of the flats. The Environmental Protection team has no objections in relation to noise impact provided all mitigation measures detailed within the noise report are provided, which can be secured by condition. As such it is considered that a reason for refusal relating to impact on future residents from noise from the A42 can no longer be justified.

Highway Safety

Concerns have been raised by local residents including removal of existing on-street parking provision, speeds of traffic along New Street and the potential for accidents to occur from use of the new access and due to traffic speeds, parked cars and proximity to the junction with Blackthorn Way. The County Highway Authority initially objected on the following two grounds:

- The proposal, if permitted, would result in the creation of a new vehicular access onto a Class III road in a location where traffic speeds are generally high and the increase in turning traffic in

such a location would not be in the best interests of highway safety.

- The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development in terms of the relocation of the 30/40 mph speed limit and the proposal, if permitted would consequently result in an unacceptable form of development and could lead to dangers for road users.

Following submission of a revised layout plan which showing works within New Street including removal of the existing 'splitter island' and some road markings, formation of a ghost island and two sets of triple speed cushions and relocation of the 30mph speed limit further west along New Street with new road markings, the Highway Authority advises that the applicant has now proposed measures which the Highway Authority believes will reduce speeds on New Street significantly and make a safe access to the site possible and therefore it has withdrawn its reasons for refusal and recommends approval subject to conditions.

A new access would be provided to the site and visibility splays can be provided in both directions. The Highway Authority's requirements for visibility splays and other technical requirements can be met and at least two parking spaces are proposed per dwelling, with more spaces in some cases, all of which can be secured by condition. As the site is served by a new access road, there is likely to be space for any off-street parking to take place within the site. A footway would be provided between the site and the existing footway along the northern side of New Street and a crossing facility is already in place further to the east on New Street to allow access to the public footpath linkages to the village centre. The submitted plan does not show any parking restrictions proposed outside existing dwellings on New Street and existing on-street parking on New Street would be outside the eastern visibility splay from the new access.

Based on the above it is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

Drainage and Flood Risk

The site lies outside the indicative floodplain and is therefore within Flood Zone 1 which is the flood zone with the lowest probability of flood risk. The nearest watercourse is located approximately 300 metres to the south east of the site. Although under one hectare in size, a Flood Risk Assessment (FRA) has been submitted along with an additional statement relating to flood risk and drainage based on the increase in dwellings on the site. The Environment Agency considers that the proposal would not present a high risk to the environment and therefore does not wish to comment on the application. The NPPF advises that new development should be steered to areas with the lowest probability of flooding. The NPPG states that '*... areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible.* The Environment Agency's Standing Advice states that '*For developments (other than changes of use) less than 1 hectare in Flood Zone 1, the main flood risk issue to consider is usually the management of surface water run-off. Drainage from new development must not increase flood risk either on-site or elsewhere. Government policy strongly encourages a sustainable drainage system (SuDS) approach to achieve these objectives.*'

Two ditches adjoin the site, one to the west which becomes a culvert and links into the public surface water sewer network and the other to the east which has no apparent outfall and discharges into the ground. The FRA advises that the majority of surface water currently would discharge into these two ditches, with most going into the eastern ditch due to site topography, although some would soak into the ground on the site. The FRA advises there are no recorded

flooding incidences within or close to the site and the Strategic Flood Risk Assessment (2008) for the District indicates that housing development on the site would be appropriate. Table 3 of paragraph 067 of the National Planning Policy Guidance (NPPG) shows that more vulnerable types of development, which includes housing, is appropriate within Flood Zone 1.

The FRA considers the flood risk to the site from potential flooding sources including from watercourses, groundwater and land drainage to be low. As the existing ditch would run beneath the access road the new site entrance would need to be designed to ensure it would not reduce the capacity of the drainage network or increase the risk of flooding.

The FRA advises that surface water would discharge to soakaway or if not appropriate to the public sewer system. The additional statement advises that soakaways are not suitable due to the underlying clay and deep opencast backfill and therefore surface water is shown to discharge to the existing adjacent land drains and then into the public sewer system. The FRA and additional statement advises that surface water discharge rates would be limited to maintain the existing greenfield runoff rate of 5 litres/second via surface water attenuation and flow control and that attenuation would be provided, in the form of tanks laid under the new access road, to accommodate excess runoff generated up to and including the 1 in 100 year rainfall event including a 30% allowance for climate change. This accords with the advice in the NPPF which states that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change.

The FRA therefore concludes that there is a low probability of flood risk to the site from a rainfall event and from flood sources and also from an event which could not be catered for by the surface water scheme for the site, and therefore the residual risks associated with flooding are not significant.

On this basis it is considered that the proposal complies with the NPPF and the NPPG and given the lack of objection from Severn Trent Water and the Environment Agency it is considered that a reason for refusal relating to flood risk could be not justified.

Protected Species/Ecology

The site is grassland with trees/hedgerows along its boundaries. The site is also adjoined by grassland and ditches along with woodland and two ponds nearby. These are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions. The habitats could also be used by national protected species. Natural England has no objections in relation to bats and great crested newts and makes no comments in relation to other protected species other than to refer to its Standing Advice. The County Ecologist is satisfied with both the original and updated ecological reports, which both advise that no evidence of protected species or habitats of note were found.

Two waterbodies were identified close to the site but one is isolated from the site by roads and existing development and the other is a lake over 400 metres away and likely to contain predatory fish, therefore being unlikely to support great crested newts. The habitat on the site is also considered to be unsuitable for great crested newts, reptiles, breeding birds and bats and whilst the adjacent woodland could be suitable for these species they would not be affected by the proposal. The report does suggest that a lighting scheme for the site is designed to be sensitive to bats, which can be secured by condition. No evidence of badgers was found within the site but the 2012 survey notes that a survey undertaken in 2008 identified mammal paths in the plantation woodland which were considered attributable to badgers, although they no longer

appear to be in evidence. The County Ecologist therefore requests the imposition of a condition requiring further surveys for badgers if development does not start within three years. None of the habitats on or adjacent to the site would be suitable for otters. The adjacent ditch is not considered suitable for water voles given its stone construction. On this basis it is considered that the proposal will not adversely affect other protected species.

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 to the River Mease lies approximately 130 metres to the east 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 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 proposes that foul drainage would be dealt with via the mains sewer system and the required contribution under the DCS has been calculated as £5,231. Natural England has no objections in relation to impact on the SAC/SSSI subject to conditions.

Consideration needs to be given to the capacity of Severn Trent Water's receiving treatment works at Measham. The flows from the new dwellings will need to be taken into account against the existing headroom at Measham. At March 2014 capacity was available for 846 dwellings but this is reduced by the number of dwellings that have already received a permit from Severn Trent Water and/or are under construction (658), and by the number of dwellings that have subsequently been granted planning permission or have a resolution to permit which would increase foul drainage discharge (nine). Taking these into account there is capacity available at the treatment works for the proposal.

A condition requiring that only a mains connection is used at the site would also be required as the use of other means for foul drainage discharge could adversely affect the SAC. Surface water from new development in the SAC catchment area should normally discharge to soakaway or other sustainable drainage system. However in this case the additional statement relating to flood risk and drainage advises that soakaways are not suitable due to the underlying clay and deep opencast backfill and therefore surface water is shown to discharge to the existing adjacent land drains and then into the public sewer system. Natural England advises that should the use of soakaways not be feasible then it would support the attenuation of surface water to restrict flows into the sewer system to existing greenfield rates, which will be put in place as outlined above in the section relating to drainage and flood risk. Conditions can

be imposed to secure the details of foul drainage and surface water discharge. 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.

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.

Healthcare

In respect of the 18 dwelling scheme NHS England did not seek any contributions towards healthcare services. However in respect of the 20 dwelling scheme NHS England has requested a contribution of £9,619.20 to provide additional GP surgery facilities at Measham Clinic for additional patients arising from the development.

Education

In August 2013 under the scheme for 18 dwellings Leicestershire County Council sought the following contributions to provide additional places at the nearest schools where there is no capacity:

- £0 - primary school (Measham CofE Primary School); £0 - high school (Ibstock Community College); £33,039.29 - upper school (Ashby School).

In April 2014 under the scheme for 20 dwellings the County Council seeks the following contributions to provide additional places at the nearest schools where there is no capacity:

- £52,267.72 - primary school (Measham CofE Primary School); £32,177.11 - high school (Ibstock Community College); £33,039.29 - upper school - (Ashby School).

The agent queried why there was such a significant increase in the requested education contribution. The County Council advises that two other schemes in Measham at Burton Road and Bosworth Road for more than 460 dwellings in total have taken up the surplus places which existed at Measham CofE Primary School in August 2013 and the numbers on roll at the other two nearest primary schools (in Donisthorpe and Oakthorpe) have also increased. These factors meant that in August 2013 we had no primary claim but in April we had a full claim. Furthermore since August 2013 a further 786 dwellings have been approved in the Ibstock Community College catchment area which includes the two aforementioned Measham sites. The number of pupils on roll at the school has also increased. The two and four year forecast figures in August were 548 pupils and 589 pupils whereas by April these figures had increased to 563 pupils and 636 pupils.

Play Area/Open Space

Given the site is located 340 metres from an existing play area located on the same side of New Street in an easterly direction it is considered that an on-site play area is not required. A contribution of £24,700 (£1,235 per dwelling) is sought towards this play area (which the Parish Council agrees to if the application is approved) which would comply with the Council's Play Areas SPG.

Affordable Housing

The Strategic Housing Team advised that six on-site affordable homes should be provided as part of the scheme for 20 dwellings. The scheme does not include any affordable housing on the basis that the scheme would not be viable if this was provided. As no affordable homes are proposed the Strategic Housing Team request that an independent assessment of site viability is undertaken.

River Mease DCS

There is a requirement for a contribution of £5,231 in accordance with the River Mease DCS as outlined earlier in the report.

Highway Safety

The County Highway Authority has requested that a construction traffic route needs to be secured which can only be achieved via legal agreement.

Other Contributions

No request for contributions has been received from the Council's Leisure team or Leicestershire Police and the County Council has advised that contributions towards civic amenity sites and libraries are not required.

Conclusions in respect of Developer Contributions

Overall it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF, Circular 05/2005 and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development.

A viability assessment was submitted with the application which has been updated to reflect the proposal for 20 dwellings. This viability report indicated that the scheme would not be viable with the inclusion of affordable housing and advised that £45,308 would be put towards developer contributions. The submitted viability report indicates that the proposal would result in additional exceptional costs not taken into account in the base build rates, including works required to due to the site being part of former opencast mines and that the site is made up of opencast backfill, off-site highway works and the provision of acoustic glazing.

The District Valuer has assessed the submitted viability reports and in his assessment included the following requested developer contributions:

Education	£117,484
NHS	£9,619.00
Off-Site Play Area	£24,700
River Mease DCS	£5,231.00
Total	£157,034

The District Valuer concludes that a scheme with full or 15% affordable housing provision would not be viable but that a scheme with no affordable housing and the requested developer contributions would be viable.

The applicant has advised that they are willing to make all of the requested contributions totalling £157,034, with the exception of affordable housing. It is therefore necessary to consider whether a scheme offering £157,034 would represent sustainable development.

Paragraph 7 of the NPPF provides support for the social role of planning and states that *"a social role - supporting 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, with accessible local services that reflect the community's needs and support its health, social and cultural well-being"*.

Whilst it is noted that some schemes will be acceptable without any affordable housing on site (or any off-site contribution) it is necessary to have regard to the particular circumstances of each application. Clearly the absence of an affordable housing contribution would fail to comply with the provisions of the District Council's Affordable Housing SPD which seeks to secure a minimum 30% on-site provision from new housing development in the Measham area.

In terms of the impacts of the non-provision of affordable housing, the 2014 Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) indicates that there is a significant requirement for new housing within the County and that Councils are justified in seeking to secure additional affordable housing. The SHMA estimates that that the level of affordable housing provision within the District required to meet the identified need is at least 209 new affordable dwellings per annum. In the years 2010/11, 2011/12 and 2012/13, the numbers of affordable houses built in the District were 42, 57 and 82 respectively, representing approximately 25% of all dwellings completed and, therefore, even at current levels of provision, and notwithstanding the increase in 2012/13, the housing needs of many people within the District are not being met, and not securing a contribution in this instance would not assist.

A lack of affordable housing in the District would be likely to impact upon some of the most vulnerable people within the District and has the potential to increase the number of homelessness cases. However, this needs to be balanced against the Government's support for Local Planning Authorities taking a proportionate approach to developer contributions and viability (and as indicated in paragraph 173 of the NPPF) so as to enable development to come forward to meet market (if not affordable) housing needs, and the need to consider the potentially harmful impact on other service areas were the shortfall in viability to be addressed by way of reductions in contributions to other areas of infrastructure.

As set out above, the NPPF contains a presumption in favour of sustainable development, the dimensions of which include a social dimension, with the planning system's role being to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. It is considered that, in this sense, the scheme would not perform well. On balance, however, given that the applicants have been able to demonstrate to the District Valuer's satisfaction that no affordable housing contribution could be provided from a viability point of view, and they are now making the full requested contributions to other service areas including health and education, it is considered that the omission of affordable housing would not be unacceptable in this case, and when balanced against all other viability considerations and other aspects of sustainable development.

The required Section 106 Agreement should require periodic reviews of the economic viability of the scheme to be undertaken during the course of the development with a view to increasing the required developer contributions in the event of the profitability of the scheme improving.

Other Matters

The two mature trees and hedgerow on the eastern boundary would be retained and other than two parking spaces, development would be outside their Root Protection Areas. The trees are far enough away from main garden areas and main windows to minimise compatibility issues. Any overhanging branches from the woodland to the west would only affect garden areas and

significant buffer would be retained between the dwellings and these trees. The Tree Officer has no objections subject to conditions.

The County Archaeologist advises that he does not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets and therefore advises that the application warrants no further archaeological action.

The site lies within an area previously part of an open cast mine and is within the Coal Authority's Development High Risk Area. A Mining Assessment has been submitted with the application and the Coal Authority advises the remedial measures proposed, which have been identified following intrusive site investigations, are appropriate to address the coal mining legacy issues present on the application site. The Coal Authority therefore has no objection subject to a condition to secure these mitigation measures.

In relation to contaminated land, due to the findings of the Phase 1 Assessment and the Phase 2 Ground Investigations, the Environmental Protection team recommend the imposition of conditions relating to remedial measures and a verification plan and investigation.

The site lies very close to the proposed route of HS2. Any potential adverse effects on future residents would be expected to be limited due to mitigation measures to be included in the HS2 design having regard to the need to protect other nearby dwellings. The scheme also includes acoustic glazing to some dwellings to minimise noise from the A42. Putting the potential for noise nuisance to future residents to one side, however, it is considered that only limited weight can be attributed to HS2 as a material planning consideration at this stage in HS2's development. The Government is currently consulting on the proposed Phase 2 (i.e. West Midlands to Manchester and Leeds) connections, and the route is not fixed at this time; Phase 2 is not currently subject to the safeguarding mechanism which applies to the Phase 1 (London to West Midlands) section.

Conclusion

The site lies within Limits to Development and is greenfield land. The proposal would contribute to maintaining a five year housing land supply and is in a sustainable location for new housing as it well related to a good range of services and facilities. Taking this into account it is considered that the principle of residential development on the site is acceptable.

The proposed development would be acceptable in terms of density, layout and design and impacts on the character of the area, residential amenities of existing residents, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI. A reason for refusal relating to impact on future residents from noise from the A42 can no longer be justified. It is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

A viability appraisal has been submitted by the applicants to demonstrate that the scheme would not be viable with affordable housing requirements. The submitted report indicates that the proposal would result in additional exceptional costs not taken into account in the base build rates, including works required to due to the site being part of former opencast mines and that the site is made up of opencast backfill, off-site highway works and the provision of acoustic glazing. This has been independently assessed by the District Valuer and they confirm that a scheme with no affordable housing provision and full developer contributions of £157,034 would be viable and the developer has agreed to pay the full amount of these contributions, which is considered appropriate in this case.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT, subject to the signing of a Section 106 Agreement and the following condition(s):

(subject to no contrary observations by 20 August 2014)

- 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 strictly in accordance with the following schedule of plans unless otherwise required by a condition of this permission:

- Drawing No. 2064/01 (Location Plan) received by the Authority on 22 July 2013;
- Drawing No. 2064/02 (Topological Survey) received by the Authority on 22 July 2013;
- Drawing No. 2064/03 Rev.L (Proposed Site Layout) received by the Authority on 28 March 2014;
- Drawing No. 2064/19 Rev.A (Street Scene) received by the Authority on 28 March 2014;
- Drawing No. 2064/29 Rev.B (House Type Dendale Plot 2) received by the Authority on 28 March 2014;
- Drawing No. 2064/30 Rev.A (House Type Dendale Plot 3) received by the Authority on 28 March 2014;
- Drawing No. 2064/22 Rev.B (House Type Coach House 1 Plot 4) received by the Authority on 28 March 2014;
- Drawing No. 2064/24 Rev.B (House Type Appleton Plot 7) received by the Authority on 28 March 2014;
- Drawing No. 2064/25 Rev.A (House Type Appleton Plot 8) received by the Authority on 28 March 2014;
- Drawing No. 2064/21 Rev.B (House Type Coach House 2 Plot 11) received by the Authority on 28 March 2014;
- Drawing No. 2064/34 Rev.B (House Type 1135 Plots 12 and 13) received by the Authority on 28 March 2014;
- Drawing No. 2064/31 Rev.B (House Type Dendale Plot 14) received by the Authority on 28 March 2014;
- Drawing No. 2064/32 Rev.A (House Type Dendale Plot 19) received by the Authority on 28 March 2014;
- Drawing No. 2064/33 Rev.A (House Type 1110 Plot 20) received by the Authority on 28 March 2014;
- Drawing No. 2064/28 Rev.B (House Type Dendale Special Plot 1) received by the Authority on 28 March 2014;
- Drawing No. 2064/23 Rev.A (House Type Appleton Plots 5 7 6) received by the Authority on 28 March 2014;
- Drawing No. 2064/26 Rev.B (House Type Appleton Plots 9 & 10) received by the Authority on 28 March 2014;

- Authority on 28 March 2014;
- Drawing No. 2064/27 Rev.B (House Type Appleton Plots 15-18) received by the Authority on 28 March 2014.

Reason- To determine the scope of this permission.

- 3 No development shall commence on site until such time as drainage plans for the disposal of foul drainage have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To ensure that the development provides a satisfactory means of drainage to reduce the risk of creating, or exacerbating any existing, flooding problem and to minimise the risk of pollution.

- 4 No development shall commence on site until such time as the detailed design of the surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the utilisation of holding sustainable drainage techniques with the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

- 5 The development hereby approved shall only use the mains sewer system 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.

- 6 No development shall commence on site until such time as precise details of the finished ground levels on the site and the finished floor levels of the buildings in relation to an existing datum point have been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason: to ensure a satisfactory relationship with the adjacent dwellings, as insufficient details have been provided.

- 7 No development shall commence on site until details/samples (as appropriate) of the:-
- i. render, bricks, brick bond, and mortar;
 - ii. roofing materials;

- iii. rain water goods;
- iv. windows and doors (including heads and cills);
- v. porches and door surrounds;
- vi. chimneys;
- vii. eaves, verges and mid-course details;
- viii. positioning and treatment of utility boxes to individual units;
- ix. any other external materials

have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed materials and details.

Reason - In the interests of visual amenities and to enable the Local Planning Authority to retain control over the external appearance as precise details have not been submitted.

- 8 Notwithstanding the provisions of Part 1 of Schedule 2, Article 3, of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order) no window or opening (other than that which may be shown on the approved drawings) shall be formed in the following elevations unless planning permission has first been granted by the Local Planning Authority:

- the first floor of the eastern elevation of Plot 3;
- the first floor of the southern elevations of Plots 8 and 9;
- the first floor of the northern elevations of Plots 7 and 8;
- the first floor of the eastern elevations of Plots 18, 19 and 20.

Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.

- 9 The first floor bathroom windows in the western elevation of Plot 3 and the eastern elevations of Plots 18 and 19 and the first floor landing window in the eastern elevation of Plot 3 shall be glazed with obscure glass (to at least Pilkington Level 3 or its equivalent) and have top opening lights only, which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority:

Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.

- 10 Notwithstanding the provisions of Part 1 (Classes A, B and E) of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) Plots 19 and 20 hereby permitted shall not be enlarged, improved or altered nor shall any building, enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be erected within their curtilages unless planning permission has first been granted by the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain control over future development in view of the relationship of these properties to an existing dwelling and in the interests of visual amenities.

- 11 Notwithstanding the submitted plans, none of the dwellings hereby approved shall be occupied until full details of both hard and soft landscaping works and boundary treatments have first been submitted to and approved in writing by the Local Planning

Authority. These details shall include:

- a) Means of enclosure and boundary treatments to and within the site;
- b) Hard surfacing materials;
- c) Details of soft landscaping including schedules of plant species, plant sizes, planting plans and proposed numbers/densities where appropriate;
- d) An implementation programme for the hard and soft landscaping and boundary treatments.

Reason- in the interests of visual amenities.

- 12 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

Reason- to provide a reasonable period for the replacement of any trees.

- 13 No development shall commence on site until such time as protective fencing in accordance with Figure 2 of BS: 5837: 2012 (Trees in Relation to Design, Demolition and Construction) has been erected to the root protection areas (RPAs) of trees TA(B) and TC(B) located on the site's eastern boundary as shown on Drawing No. NSM 02 (Tree Protection Plan). The protective fencing shall remain in place until all construction works are complete.

Reason - in the interest of health and safety and the amenity value of the trees.

- 14 No development shall commence in respect of the parking spaces to Plot 18 until such time as a design and method statement for these works including details of changes to ground levels and arboricultural surface requirements have been submitted to and agreed in writing by the Local Planning Authority. All works to these parking spaces shall be carried out in accordance with the agreed design and method statement.

Reason - in the interest of health and safety and amenity value of the trees.

- 15 There shall be no storage of materials, plant, skips, equipment and/or other items associated with the development hereby approved, mixing of materials, vehicular movements or fires or other ancillary works associated within the area bounded by the protective fencing to the two trees located on the site's eastern boundary.

Reason - in the interest of health and safety and the amenity value of the trees.

- 16 If no development has commenced on site within three years of the date of this decision, then no further development shall commence until a further survey of the site for badgers and any mitigation measures (including a timescale for their implementation) if badgers are found has been undertaken and submitted to and agreed in writing by the Local Planning Authority. The mitigation measures shall be undertaken in accordance with the agreed details and timescale.

Reason- to prevent an adverse impact on badgers which are a protected species.

- 17 Prior to the erection of any external lighting to the access road, turning space and shared parking areas to Plots 3, 4, 5, 8, 10, 11, 17 and 18, details of the lighting scheme shall be submitted to and agreed in writing by the Local Planning Authority. The external lighting shall be provided in accordance with the agreed scheme and shall thereafter be so retained.

Reason: to prevent light spill towards trees/vegetation in the interests of bats.

- 18 None of the dwellings hereby permitted shall be occupied until the access road (including hard surfacing for the first five metres from its junction with New Street), visibility splays, footways either side of the new access including the link to the existing footway in an easterly direction along the northern side of New Street, turning space within the site and traffic calming measures to New Street (removal of splitter island and road markings, provision of ghost island, two sets of triple speed cushions, new road markings and repositioning of the 30mph speed limit) have been provided in full in accordance with the details shown on Drawing No. 2064/03 Rev. L (Proposed Site Layout), with the access road having a minimum carriageway width of 4.8 metres for its first 20 metres from its junction with New Street and 6 metre radii where it intersects with New Street. Once provided the traffic calming measures, access road, footways, turning space and visibility splays shall thereafter be so retained and the visibility splays shall be kept clear of all obstructions exceeding 0.6 metres above ground level.

Reason: To provide a safe vehicular and pedestrian access to the development; to ensure vehicles can turn within the site; To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 19 The car parking (including garage spaces) shown within the curtilage of each dwelling shall be provided, hard surfaced and made available for use before the dwelling is first occupied and shall thereafter be permanently so maintained for such use.

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.

- 20 The car parking spaces to serve No. 44 New Street shall be provided in accordance with the details shown on Drawing No. 2064/03 Rev.L (Proposed Site Layout), hard surfaced and made available for use before any of the dwellings hereby approved are first occupied and shall thereafter be permanently so maintained for such use.

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

- 21 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users.

- 22 No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in

writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.

- 23 Before first occupation of any dwelling hereby approved, its access drive and parking spaces shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres from its junction with the access road and shall be so maintained at all times.

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

- 24 No development shall commence on site until such time as a Remedial Scheme and a Verification Plan for the remedial measures outlined in Georisk Management Phase II Ground Investigation -Residential Development, New Street, Measham (Report No: 12160/1; Date: May 2014) has been prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:
- o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

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

The development shall be carried out in accordance with the agreed Remedial Scheme and Verification Plan and retained as such in perpetuity.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and retained as such in perpetuity.

The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- o BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
- o BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
- o BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and

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

Reason: To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF; To ensure that the land is, or can be made, safe and stable for the proposed development due to the risk from its coal mining history.

- 25 Prior to occupation of any part of the development hereby approved, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- o Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - o Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - o 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;
 - o Contain Test Certificates of imported material to show that it is suitable for its proposed use;
 - o Demonstrate the effectiveness of the approved Remedial Scheme; and
 - o 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 and to accord with the aims and objectives of paragraph 120 of the NPPF; To ensure that the land is, or can be made, safe and stable for the proposed development due to the risk from its coal mining history.

- 26 No development shall commence on site until such time as precise details of the double glazing and alternative ventilation systems to the living rooms and bedrooms of each dwelling (to ensure that each room achieves an internal noise level of between 30 dB LAeq and 45 dB LAmax) has been submitted to and agreed in writing by the Local Planning Authority. The agreed double glazing and alternative ventilation systems shall be installed to each dwelling before the dwelling is first occupied and shall thereafter be so retained in perpetuity.

Reason- to ensure the site is suitable for occupation by future residents without resulting in significant noise and disturbance from the A42.

- 27 Before first occupation of each of the dwellings on Plots 5, 6, 7, 8, 9 and 10, 1.8 metre high close boarded fencing shall be erected to the rear boundary of each plot as shown on Drawing No. 2064/03 Rev. L (Proposed Site Layout) and shall thereafter be so retained in perpetuity.

Reason- to ensure the site is suitable for occupation by future residents without resulting in significant noise and disturbance from the A42.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through engagement with the applicant during the application 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 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
 - 3 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
 - 4 This decision is subject to a Section 106 Obligation regarding the following matters:
 - Contribution towards education
 - Contribution towards healthcare facilities
 - Contribution under River Mease DCS
 - Contribution to nearby play area.
 - 5 The layout as shown in Drawing No. 2064/03 Rev.L is not considered to be acceptable to be adopted by the highway authority, due to a number of features including lack of tracking of a large refuse vehicle and forward visibility around the 90 degree bend, lack of tracking at the turning head, carriageway width of 4.5m and substandard size of parking spaces.
 - 6 The proposal is situated in excess of 45 metres from the highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
 - 7 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001)
 - 8 You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
 - 9 The proposed road does not conform to an acceptable standard for adoption and therefore it will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by (all) the private road(s) within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see www.leics.gov.uk/htd or phone 0116 3057198. Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it. Details of the future maintenance of the private road should be submitted for the approval of the LPA before any dwelling is occupied.
 - 10 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

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Demolition of existing buildings and erection of 7 new affordable dwellings, including access and parking arrangements and parking for No. 6 Queen's Street.

Report Item No
A4

Land At 6 Queens Street Measham Swadlincote Derbys

Application Reference
13/00969/FUL

Applicant:
Waterloo Housing Group

Date Registered
6 December 2013

Case Officer:
Hannah Exley

Target Decision Date
31 January 2014

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

This application was deferred at the April meeting of the Planning Committee to allow officers to look into matters raised by local residents about the northern boundary of the site, impacts on neighbouring residential amenities, drainage and access arrangements. These matters, along with others raised by local residents have been reviewed and amended plans secured and the application is now reported back to Members.

Proposal

Approval is sought for the erection of seven affordable dwellings on 0.2 of a hectare of overgrown land located to the north east of Queens Street. The site is a linear strip of land extending from the rear of properties fronting High Street to the rear of properties off Queens Street which back onto Oak Close. There is a topographical fall across the site from east to west.

The proposal includes 2 x 3 bed units and 5 x 2 bed units which would all be two-storey and comprise three semi-detached pairs and one detached dwelling. Access to the site would be gained via a new vehicular access located between No's 4 and 6 Queens Street. The proposal would require the demolition of existing single storey outbuildings located towards to eastern end of the site.

Consultations

With respect to the previous scheme, a total of 12 letters of objections were received from members of the public and Measham Parish Council raised objection to the proposal. No other objections were received from statutory consultees.

With respect to the amended scheme, a total of 6 letters of objections have been received from members of the public and Measham Parish Council comments were awaited at the time of writing this report. No other objections have been received from statutory consultees.

Planning Policy

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

The eastern tip of the site lies within the Measham Conservation Area and a protected Beech Tree occupies the northern boundary of the site. The whole site lies within the catchment of the River Mease Special Area of Conservation and SSSI.

Conclusions

The site is located within the Limits to Development where residential development is acceptable in principle. The site is in a sustainable location and the density is considered appropriate. The site is of sufficient size to enable the site to be developed as proposed without adversely affecting neighbouring amenities, highway safety, the character of the area, protected trees or heritage assets. The proposal is considered unlikely to adversely affect protected species and 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. There are no other relevant material planning considerations that indicate planning

permission should not be granted. The proposed development accords with the above-mentioned planning policies, and it is, therefore, recommended that planning permission be granted subject to Section 106 obligations and relevant planning conditions.

RECOMMENDATION - PERMIT, APPROVE SUBJECT TO SECTION 106 OBLIGATIONS AND THE IMPOSITION OF CONDITIONS

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

MAIN REPORT

1. Proposals and Background

Approval is sought for the erection of seven affordable dwellings on 0.2 of a hectare of overgrown land located to the north east of Queens Street. The site is a linear strip of land extending from the rear of properties fronting High Street to the rear of properties off Queens Street which back onto Oak Close. There is a topographical fall across the site from east to west.

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The eastern tip of the site lies within the Measham Conservation Area. The whole site is within the catchment of the River Mease Special Area of Conservation and SSSI.

Since the application was previously reported to Members, two sets of amended plans have been received, which have sought to respond to the comments raised by local residents. The main differences between the current proposal and that previously considered by Members are as follows:

- the dwellings proposed on plots 1-3 are now a minimum of 2.25m from the base of the boundary hedge (centre line of the hedge as taken from the topographical plan) which provides a strip of land outside of domestic curtilages from where the existing hedgerow along the northern boundary can be maintained;
- the dwelling on plot 3 has been moved further away from the northern boundary by approximately 1.3m and has been shifted further south on the plot by approximately 1.25m; this increases the distance to the boundary and moves it further away from Orchard House particularly the habitable room windows;
- the amendments to the siting of the dwelling on plot 3 has required one parking space to be relocated to the front of the plot and additional landscaping and a tree are proposed to prevent parking from dominating the entrance to the site;
- the dwellings on plots 1 and 2 have a reduced roof pitch with the result that the overall ridge heights have been reduced by 600mm without significantly affecting the appearance of the scheme;
- the dwelling on plot 3 has a reduced roof pitch so that the ridge height is lowered by 450mm;
- parking in front of No.6 Queens Street has been relocated to ensure sufficient space is available for turning manoeuvres into/out of the spaces;
- a cross sectional drawing has been provided to show how the land adjacent to No.4 Queens Street will be retained;
- additional drainage information has been provided.

The application submission was accompanied by the following supporting documents:

- Phase 1 and 2 Geo-environmental Assessment by Ivy House Environmental (dated November 2013);
- Highways Impact Statement by Bancroft Consulting (dated September 2013);
- Flood Risk Assessment by Sustainable Drainage Centre (undated);
- Bio-diversity Report by Curious Ecologists (dated October 2013);
- Tree Survey and Tree Protection Plan by Curious Ecologists (dated October 2013);
- Design and Access Statement including River Mease and Heritage Statements (dated

- September 2013);
- Building Condition Survey by Samson Hamilton and Co (dated October 2013).

Planning History:

Outline planning permission was granted for five dwellings on the same piece of land under application 11/00378/OUT. This application included an indicative layout for five units but these details were not permitted by the outline permission, as only details of access were included for consideration at the outline stage.

2. Publicity

29 No neighbours have been notified.(Date of last notification 03 February 2014)

Site Notice displayed 7 January 2014

Press Notice published 8 January 2014

3. Consultations

Measham Parish Council consulted 17 December 2013
 NWLDC Tree Officer consulted 25 March 2014
 County Highway Authority consulted 7 April 2014
 Severn Trent Water Limited consulted 3 July 2014
 LCC Fire and Rescue consulted 11 March 2014
 Severn Trent Water Limited consulted 14 May 2014
 LCC ecology consulted 14 May 2014
 Environment Agency consulted 17 December 2013
 Head of Environmental Protection consulted 17 December 2013
 Natural England consulted 17 December 2013
 County Archaeologist consulted 17 December 2013
 NWLDC Conservation Officer consulted 17 December 2013
 English Heritage- Grade I/II* LB Setting consulted 17 December 2013
 Manager Of Housing North West Leicestershire District Council consulted 17 December 2013

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.

Measham Parish Council advise that they strongly object to this proposal on the access.

'Members feel that the access to the proposed site is totally inadequate for the development and is currently used by residents of Queens Street to park their vehicles as there is not enough provision in the area for the current amount of properties with vehicles. The whole length of Queens Street suffers from excessive traffic movement, with vehicles double parked, making access to and from the area difficult and which would worsen should the development be permitted.'

With respect to the first set of amended plans Measham Parish Council request that their previous comments and associated photographs remain applicable to the revised drawings and these have not been addressed. An additional concern is raised about the implications of the development for the structural stability of No.4 Queens Street. It is requested that the photographs which the Parish Council believes provides a true representation of the access be presented to Members.

No additional comments have been received with respect to the second set of amended plans.

County Archaeologist has no objections subject to conditions.

English Heritage advise that the archaeological potential of the site is not fully considered and therefore, archaeological advice should be sought in relation to the potential impacts of this scheme, mitigation and the treatment of undesignated archaeological remains.

Natural England has no objections subject to compliance with the developer contributions scheme and subject to standing advice on protected species

County Highways Authority has no objections subject to conditions.

County Ecologist has no objections subject to a condition requiring site clearance outside the bird-nesting season in line with the advice of the consulting ecologist.

The County Ecologist has been reconsulted following concerns about the impact of the development on a hedgerow and the adequacy of the bat survey. The advice provided is that previous comments still stand.

NWLDC Environmental Protection has no environmental observations.

NWLDC Strategic Housing Team advises that the mix of properties meets an identified need within the village.

Environment Agency has no comments to make.

Severn Trent Water Ltd no comments received.

LCC Fire and Rescue Service advises that access and facilities for the fire and rescue service are covered by Building Regulations. **Building Control** advise that the development appears to be compliant with Section B5 of Approved Document of the Building Regulations.

Third Party Representations:

12 letters of neighbour representation were received from the occupiers of eight properties, raising objections on the following grounds:

- the Beech tree on the site is protected by a TPO and the proposal encroaches into the 12m root protection area of the tree on three occasions;
- the proposal to reduce the crown on the protected tree is contrary to arboricultural advice previously sought by a neighbour;
- no protection fencing is shown around the root protection area of the Beech tree on the plans;
- the site has been cleared contrary to the conditions on the previous planning permission and damage has occurred to the protected tree;
- the proposal increases the number of units from 5 to 7;
- plot 1/2 and the terraced area behind would allow overlooking of the neighbouring properties and their garden areas due to proposed land levels being higher on the application site than the neighbouring properties;
- the close proximity and height of plot 2 in relation to Orchard House will result in overshadowing of this property;
- the existing hedgerows bordering the site should be retained and protected and any fencing and retaining walls should be clear of the root protection area hedgerow;

- the existing hedgerows should be retained for wildlife;
- difficulties maintaining existing hedgerow which will be in the rear garden of the proposed dwellings;
- concern about how surface water run-off will be dealt with;
- plot 3 is too close to the boundary and at a higher land level resulting in overshadowing/overlooking of the neighbouring dwelling and its patio area;
- overlooking of The Dairy Farm (No.70-72 High Street);
- effect on views from neighbouring properties which currently look out onto a green area;
- confusion about which buildings are to be demolished and where a new wall is to be erected to the rear of plots 6 and 7;
- there is asbestos in the agricultural building which adjoins one of the buildings to be demolished;
- the application now includes land and buildings that are within the Conservation Area;
- resident concerns raised about traffic, parking and dangers to pedestrians in relation to the previous scheme for 5 dwellings would only be made worse by the proposed increase in the number of dwellings;
- the site entrance is close to the village hall which is used for pre-school playgroup, dance classes as well as being used by interest groups and for parties which generate vehicular and pedestrian traffic and associated on-street parking;
- additional traffic entering and leaving the proposal development would present a danger at an already congested point for vehicles and pedestrians;
- increased traffic on Queens Street and difficult vehicle access to the site which is likely to pose a danger to both motorists and pedestrians, particularly where the spur of Queens Street joins the main part of Queens Street;
- the bio-diversity survey fails to identify the known presence of bats within the site and the survey has been undertaken at an inappropriate time of year;
- concern about whether the program of inspection at the time of demolition will provide adequate protection for protected species;
- concern about whether land level changes and the close proximity of the access to No.4 Queens Street will undermine the foundations of the dwelling and boundary wall;
- lack of pedestrian access into the site;
- parking for No.6 Queens Street would be difficult to negotiate and likely that parked vehicles in the location would overhang the proposed access drive and block access/egress to/from the site;
- provision of parking for No.6 Queens Street is not enough to avoid problems for residents and parking should be provided for other existing residents;
- vehicle parking to the front of properties would be out of keeping with the area;
- lack of information about the drainage of storm and rainwater, and how foul drainage will be dealt with;
- impact on neighbouring boundaries;
- concern about flooding of properties on Oaks Close;
- concern that the site address has changed;
- loss of property value.

Following the submission of the first set of amended plans, four additional letters of neighbour representation have been received from two properties, raising objection on the following grounds:

- parts of the development run over the hedgerow along the northern boundary and no consideration has been given to its root protection area;
- objection to plot 3 - single storey dwelling would address concerns;
- objection to plots 1 and 2 - single storey dwelling would address concerns;
- concern about raised ground levels within the root protection zone for the hedgerow

- along the northern boundary;
- overlooking of Orchard House and amenity areas resulting in a loss of privacy;
- overshadowing of Orchard House and loss of light to habitable room windows at Orchard House;
- illustrative streetscene for plot 3 is incorrect when having regard to land levels at Orchard House;
- concern about impacts on an apple tree within the garden of Orchard House;
- concern about whether the bat survey was carried out correctly;
- concern about the drainage proposals and the location of the sewer pumping station close to the boundary with Orchard House which will not be accepted by Severn Trent Water;
- the soakaway plans do not take into consideration the water from the road;
- the layout is not acceptable and compromises a protected beech tree;
- parking for plot 7 is too remote from the plot and will result in residents parking under the protected beech tree;
- parking for plot 3 is too remote from the plot;
- parking to plot 6 blocks access to the gardens of plots 5 and 6 and is bounded by dwellings would make it impossible to open car doors when parked in these spaces;
- the design of the proposal is not compliant with Building for Life 12 or the NPPF;
- the previous permission on the site required the number of units on the site to be reduced to 5 to meet the necessary requirements;
- plot 7 and a sewer drain are too close to the boundary and will cause damage to a neighbouring structure;
- the removal of buildings on the site could affect the safety of neighbouring agricultural buildings;
- plots 6 and 7 encroach into the root protection zone of a protected beech tree;

Following the submission of the second set of amended plans, two additional letters of neighbour representation have been received from one property, raising objection on the following grounds:

- inadequate publicity of application;
- inadequate elevation details;
- inability to discuss amended drawings at a Parish meeting;
- the layout doesn't work;
- overshadowing of Orchard House and its windows by plot 3;
- plot 3 should be single storey or removed from the scheme;
- the height of plot 3 is unknown;
- no overshadowing calculations have been provided;
- plot 2 is less than 22m away from Orchard House contrary to guidelines;
- overlooking of Orchard House and garden area from plot 2;
- overshadowing/overbearing impact of plot 2 on Orchard House;
- window to window distances are less than 14m contrary to Development Guidelines;
- back to back distances are less than 22m contrary to Development Guidelines;
- garden lengths and garden areas do not accord with Development Guidelines;
- remote parking for plot 7;
- parking for plot 6 impedes pedestrian access to the rear of properties and is too narrow for use;
- inadequate turning within the site for residents and service vehicles and a lack of footways for pedestrians;
- the development does not comply with the County Council's 6C's highway document;
- the strip of land adjacent to the hedgerow is accessible by anyone and be entered and used to get the rear of properties without being seen creating opportunities for

- vandalism, trespass and criminal activity;
- plan lacks details about boundary treatments;
- a continuous fence should be erected along the length of the northern boundary;
- plots 1 and 2 should be single storey;
- access is unsuitable for refuse/delivery vehicles;
- inadequate turning for parking to plots 7 and 4;
- there are bats around this area and the bat survey is out of date;
- a smaller development of single storey dwellings would be more appropriate for this site;
- the design and access statement is incorrect and misleading;
- the amendments have exacerbated the original poor design and are not sufficient to address previous concerns about overshadowing and overlooking and shadow plans confirm this;
- the proposal would be contrary to policies of the Local Plan;
- overlooking of The Fallows;
- the applicant does not intend to install the solar panels;
- highways statement accompanying the application draws comparisons with sites that are not comparable and therefore, the conclusions reached with respect to parking and turning are not relevant to this site;
- the trees shown on the layout are not shown on the engineering plan and are not appropriately sited in relation to drainage infrastructure, boundaries and a neighbouring property;
- the sewage pump is too close to Orchard House and outdoor eating areas.

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:

- o approve development proposals that accord with statutory plans without delay; and
- o 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:

- be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- 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 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 indicates, amongst other things, that planning should proactively drive and support sustainable economic development to deliver the 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 for all existing and future occupants of land and buildings;

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 49 outlines that 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;

Paragraph 53 outlines local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area;

Paragraph 57 outlines that 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;

Paragraph 60 outlines that planning policies and decisions should not impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness;

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 64 outlines 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;

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

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 120 outlines that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account;

Paragraph 121 outlines that planning policies and decisions should also ensure that, amongst other things:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;

Paragraph 123 outlines that planning policies and decisions should aim to avoid noise from giving rise too significant adverse impacts on health and quality of life as a result of new development;

Paragraph 131 advises that 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.

Paragraph 132 of the NPPF provides 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 provides 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 135 indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing

applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset;

Paragraph 173 states that 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 the 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 normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable;

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The NPPG does not change National Policy but provides practical guidance as to how such policies should be applied.

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

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

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

under Policy F1.

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

Policy 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.

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 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).

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

Circular 06/05 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.

The River Mease Developer Contributions Scheme - November 2012:

The Developer Contribution Scheme (DCS) 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:

The 2010 Regulations provide 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.

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

Except where highlighted in bold, the assessment section of the report below remains as per the report previously reported to Members at the April meeting of the Planning Committee.

Principle and Sustainability:

The site is located within the limits to development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted, which reflects the urban concentration and sustainability objectives underpinning national policies. These are outlined as criteria (a) to (f) and the application site would fall within criterion (e) other appropriate land within a Rural Centre. The second section of the policy goes on to outline a set of criteria relating to the sustainability of the location.

However, policy H4/1 represents a policy relating to the supply of housing and, as such, its relevance also needs to be considered in the context of Paragraph 49 of the NPPF which states 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. As the Council cannot at the current time demonstrate a five year supply of deliverable housing sites (currently 4.7 years) it could not rely on Policy H4/1 as a reason for refusal. Regardless of this issue the sustainability credentials of the scheme would still need to be assessed against the NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Measham benefits from a range of local services and is readily accessible via public transport. The proposal for the erection of seven new residential dwellings is, therefore, considered to score well against the sustainability advice in the NPPF.

Paragraph 53 of the NPPF outlines that inappropriate development of residential gardens should be resisted where there is the potential that development would cause harm to the local area. The site was last used as garden land, which is excluded from the definition of previously developed land set out in the NPPF, and therefore effectively constitutes a greenfield site. Whilst the aims of the NPPF would be to direct new development to previously developed sites (brownfield) it is considered that the development of this garden land would not have an adverse impact on the character of the surrounding area. In the circumstances that the site is not a protected open space or countryside, and the fact that residential development exists to all boundaries of the site, the development would not have an adverse impact on the character of

the surrounding area. In any case the sustainability of the sites location would outweigh any arguments which relate to the loss of this small greenfield site.

Housing Density:

Policy H6 of the Local Plan 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. The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances.

With a site area of 0.2 hectares, the proposal would have a density of 35 dwellings per hectare. When having regard to the location of the site within the historic core of the settlement where densities are typically higher but also accepting that the site abuts more modern development on Queen's Street and Oak Close where densities are generally lower, it is considered that the proposed density is appropriate in this case. Therefore, the scheme is considered to be acceptable in relation to the advice contained in Policy H6 of the Local Plan and the advice in the NPPF.

Design and Character of the Area:

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.

The application site is a sloping piece of land located to the rear of commercial and residential properties fronting High Street. To the north, south and west, the site is surrounded by residential development, including a residential care home immediately to the south of the site. Within the historic core of the settlement, development is predominantly characterised by traditional two-storey brick and rendered properties located toward the front of plots with boundaries well defined and with buildings that are well detailed with strong chimneys, window and brick detailing, and generally well-proportioned buildings. These buildings lie within the Conservation Area and are identified as making a positive contribution to the character of the settlement. To the north, south and east of the immediate site are buildings of modern form and construction of varied styles, which lack an overall cohesiveness and do not draw on the positive characteristics of the settlement.

Comments have been raised by local residents about the adequacy of the design of the scheme, which they consider is not compliant with Building for Life 12. Notwithstanding that Building for Life is normally applied to scheme of 10 dwellings or more, the following design comments as previously reported to Members are still considered relevant.

The application proposal comprises two-storey properties of brick and tile construction with casement windows and chimney detailing, which reflects more the form and appearance of buildings within the historic core than the modern development that abuts the site. It is considered that it is an appropriate approach for the historic core to be used to inform the development of the application site. Subject to conditions to control detailed elements of the scheme along with details of the treatment of landscaping and boundaries, the proposal would comply with the policies E4 and H7 of the Local Plan and the advice contained in the NPPF.

Impact on Heritage Assets:

English Heritage has advised that the site has archaeological potential and that archaeological

advice should be sought. The Leicestershire and Rutland Historic Environment Record (HER) notes that the application site lies within the medieval and post-medieval historic settlement core of Measham (HER ref.: MLE9000), this represents the area within which it is anticipated that archaeological evidence of the origins, settlement and occupation of Measham will be preserved. The site also lies in close proximity to the medieval 14th century parish church of St Lawrence, a grade II (star) listed building and designated heritage asset; the church is often situated within the heart of the settlement and tends to act as a focus for more intensive activity to that location. The County Archaeologist has advised that examination of the historic mapping suggests that the site has not been occupied by any recorded structure, although aerial photographs suggest the former presence of garden features (paths, beds, etc.). Given the absence of significant development of the site, the County Archaeologist considers that, it is likely that any surviving archaeological remains will be reasonably well preserved.

In accordance with National Planning Policy Framework (NPPF), paragraph 129, an assessment of the submitted development details and the particular archaeological interest of the site, has indicated that the proposals are likely to have a detrimental impact upon any heritage assets present. NPPF paragraph 141, states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development. Therefore, the County Archaeologist recommends that an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording will be required. Subject to the imposition of appropriately worded conditions to safeguard any archaeological remains potentially present, the County Archaeologist raised no objection to the proposal.

The western edge of the Conservation Area (at the point of the application site) is marked by brick buildings which are proposed to be demolished as part of the application proposals. The properties fronting High Street which back onto the site are identified within the Conservation Area Study Document as unlisted buildings of interest that make a positive contribution to the Conservation Area and therefore, are non-designated heritage assets. The buildings to be demolished, although located to the rear of these properties are not awarded any particular designation within the Study Document. The existing rear boundary to the nearest property fronting High Street is occupied by a 1.8m screen wall and this is to be retained as part of the proposals and would form the eastern boundary of the site.

The buildings to be demolished are not afforded any designation within the Conservation Area Study Document, and neither English Heritage nor the Conservation Officer have raised any objection to this element of the proposal and therefore, it is not considered that the removal of the buildings would adversely affect the character and appearance of the Conservation Area as a heritage asset.

The proposed development on the site would just encroach into the Conservation Area and would be visible from the rear of properties fronting High Street. Glimpses of the site are also available from the Conservation Area at the eastern end of Queen Street between existing developments. However, due to a drop in levels, these views would be of the upper half/ roof space of the development. When having regard to the scale, form and detailing of the proposed units, along with existing neighbouring development, it is not considered that the proposal would be detrimental to the character or appearance of the Conservation Area or its setting, or to that of buildings which contribute positively to it.

The proposal would not involve substantial harm to or a total loss of significance of a designated heritage asset and features/buildings identified as making a positive contribution to the

character and appearance of the Conservation Area would be retained. It is considered that the proposal amounts to less than substantial harm to the significance of heritage assets, thereby sustaining the significance of this designated heritage asset. In terms of public benefits, the scheme would provide much needed social housing, and therefore, the proposal would accord with the provisions of the NPPF.

Impact on Residential Amenities:

The properties that would be most immediately affected by the proposed development would be Orchard House to the north, Queensway House and No.s 4 and 6 Queens Street to the south. To the west lies No.20 Queens Street and Windyridge and to the east are properties fronting High Street, which also need to be considered.

The properties fronting High Street are a mix of commercial and residential uses, and although the nearest proposed dwellings would be 6m from the site boundary with windows facing the rear of these properties, there is a 10m strip of left over ground to the rear of No.64 which is in commercial use, which provides an additional buffer between the site and the nearest residential units to the north east of the site at No.s 70-72 High Street. When having regard to the distances involved and the relationship between the proposed and existing dwellings, it is not considered that there would be any significant overbearing, overshadowing or overlooking impacts on these properties.

Queensway House to the south of the site is a residential care home and is located on higher ground than the application site. A first floor window serving a bathroom is proposed in the side elevation of the nearest dwelling on plot 4 that could allow overlooking of the care home. However, it is considered that any potential overlooking could be addressed by an appropriately worded condition. Furthermore, permitted development rights restrict new windows in side elevations to be obscure glazed and non-opening. No first floor windows are proposed to the side elevation of plot 3 which also faces the care home. There would be a distance of 11m between the care home and the nearest dwelling on plot 4 and 15m from the proposed dwelling on plot 3. When having regard to these distances, levels and the relationship with these proposed dwellings, it is not considered that there would be any significant overbearing or overshadowing impacts on the neighbouring care home.

No.4 Queens Street is a single storey dwelling located to the south of the site. The rear elevation of this dwelling is located 2.5m off the site boundary which is currently occupied by fencing which extends approximately 1m above the ground level of this neighbouring property. The site level is approximately 1m below the ground level of this neighbouring property at this point, although this level difference reduces as the site progresses in an easterly direction. The rear elevation of No.4 contains three windows, at least one of which appears to serve a habitable room. The nearest proposed dwelling would be on plot 3 which presents a side facing gable with one ground floor window to the easternmost part of the rear of this property. The dwelling on plot 3 would be 10m from the rear of the existing dwelling. When having regard to the land levels, proximity and the orientation/relationship between the two dwellings, whilst the dwelling on plot 3 would be visible from the rear of No.4, it is not considered that there would be any significant overbearing, overshadowing or overlooking impacts arising from the proposal. The other plots are considered to be at sufficient distance away from this neighbouring property to prevent any significant adverse impacts.

No.6 Queens Street also abuts the southern boundary of the site and is a two-storey dwelling with three windows in its side elevation, serving a kitchen at ground floor level and a landing at first floor level. The third window is at first floor level and is obscure glazed, and therefore, the side windows do not appear to be primary windows to habitable rooms. Due to orientation, this

existing dwelling would be within **1.5-2.5m** of the boundary to plot 1 and within **3-4.2m** of the nearest dwelling on plot 1. The proposed dwelling would set 1.4m behind the existing dwelling but would project 3m to its rear. A first floor window serving a bathroom is proposed in the side elevation of the proposed dwelling that could allow overlooking of this existing property. However, it is considered that any potential overlooking could be addressed by an appropriately worded condition. Furthermore, permitted development rights require new windows in side elevations to be obscure glazed and non-opening. The proposed dwelling would be sited **1.3m** below the height of this neighbouring property. The land levels for both the existing and proposed dwellings drop sharply to the west. When having regard to the siting of the two dwellings, land levels and the nature of the windows in the side elevation of the existing dwelling, it is not considered that the proposed nearest dwelling on plot 1 would give rise to any significant overbearing, overshadowing or overlooking impacts. A terrace area is proposed to the rear of this plot and therefore, it would be prudent to secure details of existing and proposed levels for this area by condition to ensure that no significant overlooking of this neighbouring property arises as a result of the development.

No.'s 4 and 6 Queens Street are located either side of the proposed access drive and would be affected by noise and disturbance from comings and goings into/off the site. No.6 would be set back from the access drive by 6m with its vehicular parking in the intervening space. No.4 would be within 2m of the proposed access drive but is elevated above the level of the access drive and has no side windows. Whilst it is accepted that there would be some additional noise and disturbance, when having regard to the number of units proposed and the relationship between the site and the neighbouring properties, it is not considered that this would be sufficiently detrimental to warrant a refusal of permission on this ground.

No.20 Queens Street and Windy Ridge are located to the west of the site at a lower land level. The rear elevation of the nearest proposed dwellings (plots 1 and 2) would be 12m from the nearest boundary to these dwellings and 8m to the rear of the proposed terraced area. The existing screen fence is to be retained and new screen planting is proposed along this boundary. When having regard to the distances involved, it is not considered that the proposal would result in any significant overbearing, overshadowing or overlooking impacts on these dwellings.

Orchard House is located to the north of the application site and is a two-storey dwelling with numerous windows facing the application site. Working from west to east, at ground floor there is a dining room with no side window in the south facing elevation but is served by a lantern light **and a large bay window and glazed opening to the eastern and northern elevations of the dwelling.** Within a recessed section of the dwelling there are two windows serving a kitchen, and where the dwelling projects forward there is another kitchen window and window to the garage. At first floor level, there are two windows serving bedrooms (the second of which is the main window to the room), and where the dwelling projects forward, there are two windows serving a study (one being a side window and the other being a roof light). **The neighbouring occupier advises that this room is a bedroom being used as a study.** Beyond that there are two additional roof lights serving bedrooms, which are secondary windows to these rooms which are also served by dormer windows to the front elevation. This existing dwelling is sited within 3-5.5m on the site boundary, due to the stepped nature of the south facing elevation. **The land levels on the application site are above that of the neighbouring property, and this increases as the land rises on the application site in an easterly direction.** The rear of the property at this point is a paved outdoor area.

The proposed dwelling at plot 3 would be located within **2.3m** of the common boundary and within **5.3m** of Orchard House at its closest point. The proposed dwelling would be orientated

such that its side gable (which contains no windows) would face this property. Again, it is noted that permitted development rights would require any further new windows being installed in the side elevations to be obscure glazed and non-opening.

The proposed dwelling would be sited such that the majority of the development would extend in front of the part of the existing dwelling which projects forward and contains windows serving the kitchen, garage, study/**bedroom** and bedrooms. Of these rooms, the bedrooms would be habitable rooms and the roof lights in this elevation would be secondary windows to these rooms. **The siting of the proposed dwelling has been amended such that it has been moved further away from the northern boundary of the application site by 1.3m and has been shifted further south on the plot by approximately 2.25m. The dwelling on plot 3 would now be located 2.25m from the application site boundary and 5.4m from the closest part of Orchard House.**

The proposed dwelling would no longer extend across the recessed section of the dwelling but would be sited immediately forward of the eastern section of the neighbouring dwelling containing three roof lights (bedrooms/study) at first floor level and two windows (kitchen/garage) at ground floor level. All of these windows would either be non-habitable or secondary windows.

When having regard to the southerly position of the proposed dwelling on plot 3 in relation to this neighbouring property, it is considered that there would be some loss of light to rooms served by windows in the south facing elevation of Orchard House and the outdoor area beyond. This would change throughout the day as the sun moves from east to west. When considering the proximity, siting and orientation of the proposed dwelling in relation to Orchard House, land levels and the nature of the rooms served by the windows (as outlined above), whilst it is accepted that there would be some loss of light to varying degrees through the day and the building would affect the outlook from some of the windows (again resulting in varying degrees of overbearing impacts), it is not considered that these impacts would be significantly detrimental to the amenities of the occupier of this dwelling to warrant a refusal of permission on this ground.

The dwelling on plot 2 would be located to the south of the garden to Orchard House and to the south west of the house itself. Whilst it is accepted that there would be some loss of light to the garden area throughout the day as the sun moves from east to west and to the western part of the dwelling in the evening, it is not considered that this would be sufficient to be detrimental to the amenities of the occupiers of this dwelling and would not warrant a reason for refusal.

There would be no direct overlooking of **Orchard House** from the nearest proposed dwelling on plot 3. First floor windows serving bathrooms are proposed in the side elevation of the proposed dwellings on plots 2 and 7 that could allow overlooking of the curtilage of the property. However, it is considered that any potential overlooking could be addressed by an appropriately worded condition. **Concern has been raised by the occupier of Orchard House about the potential for overlooking from the front elevation of plot 2 over the southern and western elevations of this neighbouring dwelling. The relationship and distance between the two dwellings is such that there would be oblique but no direct overlooking.**

A terrace area is also proposed to the rear of plot 2 adjacent to the rear garden of Orchard House and therefore, as with plot 1, it would be prudent to secure details of existing and proposed levels for this area by condition to ensure that no significant overlooking of this neighbouring property arises as a result of the development.

Therefore, subject to conditions, it is considered that the development would have an acceptable impact on neighbouring residential amenities and would comply with the provisions of Policy E3 of the Local Plan.

Whilst neighbouring residents consider that single storey development would be more appropriate in relation to neighbouring properties, for the reasons outlined above, the proposal as submitted is considered to have an acceptable relationship with neighbouring residential properties and, therefore, further amended plans were not sought.

Following the submission of amended plans, concern has been raised by local residents that the development does not accord with the Development Guidelines. For clarification, Members are advised that the Development Guidelines, as their name suggests, are simply guidelines and it is a fundamental principle of planning legislation that each proposal should be assessed on its own merits having regard to all material considerations. The Development Guidelines were developed alongside the Local Plan and since its adoption as Supplementary Planning Guidance, national policy has changed with a greater emphasis on making efficient use of land. Such requirements can often make it difficult to fully achieve locally derived distance guidelines which were adopted prior to changes in national policy, particularly where there are other constraints on the site such as existing natural features such as protected trees and topographical changes. Given the age of the Development Guidelines, and the changes in National policy since they were first adopted, the weight which should be attached to them as a material consideration in the determination of planning applications should be adjusted accordingly.

Whilst not all of the garden sizes relationships as set out in the scheme would comply fully with the suggested forms of development as set out within the Guidelines, for the reasons set out above, it is not considered that, in this instance, any undue loss of amenity would arise as a result of these issues.

Access and Highways Safety:

Access to the site would be via a new vehicular access created between No.'s 4 and 6 Queens Street. Land levels drop into the site and therefore, the new access would be graded. Two parking spaces for each of the proposed dwellings would be provided within the site and the application also includes two parking spaces for No.6 Queens Street. The position of the parking spaces to No.6 Queens Street has been amended slightly following concerns raised by residents about the accuracy of boundary lines and manoeuvring into and out of the spaces close to the access. The County Highways Authority has been reconsulted and is satisfied with the revised arrangements.

The concerns raised previously by local residents and Measham Parish Council have been raised again by the Parish Council about the adequacy of the proposed access (including the lack of footway), the increase in traffic movements and increased dangers to pedestrian and vehicular traffic, the inadequacy of parking provision for existing and proposed residents which will create additional on-street parking pressures and dangers to road users.

The application submission was accompanied by a Highways Statement which concludes that the proposal would result in 49 two-way movements to/from the site, which would not represent a significant change in traffic conditions. The access drive is a shared-surface carriageway and

is in line with local design guidance, such that a refuse vehicle could satisfactorily manoeuvre within the site. The proposed parking provision for the development should satisfactorily serve the development.

The County Highways Authority has been consulted on the application and advises that the internal access road is not to be adopted and therefore, the Highways Authority will consider the impact of new traffic and pedestrian safety within Queens Street (particularly at the point of the new access). The County Highways Authority advises that the proposed access junction is a continuation of an existing turning head and therefore, is in a straight line. This straight alignment is such that intervisibility between vehicles and pedestrians would be good. The uses in connection with the village hall have not lead to an accident record within the last 5 years and the proposal is unlikely to have an impact on the vehicle and pedestrian movements in connection with those uses. On the basis of visits to the site, the road network in the vicinity of the site is not subject to queuing and congestion and previous experience of similar developments suggests that it is unlikely that the proposed traffic could lead to the network becoming congested. The design of the proposed access is satisfactory and the existing width and design of Queen Street has not lead to an accident record and so it is unlikely that it would be possible to sustain a reason for refusal on the ground that the proposal would lead to demonstrable harm to highway safety. The County Highways Authority also comments that the design of the access is a shared surface, as is commonly the case with even some adopted residential roads and so it is intended, and acceptable that pedestrians will share the access with vehicles without a dedicated footway.

Following concerns raised by local residents about the adequacy of the parking and turning arrangements on the site, further advice has been sought by the County Highways Authority and advice has been provided that the parking and turning on the site are fully compliant with the 6C's Design Guide.

The County Highways Authority is satisfied with the proposal from a highway safety viewpoint, subject to a number of conditions which require the site access, parking and turning to be provided as shown, positive drainage being provided, the access gradient not exceeding 1:12 for the first 7 metres and wheel cleansing facilities being provided to prevent mud being deposited in the adjoining highways during construction works. It is considered that the proposed development would comply with the provisions of Policies T3 and T8 of the Local Plan and the advice contained in the County Council's 6C's document.

Ecology:

The application site comprises overgrown land and existing buildings are proposed to be demolished, and therefore, consideration needs to be given to the potential impact of the development on protected species.

The application submission was accompanied by a Biodiversity Report which reported no evidence of amphibians, reptiles, bats or breeding birds (old bird nests). With respect to bats, the report noted that the buildings to be demolished appeared to be unheated, cold and draughty and would be unlikely to be used as a roost site. However, the report highlighted that there were potential entry points for bats to get into the building and therefore, the consulting ecologist advises that a pre-cautionary approach should be taken when demolishing the existing buildings. Similarly, with respect to birds, although no active bird nests were found during the survey, there were suitable nesting sites for birds within hedges, trees and shrubs being present on the site, and therefore, recommends that any works involving the removal of vegetation are scheduled outside the breeding season. The County Ecologist has been consulted on the

application and raises no objection to the proposal subject to a condition requiring that any site clearance be undertaken outside the breeding season.

Concern has been raised about the removal of hedgerows that are important to wildlife, the presence of bats and the adequacy of the survey provided. The County Ecologist has advised that whilst October is not the best time of year to do a survey, as this is an overgrown garden (containing common garden weeds etc) and not an area of semi-natural habitat, no concern is raised about the lateness of the habitat survey. The County Ecologist goes on to comment that the surveyor picked up the suitability of some of the site for nesting birds; again these would be common garden species, and could be protected through a condition regarding clearance outside the nesting season. The County Ecologist considers that it would be inappropriate and unreasonable to require a breeding bird survey on a site in this location, and with the habitats present, which are unremarkable and unlikely to support a significant population of a bird species of conservation concern, or with special protection (all birds are protected whilst nesting, hence the need for clearance outside the nesting season).

The County Ecologist considers that the only features with potential to be used for bat roosting are the outbuildings and mature beech tree. The mature tree is to be retained and the surveyor felt the buildings were of low potential. The County Ecologist shares this view and considers that it would be unreasonable to require additional emergence surveys of the building but agrees with the precautionary approach to demolition as advocated by the surveying ecologist. The County Ecologist goes on to comment that it is likely that the area is used by foraging bats but bats can be recorded foraging on almost any garden or open ground in urban areas, and on the basis of the information provided, it is unlikely that the site is special in terms of bat conservation.

Following the concerns raised by local residents, the County Ecologist was re-consulted and advised that local residents have filmed bats using the site and that the ecological report was prepared prior to much of the site being cleared. The request of residents that the County Ecologist visit the site was also put forward and the County Ecologist has advised that the site is small and surrounded by housing and does not consider the site to have more than very local value for wildlife. The County Ecologist confirms that she has no further comments to add to those previously given.

The northern boundary of the site is occupied by a large Beech Tree which is protected by Tree Preservation Order T427. The proposals show the retention of the protected tree and a tree survey and protection plan accompanied the application submission. The original proposals included three incursions into the root protection area and the arborist advises that works to the tree may be required to facilitate the proposed construction comprising a light crown raise and crown thin. The Council's Tree Officer has been consulted on the application and despite having initial concerns about the proposals, following the submission of amended plans which show the relocation of parking bays for plot 7, is now satisfied that the tree can be adequately protected. Subject to precise details of tree protection and pruning works being dealt with by condition, the proposal is considered to acceptable in terms of its impact on the protected tree.

Concern has been raised about the impact of the development on the existing hedgerow along the northern boundary and an unprotected apple tree, which are both within the ownership of the occupiers of Orchard House.

With respect to the apple tree, the Council's Tree Officer has visited the site and advises that the tree slightly overhangs the site and is under the control of an owner who wants to keep it. The advice of the Tree Officer is that the apple tree within the neighbouring

garden is not worthy of a Tree Preservation Order.

The tree survey accompanying the application submission provided that if any hedgerows are to be retained on the site, a root protection area of 1.5m radius from the stumpline would be recommended. The amended plans show that the hedgerow and trees are to be retained and that the development on the site has been shifted away from the hedgerow such that there would be a minimum distance of 2.25m from the nearest dwellings and the base of the boundary hedge. The Council's Tree Officer has been consulted on the revised proposals and has considered the impact of the development on the hedgerow/trees. The Tree Officer is satisfied with the proposed development subject to the conditions as previously reported to Members via the update sheet to the April meeting of the Planning Committee.

River Mease:

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

The River Mease Water Quality Management Plan (WQMP) was 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 adopted 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 use of the site, the proposal for seven dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The River Mease Statement accompanying the application confirms the applicant's awareness of the need to make a contribution in accordance with the DCS. A condition relating to the technical details of foul drainage is not required as the principle of connecting to the mains sewer has been established and the details of drainage are dealt with by separate legislation under the Building Regulations and by Severn Trent Water. However a condition requiring that only a mains connection is used at the site would be required as the use of other means for foul drainage discharge could adversely affect the SAC. Surface water from all elements of the proposal will need to discharge to soakaway to ensure that unnecessary water volume does not go to the sewage treatment plant and this can be required by condition.

Therefore it can be ascertained that the erection of seven dwellings 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.

Drainage:

Local residents have raised concern about the suitability of drainage proposals for the site. Drainage is a matter that is covered by separate Building Regulations legislation and the Council's Building Control Officers, advise that the layout would generally appear to be compliant with Section B5 of the Approved Document B of the Building Regulations. This matter would be given more detailed examination should a Building Regulations submission be made to the District Council. The Asset Protection Team at Severn Trent Water Ltd has also been consulted following neighbour comments that Seven Trent Water would not accept the connection but at the time of writing this report no response had been received. Should any comments be received, Members will be notified via the update sheet.

Affordable Housing:

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. The Council's Supplementary Planning Document (SPD) on Affordable Housing requires that in the Measham area, scheme for 5 or more dwellings should provide 30 percent of the proposed units as affordable housing. The proposed scheme, which would provide 100 percent affordable housing, would well exceed the threshold set out in the SPD. The Strategic Housing Team have advised in their consultation response that the proposed mix of 2 and 3 bed houses meets the housing needs identified in the village; providing much needed smaller accommodation to rent and providing the opportunity for local people to part rent and part buy within the village centre through the shared ownership units. The proposal would, therefore, comply with the provisions of the SPD and Policy H8 of the Local Plan.

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 terms of the respective contributions, the following conclusions are reached:

- River Mease Contribution in accordance with the requirements of the DCS. The applicants are agreeable to this contribution.
- The affordable housing (including type and tenure) will be secured in a clause within the Section 106 and the applicants are agreeable to this requirement.

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

Other:

With respect to neighbour comments that have not been covered in the above report, loss of views and loss of property values are not planning matters and therefore, cannot be considered in the determination of this application. With regard to comments about asbestos and damage to existing development, these matters are covered by separate legislation and therefore, are not relevant to the determination of the application.

It is noted that a previous permission has been granted for a fewer number of residential units on the site but it is a fundamental tenet of planning legislation that each application should be assessed on its own merits. For the reasons outlined above, the proposed development is considered acceptable.

As for comments about the adequacy of the layout to accommodate refuse collection, the Council's Waste Officer has been consulted and Members will be updated with any comments received via the update sheet. With regard to comments about the adequacy of the boundary treatments and landscaping proposals shown, the precise detail of these matters are normally and can be dealt with by condition. Whilst the neighbour has indicated that the solar panels as shown on the plans may not be installed by the application, the absence of such a detail would not make the development unacceptable.

Concern has also been raised that the strip of land adjacent to the hedgerow will provide opportunities for criminal activity, trespass and vandalism. The strip of land can be accessed between the fronts of plots 2 and 3 and between the rear of plot 3 and the front of plot 7. Whilst concern about anti-social behaviour is noted, the strip has been provided at the request of a neighbouring occupier to allow the protection and maintenance of their hedgerow. Furthermore, the areas where the land can be accessed are afforded good surveillance by the properties on the development.

With regard to comments received about publicity, adequacy of the plans and the inability to discuss the amended plans at a Parish Meeting, the publicity undertaken for the application accords with statutory requirements, the plans are considered sufficient to consider the planning merits of the scheme and the Parish Council were re-consulted on the amended plans on 03 July and therefore, have been given a reasonable time period to arrange a meeting and pass comment on the application.

Conclusions:

The site is located within the Limits to Development where residential development is acceptable in principle. The site is in a sustainable location and the density is considered appropriate. The site is of sufficient size to enable the site to be developed as proposed without adversely affecting neighbouring amenities, highway safety, the character of the area, protected trees or heritage assets. The proposal is considered unlikely to adversely affect protected species and 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. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposed development accords with the above-mentioned planning policies, and it is, therefore, recommended that planning permission be granted subject to Section 106 obligations and relevant planning conditions.

RECOMMENDATION - PERMIT, subject to a S106 Agreement and 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:
- Drawing number 13.2874.04G (Detailed Planning Proposals - Sheet 1 of 5) deposited with the Local Planning Authority on 01 July 2014;
 - Drawing number 13.2874.05B (Detailed Planning Proposals - Sheet 2 of 5) deposited with the Local Planning Authority on 13 May 2014;
 - Drawing number 13.2874.06B (Detailed Planning Proposals - Sheet 3 of 5) deposited with the Local Planning Authority on 13 May 2014;
 - Drawing number 13.2874.07A (Detailed Planning Proposals - Sheet 4 of 5) deposited with the Local Planning Authority on 19 February 2014;
 - Drawing number 13.2874.08 (Detailed Planning Proposals - Sheet 5 of 5) deposited with the Local Planning Authority on 06 December 2013;
 - Drawing number 13.2874.01 (Topographical Survey) deposited with the Local Planning Authority on 06 December 2013;
 - Drawing number 2020A/13/01 Rev J (Engineering Layout) deposited with the Local Planning Authority on 01 July 2014;
 - Drawing number 2020A/13/05 (Road Construction Details) deposited with the Local Planning Authority on 06 December 2013;
 - Drawing number 2020A/13/06 (Drainage Construction Details) deposited with the Local Planning Authority on 06 December 2013.
 - Site Location Plan (1:1250) deposited with the Authority on 06 December 2014.

Reason- To determine the scope of this permission.

- 3 Notwithstanding the details shown on the submitted plans, no development shall commence until details of boundary treatments and landscaping for the site (including hard and soft landscaping together with details of the demarcation/ numbering of parking bays, access gates and the bin store enclosures) have been submitted to and approved in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the bringing into use of the development hereby approved and the approved hard landscaping scheme and boundary treatments shall be implemented before to the development hereby permitted is brought into use, unless alternative implementation programmes are first agreed in writing by the Local Planning Authority.

Reason - To ensure satisfactory landscaping and boundary treatments are provided within a reasonable period.

- 4 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

Reason - To provide a reasonable period for the replacement of any trees.

- 5 Notwithstanding the submitted plans, no works shall commence until detailed drawings (including cross-sections) of window/door units (including heads and cills) have been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason - To enable the Local Planning Authority to retain control over the external appearance as no details have been submitted.

- 6 Notwithstanding the details shown on the submitted plans, no development shall commence until representative samples of the external materials to be used in the proposed buildings (and including all means of hard surfacing/enclosures), details of brick bonds and details of the external finishes to the window/door units have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason - To enable the Local Planning Authority to retain control over the external appearance, in the interests of the amenities of the area.

- 7 Notwithstanding the details shown on the submitted plans, no development shall commence until detailed drawings of the chimney stacks and the treatment of eaves/verges have been first submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason - To enable the Local Planning Authority to retain control over the external appearance as no precise details have been submitted.

- 8 No development shall commence until the positioning and treatment of utility boxes to individual units, details of rainwater goods and other external services (including solar panel or other renewable energy technologies to be used) have been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason - in the interests of neighbouring amenities and the visual amenities of the locality.

- 9 No development shall commence until details of the means of surface water discharge from the new roofs and new hardsurfacing to soakaway, or another alternative sustainable drainage system so that the surface water does not enter the mains sewer system, have been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented before the external materials to the roof are installed or hardsurfacing is provided on the site, and once implemented shall thereafter be so retained.

Reason - To prevent an adverse impact on the River Mease Special Area of Conservation; to ensure a sustainable drainage system is provided on the site.

- 10 The development hereby approved shall only use the mains sewer system 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.

- 11 Operations that involve the removal of vegetation or buildings shall not be undertaken during the months of March to September inclusive, except when approved in writing by the Local Planning Authority, once they are satisfied that bats and breeding birds will not be adversely affected.

Reason - Due to the potential for breeding birds/bats, it is imperative that any

building/vegetation.

- 12 No development shall commence on the site until such time as a programme of archaeological work including a Written Scheme of Investigation has first been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
- The programme and methodology of site investigation and recording;
 - The programme for post-investigation assessment;
 - Provision to be made for analysis of the site investigation and recording;
 - Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - Provision to be made for archive deposition of the analysis and records of the site investigation; and
 - Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation
- No development shall take place at any time other than in accordance with the agreed Written Scheme of Investigation. None of the dwellings shall be occupied until such time as the site investigation and post investigation assessment has been completed in accordance with the programme set out in the agreed Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason - To ensure satisfactory archaeological investigation and recording.

- 13 Before first occupation of any dwelling hereby permitted, the access shall be provided in accordance with the details shown on drawing No. 13.2874.04D; the access shall be surfaced with a hard bound material (not loose aggregate) for a distance of at least 7 metres behind the Highway boundary. The access drive once provided shall be so maintained at all times.

Reason - To enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of general highway safety, to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway and to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

- 14 The car parking and turning facilities shown on drawing No. 13.2874.04G shall be provided before any dwelling is occupied and shall thereafter permanently remain available for car parking and turning.

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 and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 15 Before first occupation of any dwelling hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users.

- 16 The gradient of the access drive shall not exceed 1:12 for the first 7 metres behind the highway boundary.

Reason - To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety.

- 17 No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reason - To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.

- 18 Notwithstanding the details shown on the submitted plans, no development shall commence on site until such time as precise details of the proposed finished floor levels of the proposed buildings (including the level of the proposed terraces to the rear of plots 1 and 2) in relation to neighbouring land / buildings **to the north and south of the site** 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.

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

- 19 No development shall commence on site until details of any proposed street lighting has been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason - In the interests of neighbouring amenities and the visual amenities of the locality.

- 20 No work shall commence on site until trees on and adjacent to the site have been securely fenced off with protective barriers to form a construction exclusion zone in accordance with BS 5837:2012 Tree in relation to design, demolition and construction. A Tree Protection Plan shall first have been submitted to and approved in writing by the Local Planning Authority. Within the protected areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and no service trenches shall be dug unless first agreed in writing by the Authority.

Reason- To ensure the existing trees are adequately protected during construction in the interests of the visual amenities of the area.

- 21 No development shall commence on site until a detailed scheme of pruning works to be carried out in accordance with BS3998:2010 Tree Work - Recommendations have been submitted to and agreed in writing by the Local Planning Authority. **The development** shall be carried out in accordance with the agreed scheme.

Reason- in the interests of health and safety and amenity value of the trees.

- 22 No works or development shall take place until an auditable system of arboricultural site

monitoring by the appointed project arboriculturist has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

Reason- To ensure that the tree protection plan is adequately implemented in the interests of the visual amenities of the area.

- 23 Notwithstanding the details shown on the approved plans, the first floor windows serving bathrooms in the side elevations of the dwellings on plots 1, 2, 4 and 7 shall be glazed with obscure glass and be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. Once provided, the windows shall thereafter be retained as such unless planning permission has first been granted by the Local Planning Authority.

Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.

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 This decision is subject to a Section 106 Obligation regarding the following matters:
 - Provision of seven on-site affordable houses;
 - Contribution towards the costs of improving the quality of the water in the River Mease.
- 3 Archaeology - With respect to condition 12, the applicant is advised that the Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
- T he Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.
- 4 The applicant is referred to the following comment of the County Highways Authority:
 - 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).
 - The proposed road doesn't conform to an acceptable standard for adoption and therefore will NOT be considered for adoption and future maintenance by the Highway

Authority. The Highway Authority will, however, serve APCs in respect of all plots served by the private road within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see www.leics.gov.uk/htd or phone 0116 3057198. Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it. Details of the future maintenance of the private road should be submitted for the approval of the LPA before any dwelling is occupied.

- 5 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

- 6 Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com.
Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c.) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bats or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0845 601 4523) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000 or to imprisonment for a term not exceeding six months, or both.

The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.

Change of use of dwellinghouse to a mixed use as a dwellinghouse and for the keeping, for breeding and showing purposes, of up to 15 dogs together with the retention of kennel buildings, a storage shed and open and closed runs

**Report Item No
A5**

27 School Lane Newbold Coalville Leicestershire

**Application Reference
14/00509/FUL**

**Applicant:
Mr R And Mrs C Mendel**

**Date Registered
14 May 2014**

**Case Officer:
Sarah Worrall**

**Target Decision Date
9 July 2014**

**Recommendation:
PERMIT**

Site Location - Plan for indicative purposes only



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Executive Summary

Call In

This is a revised scheme previously considered, and refused, by Planning Committee under application 13/00291/RET following a call in on the grounds of local concern about noise and disturbance. This current application has not been called in but is being reported back to Planning Committee for consideration due to the outcome of the previous application.

Proposal

This is a full application which seeks retrospective permission for the retention of a business use within the curtilage of the existing dwelling, along with buildings which have been erected in relation to the business operation. These buildings comprise a wooden storage shed, an open run containing individual kennels, and a separate kennel block with open runs attached.

As part of the proposal, the applicant is seeking permission for a maximum of 15 breeding/show dogs to be kept at the premises and this number would exclude litters from the breeding/show dogs and their domestic pet dog. There are currently 15 breeding/show dogs at the site.

The dwelling would continue to have its main use as a residential dwelling for the applicant and family. The business would utilise rooms at the existing dwelling during immediate pre-birth, birth, whelping and weaning stages. All viewings by potential purchasers are undertaken within the house.

The key differences between the current application and the previous application which was refused are as follows:

- The number of dogs kept for breeding and/or showing at the site would be maintained at the current level of 15, so an increase in numbers is not sought (permission for 20 dogs was sought in the previous application);
- A condition related to specific breeds of dog is suggested by the applicant and agent, should the application be approved;
- A condition related to a personalised permission is suggested by the applicant and agent, should the application be approved;
- Further information on vehicular movements in relation to current activity has been submitted in order to set out levels of vehicular activity associated with the operation; and,
- A copy of an RSPCA calling card has been submitted as part of the application.

Consultations

Members will note that neighbour representations have been made in relation to the proposal essentially on the grounds of noise, disturbance and highways concerns and Worthington Parish Council supports the previous decision. The full representations made by neighbours are available to view on the working file. Statutory consultees have made observations on the proposal and are satisfied that there are no matters that have not been satisfactorily addressed or cannot otherwise be satisfied by way of condition.

It has been necessary to post a number of site notices, firstly due to a clerical error which gave the wrong description proposal, and subsequently due to the site notices being defaced. Those making representation on the proposal have been written to ensure they are clear about the proposal for which comments have been sought, and further time has been provided to make

any further comment.

Planning Policy

The application site lies within the Limits to Development of Newbold and would involve the operation of a business from an existing dwelling, along with ancillary buildings within the existing dwelling curtilage. As such, the operation and buildings would be acceptable, in principle, subject to design, amenity and highways considerations.

Conclusion

The site lies within the Limits to Development of Newbold as defined in the North West Leicestershire Local Plan and at the edge of the main built form on School Lane and the principle of the proposal would be acceptable and in accordance with Policy S2 of the Adopted Local Plan and the provisions of the NPPF. The proposed development would have limited visual impact, would not result in undue disturbance to nearby residents, and would be acceptable in highway safety terms all in accordance with development plan policies and the provisions and intentions of the NPPF. It is, therefore, recommended that planning permission be granted.

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 a full details of all consultation responses, planning policies, the Officer assessment and recommended conditions, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposal and Background

This is a full application which seeks retrospective permission for the retention of a business use within the curtilage of the existing dwelling, along with buildings which have been erected in relation to the business operation. For clarification purposes, the keeping of dogs for breeding and showing at the premises is the nature of the use taking place, and the business element relates to breeding. Some puppies may be kept for future showing and/or breeding as older dogs retire or pass away, but the majority of litters would be sold and that is the business aspect of the proposal. As such, permission is sought for the following elements:

- Using the premises as a residential dwelling, with ancillary keeping of 15 dogs at the rear of the property for showing and breeding, and visitor parking to the front of the dwelling;
- Retention of an open run constructed from galvanised steel mesh (some 5m wide x 5m long x 2m high) including partitions with individual wooden kennels, and proposed roofing of this structure should the application be approved;
- Retention of a wooden shed for storage purposes (some 3m wide x 3.5m long x 2.3m high);
- Retention of a kennel block comprising 4 kennels with storage, a covered mesh run section, and an uncovered mesh run section. This block is set on a base some 8.4m wide x 9.2m long, with the mesh sections covering an area within this of some 4m wide x 6.5m long, with a height of some 1.9m. The adjoining timber kennel and store section is some 4.2m wide x 8.1m long and has a monopitch roof which is some 2.5m at the ridge height which adjoins the mesh run sections, and drops to some 1.9m in height at eaves level at the rear of the building; and,
- Retention of close board timber fencing (1.8m) to separate the business operation from the remaining garden area associated with the dwelling.

As part of the proposal, the applicant is seeking permission for a maximum of 15 breeding/show dogs to be kept at the premises and this number would exclude litters from the breeding dogs, and would also exclude their domestic pet dog. There are currently 15 breeding dogs at the site.

The dwelling would continue to have its main use as a residential dwelling for the applicant and family. The business would utilise rooms at the existing dwelling during immediate pre-birth, birth, whelping and weaning stages. At the weaning stage, puppies can leave the premises at 8 weeks. All viewings by potential purchasers are undertaken within the house.

The property is the southernmost dwelling on this section of School Lane and its boundary forms part of the Limits to Development of Newbold. The site slopes down to the east and south. A public footpath runs along the southern boundary of the application site, linking School Lane to the fields to the east of Newbold.

The key differences between the current application and the previous application which was refused are as follows:

- The number of dogs kept for breeding and/or showing at the site would be maintained at the current level of 15, so an increase in numbers is not sought (the previous application sought permission for up to 20 dogs);
- A condition related to specific breeds of dog is suggested by the applicant and agent,

- should the application be approved;
- A condition related to a personalised permission is suggested by the applicant and agent, should the application be approved;
- Further information on vehicular movements in relation to current activity has been submitted in order to set out levels of vehicular activity associated with the operation; and,
- A copy of an RSPCA calling card has been submitted as part of the application.

Planning History

13/00291 - Proposed change of use of dwellinghouse to a mixed use, to a dwellinghouse and for the keeping and breeding of up to 20 dogs together with the retention of kennel buildings, a storage shed and open and closed runs - refused on the following grounds:

Policy E3 of the North West Leicestershire Local Plan seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings. By virtue of the odour generated by the number of breeding dogs at the site, the unlawful use taking place at present, and the increased level of operation proposed, results, and would result, in an adverse impact on the residential amenities of existing nearby dwellings. In addition, at such close quarters, the increased pedestrian and vehicular activity as a result of the business operation, including comings and goings up and down the garden area, shutting of car doors and vehicles manoeuvring within the application site, causes undue disturbance to the occupiers of nearby dwellings to the detriment of their residential amenities. As such, the development is contrary to the requirements of Policy E3 of the Adopted North West Leicestershire Local Plan which states that development which, by reason of its proximity and smell, amongst others, would be significantly detrimental to the amenities enjoyed by the occupiers of existing nearby dwellings will not be permitted.

09/01106/FUL - Erection of two storey side extension and single storey side and rear extension - permitted

This retrospective application has been submitted as a result of an enforcement enquiry.

2. Publicity

6 no neighbours have been notified.(Date of last notification 18 June 2014)

Site Notice displayed 18 June 2014 and 23 June 2014

3. Consultations

Clerk To Worthington Parish Council consulted 2 June 2014

Clerk To Worthington Parish Council consulted 2 June 2014

Head of Environmental Protection consulted 4 June 2014

Christine James/ Matt Savage consulted 4 June 2014

County Highway Authority consulted

4. Summary of Representations Received

Worthington Parish Council - continues to support the views of the Planning Committee (in terms of the previous application). The revision does not consider the points of Policy E3;

LCC (Highways) - No objection subject to conditions;

Head of Environmental Protection - No objections to the proposal, and can confirm that no noise or odour complaints have been lodged.

Six neighbour representations have been received, and the comments can be summarised as follows:

- The retrospective application shows the disregard of the planning process;
- I live directly behind the site and hear dogs at the property now;
- The property has neighbours on all sides including a primary school opposite;
- I believe the intention is to breed dogs for sale and additional cars visiting would cause a highway safety issue as the road is narrow and there is a school opposite. Visitors to the site tend to park on the road already so this will only become more problematic;
- Odour and noise from the site is intermittent. However, over the previous year, especially in hot weather, there have been issues with odour;
- There is smell and noise especially in hot weather. When I am outside the smell from dogs at times has been unpleasant and the barking irritating. Visitors comment on the smell and noise;
- Since the first application the issues (odour and noise) have marginally reduced but there is concern about the potential for it to get worse;
- We are concerned about the noise which may be generated from the keeping of 15 dogs;
- We (No.23 School Lane residents) have kept a log of dates up to 1 June 2014 on which odour and noise have been an issue;
- We have concerns about how the dog waste is being dealt with;
- The previous application was presented as a business proposal. If the dogs breed will the new borns be sold? If they are sold, at what point does that constitute business?;
- A operation is not suitable for a quiet residential area;
- There should be strict controls on how the business is run within a quiet, domestic and close knit village community;
- The number of kennels should be limited and no other buildings related to this business can be added now or in the future;
- A maximum limit of the total number of dogs permitted at the property should be set, including puppies, otherwise the it will be a large business at a domestic dwelling and the noise would become a bigger issue;
- The breeds permitted at the premises should be limited to beagles and pugs only now and in the future - if other breeds were introduced this would only add to potential noise disturbance and there may be a larger, noisier and smellier breed of dog;
- The Council has passed an application for the breeding of dogs within a half mile radius of this location (Griffydam) and if this application is passed and the noise from barking dogs becomes and issue we will expect the Council to support local residents and investigate the Noise Abatement process.

5. Relevant Planning Policy

National Planning Policy Framework

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

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

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.

Section 3 of the NPPF refers to supporting a prosperous rural economy and advocates that sustainable growth and expansion of all types of business and enterprise in rural areas should be supported in principle.

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 Adopted Local Plan

Policy S2 sets out that development will be permitted within Limits to Development, subject to material considerations.

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

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 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

Principle of Development

The application site lies within the Limits to Development of Newbold and would involve the operation of a business from an existing dwelling, along with ancillary buildings within the existing dwelling curtilage. As such, and as per the previous proposal, the operation and buildings would be acceptable, in principle, subject to design, amenity and highways

considerations.

Initial advice to the applicants was in relation to curtilage structures rather than the keeping of dogs for breeding/showing. This confusion between parties accounts for the structures being erected in the garden. The fact that they are being used in association with the keeping of dogs, which are used for breeding for sale purposes, means that they require permission in association with the use taking place. As such, notwithstanding representations received in relation to the proposal, there has been no 'deliberate disregard' for the planning process by the applicant in relation to the operation taking place at the site.

Design Issues

As set out in the previous application report, the kennel and store buildings and mesh runs were erected in 2013, along with close boarded fencing with gravel boards. As such, the visual impact of the development can be clearly assessed and Members will be aware of the layout from the site visit made in relation to the previous application. The 1.8m timber fencing separates the kennels compound from the lawn area of the residential dwelling, and also from a separate grassed area adjacent to the boundary with No.25 School Lane which is used for housing the applicant's pet dog when there are visitors to the site.

The kennel and store buildings and mesh runs are of proportions not dissimilar to domestic curtilage buildings, and are not incongruous in their setting. The kennel compound area is also at the end of the garden associated with No.27 which is set at a lower level to that dwelling, and the adjacent dwelling at No.25 School Lane and dwellings north of that. Furthermore, the tops of the structures can be seen from the public footpath which adjoins the southern boundary of the curtilage of No.27 School Lane, but are not obtrusive and have no adverse impact on the visual amenities of the area.

On this basis the existing buildings and structures within the kennel compound area are in scale and character with their surroundings and in accordance with the requirements of Policy E4 of the Adopted Local Plan.

Residential Amenity Issues

The application site is located at the southern end of a row of dwellings on the eastern side of School Lane. School Lane slopes down to the south so the site is set at a lower ground level to other dwellings and their gardens on this side of School Lane. Agricultural land lies to the east of the site and sporadic development to the south. A woodland area is situated on the opposite side of the site on School Lane, and the Primary School is situated to the north west of the application site on School Lane.

Following on from the design issues set out above, the existing buildings and structures have no overbearing impact on neighbouring properties as a result of their scale, form and layout, and cause no overshadowing or overlooking of adjacent properties in accordance with the requirements of Policy E3.

Security lighting has been installed at the premises within the kennel compound. Should the application be approved, it is recommended that a condition be imposed regarding details of lighting to be submitted and agreed in writing. This would enable the applicant and the District Council to discuss a way forward with a lighting scheme which would provide minimum light spillage whilst maintaining sufficient security for the premises in accordance with the requirements of Policy E3 of the Adopted Local Plan.

The concerns regarding odour from the site are also noted, as is the information submitted as part of the application. The application information submits that a cleaning regime is in place at the business, and all dog waste is double-bagged and removed from the site by a waste disposal company every two weeks in autumn and winter and weekly in spring and summer which is an acceptable procedure in terms of Environmental Protection. It was evident during the officer and Planning Committee site visits that the site was clean and tidy. The business also employs a part-time kennel hand to assist with cleaning and feeding duties, and the kennels are cleaned daily. Welfare standards and health and hygiene are dealt with under separate legislation to planning. However, based on the experience of the nature of the operation obtained during the officer site visit, and from information submitted with the application, whilst there may be some odour from the immediate kennels particularly in summer it would not be of such significance to warrant refusal of the application.

In addition, the agent submits that the proposal has to be taken in the context of the site's rural location in terms of odour since there are farm animals on land to the south of the application site and the adjacent agricultural fields are fertilised with animal excrement, and the site lies at the edge of the main built form of the village with residential development adjoining one boundary, to the north, only.

Since the previous application determination, the applicant and family have experienced various unpleasant and upsetting incidents which the Police are looking into. The applicant and agent advise in the application that one of these incidents relates to an unscheduled RSPCA Inspector's visit who called on the grounds that there had been a complaint in respect of the welfare of the dogs at the premises. The Inspector left a calling card on 6 May 2014 which has been submitted as part of the application and confirms that there is not cause for concern and that the kennels were "clean and not smelly", and that dogs did not bark during her visit.

Objections have been received in respect of the application on the basis of noise disturbance from barking dogs. At present, the applicant has 15 breeding dogs at the site comprising 9 female beagles, 3 female pugs, 2 male beagles and 1 male pug. The applicant also has a family pet dog which is not used for breeding. The application submission states that no boarding of dogs takes place at the premises. The application submission advises that there is not a rapid turnover of dogs and due to the dogs being familiar with each other as they are kept within the kennel compound, other than during play and walk time, the incidence of barking and/or aggression is significantly less compared to a boarding kennel situation. The dogs are walked twice a week on local footpaths and play in the garden area of No.27 in groups of up to 6 dogs with supervision from the applicant or staff. It is expected that there may be more noise at certain times of the day, such as at feeding time but these occurrences would be intermittent and not constant.

Since the last application was refused, the case officer received calls from local residents in relation to what would happen next and requesting advice on noise. They were advised to contact the Environmental Protection team to discuss further, and that a log book recording incidents of noise and or odour would most likely be required to be made. The Environmental Protection team confirms (at 22 July 2014) that it has received no complaints about the site and is not aware that any enquiries have been made in relation to keeping logs about the operation.

Notwithstanding this, it is noted that a neighbour has submitted a log, dated from 13 March 2014 to 1 June 2014, as part of their representation which lists dates on which odour and/or noise were an issue. The log sets out 17 dates within that timescale for which odour was an issue, and 41 dates within that timescale when noise was an issue. However, the lists only include the

date and do not log the time that the issue started, its duration, and the exact nature of the issue so it is not known whether one dog was perhaps barking for 5 minutes on that day or whether all 15 dogs were barking for three hours, or whether there was an odour first thing in the morning prior to kennels being cleaned, for example. As such, the log does not form part of any investigation being undertaken by Environmental Protection, since no complaint has been made, and therefore has limited weight in respect of the planning considerations at this time.

With regard to noise mitigation measures, the kennels have external wooden boarding and interior plywood sheeting with polystyrene infill which provides good sound and heat insulation and the kennel compound is enclosed on 3 sides by 2m high fencing which helps contain some noise. It is proposed to roof the open mesh structure containing kennels to provide additional shelter for the dogs and assist with reducing any noise impact and it is recommended that a condition relating to materials details of this be attached to a permission should the application be approved. In addition, the kennel compound is situated at the lowest point of the curtilage of No.27 School Lane and the buildings have been set out in a way which allows them to be screened from No.25 by close board fencing and face away from the dwellings on School Lane. There is a distance separation of some 75m between the application site and Railway Cottage to the south east of the site.

For clarification purposes the number of **breeding** dogs at the site would be 15 in number. This figure would not include litters, which would be kept in the house until sold, or any house based domestic pet dog belonging to the applicant. The keeping of the litters are set out in more detail below. In order to consider the potential impact of the likely situation at the premises, in terms of the nature of the use, further information was sought from the applicant on the breeding process as part of the previous application and this remains the same for the current application.

The applicant has a breeder's licence which allows for the breeding of more than 5 litters every year. At present 7 litters are produced each year - 6 from beagles and 1 from the pugs - and each litter has an average of 6 pups which are advertised for sale and can leave the premises after the 8 week weaning period.

The gestation period of a dog is 63 days and the pregnant female remains in the kennels until 5 days prior to birth when she is moved to a room in the dwelling to prepare and be monitored. Birthing will take place within the dwelling and the pups are transferred to a whelping pen in another room of the dwelling until some 5-6 weeks of age. After that they would be moved to a larger pen within the dwelling for weaning, and removal from the premises by new owners around 8 weeks of age. The applicant advises that they normally have one litter at a time but if they were to overlap slightly they would be in the main dwelling in any case. As such, any noise from litters of pups and mothers would be contained within the dwelling.

It is noted that a resident has requested that no further buildings should be allowed at the site now or in the future. Whilst the comments are noted such a condition would not be reasonable and would not meet the criteria for conditions as set out in the planning Circular 11/95. Any future application relating to the dwelling or business operation would have to be considered on its own merits at that time. In terms of the current proposal, the size of the dwelling and the kennel compound essentially limits the extent of the business operations that can take place at the site in planning terms. It should also be noted that it would not be possible to limit dog breed or size by condition either by virtue of the requirements of Circular 11/95. However, it would be possible to personalise a permission should Members consider this to be a way forward with the proposal.

During the officer site visit for the 2013 application, and at the Planning Committee site visit on 11 March 2014, the inside of the smaller wooden shed outside the kennel compound within the main garden area of No.27 was viewed and was being used for storage of dog baskets, and domestic storage items. If the shed was to be used for housing breeding dogs permanently a separate application would be required to be made.

It is appreciated that the dog breeding business would cause some intermittent noise as a result of barking by the dogs but, on balance, the proposed number of breeding dogs would be unlikely to lead to such significant noise that would adversely impact on the residential amenities of neighbouring properties to such an extent that would warrant refusal of the application under Policy E3 of the Adopted Local Plan.

A further aspect to consider in relation to impact on residential amenities would be the comings and goings to and from the site as a result of the business, and the impact of these on neighbouring properties. The agent has set out average visitor numbers in relation to projected litters numbers and sizes over a 3 month timeframe, and also weekly vehicle movements, within the supporting documents. The number of visitors to the site would not be significantly over and above those which could be expected with typical comings and goings to and from a residential dwelling. Since the pups and mother would be kept within the dwelling during birth, whelping and weaning visitors to view the pups would stay in the house and would not necessarily have to go out into the rear garden area to the kennel compound. As such, there would be no adverse impact on residential amenities as a result of comings and goings to and from the site.

Due to the concern on this issue raised by Members when the previous application was considered the agent has submitted further information addressing this particular issue. The agent has submitted information relating to the number of domestic vehicle movements per week (VMW) at the premises including a relative's carers (125 VMW), the applicants (56 VMW), and friends and family visiting (10 VMW). Further to this, the following information is taken from the supporting statement:

This gives a 'domestic' total of at least 191 VMW. ... The business generates some 17 customer visits per quarter (which is 34 vehicle movements). Reduced to a corresponding weekly rate of 3 VMW this amounts to some 1.5% of the overall total weekly 'activity'.

The agent submits that this does not constitute a significant increase in traffic, manoeuvring and movement as to cause undue disturbance to neighbours. The agent also submits that it is recognised that, at some future point, the carers will no longer be required so the 125 VMW they generate would cease. It is also put forward that when removing those vehicular movements from the overall VMW total, it is apparent that the business related VMW would only rise to some 4.3% of total vehicular activity on the site itself and could not be considered significantly detrimental in terms of Policy E3 of the Adopted Local Plan.

The District Council's Environmental Protection team has been consulted on the proposals, and has no objections to the proposal. It has also confirmed that no complaints in relation to the business operations have been received since operations began in January 2013.

The reference to the dog breeding business at Griffydam is noted, and it is also noted that the scheme was allowed on appeal by the Planning Inspectorate.

Highway Safety

The site is currently served by a vehicular access and drive onto School Lane. This access,

drive and turning space at the front of the property would be used in relation to the dwelling and the business. Due to the likely numbers of business visitors expected at the premises, the existing facilities would be adequate for the residential and business uses. The Highway Authority has no objection to the proposal subject to conditions.

Summary

The site lies within the Limits to Development of Newbold as defined in the North West Leicestershire Local Plan and at the edge of the main built form on School Lane and the principle of the proposal would be acceptable and in accordance with Policy S2 of the Adopted Local Plan and the provisions of the NPPF. The proposed development would have limited visual impact, would not result in undue disturbance to nearby residents, and would be acceptable in highway safety terms all in accordance with development plan policies and the provisions and intentions of the NPPF. It is, therefore, recommended that planning permission be granted.

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

- 1 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 (TWR/M2/P1); and,
 - Block plan (TWR/M2/P2)

Reason - To determine the scope of this permission.

- 2 Notwithstanding the submitted details, nor Condition 1 above, details of external lighting at the kennel compound and the roof for the separate galvanised steel mesh open run shall be submitted to and agreed in writing by the Local Planning Authority within 56 days from the date of this permission and shall be implemented and maintained as such.

Reason - To preserve the amenities of the locality.

- 3 The maximum number of breeding dogs accommodated on the site shall not exceed 15 at any one time.

Reason - To determine the scope of this permission, in the interests of highway safety, and to preserve the amenities of the locality.

- 4 The maximum number of litters produced on the site shall not exceed 10 in any one year.

Reason - To determine the scope of this permission, in the interests of highway safety, and to preserve the amenities of the locality.

- 5 No dogs other than those belonging to the occupiers of the dwelling shall be accommodated on site.

Reason - To determine the scope of this permission, and in the interests of highway safety and residential amenity.

- 6 The use of the site for dog breeding shall not be carried on at any time other than by

occupiers of the dwelling.

Reason - To define the scope of this permission, to ensure the business remains ancillary to the main dwelling and is not separated as an individual planning unit in the interests of the amenities of occupiers of the dwelling, and in the interests of highway safety.

- 7 The car parking and turning facilities shown on the submitted plan shall be provided before first use of the development hereby permitted and shall thereafter permanently remain available for car parking and turning.

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 and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 8 Before first use of the development hereby permitted, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the access with School Lane. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

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

- 9 Before first use of the development hereby permitted, the access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.

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

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 highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.
- 3 A public footpath is adjacent to the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.
- 4 The maximum number of breeding dogs at the site excludes any family pet dog(s) and litters of pups.

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Proposed new clubhouse and changing room.

Report Item No
A6

Coalville Town FC Owen Street Coalville Leicestershire

Application Reference
14/00450/FUL

Applicant:
Mr Glyn Rennocks

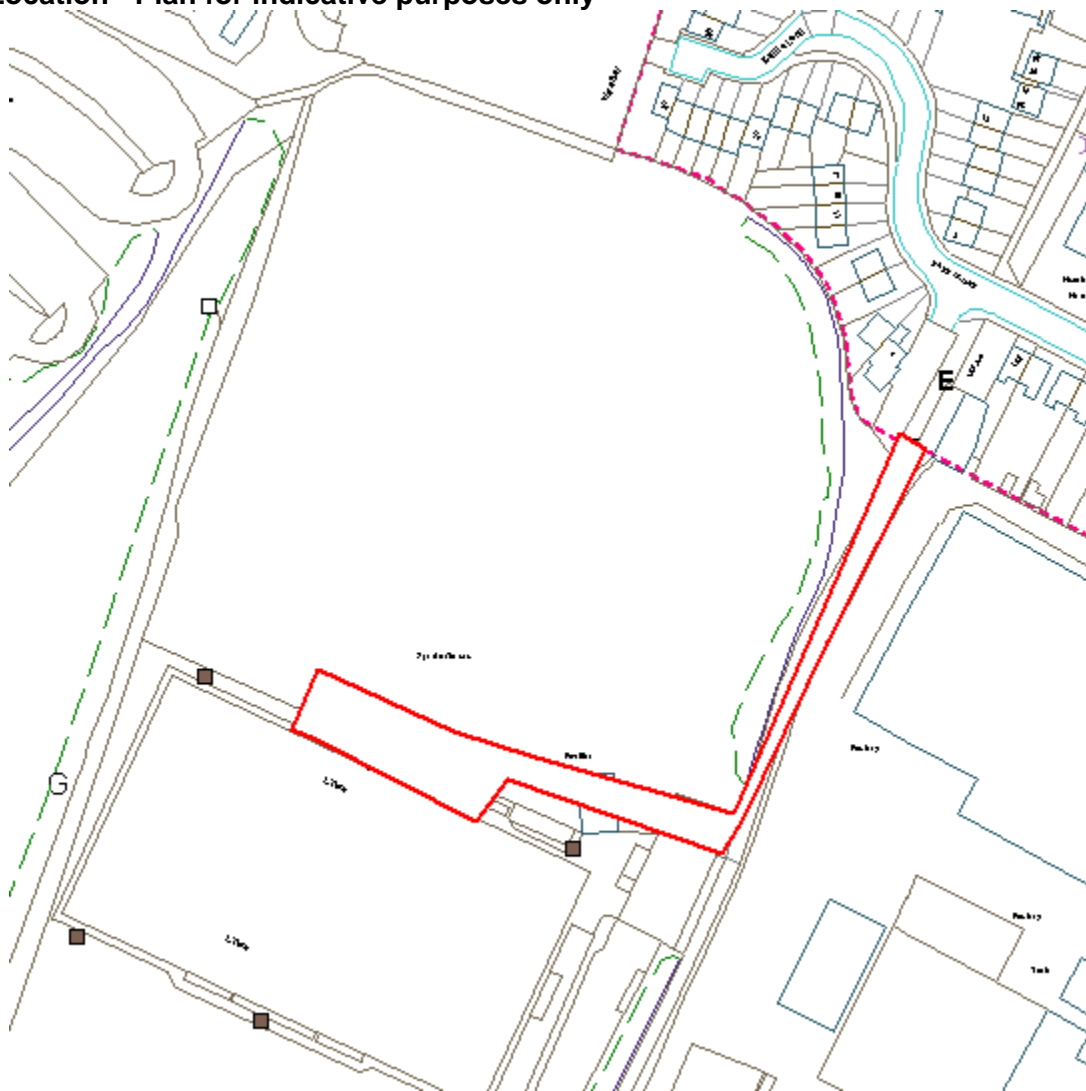
Date Registered
21 May 2014

Case Officer:
Robert McKillop

Target Decision Date
16 July 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

Proposal

Planning approval is sought for a new clubhouse and changing room at Coalville Town Football Club, Owen Street, Coalville. The subject site lies to the south of Owen Street, accessed via an informally surfaced driveway running to the west of Coalville Business Park which meets Owen Street to the west of No.107 Owen Street. The site is situated within the defined limits to development as identified in the North West Leicestershire Local Plan.

The proposed clubhouse would be a two storey building, measuring 25.431 metres in width across the front elevation and would measure a length of 15.15 metres across the extent of each side elevation. Two new windows and four new glazed doors are proposed at ground floor in the front elevation. At first floor level, a guest viewing gallery is proposed within a gable end that would measure 9.26 metres in width. One new door is proposed in the rear elevation and in the north west facing side elevation, two new doors are proposed to provide access to the toilets and a new server hatch is also proposed.

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

Consultations

Members will see from the report below that one letter of representation have been received from a member of the public.

No objections have been received from any statutory consultees.

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 development is considered to be acceptable in principle. The proposal would not have a significant impact upon the amenities of neighbouring residents and would not adversely affect the character of the surrounding area. The proposal would not be significantly detrimental to highway safety and 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

Planning approval is sought for a new clubhouse and changing room at Coalville Town Football Club, Owen Street, Coalville. The subject site lies to the south of Owen Street, accessed via an informally surfaced driveway running to the west of Coalville Business Park which meets Owen Street to the west of No.107 Owen Street. The site is situated within the defined limits to development as identified in the North West Leicestershire Local Plan.

The proposed clubhouse would be a two storey building, measuring 25.431 metres in width across the front elevation and would measure a length of 15.15 metres across the extent of each side elevation. Two new windows and four new glazed doors are proposed at ground floor in the front elevation. At first floor level, a guest viewing gallery is proposed within a gable end that would measure 9.26 metres in width. One new door is proposed in the rear elevation and in the north west facing side elevation, two new doors are proposed to provide access to the toilets and a new server hatch is also proposed.

Relevant planning history

05/01108/FUL - Erection of spectator stand, turnstile building and extension to existing spectator facilities. Approved 10.02.2006.

02/01504/FUL - Erection of three spectator stands, a single storey building, 2.4m high perimeter fencing and temporary siting of a portakabin. Approved 31.01.2003.

2. Publicity

25 Neighbours have been notified (Date of last notification 2 June 2014)

Site Notice displayed 3 June 2014

3. Consultations

County Highway Authority
Head of Environmental Protection
NWLDC Footpaths Officer

4. Summary of Representations Received

Leicestershire County Highway Authority responded 6th June 2014 stating consideration should be given to car parking and cycle parking provision.

North West Leicestershire Environmental Protection Officer responded 3rd June 2014 stating no environmental observations in relation to this application.

Leicestershire County Footpaths has not responded during the course of this application.

One letter was received from the occupier of No.107 Owen Street stating the following objections:

- More consultation letters should have been sent to surrounding neighbours.
- Owen Street is unsuitable to support the volume of traffic, including coaches, visiting the Football Club.
- The current access is not adequate for vehicles entering and exiting the site, and the lack of a hard surfaced driveway causes dust to be deposited on surrounding houses and businesses.

- The current level of noise, chanting and public disturbance is not appropriate in a residential area.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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

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

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

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

North West Leicestershire Local Plan

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

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

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

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

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

Policy L1 (Recreation) states that planning permission will be granted for the expansion of existing, or the development of new, formal recreation facilities within or adjoining built up areas.

Emerging 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

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

The site is located within the Limits to Development as set out on the Proposals Map to the Local Plan where development is considered acceptable in principle subject to impacts upon design, amenity, highway safety and any other material considerations. The application would also accord with Policy L1 as it proposed the expansion of facilities in relation to the existing recreation use of the site.

Residential Amenity

The proposed building would be set away from the site boundaries and the nearest residential property would be approximately 140.0 metres away from the proposed building. As such the building, in terms of physical presence, would not have any detrimental impact on neighbouring properties.

In regard to the neighbour objection letter received, the County Highway Authority does not raise any concerns in relation to highway safety along Owen Street. Although the existing site access could be improved, given the residential nature of the street and good visibility available, the continued use of this access is considered not to have any detrimental impact on highway safety. The existing driveway is not hard surfaced and runs between two residential properties on Owen Street and Kane Close. The letter of objection suggests that some surrounding properties are affected by dust originating from the existing driveway and noise disturbance associated with the current use of the site. This application does not propose any new use of the site, and the current use is not likely to be significantly intensified. As the Council's Environmental Protection Section does not raise any concerns in relation to the impact on surrounding properties from noise or dust, it is considered that the proposed development would not be significantly detrimental to the amenity of neighbouring properties.

Regarding neighbour consultation, a site notice was displayed at the site entrance and consultation letters were sent to 25 neighbouring properties along Kane Close, Owen Street and Jackson Street, which were considered most likely to be impacted by the proposed development.

The site is an established recreational facility which may have some impact on the residential amenity of the occupants of neighbouring dwellings through the current nature and level of activity. It is considered that this proposal would not result in a significant intensification of the use of the site and it would not materially impact on the residential amenities of nearby residents given the established use of the site. As such, it is deemed that the development would not have any significant detrimental impact upon neighbouring residential amenities and is considered to be acceptable in relation to Policy E3 (Residential Amenity) of the Local Plan.

Design and Visual Impact

There is an area of woodland and open space to the west and south of the site. The proposed building would be set well within the site and would be adjacent to the existing stands and

pavilion. Red brickwork and concrete interlocking roof tiles would be used to construct the proposed clubhouse, and white timber framed windows and aluminium roller shutter doors are proposed. These materials would ensure that the building has a similar appearance to the existing pavilion. The site adjoins an industrial estate along the eastern boundary and it is considered that the building would have an acceptable impact on the character and appearance of the surrounding area.

Overall, the scale and design of the proposed clubhouse are considered not to have any detrimental impact on the character of the area. Given these considerations, the development would accord with Policy E4 (Design) of the Local Plan.

Highway Safety

The existing access would be used and the current car park, which includes an overspill parking area, would remain. It is considered that any intensification of use would not be significant and traffic could be satisfactorily accommodated through the existing access and on-site parking. The County Highway Authority has suggested that the current car parking provision would remain acceptable given the town centre location of the site, although cycle parking should be considered. Amended plans have been received showing provision for up to 8 cycles, and a condition will be attached to any permission granted to provide this cycle parking prior to the first use of the proposed clubhouse. As such, it is considered that the proposal would accord with highway safety policies T3 (Highway Standards) and T8 (Parking) of the Local Plan and the advice contained in the County Council's HTD document.

Summary Reasons for Granting Planning Permission

The site lies within Limits to Development where the principle of development is acceptable and would accord with Policy S2 (Limits to Development) and Policy L1 (Recreation) of the Local Plan. The proposed development would not adversely impact upon the amenities of neighbours and would accord with Policy E3 (Residential Amenity). The development by reason of its design and scale would be in keeping with the character of the surrounding area and would accord with Policy E4 (Design). The application would not have any detrimental impact on highway safety and would accord with Policies T3 and T8 (Highway Safety).

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 proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
 - Drwg No. 6815P-03, received by the local planning authority on the 21 May 2014;
 - Drwg No. 6815P-02, received by the local planning authority on the 21 May 2014;
 - Drwg No. 6815P-01, received by the local planning authority on the 21 May 2014.

Reason- To determine the scope of this permission.

- 3 The external materials to be used in the development hereby permitted shall be in strict accordance with those specified in the application unless alternative materials are first

agreed in writing with the Local Planning Authority.

Reason- to ensure a satisfactory standard of external appearance.

- 4 Prior to the first use of the building hereby approved, cycle parking shall be provided in strict accordance with that specified in the document titled Broxap Sheffield Cycle Stand - BXMW/GS0 and shown on Drawing No.6815P-02 Rev B, received by the Local Authority on the 24th July 2014, unless alternative details are first submitted to and agreed in writing by the Local Planning Authority. The cycle parking, once provided, shall thereafter be so retained.

Reason - In the interests of the sustainability of the development and to encourage alternative transport choice.

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 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